

WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 6 FEBRUARY 2024
REPORT OF THE SERVICE DIRECTOR (RESIDENT AND NEIGHBOURHOOD)

APPROVAL OF A PUBLIC SPACES PROTECTION ORDER (PSPO) FOR WELWYN GARDEN CITY TOWN CENTRE

1 Executive Summary

- 1.1 The report recommends the approval of a PSPO for Welwyn Garden City which is justified by data of antisocial behaviour and the detrimental impact it is having on this location and is also strongly supported by respondents to the public consultation and their feedback.
- 1.2 The town centre in Welwyn Garden City is experiencing anti-social behaviour associated with:
 - Begging, aggressive begging and associated ASB
 - ASB in public places caused by consumption of alcohol
 - Rough sleeping and non-engagement with support services
 - Urinating and defecating in public
- 1.3 These anti-social behaviours have been persistent and continuing for some time, and despite a number of interventions and support that has been undertaken to try to address these behaviours, it is not resolving the issues.
- 1.4 The Council have a maintained commitment to eliminating rough sleeping in the district and significant resources have been committed to this purpose. Support and assistance are part of the ReStart Rough Sleeper Project as well as focus on outreach, accommodation and move on into longer term settled accommodation. ReStart is commissioned by the Council Housing Options Service and works alongside other charities including Herts Young Homeless, Druglink, CGL and OneYMCA to support those without accommodation.
- 1.5 Despite a commitment to approach individuals that have been reported as rough sleeping, and to offer assistance to get them away from a life on the streets or in the open, many such attempts are declined with the individuals refusing to engage with any support services.
- 1.6 Police records show that when comparing the period August 2021-August 2022 to August 2022-August 2023 for the location, there has been a 25% increase in nuisance Anti-Social Behaviour (ASB). This is the category that the related ASB to those begging and rough sleeping would fall into.
- 1.7 Street Link figures show that when comparing 2022 data with 2023, there has been a 72% increase in reports of begging and rough sleeping. This increase is indicative of the current issues within the proposed PSPO area.
- 1.8 In addition, there has been ongoing reports of street drinking in the area to the police and ASB team. There have been historic and more recent issues with youth street drinking within the proposed designated area and the current homeless population are

regularly seen with alcohol. This has led to alcohol related ASB, such as violence and public urination/defecation.

- 1.6 A public consultation proposing the introduction of a Public Spaces Protection Order for this location was undertaken between 18 October and 28 November 2023 and sought opinions from key stakeholders, as detailed in paragraphs 3.15 and 3.16 of this report.
- 1.7 There were 231 respondents (169 respondents via the online Survey Monkey and 62 by post). The respondents were made up of 93% residents, 2% traders and local businesses and 4% workers and 1% visitors.
- 1.8 Over 95% of respondents supported the implementation of a PSPO, of which over 62% agreed the proposed area was about right (and 25% said it was too small and 7% said it was too large). As a result of feedback from the consultation about areas where these ASB activities were occurring, the proposed designated area has been amended. The proposal is to include the areas to the east of Russellcroft Road to Valley Road and south of Russellcroft Road to the bottom of Guessens Road as shown in in Appendix B.
- 1.9 Within the proposed designated area, we asked respondents to consider whether they agreed if the following was of concern:
 - Street drinking: 52% felt it was, with over 42% seeing it on daily basis (and 81% more than once per week).
 - Begging: 71% felt it was, and almost 68% had seen it on a daily basis (and 84% more than once per week).
 - Rough Sleeping: 80% felt it was, and 82% had seen it on a daily basis (and 91% more than once per week).
 - Public urination/defecation: almost 40% felt it, and almost 30% had seen this on a daily basis (and 59% more than once per week).
- 1.10 Over 65% of respondents said that they would like the PSPO to be introduced for three years.
- 1.11 A redacted version of the public consultation responses is shown at Appendix C (personal/sensitive data redacted).
- 1.12 The need for a PSPO is positively supported by the Community Safety Partnership and the Police.
- 1.13 We are keen to ensure that vulnerable people are safeguarded appropriately and receive support as necessary. Where an individual is identified in breach of the PSPO and has clear vulnerabilities and complex needs we will ensure they are approached with support and advice in the first instance.

