

COUNCIL

8 OCTOBER 2020

PUBLIC SPACE PROTECTION ORDERS

Portfolio Holder: Councillor Adrian Gulvin, Portfolio Holder for Resources

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Summary

Public Spaces Protection Orders ('PSPOs') were introduced by section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (this section came into force on 20 October 2014). PSPOs are an order created in relation to areas within the local authority's jurisdiction, where activities are taking place that are, or are likely to be, detrimental to the local community's quality of life. PSPOs impose conditions or restrictions on people within that area. A Breach of a PSPO is an offence punishable by a fixed penalty notice and/or prosecution in the Magistrates Court. There are currently two schemes in existence that have converted into PSPOs –

- Designated Public Place Orders (DPPOs) in Chatham, Gillingham, Rochester and Strood (also known as 'alcohol control zones').
- Dog Control Order.

These orders all expire on 19 October 2020 and this report covers the outcomes of the public consultations carried out seeking views on their renewal.

1. Budget and policy framework

- 1.1. Approval of Public Spaces Protection Orders, in accordance with s59 of the Anti-Social Behaviour, Crime and Policing Act 2014, is a matter for Full Council.

2. Background

- 2.1. One of the key powers of interest to the Council, partners and the community is the Public Spaces Protection Order (PSPO). PSPOs are designed to deal with a particular nuisance or problem in an area by placing conditions on the use of the area and for those that do not comply.

- 2.2. On 20 October 2014, the Government implemented most of the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”). The purpose of the Act is to give local authorities and others more effective powers to tackle anti-social behaviour (ASB), providing better protection for victims and communities.
- 2.3. Amongst these tools and powers are PSPOs, which are designed to control the use of public spaces. It is for each individual Council to determine what behaviour(s) they want to make the subject of a PSPO.
- 2.4. PSPOs provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems. An Order should help to significantly reduce incidents of relevant ASB in the area over the long-term and improve the quality of life for residents, visitors and local businesses.
- 2.5. Local authorities can make an order as long as two conditions are met:

First condition:

 - Activities carried out in a public space within the local 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 out in a public place within the area that will have such an effect.

Second condition:

The effect or likely effect of the activities:

 - Is, or is likely to be, of a persistent or continuing nature
 - Is, or is likely to be, such as to make activities unreasonable and
 - Justifies the restrictions imposed by the notice.
- 2.6. A number of Local Authorities across England and Wales have introduced Public Spaces Protection Orders. However, one of the key challenges has come from human rights campaigners who argue that these types of controls impact disproportionately on protected rights. These include Article 8 - the right to a private and family life, Article 10 - the right to freedom of expression and Article 11 – the freedom of assembly and association.
- 2.7. Any prohibition or requirement must be reasonable in order to prevent the detrimental effect from occurring or reoccurring, or must reduce the detrimental effect or reduce the risk of its occurrence, reoccurrence or continuance.
- 2.8. PSPOs can be made for a maximum of three years. The legislation provides that they can be extended at the end of the period, (if the authority is satisfied on reasonable grounds that it is necessary for various reasons), but only for a further period of up to three years. However, orders can be extended more

than once. Local authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an order but further consultation must take place for varying or discharging orders.

- 2.9. Before making the order the local authority must notify potentially affected people of the proposed order, inform those persons of how they can see a copy of the proposed order, notify them of how long they have to make representation, and consider any representations made.
- 2.10. Any interested person can challenge the validity of a Public Space Protection Order in the High Court but the challenge must be made within six weeks of the making of the Order. An 'interested person' means an individual who lives in the restricted area or who regularly works in or visits that area.
- 2.11. In the last three years, our preventative approach to anti-social behaviour (ASB) has led to a reduction in the number of incidents of ASB across Medway, with 29% fewer incidents recorded (compared with the period Apr 17 - Mar 18). The top 5 Wards for recorded ASB are River, Gillingham North, Gillingham South, Strood South and Chatham Central. These 5 Wards account for 47% of all ASB incidents in Medway.
- 2.12. As a Council, we are determined to reduce this figure further, and the tools and powers contained within the Act have helped us to develop our joint work alongside Kent Police.
- 2.13. Kent Police continue to receive repeated complaints from residents, visitors and local businesses across Medway about unreasonable ASB. Complaints show that reported ASB has a detrimental effect on the quality of life of those living in or using certain areas, reducing their ability to feel safe in, use or enjoy public spaces.

3. Options

- 3.1. We have consulted upon our existing PSPOs which cover prohibiting the following activities:
 - 3.1.1. Designated Public Place Orders (DPPOs) in Chatham, Gillingham, Rochester and Strood (also known as 'alcohol control zones') maps – see appendix 1.
 - 3.1.2. Dog Control Order maps – see appendix 2.
- 3.2. As previously noted, the powers to create PSPOs came into force in October 2014. As well as enabling local authorities to address a range of different issues, the Orders replace Designated Public Place Orders (DPPOs), and Dog Control Orders. Existing DPPOs and Dog Control Orders automatically became PSPOs (as of 20 October 2017).
- 3.3. Statutory guidance (see appendix 3) states that before extending (as well as introducing, varying or discharging a PSPO) there are requirements under the

Act regarding consultation, local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Any parish or community councils (for example PACTs) that are in the proposed area covered by the PSPO must be notified.

