

PSPO 2022 – Introduction of measures to address anti-social behaviour

For Cabinet on Thursday, 14 April 2022

Summary

Lead Member: David Scott

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
Portfolio Holder	10/03/2022
Management Board	16/03/2022
Communities CAB	30/03/2022
Cabinet	14/04/2022

Recommendations

In accordance with the conditions in Section 59 (2) of the Anti-social Behaviour, Crime and Policing Act 2014 and with all consultation, publicity and notification having been completed the followed are agreed:

1. For measure 4 (Sherwood Lake): Implement an order to *restrict fishing on the south and western side of the lake to daytime only (7am-7pm)* and an *alcohol restriction* around the entire lake.
2. For measure 5 (St John's Park): Implement a *late-night curfew* requiring people leave the park between the hours of 11pm and 5am.
3. For measure 6 (multi-storey car parks): Implement a *no loitering, gathering or partaking in unauthorised non-parking related activities* requirement with an express understanding that rough sleeping does not fall into any of the categories on any order imposed.

1. Introduction and Background

- 1.1 A report to Cabinet in December 2021 detailed the results of a Public Spaces Protection Order public consultation, which ran from 16 July 2021 to 29 August 2021, with recommendations for measures to address anti-social or unwelcome behaviour and issues related to the control of dogs.
- 1.2 Some measures from the 2018 implementation were either discharged, varied or renewed for a further three years. One new measure, for dog control in Dunorlan Park, was approved for implementation in 2022.
- 1.3 The following three outstanding measures are the subject of this report:
- 1.3.1 **Introduce** a restriction on fishing along a stretch of the bank at Sherwood Lake and a wider restriction on alcohol to alleviate residents of a variety of anti-social behaviours.
- 1.3.2 **Introduce** a late-night curfew at St John's Park to alleviate residents of noisy anti-social behaviour.
- 1.3.3 **Introduce** a restriction on loitering or taking part in specific activities in Tunbridge Wells town centre multi-storey car parks.
- 1.4 Public response to the consultation strongly supported measures being taken to address these issues.

Consultation outcomes: in brief

- 1.5 In total, across the six measure we consulted on, we received 771 submissions and 1,130 comments. The relevant results are set out in the table below. Columns 2-5 show whether a respondent supported a particular proposal (see 1.3). Columns 6-8 show how many comments were submitted as part of their response.

1	2	3	4	5	6	7	8
Location	Yes	No	Don't know	Skipped	Voted Yes	Voted No	Don't know
Sherwood Lake	403	26	39	303	101	11	4
St Johns Park	419	29	39	284	88	7	7
Multi-storey car parks	479	49	44	199	92	14	13

Consultation Outcomes: Specifics

Measure 4 – Restrictions to address ASB at Sherwood Lake

- 1.6 A relatively new development in Sherwood has seen a number of residential properties built close to an existing lake in the woods behind Greggs Wood Road.
- 1.7 The lake and woods are very popular with local residents and by others who visit from further afield. The lake is fished by local residents who often stay for extended periods and it is this presence that is cited as the source of the nuisance behaviour.
- 1.8 While local police officers and PCSOs have attended the location to address anti-social behaviour in response to calls from local residents, issues that occur late at night, during weekends and Bank Holidays are less likely to get a speedy response, or indeed any timely response.

In support of some form of restriction

- 1.9 A good number of people who live adjacent or close to the lake responded to the consultation and provided additional information as to the disturbances they have experienced. The behaviour they have highlighted mostly disturbs them during the evening and throughout the night, at weekends and during Bank Holidays.
- 1.10 Behaviours most often mentioned include shouting, swearing (at volume), fighting, drunkenness, bite alarm noise and dog barking. Additionally, people who enjoy walking around the lake, some of whom live in Sherwood as well as others who live a little further afield find all sorts of litter, broken bottles, dog mess and human faeces. The litter, they say, is typically “strewn across the fishing hot spots”.
- 1.11 Alcohol use is frequently mentioned in the comments, with some respondents claiming some users of the lake “are always drinking no matter the time of the day”. There is a belief that alcohol use at the lake drives much of the reported anti-social behaviour.
- 1.12 Drug use too, specifically cannabis, is mentioned often but it’s the pungent smell that causes the most concern for people walking around the lake as well as for families living nearby. One comment suggests “far too many [people] use the area as a social gathering for the use of recreational drugs, alcohol consumption”.
- 1.13 The combination of littered pitches with “bivvies and kit spread across the paths” which are narrow in places, drunkenness and cannabis use has led some people to feel “uncomfortable” and “intimidated” and reluctant to make use of what is a fantastic local facility. One respondent states they “no longer visit the woods because it doesn't feel safe”. Other comments share a similar reluctance to go there themselves or with their children.
- 1.14 A good number of respondents were distressed by the killing of a cormorant, which appears to have been deliberately targeted, and a duck early in 2021 and this has added to the reluctance of some locals to use the lake for dog walking or exercise.