2 Recommendation(s)

- 2.1 That Cabinet notes the evidence of the ongoing anti-social behaviour and its impact on the location and note the results of the public consultation which supports the introduction of a PSPO.
- 2.2 That Cabinet approves the introduction of a PSPO (Appendix A) within the proposed area for a period of 3 years commencing on 1 April 2024.

3 Explanation

Background

- 3.1 A PSPO is one of the provisions available within the Anti-social Behaviour, Crime and Policing Act 2014, Sections 59 to 75, intended to deal with activities causing anti-social behaviour that have a detrimental effect on the quality of life of those in its locality. PSPO's are flexible and can be applied to deal with a broad range of issues, with local authorities having the ability to impose conditions on the use of that area which apply to everybody. These conditions should focus on specific behaviours that affect the users of that area and be proportionate and necessary to prevent such behaviours from continuing or reoccurring.
- 3.2 Before making a PSPO, Local authorities must be satisfied on reasonable grounds that the behaviour which is carried out, or is likely to be carried out in a public space:
- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality, and that the effect;
 - is, or is likely to be, persistent or continuing in nature; such that
 - it is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
- 3.3 The town centre in Welwyn Garden City is experiencing anti-social behaviour associated with:
- Begging, aggressive begging and associated ASB
 - ASB in public places caused by consumption of alcohol
 - Rough sleeping and non-engagement with support services
 - Urinating and defecating in public
- 3.4 These anti-social behaviours have been persistent and continuing for some time, and despite a number of interventions and support that has been undertaken to try to address these behaviours, it is not resolving the issues. This is detailed further in paragraphs 3.5-3.12.

ASB in Welwyn Garden City Town Centre

- 3.5 The Council have a maintained commitment to eliminating rough sleeping in the district and significant resources have been committed to this purpose. Support and assistance are part of the ReStart Rough Sleeper Project as well as focus on outreach, accommodation and move on into longer term settled accommodation. ReStart is commissioned by the Council Housing Options Service and works alongside other charities including Herts Young Homeless, Druglink, CGL and OneYMCA to support those without accommodation.
- 3.6 Despite a commitment to approach individuals that have been reported as rough sleeping, and to offer assistance to get them away from a life on the streets or in the open, many such attempts are declined with the individuals refusing to engage with any support services.
- 3.7 Some of the individuals who are rough sleeping are also known by the police and the council's Anti-Social Behaviour Team to beg the public for money and drink alcohol in the Town Centre. Reports relating to these people have increased, which include reports of drug use, needle finds, verbal abuse to residents, urination and defecation in a public place, with residents feeling generally unsafe in the local area as a result.

- 3.8 It should also be noted that there is increasing tension between these individuals that are rough sleeping / begging. There have been threats of violence, physical altercations, arson attacks and rivalry between them. There is also strong evidence that those who are begging are using the money given by residents to fund drug and substance misuse. This has in turn, led to an increase in drug dealing activity in the area. In 2022 Welwyn Hatfield had the highest number of county lines reported than any other district in Hertfordshire with 22 being identified. We anticipate that the PSPO will help equip us to tackle these issues in its defined area.
- 3.9 As a Community Safety Partnership, we are keen to ensure that vulnerable people are safeguarded appropriately and receive support as necessary. Where an individual is identified in breach of the PSPO and has clear vulnerabilities and complex needs we will ensure they are approached with support and advice in the first instance.
- 3.10 The requirements for a PSPO have been met based on evidence gathered by Hertfordshire Constabulary and the Council and evidence from local businesses, residents, police recorded crime and ASB statistics. Police records show that when comparing the same period August 2021-August 2022 to this August 2022-August 2023, there has been a 25% increase in nuisance Anti-Social Behaviour (ASB) in the location. Nuisance ASB includes incidents where an act, condition, thing or person causes trouble, annoyance, inconvenience, offence or suffering to the local community. This is the category that the related ASB to those begging and rough sleeping would fall into.
- 3.11 Street Link figures show that when comparing 2022 data with 2023 there has been a 72% increase in reports of begging and rough sleeping. This increase is indicative of the current issues within the suggested PSPO area.
- 3.12 In addition, there has been ongoing reports of street drinking in the area to the police and ASB team. There have been historic and more recent issues with youth's street drinking within the proposed designated area and the current homeless population are regularly seen with alcohol. This has led to alcohol related ASB, such as violence and public defecation.

