

Public Spaces Protection Order No. 3 (Anti-Social Behaviour)

Cabinet	26th July 2018
Report Author	Jessica Bailey, Community Safety Manager
Portfolio Holder	Cllr Lesley Game, Cabinet Member for Housing and Safer Neighbourhoods
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities (2 or more wards)
Ward:	Margate Central, Cliftonville West, Central Harbour, Eastcliff

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 more effectively manage Anti-Social Behaviour in areas where it is currently having a detrimental effect on the community.

The councils Community Safety team and Kent Police currently deal with all Anti-Social Behaviour (ASB) reports for the District. Thanet traditionally experiences higher levels of Anti-Social Behaviour compared to other areas. The four wards of Margate Central, Central Harbour, Eastcliff and Cliftonville West (which form the proposed 'designated area') account for over half of all ASB in the district.

Over the last 12 months these areas have experienced significant issues with regards to nuisance emanating from Anti-Social groups and the deliberate misuse of public spaces, which has also had a negative impact on businesses premises in the area.

A number of targeted interventions have already been deployed but have only achieved moderate success in these areas. This has included increased visibility, targeted enforcement as well as diversionary tactics such as mobile outreach, support referrals and education.

In light of this and based on the continued high volumes of ASB in these areas, the Council in consultation with Kent Police, seek this order to provide additional enforcement capabilities to tackle these complex issues.

This order proposes that within the specified designated area, the following activities are restricted for the duration of this order (three years);

- Anti-Social group congregation of two or more persons when causing ASB and;
- Misuse of public spaces (when asked not to do so);
- Using foul or abusive language.
- Excreting bodily fluids.

This order, if agreed, will be the third order in the district, the two orders already granted in 2017 cover alcohol related disorder and dog offences.

The Council are asked to support the proposals to give officers greater ability to tackle Anti-Social

Behaviour in high volume areas in the interests of the wider community, residents, local businesses and visitors to the area.
<p>Recommendation(s):</p> <ul style="list-style-type: none"> i) To exercise its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to introduce a Public Space Protection Order; ii) To delegate any minor amendment of the PSPO to a service Director; iii) To then agree a Fixed Penalty Notice fine amount of £80 with early repayment of £60.

CORPORATE IMPLICATIONS	
Financial and Value for Money	<p>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> <p>There may potentially be future legal costs for enforcement of Fixed Penalty Notices, however this will be covered within existing departmental Community Safety legal budget and the income generated by fixed penalty notices recovered should also contribute towards these costs.</p>
Legal	<p>The Anti-Social 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>Kent Police and the Kent Police and Crime Commissioner and District Councillors were consulted as part of the initial consideration for making this order. In addition to this, all residents, businesses and other stakeholders are all invited to respond as part of an public 21 day opportunity to comment running 12th June – 2nd July 2018.</p>
Corporate	<p>Priority 1, Clean and welcoming environment - Maintaining zero tolerance to encourage positive behaviour to help improve our environment</p> <p>Priority 2, Supporting neighbourhoods - Continuing to work with partners to improve community safety and anti-social behaviour</p>
Equality Act 2010 & Public Sector Equality Duty	<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</p>

	<p>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"> <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 impact in respect of protected characteristics and the public sector equality duty.</p> <p>Restrictions around 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>	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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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 Thanet is a growing tourist destination with a number of areas to visit and socialise in. The Council works with other agencies to foster a safe and sociable experience when visiting or socialising in the district.
- 1.2 The Anti-Social Behaviour, Crime and Policing Act 2014 streamlined powers for the Police and Council to tackle Anti-Social Behaviour (ASB).
- 1.3 One of the new powers created in this act was the introduction of Public Space Protection Orders (PSPOs) given solely to local authorities to introduce orders that restrict certain behaviours or activities within a specified geographical area, if it can be demonstrated that such activity is having a negative impact and detrimental to the locality.
- 1.4 Thanet traditionally has higher levels of Anti-Social Behaviour when compared to other Districts in Kent. The four wards that form the restricted area make up over half (53%) of all ASB in the District.

- 1.5 During the 2017-18 financial year Anti-Social Behaviour incidents in the two town centre areas of Margate and Ramsgate have remained high, despite reductions in ASB experienced in other areas. This has been primarily due to Anti-Social group congregation and the misuse of public spaces, which has been adversely targeted towards business and commercial premises.
- 1.6 The Council and Police have continued to receive a high volume of complaints in these areas and have met several times to consider all available interventions to combat these problems.
- 1.7 A number of tactics have already been utilised in these areas in a bid to combat the Anti-Social Behaviour, which has resulted in over 150 enforcement actions as well as the deployment of mobile outreach and diversionary interventions in these locations. Whilst these tactics have had some impact, the two areas continue to experience significantly higher volumes of ASB than other wards.
- 1.8 A PSPO is requested to implement a substantive order in the key town centre areas of Margate and Ramsgate to restrict the types of behaviours causing ASB and give additional powers to enforcement officers.

