

Public Space Protection Order for alcohol control

Cabinet	16th November
Report Author	Jessica Bailey, Community Safety Team Leader
Portfolio Holder	Cllr Lin Fairbrass, Deputy leader and Cabinet Member for Community Safety & Environmental Services
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities (2 or more wards)
Ward:	All wards

Executive Summary:

The purpose of this report is to recommend that the Council exercises its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce a Public Spaces Protection Order (PSPO) to provide officers with additional enforcement capability to control alcohol where it is having or likely to have a detrimental effect on the wider community.

This PSPO proposes a restriction on carrying and consuming alcohol which is causing, or could cause, Anti Social Behaviour, when asked not to do so by an authorised officer, within the designated boundary, (urban areas) of the District of Thanet.

This PSPO if agreed, will replace the Designated Public Places Order relating to alcohol control, previously agreed by Council in 2005 (extended in 2008), which expires in October 2017, due to the introduction of PSPOs. Failure to agree a new PSPO for alcohol control will mean there are no controls in place from October 2017.

The Cabinet is asked to support the proposals to give officers, both district council and Kent Police, greater ability to tackle alcohol related Anti Social Behaviour in the interests of the wider community, residents, local businesses and visitors to the area.

Recommendation(s):

- i) To exercise its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce a Public Space Protection Order controlling alcohol where it is having or likely to have a detrimental effect on the wider community;
- ii) To delegate any minor amendment of the PSPO to the Chief Executive.

CORPORATE IMPLICATIONS

Financial and Value for Money

There are no identified financial implications at this time. Enforcement of this order if adopted will come from within existing budgets and resources. Kent Police will also hold responsibility for enforcement and this will not incur a cost to the council.

	<p>There may potentially be future legal costs for enforcement of Fixed Penalty Notices, however this will be covered within the existing departmental Community Safety legal budget and the income generated by fixed penalty notices recovered should also contribute towards these costs.</p>								
<p>Legal</p>	<p>The Antisocial Behaviour Crime and Policing Act 2014 (the act) streamlined existing measures used to tackle Anti social and nuisance behaviour, into just six new powers. Civil Injunctions; Criminal Behaviour Orders; Community Protection Notices; Closure Orders; Dispersal Powers and Public Space Protection Orders</p> <p>This report concerns itself with the introduction of a Public Space Protection Order.</p> <p>Section 59 of the Act requires the Council to carry out the necessary consultation and the necessary publicity, and the necessary notification before making a public spaces protection order.</p> <p>The necessary consultation means consulting with the chief officer of police, and the local policing body, for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; and the owner or occupier of land within the restricted area.</p>								
<p>Corporate</p>	<p><u>Priority 1</u>, Clean and welcoming environment - Maintaining zero tolerance to encourage positive behaviour to help improve our environment</p> <p><u>Priority 2</u>, Supporting neighbourhoods - Continuing to work with partners to improve community safety and anti-social behaviour</p>								
<p>Equality Act 2010 & Public Sector Equality Duty</p>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table border="1" data-bbox="432 1722 1401 1966"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td>X</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table> <p>It is not felt that the introduction of this order should have any negative</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it	X	Foster good relations between people who share a protected characteristic and people who do not share it.	
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	<p>impact in respect of protected characteristics and the public sector equality duty.</p> <p>Restrictions around alcohol control when there is or is likely to be Anti Social Behaviour, aims to make all public spaces more accessible to all members of society regardless of whether they hold a protected characteristic or not.</p> <p>An Equality Impact Assessment screening has been undertaken and there are no matters arising from this proposal at this time.</p> <p>This will be kept under review.</p>
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CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	✓
Promoting inward investment and job creation	
Supporting neighbourhoods	✓

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	✓
Supporting the Workforce	✓
Promoting open communications	

1.0 Introduction and Background

- 1.1 The Anti Social Behaviour, Crime and Policing Act 2014 streamlined existing powers and introduced new measures for professionals to tackle Anti Social Behaviour (ASB).
- 1.2 One of the new powers created in this act was the introduction of Public Space Protection Orders (PSPOs) which has given powers to local authorities to introduce orders that restrict certain behaviours or activities within a specified area, if it can be demonstrated that such activity is having a negative impact and is detrimental to the quality of life of the community.
- 1.3 PSPOs also replace previous legislation to tackle disorder including Designated Public Places Orders (DPPO). Thanet has had a DPPO since 2005 which was extended in 2008 to cover the whole of the district. This made the consumption of alcohol (when likely to cause a nuisance) and when asked not to do so by an authorised officer, an offence.

However due to the introduction of PSPOs, this expires in October 2017.

- 1.4 Thanet is the fourth most densely populated district in Kent (ONS 2015) and has seen a 19% growth in Thanet's visitor economy (Visit Kent 2016). areas. It is a growing tourist destination with a number of popular areas to visit and socialise in. The Council works with other agencies to foster a safe and sociable experience when visiting or going out in the district.

Residents, businesses and Elected Members have reported Anti Social Behaviour due to street drinking and alcohol related nuisance in the urban areas, particularly of Margate, Broadstairs and Ramsgate. Local businesses owners have also expressed concern with regards to the increase in tourism alongside the impact and perception of alcohol related disorder.

2.0 Public Space Protection Order - threshold

2.1 When making an order the Council must be satisfied that on reasonable grounds the activities carried out, or likely to be carried out, in a public space:

- *Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;*
- *Is, or is likely to be, persistent or continuing in nature;*
- *Is, or is likely to be unreasonable; and*
- *Justifies the restrictions imposed.*

2.2 The council can only make a PSPO on any public space within the boundaries of the Thanet District. This includes any place to which the public or any section of the public have access, on payment or otherwise, as a right or by virtue of an expressed or implied permission.