Public Consultation

- 3.13 In response to these ASB issues in Welwyn Garden City Town Centre, approval was sought from Cabinet to undertake a public consultation on a proposed PSPO of a designated areas in the town centre, including the following prohibitions:

Person(s) within this area will not:

- Consume alcohol in a public place.
- Be in possession of an open vessel(s) of alcohol in a public place.
- Approach another person either verbally or through actions to beg from the other person.
- Loiter at or within ten metres of any pay machine (including banks, supermarkets and car parks) unless waiting legitimately to use the machine for the purpose it is designed for.
- Sit on the ground in a public place, street, highway or passage in a manner that may be perceived that you are inviting people to give you money.
- Urinate or defecate in a public place.
- Sleep in any public place which is or includes;

- open to the air
 - within a vehicle for a sustained period
 - within a car park
 - a non-fixed structure including a caravan or a tent without the prior written consent of the owner or occupier of the land.
- 3.14 A public consultation proposing the introduction of a Public Spaces Protection Order for Welwyn Garden City Town Centre was undertaken between 18 October and 28 November 2023 and sought opinions from key stakeholders, as detailed in paragraphs 3.15-3.16.
- 3.15 Under section 72 of the Act, we are required to consult with the following:
- chief police officer of police, and the local policing body for the local area that includes the restricted area
 - landowners or occupiers within the affected area
 - any community representatives that the local authority feels appropriate
- 3.16 We consulted with the following:
- Chief Constable of Herts Police
 - Police and Crime Commissioners Office
 - Hertfordshire County Council
 - Borough councillors
 - Welwyn Hatfield Community Safety Partnership
 - Homeless Prevention Partnership
 - Welwyn Garden City Business Improvement District (BID)
 - Local businesses
 - Local residents
 - Local schools
 - Visitors to Welwyn Garden City Town Centre
- 3.17 The online survey consultation was made available on the council's website for local residents, visitors and businesses to complete. Paper copies of the survey were available on request. Letters and emails were sent to the above consultees making them aware of the consultation and inviting them to participate. The consultation was also promoted via our website, a press release, social media and flyer handouts at Community Involvement Days within the Town Centre.
- 3.18 There were 231 respondents (169 respondents via the online Survey Monkey and 62 by post). The respondents were made up of 93% residents, 2% traders and local businesses and 4% workers and 1% visitors.
- 3.19 Over 95% of respondents supported the implementation of a PSPO. The overwhelming reasons were linked to reducing ASB and feeling safe in the town centre, especially after dark. Over 62% agreed the proposed area was about right (and 25% said it was too small and 7% said it was too large). As a result of feedback from the consultation about areas where these ASB activities were occurring, the proposed designated area has been amended. The proposal is to include the areas to the east of Russellcroft Road to Valley Road and south of Russellcroft Road to the bottom of Guessens Road as shown in in Appendix B.

- 3.20 As part of the consultation, we asked respondents to consider whether they agreed if the following was of concern within the proposed designated area:
- Street drinking: 52% felt it was, with over 42% seeing it on daily basis (and 81% more than once per week).
 - Begging: 71% felt it was, and almost 68% had seen it on a daily basis (and 84% more than once per week).
 - Rough Sleeping: 80% felt it was, and 82% had seen it on a daily basis (and 91% more than once per week).
 - Public urination/defecation: almost 40% felt it, and almost 30% had seen this on a daily basis (and 59% more than once per week).
- 3.21 Over 65% of respondents said that they would like the PSPO to be introduced for three years.
- 3.22 A condensed version of the public consultation responses is shown at Appendix C (with personal/sensitive data redacted).