2.0 PSPO threshold

- 2.1 When making an order the council must be satisfied that on reasonable grounds that 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 make a PSPO on any public space within the boundaries of the Thanet District.
- 2.3 This includes any place to which the public or any section of the public have access, on payment or otherwise, as of right or by virtue of expressed or implied permission.
- 2.4 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.

3.0 Proposal

- 3.1 It is proposed that a Public Space Protection Order is introduced to provide additional restrictions to more effectively control ASB in the designated area for a period of three years.
- 3.2 It is proposed that the following activities are restricted:
- **Anti-Social group congregation**
All persons are prohibited from congregating as part of a group of 2 or more for such duration as specified, when directed not to do so by an authorised officer; on the basis that the behaviour is causing or is likely to cause, harassment, alarm or distress to others in the locality.
 - **Misuse of public space**

All persons are prohibited from misusing any public space, facility or installation; when directed not to do so by an authorised officer *and* that the behaviour is causing or is likely to cause, harassment, alarm or distress to others in the locality.

- **Using foul or abusive language**

All persons are prohibited from using foul or abusive language in such a manner that it is likely to cause harassment, alarm or distress to any other person in any public place.

- **Excreting bodily fluids**

All persons are prohibited from excreting bodily fluids, including but not limited to urinating, defecating or spitting in any public place that is not a specified toilet facility.

- 3.3 Due to the high levels of ASB experienced in Margate and Ramsgate town centres it is proposed the order covers the majority of the four wards of Margate Central, and Cliftonville West in Margate, Central Harbour and Eastcliff in Ramsgate. Maps 1 and 2 in the draft bundle depict the boundaries of the proposed 'Designated areas'.
- 3.4 It is proposed that this order gives discretion and flexibility to officers to exercise enforcement of these provisions where persons are causing ASB and they refuse to adhere to an officers request to cease their conduct, where their conduct is believed to be having a detrimental effect on those in the locality.
- 3.5 Kent Police have a designated officer for both town centre areas which, alongside PCSOs and TDC Enforcement staff will oversee the enforcement of this order.

4.0 Definitions and exemptions

- 4.1 *Public place* means 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. This includes beaches and foreshores.
- 4.2 *Authorised person* means an officer or agent acting on behalf of Thanet District Council, a police constable or a police community support officer.
- 4.3 *Anti-Social behaviour* has the meaning as given by Section 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 4.4 *Foul or abusive language* can be defined as words that are used to cause offence and the manner in which they are delivered.
- 4.5 Officers will have particular regard to the rights and freedom of expression as freedom of assembly set out in articles 10 and 11 of the convention.
- 4.6 Any breach of this order must be witnessed by an authorised officer, whereby at least 1 member of the public is present and affected, or likely to be affected by the specified behaviour or conduct.

5.0 Justification for making the order

- 5.1 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) with increasing numbers visiting the urban areas.
- 5.2 Whilst overall, ASB is experiencing a downward trend county-wide; Thanet continues to experience the highest levels of Anti-Social Behaviour of all districts in Kent. In the most recent published data from Kent Police, a total of 4059 incidents were reported from April 2017 – February 2018.

- 5.3 The Council and Kent Police have seen continued complaints relating to ASB and nuisance in the town centre areas of Margate and Ramsgate, specifically relating to anti-social groups using foul and abusive language, nuisance bikes and deliberately misusing public spaces. Examples of this misuse has included cycling on pavements, play fighting, jumping dangerously between buildings and refusing to cease when asked not to do so.
- 5.4 Of all recorded ASB incidents, 53% (2158) were within the four key wards of Margate Central, Central Harbour, Eastcliff and Cliftonville West which forms the proposed designated area of this order. Further evidence, maps and data is set out in Appendix 2 of the proposed order.
- 5.5 Residents, businesses and Elected Members have also raised regular concerns with regards to the impact and perception of nuisance behaviour and ASB within the town centres of Margate and Ramsgate. Issues have been raised regularly by Town Teams and at Neighbourhood Engagement Meetings.
- 5.6 The Council have dealt with a total of 239 incidents regarding ASB and nuisance within the designated area. This comprises of 157 reports for Margate and 82 for Ramsgate town centre areas. As a result the council has taken formal enforcement action on 23 occasions.
- 5.7 The council has had cause to deep clean public space locations on an additional 17 occasions due to the misuse of public space due to the deliberate excretion of bodily fluids including the excretion of blood, vomit and excrement.
- 5.8 In the annual Community Safety Partnership perception survey for 2018, half of respondents felt their perceptions of safety had deteriorated. Of those respondents who gave their postcode as being from areas within the designated area this figure increased to 68%. The main reason cited for this perception was due to ASB and nuisance groups.
- 5.9 A number of other interventions have already been utilised but have only had moderate impact. Most significantly is the regularity in which Kent Police have had cause to use dispersal powers on over 75 occasions.
- 5.10 Implementing a three-year PSPO will provide additional powers to enforcement officers to address ASB in the designated area and also compliment continued ongoing action against prolific individuals who persistently continue to cause ASB and disrupt our communities.