- 1.15 There were some positive comments amongst those who support some form of control around the lake, with some respondents stating most people fishing the lake are friendly, they clean up after themselves and they are more aware of their surroundings than others who erect bivvies that encroach on the pathways.
- 1.16 Others recognise that while they don't live next to the lake they can appreciate that those who do would be disturbed by some of the behaviour, particularly as some fishermen spend the entire night (or nights) at the lake.

Not in support of restrictions

- 1.17 One respondent, who uses the area regularly and does not support our proposals, tells us they "enjoy seeing people fish at the lake" on their "regular late evening walks" and that the people they pass are "well behaved and polite".
- 1.18 Another says that in the three years they've lived nearby there has been "no trouble at the lake" and the people who spend time there "don't tend to be overly loud". Further, "bite alarms are to be expected" when you live next to a public lake.
- 1.19 One respondent would rather see an "angling club" set up with "paid membership" and a committee so that rules may be applied and enforced, claiming there are a "couple of people that have caused issues" but these are "not proper anglers".
- 1.20 Another recognises that the "behaviour of folk can be a challenge" but would rather that challenge was met with some "understanding and charity, rather than prohibition". However, they go on to say they "support the restriction on alcohol" as it is "pathway to more serious problems".
- 1.21 One respondent suggests the proposed PSPO is used to restrict fishing to "daytime only" and "no bivvies".

Conclusion

- 1.22 What's clear from respondents' comments is that people on both sides of the argument care about this area of Sherwood and there is broad acceptance that residents in nearby properties are disturbed by some of the behaviour at the lake, particularly during the summer when windows are open and families spend time in their gardens.
- 1.23 One or two respondents suggest fishing is banned completely because of the behaviour it attracts but many others recognise the value of this pastime in this particular part of the borough. Even those directly affected by the behaviour, and support some form of restriction, are not calling for a ban and would not support one.
- 1.24 Some comments suggest there are periods during the summer when the lake is used extensively and some people stay overnight or longer, including one period of two weeks. Being locals, they receive regular visitors, and this accentuates all the issues highlighted above.
- 1.25 A good number of respondents were quite certain that without enforcement the PSPO will not address the behavioural issues around the lake.

Measure 5 – Late night anti-social behaviour at St Johns Park

- 1.26 St Johns Park is an open space in St Johns ward with access points off Beltring Road and Reynolds Lane. It is a very well used location popular with families, dog walkers and young people. It hosts a bowling green, tennis courts, a children’s play area, a modest skatepark and a meadow.
- 1.27 Complaints of late night anti-social behaviour have increased over the past two or three years with young people gathering late in the evening or very early morning.
- 1.28 Police have attended and moved people on in response to calls from residents living in nearby properties. However, attendance is dependent on a number of factors and noise nuisance is not a clear priority when tasking police resources. Further, residents may be advised to contact the Council when they call 101 late at night.

In support of night-time restrictions

- 1.29 One respondent who has “lived next to the park for five years” states the anti-social behaviour has been ongoing “for many years” and “should have been dealt with years ago”. Another states they have lived “near the park for 18 years” and is willing to “put up with some noise” but “the drunken/high youngsters leave broken glass” which is just the final straw.
- 1.30 A number of local respondents identify similar issues, including often being “woken up in the night by people yelling and playing loud music”, with one person describing the late-night gatherings as “mini raves” that go on “late into the night” and another saying “it’s like a pub garden that never shuts”. Another states “If it is a nice evening, you can pretty much guarantee it will be ruined by visitors to the park later that night and into the early hours”.
- 1.31 Others recall “foul” and “offensive” language, and many highlight the regular “littering” they find after people have gathered there overnight, including “broken bottles, cans, general rubbish”, “drug paraphernalia” and even “broken glass in the sandpit”.
- 1.32 Others have pointed to vandalism in the park and surrounding roads, including “trees, benches and play equipment” and “damage to cars” and the “paintwork” of other private property.
- 1.33 The absence of “Park Wardens” is again mentioned and several respondents took the opportunity to compliment the former “excellent” groundskeeper who was left with “such a mess to clear up”.