Approval of the PSPO

- 3.23 The report recommends the approval of a PSPO for Welwyn Garden City which is justified by evidence of antisocial behaviour that is continuing, unreasonable and is having a detrimental impact on this location as outlined in paragraphs 3.5 – 3.12. The approval of a PSPO is also strongly supported by respondents to the public consultation as outlined in paragraphs 3.13-3.22 and in Appendix C.
- 3.24 The draft Public Spaces Protection Order is recommended for approval (Appendix A).
- 3.25 In deciding if the local authority should make a PSPO the local authority must:-
- a) have particular regard for the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights (“ECHR”);
 - b) take account of the consultation responses
- 3.26 Article 10 of the European Convention on Human Rights (ECHR) relates to freedom of expression. Article 11 of the ECHR relates to freedom of assembly and association. Whilst a PSPO may interfere with the rights granted under Articles 10-11 of the ECHR, careful consideration needs to be given so that prohibitions and requirements under a PSPO do not unnecessarily interfere with what would otherwise be legitimate under the law. Local authorities must show that they have tried to use less restrictive methods to address the issues under the PSPO. In essence it is a balancing exercise between the competing interests of the individual, other individuals and the community at large.
- 3.27 Statutory guidance on the use of the PSPO to target homelessness and rough sleeping has also been considered, which requires councils to think carefully about using a PSPO to target specifically those that are homeless. We have found that not all individuals that are rough sleeping in the town centre are homeless. We have considered the antisocial behaviours that justify imposing restrictions, balancing responses to the consultation and the feelings of intimidation and members of the public feeling unsafe. We therefore consider that the implementation of the PSPO is a justifiable and proportionate tool.
- 3.28 Due to the complexity and vulnerability that often presents with homelessness and street drinking, the PSPO is just one tool that is used to tackle these issues. The default position is to offer support and engagement options with enforcement action being the

last consideration when preventative methods have failed. Prevention is delivered via the councils Rough Sleeper Protocol and comprises of three key elements;

- Outreach – this service responds to reports of rough sleepers made by the public or colleagues in partner organisations. The aim is to get individuals off the streets and into suitable accommodation.
- Accommodation – provision is given to individuals whilst ‘Navigators’ carry out assessments and work with them to determine what help is needed.
- Navigator service – case workers who assist individuals with the causes of homelessness, aid access to health services, access to drug and alcohol services, benefit claims and immigration status.

3.29 The overall aim is to move people from rough sleeping and begging to settled, stable and suitable accommodation. The service is commissioned by the council as part of the Homeless Prevention Strategy and is provided by ReStart. ReStart is operated by the charity Resolve who also operate their own drug and alcohol service and are located within both Welwyn Garden city and Hatfield Town Centre, so in a prime location to respond.

Implementation of the PSPO

3.30 If the PSPO is approved, in accordance with the provisions under 72 of the Act, we will publicise the PSPO by placing it on our website and issuing a press release. We will also arrange to erect signage in the designated area to ensure that persons are aware of the PSPO. With regards to the requirement to notify proposed authorities, we will ensure that we notify Hertfordshire County Council.

3.31 If the PSPO is approved, it will be a criminal offence to breach a condition of a PSPO and penalties on breach are;

- a) Issuing a warning.
- b) Issuing a Fixed Penalty Notice (FPN) of £100
- c) Prosecution through the courts for persistent offenders (liable to a fine of up to £1000 upon summary conviction)

3.32 If approved following public consultation, the PSPO is enforceable by the Police, and authorised Street Wardens and ASB Officers. Implementation and enforcement of the PSPO will be included in the Community Safety Partnership action plan and will primarily be enforced by police officers and PCSOs without the need for additional resources. The PSPO allows for officers to use the powers where they witness someone in breach of the prohibitions within the defined area. A protocol will be agreed with the Police regarding enforcement.

3.33 As explained, enforcement activity in Welwyn Garden City is primarily delivered via the Police with the main reporting mechanism for breaches of the PSPO being a call to 101. Supplementary activity and enforcement is provided by the council’s Street Wardens and ASB Teams, through officers carrying out their normal duties.

3.34 Visibility and enforcement of the PSPO is supplemented by the ASB Team co-ordinating days or weeks of action in response to emerging issues. This would lead to additional patrols in partnership with the Police and the Street Wardens.

3.35 In terms of monitoring, activity concerning the PSPO will be logged on SafetyNet, a Police led multi-agency case management software so that partners have oversight and can share information on persons breaching the PSPO.

- 3.36 In some circumstances it is deemed not appropriate to issue an FPN due to the vulnerability of those breaching the PSPO and those individuals will be supported or signposted for assistance.