6.0 Enforcement

- 6.1 The order gives discretion and flexibility to officers to only exercise enforcement where the specified conduct is causing harassment, alarm and distress detrimental to the locality.
- 6.2 It does not replace existing powers and any enforcement of this order will take an incremental approach and be proportionate. The individual circumstances surrounding any breach of this order will be considered and flexibility will be utilised as to whether enforcement is appropriate. Where there is an underlying reason contributing towards the Anti-Social Behaviour, wherever appropriate support and advice will be given in the first instance.
- 6.3 A person is guilty of an offence under section 67 of the ASB Crime and Policing Act 2014 and liable to summary conviction to a fine not exceeding level three on the scale, currently £2500.

- 6.4 A constable or authorised person may issue a Fixed Penalty Notice under section 68 of the ASB Crime and Policing Act 2014 to anyone they reasonable believe has committed an offence in breach of this order. This includes authorised council officers, Police Constables and Police Community Support Officers.
- 6.5 The legislation allows for a maximum fine amount is £100, however previous orders have adopted an £80 with early repayment of £60 to mirror former littering fine amounts. It is recommended this order adopt the same £80 (£60) amount.

7.0 Consultation

- 7.1 When considering implementing a PSPO the Council must undertake consultation with stakeholders deemed relevant.
- 7.2 Kent Police and the Kent Police and Crime Commissioner as statutory consultees, have been consulted as part of this process and are in support of the proposal.
- 7.3 Elected Members with wards in the designated area and the portfolio holder were invited to a consultation proposal meeting on the 11th June 2018. Members were in agreement and support the proposals.
- 7.4 Ramsgate Town Council, Town Teams and Local Businesses relevant to the designated area were notified of the intention to consider this order and invited to comment and were in support of the proposals.
- 7.5 A 21 day public opportunity to comment was also held between the 12th June – 2nd July 2018. A total of 36 formal written responses were received and 33 were in support of the proposals with three objections.
- 7.6 One objection did not provide any rational as to why they did not support the proposal. The second concern was primarily regarding wider concerns in relation to general PSPO legislation and sought clarification regarding the group congregation definition and enforcement, which was provided. This response also raised general concerns regarding the creation of new orders to create new offences which could criminalise people and again further clarification provided regarding training and proportionality of use by officers to confirm that the majority of law abiding persons would not be affected by this order if agreed.
- 7.7 The third objection was from Liberty, who regularly counter PSPO proposals. The feedback from Liberty has been reviewed and acknowledged prior to submitting final proposals and the reports and associated documentation has included revised definitions to reflect best practice.

8.0 Other matters arising through the consultation

- 8.1 As part of the consultation, the following clarifications were also provided to queries that were raised.
- 8.2 *Extend the designated area to cover the whole of the district* – The legislative guidance surrounding PSPOs is very clear on not allowing for District wide orders, and restrictions must be proportionate towards a targeted geographical area where high volumes of ASB can be evidenced.
- 8.3 *Extend to cover other town or village centres* – A review of existing data currently does not support extending this order to cover other urban areas. Whilst it is recognised that other areas do experience problems, the volumes are nowhere near

that of the proposed area. Any restrictions must be proportionate to the area in which they cover.

- 8.4 *Displacement of ASB to other areas* – This is always a potential risk with any enforcement action within a geographical boundary and the full impact will not be known until the order is in place, however it is perceived that the attraction for perpetrators to congregate in these specific areas is in part unique due to being more densely populated areas with high concentration of shops, fast food establishments and Wi-Fi not as prominent in other areas.

Action has been undertaken to mitigate any potential displacement. Diversionary outreach has been targeted to run alongside the order in other nearby locations outside of the designated area to continue to give resilience and monitor any potential impact.

In addition to this order all other ASB tools and powers still continue to be available for use in all parts of the District. This order is sought to bolster existing capability due to the significant volumes of ASB currently experienced in the designated areas. These volumes cannot be evidenced in other parts of the district.

Whilst the justification to extend this order to other areas currently is not there, any PSPO once granted remains under review and amendments to an order can be made if required.

9.0 Options

- 9.1 To approve the recommendations.
- 9.2 To amend the recommendations and then approve them.
- 9.3 To reject the proposed order and recommendations.

Contact Officer:	Jessica Bailey, Community Safety Manager
Reporting to:	Penny Button, Head of Safer Neighbourhoods

Annex List

Annex 1	Proposed draft Public Spaces Protection Order – No. 3 ASB
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Corporate Consultation

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