

# Public Spaces Protection Orders Consultation 2021

For Cabinet on Thursday, 24 June 2021

## Summary

**Lead Member:** Cllr Andrew Fairweather, Portfolio Holder for Communities and Wellbeing

**Lead Director:** Paul Taylor

**Head of Service:** Denise Haylett

**Report Author:** Terry Hughes, Community Safety Manager

**Classification:** Public document (non-exempt)

**Wards Affected:** All

Approval Timetable	Date
Management Board	25 May 2021
Portfolio Holder	TBC
CSP	22 April 2021
Rough Sleepers Meeting	19 May 2021
Communities CAB	9 June 2021
Cabinet	24 June 2021

## Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

That the proposed Public Spaces Protection Orders, as set out in this report and in the appendices to this report, be approved for consultation or discharged.

# 1. Introduction and Background

- 1.1 The Public Spaces Protection Order (PSPO) was introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) to help protect public spaces from persistent anti-social behaviour.
- 1.2 The introduction of the Act saw PSPOs replace Designated Public Place Orders (DPPOs – known locally as ‘Alcohol Control Areas’), Gating Orders and Dog Control Orders.
- 1.3 DPPOs, or Alcohol Control Areas, were in force in Tunbridge Wells town centre and parts of Southborough prior to 2014. There were no Gating Orders or Dog Control Orders in the borough.
- 1.4 DPPOs that were not redesignated as PSPOs would automatically become PSPOs in October 2017 for a period of three years (to October 2020) which is the maximum allowable period for any PSPO, as defined in the Act.
- 1.5 PSPOs differ from their predecessor in that prohibitions can be imposed which are not only alcohol-related but cover other forms of anti-social behaviour.
- 1.6 Tunbridge Wells Borough Council introduced PSPOs on 25 September 2018.
- 1.7 The areas designated as Alcohol Control Areas prior to 2014 were converted to PSPOs in 2018 to maintain the provision of this well-established ‘tool’.
- 1.8 Other prohibitions and requirements were introduced in 2018 to address a variety of issues.

## Current PSPO status

- 1.9 PSPO 1 – Tunbridge Wells Town Centre

**New Psychoactive Substances (NPS):** Prohibits using and possessing.

**Begging:** Prohibits sitting for an unreasonable length of time with any receptacle being used to contain monies for the purpose of begging.

**Rough Sleeping with Associated Anti-social Behaviour:** Prohibits rough sleeping where anti-social behaviour (such as hoarding or causing an obstruction) is a factor.

**Making Amplified Noise:** Prohibits amplified busking where the Council has received complaints and the amplified noise is assessed to be causing an unreasonable disturbance.

- 1.10 PSPO 2 – Alcohol Control

**Drinking in Public Areas:** Where a person fails to surrender alcohol to an authorised officer, they are committing an offence in the following areas:

Tunbridge Wells Town Centre, including parks within the area and the Common.

Southborough: London Road, Springfield Road, Meadow Road, Holden Park Road, Ridgeway Playing Field.

Other Parks: St Johns Park, Grosvenor and Hilbert Park.

#### 1.11 PSPO 3 – Dog Control

**Dogs on Leads:** A requirement in The Nevill Ground and St Marks Rec.

**Dog Exclusion:** Prohibited in fenced play areas under the control of TWBC.

**Dog Fouling:** A boroughwide prohibition to increase the penalty notice charge from £50 to £100.

#### 1.12 Further details on current PSPO conditions can be found in Appendix A: PSPO 2018-2021 Summary.docx

## 2. Enforcement

2.1 The penalty for failing to comply with a PSPO (without reasonable excuse) on conviction is a fine not exceeding £1,000. It is also an offence to fail to comply with a request to cease drinking or to surrender alcohol in a designated area; punishable on summary conviction by a fine not exceeding £500. A fixed penalty notice of maximum £100 can be used as an alternative to prosecution.

2.2 Enforcement of the current PSPOs:

**Alcohol and New Psychoactive Substances:** Kent Police.

**Begging, rough sleeping and amplified music:** TWBC Community Safety Officer.

**Dog control measures (all):** Street Scene Enforcement Officers and Civil Enforcement Officers (dog fouling).

## Prohibitions and requirements enforced in 2018-2021

2.3 Kent Police regularly make discretionary use of the Tunbridge Wells town centre alcohol prohibition to seize alcohol from individuals or groups causing, or likely to cause, anti-social behaviour in public spaces such as parks, car parks and other open spaces.

2.4 The Southborough Alcohol Control Area has not been policed for many years following reductions in alcohol-related anti-social behaviour throughout the early 2010s.

2.5 Kent Police found no value in enforcing the prohibition of *Using or Possessing New Psychoactive Substances* through the PSPO, preferring instead to use well established legislation to seize substances on the basis that many NPS's likely contain controlled substances.

