

Part I

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WELWYN HATFIELD BOROUGH COUNCIL

CABINET – 9 JULY 2024

REPORT OF THE EXECUTIVE DIRECTOR (RESIDENT SERVICES AND CLIMATE CHANGE)

PROPOSED EXTENSION OF PUBLIC SPACES PROTECTION ORDER (PSPO) FOR HATFIELD TOWN CENTRE

1 Executive Summary

- 1.1 The report recommends the approval of the PSPO to be extended in Hatfield Town Centre. This 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 Hatfield is experiencing anti-social behaviour associated with:
 - 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 There is currently a Public Spaces Protection Order (PSPO) in Hatfield Town Centre and surrounding area. The PSPO was introduced on 31 July 2018 following a public consultation in 2017. It was reviewed initially in 2021 and approved for an extension of a further three years until 31 July 2024. The area currently covered by the PSPO is in Appendix C.
- 1.4 On 6 February 2024 Cabinet authorised a statutory public consultation to enable us to review the effectiveness of the current PSPO and consider whether it should be extended, amended or discharged.
- 1.5 The consultation ran from 7 February to 14 March 2024 and sought opinions from key stakeholders, as detailed in paragraph 3.10 of this report.
- 1.6 The consultation for Hatfield Town Centre attracted 47 respondents in total. Local residents and businesses made up the majority of the responses.
- 1.7 Respondents were asked if they felt that the issues would worsen if the PSPO was discharged, the majority of respondents agreed that they felt it would.
- 1.8 Respondents felt that the problems in Hatfield town centre still existed with anti-social behaviour linked to street drinking being the biggest concern.

- 1.9 The majority of respondents said that they would like the PSPO in Hatfield Town Centre extended for another three years.
- 1.10 Half of all respondents said they thought the area covered by the PSPO was just right and 40% of respondents thought that the area should be extended.
- 1.11 A condensed version of the consultation responses is shown at Appendix A and Appendix B.
- 1.12 Feedback from the consultation requested that the current PSPO be extended to cover Stockbreach Road and French Horn Lane. A map of the area to be covered by the PSPO, including these new streets, is shown in the proposed PSPO order and map in Appendix D.

2 Recommendation(s)

- 2.1 That Cabinet notes the evidence of the ongoing anti-social behaviour and its impact on the locations and note the results of the public consultation which supports the extension of the PSPO in Hatfield Town Centre for a further three years.
- 2.2 That Cabinet approve the extension of the Hatfield Town Centre PSPO (Appendix D) in the proposed area for a further 3 years from 31 July 2024.

3 Explanation

- 3.1 A PSPO is one of the provisions available within the Act 2014, Sections 59 to 75, intended to deal with a particular nuisance or problems 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 With regards to existing PSPOs, before the time when a PSPO is due to expire, the Council that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—
 - occurrence or recurrence after that time of the activities identified in the order, or
 - an increase in the frequency or seriousness of those activities after that time.
- 3.3 The council can make a PSPO on any public space within its own area and the definition of a public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre.
- 3.4 There is currently a PSPO in Hatfield Town Centre and surrounding area. The PSPO was implemented on the 31 July 2018 and was extended for a further three years following a public consultation to review the order in 2021.

3.5 In response to ASB issues in Hatfield Town Centre at the time of consultation and making, the current PSPO includes 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.

3.6 To make, extend, vary or discharge a PSPO the council are obliged to consult with a range of stakeholders. The public consultation ran from 7 February until 14 March 2024 seeking opinions from;

- Welwyn Hatfield Community Safety Partnership
- Welwyn Hatfield Police
- Herts County Council
- Police and Crime Commissioners Office
- Hatfield Town Centre Business Forum
- Borough Councillors
- Hatfield Town Council
- Businesses and organisations operating within the current PSPO area
- Residents of Hatfield living within the current PSPO area
- Visitors to Hatfield Town Centre

3.7 The consultation sought, in addition to the consultees mandated by the 2014 Act, to obtain the public's view on the restrictions in the current PSPO and to understand whether the public perceived that the current PSPO had been successful in addressing nuisance behaviours and their impact and there was a need for it to be continued.