Not in support of night-time restrictions

- 1.34 Two respondents, one of whom lives near Grove Park, do not support the curfew on St John’s Park as we will just be “moving the problem elsewhere”.
- 1.35 Another suggests it might be enough to “make it clear” that they have to gather “further into the park away from houses” and to provide “subtle lighting”.

- 1.36 Several comments suggest young people need “somewhere to go” or somewhere to meet” and there’s “nothing else for them to do”.

Conclusion

- 1.37 Many respondents favour some form of restricted access to the park and some were grateful that the park was locked at weekends during the summer months of 2021 stating they had “seen an improvement” and “it had an impact”. One local resident of 30+ years suggests the issues started to occur after the council stopped locking parks many years ago.
- 1.38 The issue most frequently raised with imposing a curfew is that of enforcement, with one respondent pointing out we already have “laws against drunkenness, disorderly behaviour, littering and criminal damage” so “how about enforcing those first before creating new ones”.

Measure 6 – ASB in town centre multi-storey car parks

- 1.39 Our town centre multi-storey car parks have often attracted unwelcome behaviour and while we, as a Council, have done much to address this (particularly in respect of anti-social behaviour caused by rough sleepers) the car parks are still popular with young people who occasionally gather there to socialise during the early to late evening.
- 1.40 In response to the consultation 479 respondents favoured restrictions to address anti-social behaviour or loitering in the car parks while 49 were not in favour.

In support of restrictions on people gathering in car parks

- 1.41 Respondents to this issue rarely highlighted specific activities (such as skateboarding and free running) as a problem and sympathised with young people who they believe are using the car parks because “there’s nowhere else for them to go”.
- 1.42 Even amongst those who would support a ban on loitering in the car parks they recognise that this would unfairly penalise skateboarders and they would wish the Council (or others) to provide young people with a “safe space” to enjoy their pastime.
- 1.43 That said, people have expressed their experiences of coming across groups of people in car parks, particularly at night, as “intimidating”, “unnerving” and “disconcerting”. The intimidation, one respondent recognises, may “not be intentional”, but that is the effect.
- 1.44 Torrington and Great Hall are mentioned several times with commuters returning to the car park late in the evening and feeling wary of who they may find there. Rough sleepers are mentioned a number of times, as a concern, along with “groups hanging out” to “drink and smoke”.
- 1.45 Several comments from women point to groups of people loitering in the car parks as making them feel unsafe, particularly at night.

Not in support of restrictions

- 1.46 One respondent who, at some time in the past, used car parks “as a place to chill” hasn’t witnessed any “negative behaviour” asking us to note that “kids hanging out is not a negative thing and should not be treated as such”.
- 1.47 Other respondents want the Council to “show interest” in the skateboarding and BMX communities. Others wish for us to engage with relevant instructors to provide young people with an outlet, referencing recent Olympic successes as a reason to encourage engagement.
- 1.48 Other respondents would like to see the car parks serve a dual purpose, with times or levels or specific areas made safe and preserved for skateboarders or free runners, giving them a sense of “ownership and responsibility” and perhaps under tutelage from qualified instructors. This was also true of some who supported the proposal.
- 1.49 Some respondents point to a lack of bins, and public conveniences that are closed of an evening as reasons why people gathering in these areas leave litter behind or urinate where they can.

Conclusion

- 1.50 As with other measures we consulted on there is a great deal of tolerance amongst the responses, whether in support of restrictions or not.
- 1.51 The physical activities themselves, whether that’s skateboarding, BMXing or free running, are not seen as an issue by the vast majority of respondents but there is a recognition that multi-storey car parks can be intimidating places in their own right, especially at night and if alone.
- 1.52 Groups hanging out of an evening cause people to feel anxious, and if they are boisterous and drinking alcohol or smoking cannabis there’s a greater sense of unease.
- 1.53 A number of people suggested the presence of rough sleepers and their pitches can also be intimidating and contributes to some of the behaviours mentioned above. However, the definition of ‘loitering’ does not apply to rough sleeping and we will not be using a PSPO to ban rough sleepers from public spaces.