2.6 Officers from TWBC's Housing Options Team are the first point of contact for people sleeping rough. They are able to provide advice and put together a personal housing

plan to help them find somewhere to live; for instance, via a referral to supported housing through Kent Homeless Connect, to one of our 'rough sleeper initiative' supported housing spaces, or, if eligible in securing a private rental through our rent deposit scheme.

- 2.7 When complaints of anti-social behaviour are received the Community Safety Team may become involved. Members of the team have spoken with people begging or rough sleeping, who could be described as 'entrenched', in an effort to encourage engagement with support services, including our Housing Options team. The introduction of additional housing support, such as the rough sleeper initiative, shortly after the implementation of PSPOs greatly supported efforts to address rough sleeping and reduce the potential for associated anti-social behaviour.
- 2.8 The Community Safety Manager and Kent Police town centre officers have also engaged with people from outside the area who visit Tunbridge Wells solely for the purpose of begging. Several individuals have been moved on after being made aware of the PSPO.
- 2.9 No fixed penalty notices have been served on people begging or rough sleeping.
- 2.10 TWBC's Street Scene Enforcement Officers attended The Nevill Ground and St Marks Rec regularly following implementation to enforce the *dogs on leads* requirement. Several dog walkers ran away and some were spoken to and informed directly of the prohibition. Additional signage was installed. One fixed penalty notice was issued.
- 2.11 TWBC's Street Scene Enforcement Officers attended some fenced children's play areas as a visible presence in the months following the introduction of PSPOs in September 2018.
- 2.12 TWBC's Street Scene Enforcement Officers and Civil Enforcement Officers issued few fixed penalty notices for dog fouling.

### 3. Extending, discharging, varying, introducing

- 3.1 We recommend **extending** the measures that address behaviour related to rough sleeping and begging for a further three years.
- 3.2 We recommend **extending** the alcohol-related prohibition for Tunbridge Wells town centre, St John's Park, Grosvenor Park, Hilbert Park and Ridgeway Playing Field for a further three years
- 3.3 We recommend **discharging** the alcohol-related prohibition for London Road, Springfield Road, Meadow Road and Holden Park Road (all Southborough).
- 3.4 We recommend discharging the measure related to New Psychoactive Substances as there are other effective ways to address possession of substances classified as NPS.
- 3.5 We have been asked by the manager of the Tunbridge Wells Cricket Club to **vary** the *dogs on leads* requirement for The Nevill Ground to an outright ban on dogs, including match days.

- 3.6 The President of Tunbridge Wells Rugby Football Club would support a **variation** of the *dogs on leads* requirement for St Marks Rec to an outright ban on dogs, even for spectators on match days. He has expressed concerns about how this would be enforced.
- 3.7 A ban on dogs at St Marks and The Nevill was rejected at Leadership Board in 2018 in favour of a *dogs of leads* requirement. The public consultation was split 47% to 47% for and against an outright dog ban. However, strong feelings against the outright ban were recorded alongside the 'for/against vote'. See Appendix C: PSPO Public Consultation 2017 - Dog Control.docx
- 3.8 We would wish to consult with members, stakeholders and members of the public on the **introduction** of new prohibitions and requirements. These are outlined in Appendix B: PSPO 2021-2024 Draft Proposals.docx.

## 4. Options Considered

- 4.1 We have considered which of these issues could be addressed by targeting specific individuals with a Community Protection Warning (CPW) followed by a Community Protection Notice (CPN) for a second 'offence'.
- 4.2 While CPWs/CPNs do offer opportunities to more closely target specific individuals they do not offer the robustness of a PSPO in terms of messaging and pre-defining how open spaces are used.
- 4.3 The do-nothing option would see all current conditions expire on 24 September 2021 and no new conditions considered.

## 5. Preferred Option and Reason

- 5.1 Extend PSPO 1 (see 1.9) for a further three years, with the following exception:
- 5.1.1 Discharge the New Psychoactive Substances prohibition.
- 5.2 Extend PSPO 2 (see 1.10) for a further three years, with the following exception:
- 5.2.1 Consult on discharging the Southborough alcohol-related restriction on London Road, Holden Park Road, Meadow Road and Springfield Road.
- 5.3 Extend PSPO 3 (see 1.11) for a further three years, with the following exception:
- 5.3.1 Consult on varying the *dogs on leads* requirement at St Marks and The Nevill to an outright ban.
- 5.4 Consult on the introduction of new requirements as set out in Appendix B PSPO 2021-2024 Draft Proposals.docx.

## **6. Consultation on Options**

- 6.1 Internal discussions with the Parks Manager, Parking Manager, Community Safety Officer and a Street Scene Enforcement Officer have taken place. The issues have also been raised at the quarterly Community Safety Partnership meeting in April 2021 and the monthly Rough Sleepers meeting in May 2021.
- 6.2 The CSU Inspector has been consulted on the renewal of current conditions and the introduction of other measures that would require police support.
- 6.3 Discussions have taken place with those charged with the management of St Marks Rec and The Nevill Ground.