Implications

4 Legal Implication(s)

- 4.1 The legal requirements are addressed in the body of the report.
- 4.2 Paragraphs 3.5 – 3.12 explain the evidence to justify the PSPO in accordance with section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 Act, due to antisocial behaviour having a detrimental impact on the quality of life, is persistent or continuing and is unreasonable. This is further supported by the results of the public consultation discussed in paragraphs 3.13-3.22.
- 4.3 The public consultation was undertaken in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Act.
- 4.4 If the PSPO is approved, it will be publicised and notification made in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Act.
- 4.5 If a PSPO is implemented, it can be challenged by a person who lives or regularly works in the restricted area or visits that area under Section 66 of the Act within six weeks beginning on the date when the PSPO is made on the following grounds:
- That the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied).
 - That a requirement under Chapter 2 of Part 4 of the Act was not complied with in relation to the order or the variation (Sections 59-74 of the Act)

5 Financial Implication(s)

- 5.1 Should the PSPO be approved, this must be published in accordance with the regulations made by the Secretary of State and there will be some costs associated with publicising of the PSPO, stationery (FPN booklets) and signage. These costs can be met within existing budgets held by the Community Safety Partnership.
- 5.2 Income from Fixed Penalty Notices (FPN's) is expected to continue to be small and could be used to cover some associated costs of enforcing the PSPO.
- 5.3 Home Office Guidance states that the council is liable for all court action undertaken by way of prosecution against the PSPO. The council has an existing procedure for dealing with the use of FPNs. Any FPN issued as a result of the proposed PSPO will be dealt with in line with this procedure, however it is not anticipated that there will be a large volume of Notices issued.
- 5.4 Enforcement costs under this PSPO will be met within the existing police and council staff. The Anti-Social Behaviour Team will undertake all administration functions with regards to this and will use its existing budget in relation to any enforcement action required.
- 5.5 Any supplementary enforcement or back-office work will form a part of the role of the police and Council's ASB Officers.

6 Risk Management Implications

- 6.1 Legal challenge under section 66 of the Act if the PSPO is made could present a financial and reputational risk to the council and wider Community Safety Partnership (CSP). The legislation states that “interested persons” may challenge the validity of the PSPO within a period of six weeks. The High Court has the power to quash, amend or uphold the PSPO. However, the evidence gathered and the public consultation that was undertaken aims to help mitigate this potential risks.

7 Security and Terrorism Implication(s)

- 7.1 There are no obvious implications arising from this policy.

8 Procurement Implication(s)

- 8.1 There are no procurement implications arising from this policy.

9 Climate Change Implication(s)

There are no climate change implications arising from this policy.

10 Human Resources Implication(s)

- 10.1 The management and enforcement of the PSPO will be resourced through existing staff and resources to cover this new PSPO. The consultation highlights that businesses and visitors to the Town Centre perceive there to be a lack of patrols and enforcement presence.

If we consult further and adopt a wider area covered by the PSPO, we should review resourcing options available to us at that point.

11 Health and Wellbeing Implication(s)

- 11.1 The PSPO provides a platform for the council, the Police and ReStart to engage positively with street drinkers, beggars and homeless persons whose behaviours are impacting the wider community. There is the potential to have a positive impact on a vulnerable cohort that need support and assistance into accommodation pathways and other services.

The PSPO is in place to deal with e behaviours that have a detrimental impact on the community. Having a PSPO in place will allow us to challenge and enforce where necessary, which will benefit residents, traders, workers and visitors to Welwyn Garden City Town Centre.

12 Communication and Engagement Implication(s)

- 12.1 As explained above, there is a requirement to publicise and notify authorities of the implementation of a PSPO. This will include putting the PSPO on our website, issuing a press release, use of social media and erecting signage in the designated area.

13 Link to Corporate Priorities

- 13.1 The subject of this report is linked to the Strategic Aims:
- a) **Together, create opportunities for our communities** and specifically to the achievement of ‘help us feel safe where we live.

14 Equality and Diversity

14.1 An EqIA was completed in January 2024 (Appendix D) and the EqIA found that there is the potential for negative impacts because the implementation of the PSPO would negatively impact on race because local knowledge suggests that a disproportionate number of people of Eastern Europe communities are those that gather, socialise and often consume alcohol within the PSPO implementation area. Given the reason that the PSPO has been made in the first instance and from consultation comments, we believe that, on balance, it is proportionate and necessary to make the order.

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Appendices:

Appendix A – Proposed PSPO

Appendix B – Proposed area to be included in the PSPO

Appendix C - PSPO Consultation Results

Appendix D - EqIA