2. Options Considered

Measure 4 – Sherwood Lake

- 2.1 **Do nothing, dispatch patrols as required or restrict activities to certain parts of the lake at specific times of the day or year:** To do nothing would see no change in behaviour and a continuation of the complaints outlined in this report. Patrols have been dispatched in response to residents’ calls about anti-social behaviour affecting them or their family, but it does not address the issues over the longer term and it does not encourage behaviour change.

Measure 5 – St John’s Park

- 2.2 **Do nothing, dispatch patrols in response to complaints, or lock the gates:** We have received regular complaints about late-night anti-social behaviour in the park over a number of years. If nothing is done this will continue. Patrols attend when they can and some individuals have been spoken with. We tried locking the gates at weekends (9pm, Fridays and Saturdays) as often as we could through the summer of 2021. This proved successful, to a degree, but is not sustainable over the longer term and does not appear to have encouraged behaviour change.

Measure 6 – Multi-storey car parks

- 2.3 **Do nothing, increase security patrols, continue to dispatch outreach workers:** To do nothing would see a continuation of complaints from residents, commuters and others at a time when we would like to see an increase in visitors to our town. An increase in security patrols may take place if the order is introduced to ensure people loitering in the car parks are moved on.
- 2.4 The order would also support the efforts of the current security detail, who patrol early evenings, to move people on when anti-social behaviour is identified and there is no reasonable reason for people to be in the car parks.
- 2.5 Any order brought in as a result of this report will not seek to prohibit rough sleeping in car parks.
- 2.6 The Community Safety Team will continue to dispatch outreach workers, regardless of the outcome.

3. Preferred Option and Reason

Measure 4 – Sherwood Lake

- 3.1 Issues at the lake may be resolved by a PSPO if reasonable restrictions are applied and consistently enforced, while being mindful that the Police and Crime Commissioner does not want PSPOs to have a negative impact on frontline policing.
- 3.2 It would therefore seem sensible to consider what other solutions might be available to us, such as modifying the land to afford greater protection for residents living in close proximity (i.e. closing swims on the south and western side of the lake) and/or setting up a licensed angling club which would bring with it an element of self-policing.
- 3.3 A local provider of fishing equipment and long-time Tunbridge Wells resident offered advice on the introduction of an angling club and expressed a willingness to be closely involved in any such endeavour.
- 3.4 The solutions alluded to above (3.2) will take some time to set up and embed so in the meantime we recommend that an order is introduced to restrict fishing on the south

and western side of the lake to daytime only (7am-7pm). We further recommend alcohol control is introduced to cover the entire perimeter of the lake.

Measure 5 – St John’s Park

- 3.5 Without enforcement a curfew at St John’s Park is unlikely to stop the reported issues from occurring. Given that the issues that cause the most disturbance occur late at night nearby residents would be looking for regular and prompt attendance. However, this expectation may not be met as the only available resource overnight is Kent Police. The PCC in his response to our proposals, advised that it is his priority to ensure any PSPOs have a minimal impact on frontline policing.
- 3.6 Notwithstanding the issues highlighted in section 3.4 this report recommends a curfew is placed on St John’s Park from 11pm-5am. Public expectations would have to be managed carefully, clearly and sensitively and we still have the option of locking the gates if resources are likely to be scarce or if issues recur persistently within a short period.

Measure 6 – Multi-storey car parks

- 3.7 Our preference is for a no loitering, gathering or partaking of non-parking related activities that would allow for discretionary enforcement by authorised officers.
- 3.8 Authorised officers would be TWBC staff. While Kent Police would not be the primary enforcement agency there would be a reasonable expectation that Kent Police officers would seek compliance with the order if attending relevant locations following a complaint.
- 3.9 Conversations took place with outreach agencies such as KCC Early Help, Kenward Trust and St Giles Trust to ensure they are aware of the restrictions being proposed as this may have an effect on the work and engagement that takes place with young people in public spaces.

For all three measures

- 3.10 When possible, visits to the above locations in response to complaints would be undertaken by TWBC officers or contracted services.
- 3.11 Enforcement by way of fixed penalty notice, if required, would also be undertaken by Council officers, in all situations.
- 3.12 Police, if called to an area protected by a PSPO, would move people on but may also take personal details of those breaching the order so that TWBC may consider if further action is appropriate.
- 3.13 Kent Police have committed to assigning ‘op info’ (operational information) on designated locations for the duration of the orders. This would allow a Kent Police call taker to better assess and prioritise attendance when complaints are received.