## **7. Implementation**

- 7.1 Consultation with stakeholders, interested parties and the public will take place in line with legislation and statutory guidance.
- 7.2 The consultation will be online, at our website. Paper copies will be made available at public buildings and upon request.
- 7.3 Promotion of the consultation will take place on social media, through press releases, posters in prominent locations, A-frames, postcards delivered to homes in relevant areas and made available in key locations, such as shops, public buildings, and on church and parish noticeboards.
- 7.4 Implementation would follow consultation and member approval.

## **8. Appendices and Background Documents**

Appendices:

- Appendix A: PSPO 2018-2021 Summary.docx
- Appendix B: PSPO 2021-2024 Draft Proposals.docx
- Appendix C: PSPO Consultation 2017 - Dog exclusion areas (sports grounds).docx

## **9. Cross Cutting Issues**

### **A. Legal (including the Human Rights Act)**

[Report author to insert comment on legal issues including what is the legal authority for this decision or report, what if any are the legal implications? Seek legal advice when completing. The relevant legal officer must sign off the report before it is submitted to Democratic Services.]

[Name, title and date of legal officer who signed off the report]

### **B. Finance and Other Resources**

[Report author to insert comment on finance issues including is there provision in the budget for this, how will the proposals be funded, is there project management, ICT resource needed? If this is covered in the report, the relevant sections can be referred to here. Your service accountant will need to check the report.]

[Name, title and date of finance officer who signed off the report]

### **C. Staffing**

[Report author to insert comment on staffing arrangements including if there are any implications on staffing levels or structures. If this is covered in the report, the relevant sections can be referred to here. An HR officer will need to check the report.]

[Name, title and date of HR officer who signed off the report]

### **D. Risk Management**

[Report author to insert comment on managing risks arising from the report including whether the matter is included in the strategic risk register, or if it should be, how the risks will be managed. Advice can be sought from the Head of Audit.]

[Name, title and date of report author]

### **E. Environment and Sustainability**

[Report author to insert comment on if/how the proposals care for the environment. Consideration must be given to our legal obligations. The Sustainability Officer must be consulted on the report].

Section 40, National Environment and Rural Communities Act 2006

*40(1) Every public authority must, in exercising its functions have regard so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.*

Section 85, Countryside and Rights of Way Act 2000

*85(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.*

[Name, title and date of Sustainability Officer who signed off the report.]

## **F. Community Safety**

[Report author to insert comment on if/how the proposals affect community safety. Consideration must be given to our legal obligations. The Community Safety Unit must be consulted on the report].

Section 17, Crime and Disorder Act 1998

*17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.*

[Name, title and date of Community Safety Officer who signed off the report.]

## **G. Equalities**

[Report author to insert comment on if/how the proposals affect equalities issues. Consideration must be given to our legal obligations. The Performance and Governance team must be consulted on the report. A separate Equalities Impact Assessment may be required].

Section 149, Equality Act 2010

*149(1) A public authority must, in the exercise of its functions, have due regard to the need to –*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*



## H. Data Protection

[Report author to insert comment on if/how the proposals affect data protection issues. Consideration must be given to our legal obligations. The Performance and Governance team must be consulted on the report. A separate Data Protection Impact Assessment may be required].

Article 5, General Data Protection Regulation 2016

*1. Personal data shall be:*

*(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;*

*(b) collected for specific, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;*

*(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;*

*(d) accurate and, where necessary, kept up to date;*

*(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;*

*(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.*

[Name, title and date of Data Protection Officer who signed off the report.]

## I. Health and Safety

[Report author to insert comment on if/how the proposals affect health and safety issues. Consideration must be given to our legal obligations. The Health and Safety Officer must be consulted on the report.]

[Name, title and date of Health and Safety Officer who signed off the report.]

## J. Health and Wellbeing

[Report author to insert comment on any social, economic and environmental factors which impact on people's health and wellbeing therefore these should be taken into consideration. The Health and Wellbeing team should be consulted on the report.]

*1. Areas of deprivation: Will the proposal have an impact (positive or negative) on those living in areas of deprivation within the borough (40% most deprived in the country). These are Sherwood, Southborough and High Brooms, Broadwater and Rusthall.*

*2. Healthier lifestyle opportunities: Will residents be more or less able to make healthier lifestyle choices such as physical activity (e.g. active travel, access to green spaces or access to leisure facilities), healthy eating (e.g. proximity or access to take away shops, allotments, food stores) and being smokefree*

*3. Social and Community networks: Will the proposal make it easier for people to interact with one another e.g. encouraging community engagement*

*4. Living and Working Conditions: does to proposal improve work or home environments, increase job, education or training opportunities, improve access to health services or housing*

*5. General Socioeconomic, cultural and environmental conditions: Are there any other factors that may impact the above*

[Name, title and date of officer who signed off the report.]