2.3 It is an offence for a person, without reasonable excuse, to do anything that they are prohibited from doing by a PSPO or for them to fail to comply with a requirement to which they are subject to under a PSPO.

2.4 In line with the requirements of the act, the Thanet District Commander and Kent Police and Crime Commissioner have been consulted prior to the drafting of this order and are in support of the proposals.

3.0 Alcohol control in public spaces

3.1 The Designated Public Places Order has given officers additional powers for a number of years, to confiscate alcohol where the officer believes it to be contributing, or likely to contribute to Anti Social Behaviour.

3.2 This Public Space Protection Order replaces the Designated Public Places Order and expands and extends alcohol control capabilities for a further three years.

3.3 It is proposed that restrictions around alcohol consumption remain in urban areas, and persons can be required:

- To not consume alcohol or anything the authorised person reasonably believes to be alcohol, in sealed or unsealed vessels.
- To surrender anything in the person's possession which is, or the authorised person reasonably believes to be, alcohol or likely to be used as a container for alcohol.

4.0 Evidence and justification

4.1 Thanet continues to experience high levels of Anti Social Behaviour compared to other districts (Kent Police recorded crime data available on police.uk).

4.2 A review of the former Designated Public Place Order and data provided by Kent Police demonstrates a continued need in the urban and open recreational areas of the district to have provision in place to control alcohol consumption.

4.3 The Council and Kent Police regularly receive complaints regarding anti social activities associated with alcohol consumption. This has included reports of street drinking and unauthorised events such as beach parties.

- 4.4 The map and data set in out in the proposed order, (See Annex 1) is provided as a snapshot to demonstrate prevalence across the district, alongside a summary of alcohol related arrests from Margate Police custody from 2016-2017.
- 4.5 When looking at the impact of alcohol on the Thanet district, Thanet has higher levels of hospital admissions for alcohol related diseases than any other district, which is also set out in more detail in the proposed order (See Annex 1).
- 4.6 The 2014 annual public health report published by the Kent Public Health Observatory cited alcohol as an issue for Kent and Thanet in that the number of people dying prematurely from liver disease in the county has risen 43% since 2002, which is against trends for other diseases. The number of people being treated for alcohol related conditions has also increased, particularly in Thanet.
- 4.7 The most recent alcohol and liver disease profile for Thanet also shows higher levels of alcohol related mortality and hospital admissions and significantly higher levels of mortality from chronic liver disease compared to the rest of Kent. (*Thanet CCG alcohol and liver disease profile 2014-15*).
- 4.8 The aim of 'Reducing harmful drinking' is a current priority for Public Health England whilst 'Tackling the negative effects of alcohol' is also set out clearly in the Kent Drug and Alcohol Strategy for 2017-2022 produced by Kent County Council and Kent Police. This revised strategy acknowledges the changing complexities of alcohol and calls upon all partners including district councils to do all they can to prevent and reduce the harmful effects of drugs and alcohol issues.
- 4.9 These objectives also support both themes of the Thanet District Council corporate priorities for 2015-2019 and Thanet Community Safety Partnership action Plan for 2017-2020.

5.0 Context

- 5.1 The council undertook a 21 day public period for comment to establish and incorporate any further stakeholder views. The majority of law abiding citizens will not be affected by this order. It is only persons acting or likely to act in an anti social manner due to alcohol that will be effected by this order.

6.0 Definitions and exemptions

- 6.1 *Public place* means any place to which the public or any section of the public has access to, on payment or otherwise, as a right or by virtue of an express or implied permission. This includes beaches and foreshores.
- 6.2 *Authorised person* means an officer or agent acting on behalf of Thanet District Council, a Police Constable or a Police Community Support Officer.
- Alcohol* has the meaning as given by Section 191 of the Licensing Act 2003.
- 6.3 *Licensed premises* - This provision does not apply to alcohol being consumed within premises (including designated outdoor areas) that have obtained a license under the Licensing Act 2003 or section 115E of the Highways Act 1980.
- 6.4 The 'Restricted Area' and proposed boundary as set out in this order covers the majority of the more densely populated urban areas within the District of Thanet that have shown a higher volume of arrests made by police due to drunkenness and intoxication. A map is available on page 3 of the annexed order.

6.5 This framework is **not** a blanket ban on alcohol consumption, but provides officers with additional powers in urban areas likely to be more populated, when they witness or suspect that alcohol is, or may, become a contributory factor in Anti Social Behaviour. It then becomes an offence to consume or carry alcohol or items believed to be alcohol, when asked not to do so by an authorised officer.

7.0 Options

7.1 To approve the recommendations;

7.2 To amend the recommendations and then approve them;

7.3 To reject the proposed order and recommendations.

Contact Officer:	(Jessica Bailey, Community Safety Team Leader)
Reporting to:	(Penny Button, Head of Safer Neighbourhoods)

Annex List

Annex 1	Proposed draft Public Spaces Protection Order
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Background documents

Title	Where to access copy
<i>Chief Medical Officer announcement report - January 2016</i>	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/489795/summary.pdf Accessed: 10/08/2017
<i>Thanet CCG alcohol and liver disease profiles 2014</i>	http://www.kpho.org.uk/_data/assets/pdf_file/0005/43457/Thanet-CCG-alcohol-and-liver-disease-profile.pdf Accessed: 12/08/2017
Annual public health report 2014	http://www.kpho.org.uk/health-intelligence/lifestyle/alcohol#tab1 Accessed: 10/08/2017

Corporate Consultation

Finance	Ramesh Prashar, Head of Financial Services
Legal	Sophia Nartey, Interim Head of legal Services
Communications	Hannah Thorpe, Head of Communications