4. Consultation on Options

- 4.1 This report is the result of a public and stakeholder consultation that ran from 16 July 2021 to 29 August 2021.
- 4.2 During late-2021, while visiting Sherwood, TWBC's Community Safety Manager held several brief (~30 minute) discussions with parties affected by the behaviour at Sherwood Lake and, separately, with several men who regularly fish at the lake.
- 4.3 The Police and Crime Commissioner, in his response to the consultation reminded us that it is his "priority that all PSPO's have a minimal impact on front line policing" and encouraged further discussions with local police chiefs, which have taken place.
- 4.4 Kent Police (CSU) offered broad support of the orders with an understanding that the availability of resources and other competing priorities will affect attendance, as outlined to members at a briefing on 4 February 2022.
- 4.5 Other stakeholders offered broad support for the measures depending on the outcome of the public consultation.

5. Implementation

- 5.1 Preparatory work has begun for implementation of the orders at the end of April 2022, if approved. This includes signage, finalisation of the draft orders, and the necessary notification and publication.

6. Appendices and Background Documents

Appendices:

- Appendix A: PSPO 2022 Order 1 - Sherwood Lake (Fishing)
- Appendix B: PSPO 2022 Order 2 - Sherwood Lake (Alcohol)
- Appendix C: PSPO 2022 Order 3 - St Johns Park
- Appendix D: PSPO 2022 Order 4 - Multi-storey car parks
- Appendix E: PSPO 2022 Equalities Impact Assessment
- Appendix F: PSPO 2022 Confirmation of Necessary Actions

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

By s.59 of the 2014 Act, local authorities may make a PSPO if satisfied "on reasonable grounds" that two conditions are met.

The first condition is that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice.

PSPO's may prohibit certain actions or may require specified things to be done: s.59(4). In either case however, the provisions must prevent or reduce the identified detrimental effect.

The Local Authority must carry out the necessary consultation, publicity and notification before making, extending and/or varying a PSPO.

TBC Robin Harris, Team Leader (Contentious), date

B. Finance and Other Resources

The Council currently has a significant budget deficit for 2022/23 and does not have the ability to provide additional security. It must also be understood that there is a risk of public and employee injury associated with anti-social or inappropriate behaviour, for which the council could be found liable if not deemed to have made every effort to prevent it in spaces owned and managed by the council.

TBC Jane Fineman, Head of Finance & Procurement, date

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

This report sets out a number of proposals for addressing and reducing anti-social and unwanted behaviour in key areas, thereby increasing community safety. Conversations around measures to address anti-social behaviour in areas that are popular with young people (St John's Park and multi-storey car parks, for instance) took place at February's multi-agency District Contextual Safeguarding Meeting to ensure agencies are sighted on the potential for the displacement of issues to more sensitive areas.

Terry Hughes, Community Safety Manager, 09/03/2022

G. Equalities

With regard to the first aim of the general equality duty, we do not consider that the proposed policy is unlawfully discriminatory. Although there is potential for young people to be affected by the proposals by the new locations for Public Space Protection Orders, there are a range of alternatives within the town centre where they can gather.

With regards to fostering good relations the proposals seek to introduce a reasonable and proportionate response to issues of anti-social behaviour that balances the needs of all those who use the areas where such behaviour may occur.

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.*

Sarah Lavallie, Corporate Governance Officer, 11/03/2022

H. Data Protection

The proposals in this report do not present any changes to how personal data is processed by the Community Safety Partnership. The Council has appropriate safeguards in place to keep data secure, including when working with our partners

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.*

Sarah Lavallie, Corporate Governance Officer, 11/03/2022

I. Health and Safety

In addition to the issues related to anti-social behaviour and loitering in multi-storey car parks, and the anxiety this can cause to legitimate users of the car parks, particularly after dark, TWBC have a responsibility to reduce risks to persons who access and use their areas of land and property. The TWBC owned areas noted in this report are areas where there has been a history of issues in the past.

Mike Catling, Corporate Health and Safety Advisor, 15/03/2022

J. Health and Wellbeing

The health and wellbeing of residents has been taken into consideration throughout the report, specifically in relation to reducing anti-social behaviour, creating safer environments, and encouraging physical activity opportunities. These measures look to increase local resident's mental wellbeing by reducing disturbances, as well as to improve the locations as areas for residents to exercise and enjoy during the day time..

Rebecca Bowers, Health Improvement Team Leader, 21/03/2022