3.8 Consultation methods used included;

- Consultation letters sent to residents, businesses and organisations located within the PSPO area.
- Invitation to other local partners to respond.
- WHBC website published details of the proposal and the consultation.
- Social media posts encouraged residents and visitors to complete the consultations

3.9 The consultation attracted 47 respondents via SurveyMonkey and post. We also consulted separately with the Police. The respondents to the survey were 91% residents, 2% traders and local businesses and 7% workers.

3.10 We asked the respondents to identify whether they felt the problems were still current and they responded as below. We have matched it against the data for 2017 and 2021 to show how perceptions have changed:

Nuisance	% 2017	% 2021	% 2024
Street Drinking	91%	79%	91%
Begging	79%	75%	64%
Rough Sleepers	64%	54%	45%
Public urination & defecation	76%	57%	55%

3.11 We asked whether the respondents felt that the issues would worsen if the PSPO was discharged, and the significant majority of respondents agreed that they felt it would.

	Street Drinking	Begging	Rough Sleeping	Public Urination
YES	76%	75%	57%	61%
NO	9%	14%	14%	14%
UNSURE	15%	11%	29%	25%

3.12 When asked directly whether they wished for the PSPO to be extended, 93% of respondents said that they would like the PSPO extended for a further three years. The overwhelming reasons were linked to feeling safe in the town centre, especially after dark.

3.13 When respondents were asked on their views of the area covered by the PSPO 40% indicated it was too small and 51% agreed that the current area is about right. There were many different suggested locations mentioned within the

comments with French Horn Lane and Stockbreach Road being mentioned the most.

- 3.14 A condensed version of the consultation responses is shown at Appendix A and B and we consider that the responses received supports the recommendations made.

Implementation of the PSPO

- 3.15 It is 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) up to £100.
 - c) Prosecution through the courts for persistent offenders (liable to a fine of up to £1000 upon summary conviction)
- 3.16 If approved, 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.
- 3.17 Enforcement activity in Hatfield 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 ASB Team and the Street Warden Team, through officers carrying out their normal duties.
- 3.18 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 where their schedules allow.
- 3.19 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.
- 3.20 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.
- 3.21 In terms of monitoring, activity concerning the PSPO is logged on SafetyNet, a Police led multi-agency case management software so that partners have oversight and can share information on persons engaged with and breaching the PSPO.
- 3.22 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 focused on the 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 extension of the PSPO is a justifiable and proportionate tool.

3.23 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 council's 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.

3.24 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 Hatfield Town Centre, so in a prime location to respond.

3.25 In summary, the PSPO is one tool that can be used to tackle identified nuisance within Hatfield Town Centre and removing it at such a time where re-generation is abundant and there is a drive to increase footfall to the area, would be detrimental to perception and our ability to deal with nuisance effectively if the powers were removed.

Implications

4 Legal Implication(s)

4.1 The legal requirements are addressed in the body of the report.

4.2 In deciding if the local authority should make a PSPO the local authority must:-

- 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");
- take account of the consultation responses

4.3 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.

- 4.4 There is justification to support 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 3.14 – 3.18 and Appendices A and B.
- 4.5 The public consultation was undertaken in accordance with section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 Act.
- 4.6 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.
- 4.7 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)

9.1 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. The consultation highlights that businesses and visitors to the Town Centre perceive there to be a lack of patrols and enforcement presence.

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.

11.2 The PSPO is in place to deal with nuisance 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 traders, workers and visitors to Hatfield Town Centre.

12 Communication and Engagement Implication(s)

12.1 The corporate communications team is central to the consultation and their resources will also be needed to inform residents of the outcome of the review as well as publicity of the PSPO if the recommendation to extend the PSPO is approved.

13 Link to Corporate Priorities

13.1 The subject of this report is linked to the corporate priority:

- Together, create opportunities for our communities and specifically to the achievement of 'help us feel safer where we live'.

14 Equality and Diversity

14.1 An EqIA was completed in May 2024 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 descent 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 that it is acceptable to make the order.

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Appendices:

Appendix A – PSPO Paper Consultation Results

Appendix B – PSPO Online Consultation Results

Appendix C – Map of current PSPO Area

Appendix D – Proposed PSPO and map of new proposed PSPO area

Appendix E - EqIA