

Extension to the Alcohol Public Space Protection Order

Cabinet	16 November 2023
Report Author	Jo-Anna Taylor, Community Services Manager
Portfolio Holder	Cllr Keen, Cabinet Member for Neighbourhoods
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
Previously considered by:	Overview and Scrutiny Panel on 24th October 2023
Ward:	All wards within Thanet district.

Executive Summary:

The purpose of this report is to recommend that the Council exercises its powers as contained within the Anti Social Behaviour Crime & Policing Act 2014 to extend the current Alcohol PSPO for a further 9 months. This extension of 9 months will bring the expiry of the alcohol PSPO into alignment with the Anti Social behaviour PSPO which will expire on 31st July 2024, at which point a combined ASB and Alcohol PSPO will be applied for.

Recommendation(s):

It is recommended that Cabinet agree to the following actions:

1. The Current PSPO is extended for a further 9 months, to 30th July 2024 to bring in alignment with the current Anti Social Behaviour PSPO, at which point a combined PSPO will be drafted and applied for;
2. To delegate any minor amendment of the PSPO to the Chief Executive.

Corporate Implications

Financial and Value for Money:

Costs associated with the management of the Alcohol PSPO will be contained within current budgets. Mechanisms in relation to breaches of this PSPO are already adopted.

There may potentially be future legal costs for enforcement of breaches via court process however this will also be covered within the existing budgets.

Legal:

Section 59(1) of the Act empowers local authorities to make a PSPO if they are satisfied, on reasonable grounds, that any activity carried out or which is likely to be carried out in a public space within their area:

- has had, or is 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;
- justifies the restrictions imposed

Section 59(5) of the Act provides that the only prohibitions or requirements that may be imposed are reasonable to impose in order-

- To prevent the detrimental effect referred to above from continuing, occurring or reoccurring; or
- To reduce the detrimental effect or to reduce the risk of its continuance, the occurrence of reoccurrence

Section 59(8) of the Act requires that a PSPO must be published in accordance with regulations made by the Secretary of State. Section 60 of the Act provides that a PSPO may not have an effect for a period of more than 3 years unless extended.

Section 61(4) of the Act provides that a PSPO may be discharged by the local authority that made it. Section 61(6) of the Act provides that where a PSPO is discharged, a notice identifying the PSPO and stating the date when it ceases to have effect must be published in accordance with regulations made by the Secretary of State.

Section 72 of the Act requires that, in extending or varying a PSPO, the local authority must consult 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;
- the owner or occupier of land within the restricted area

Risk Management:

The council operates a robust process around the enforcement of PSPO related issues which include the issue of penalty notices.

The issue of Penalty notice is a remedy offered as an alternative to prosecution. There is a low risk of error in the issue of these types of penalty notices which may have a disproportionate impact upon different groups within society. Legislative guidance around the issue of penalty notices of this type allows for a mechanism for appeal and an ability to challenge the issue at a judicial level if the issue of an FPN is either believed incorrect or issued in error.

There is a range of information available including online, in a written format and delivered in person in schools. Areas covered by the PSPO have clear understandable signage in place Those committing the offence are given an opportunity to stop their behaviour before a fixed penalty notice is issued.

The continuation of this PSPO reduces risk of negative behaviour, including anti-social behaviour, associated with the consumption of alcohol.

Corporate

The recommendations support The Council's Core Business Objectives in the following areas:

- To keep our district safe and clean: Work with communities and partner organisations, including the Police, to improve the perception and reality of public safety.
- Communities: Work with our partners to deliver a range of community safety initiatives across the District, taking tough action to tackle anti-social behaviour and alcohol related negative behaviour.

Equality Act 2010 & Public Sector Equality Duty

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.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To foster good relations between people who share a protected characteristic and people who do not share it.

It is not felt that the continuation of the alcohol PSPO has any negative impact in respect of protected characteristics and the public sector equality duty.

There have been no previous complaints in relation to equalities since the PSPOs inception.

A customer impact screening exercise has been undertaken and there are no matters arising from this proposal at this time.

This will be kept under review.

Corporate Priorities

This report relates to the following corporate priorities: -

- Growth: Open spaces, free from alcohol related negative behaviour support the growth of the area, attracting positive behaviour from residents and visitors.
- Environment: Protect and enhance where possible our parks, beaches and open spaces for the benefit of current and future residents.
- Communities: Work with our partners to deliver a range of community safety initiatives across the District, taking tough action to tackle anti-social behaviour and alcohol related behaviour.

1.0 Introduction and Background

1.1 A Public Spaces Protection Order (PSPO) is an order made by the Local Authority if it is satisfied on reasonable grounds that two conditions are met. These are:

- That activities being carried out within a public place have had a detrimental effect on the quality of life of those in the locality or it is likely they will.
- That the effect, or likely effect, of these activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable.

1.2 These orders identify public places and prohibit specific things from being done in that area or require specific things to be done in that area for a maximum of three years. A breach of the order would constitute a criminal offence. A PSPO may be extended as many times as required.

2.0 The current situation

The current alcohol PSPO is due to expire on the 15th November 2023.

2.1 The impact of the original order and subsequent orders around PSPO restrictions have had a positive impact and helped prevent some of the negative behaviour that affects residents and visitors of Thanet.

2.2 The council continues to receive a number of complaints around alcohol behaviour.

2.3 The content of this report was reviewed at the Overview and Scrutiny Panel on the 24th October 2023 and agreed to progress to cabinet for approval.

2.4 Representatives from Kent Police have been consulted with and have agreed the rationale for the extension.

2.5 We are recommending that the PSPO will continue unchanged for the next 9 months and that the authority to approve any further minor amendments to the order be delegated to the chief executive.

3.0 Options

3.1 To approve the recommendations.

3.2 To amend the recommendations and then approve them.

3.3 To reject the proposed order and recommendations.

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Reporting to: Penny Button (Head of Neighbourhoods)

Annex List

Annex 1 - Alcohol PSPO document

Background Papers

Current Web page

<https://www.thanet.gov.uk/info-pages/beer-licensing/>

Corporate Consultation

Finance: Chris Petrou (Finance Officer)

Legal: Sameera Khan (Interim Head of Legal & Monitoring Officer)