- 3.4. Any Order must identify and publicise (e.g. on social media and through the provision of public signage in the designated areas) the public space as a 'restricted area' and must prohibit specified activities being carried out in the restricted area (prohibitions), or require specified things to be done by persons carrying out specific activities in that area (requirements), or both.

Dog Control Orders

- 3.5. In 2014 a Dog Control Order was put in place using Section 55 of the Clean Neighbourhoods and Environment Act 2005 which was superseded by the ASB, Crime and Policing Act 2014. The order covers Riverside Country Park and Capstone Country Park. The Dog control Order consists of The Dogs on Leads Order, The Dogs on Lead by Direction Order and the Dogs Exclusion order.

Existing PSPOs Covering the Consumption of Alcohol in Chatham, Rochester, Gillingham and Strood

- 3.6. Historically local authorities could designate by order, a Designated Public Place Order (DPPO) in any public place within their area if they were satisfied that nuisance, annoyance or disorder has been associated with the consumption of alcohol in that place. These were commonly known as 'Alcohol Control Zones'. The first was introduced in Rochester in 2003, followed by Chatham, Gillingham and Strood.
- 3.7. The order did not mean a blanket ban on drinking in public, but did mean a police officer (or authorised council officer) could prevent anyone drinking alcohol if they were behaving anti-socially. They also had the power to confiscate and dispose of alcohol and fine people up to £500 – failure to comply could lead to arrest. Pubs and clubs in the area were not affected by the ban as long as drinking took place within their premises.
- 3.8. Although the town centre PSPOs cover slightly wider areas, the enforcement has only been carried out by Kent Police within the footprint of the town centres themselves.

4. Advice and analysis

- 4.1. PSPOs have been an agenda item at the Strategic Executive Group of the Community Safety Partnership, which is chaired by the Cabinet Member for Resources, as well as representation from the responsible authorities, Kent Police, Kent Fire and Rescue Service, Kent, Surrey and Sussex Community Rehabilitation Company and the Kent and Medway Clinical Commissioning

Group. The Office of the Police and Crime Commissioner although not a responsible authority also represented.

- 4.2. A Diversity Impact Assessment (DIA) will not be required as this report does not recommend any policy/service change.

5. Risk management

- 5.1. There are reputational, environmental, economic and legal risks to the Council for not pro-actively pursuing an extension of our existing PSPOs.

Risk	Description	Action to avoid or mitigate risk	Risk rating
We do not consult	Risk of legal challenge	Ensure full consultation is carried out as per guidance	E2
We do not renew the four town centre and two country parks PSPOs	ASB returns to the areas controlled. Reputational risk. Increased pressure on service complaints	Ensure we renew PSPOs by 19 October 2020	E2

6. Consultation

- 6.1. Responses received to the consultations were in support of their extension. The response rates are listed below.

- 6.2. Do you support the continuation of the Public Space Protection Order to prohibit the drinking of alcohol in:

- Chatham – 100%
- Gillingham – 96%
- Rochester – 97%
- Strood – 100%

- 6.3. The Police and Crime Commissioner, the Borough Commander for Kent Police, Town Centre Policing Team and Safer Medway Partnership are in support of the proposals.

- 6.4. Do you support the continuation of the Public Space Protection Order to control dogs in:

- Capstone – 91%
- Riverside – 100%

- 6.5. The Police and Crime Commissioner and the Borough Commander for Kent Police are in support of the proposals.

- 6.6. In relation to the Town Centre PSPOs, there was support for extending for another their term from the Town Centre Policing Teams, the Kent Police

Licencing Team, the Safer Medway Partnership and Licenced Victuallers Association.

- 6.7. As noted at 6.1, responses received to the consultations were in support of their extension, however it is worth noting that the actual numbers were low. A total of 89 responses were received in relation to the town centres, and 24 for the dog orders.
- 6.8. To advertise the consultation, a press release with a link to the consultation was sent out by the Communications Team, this was also 'tweeted' from the Community Safety Partnership Twitter account. All town centre forums were advised as were all Neighbourhood Watch Coordinators and PACT groups (Partners and Communities Together). There was also one response made on behalf of the Licensed Victuallers Association that represents all licenced premises in Medway.
- 6.9. However, it is important to note that due to the COVID-19 pandemic the Community Safety Team were unable to carry out consultation events in all the high street areas, which would have meant more consultation forms being completed, thus increasing the number of responses significantly. In addition to this, there would have been consultation forms available in all of our libraries, sports centres and country parks, but as these facilities were closed this was also not possible.
- 6.10. This report was considered by the Cabinet on 22 September 2020 and it agreed to recommend to Full Council the approval of the extension for a further 3 years of the existing four town centre and two dog control PSPOs (not varied or discharged).

7. Climate change implications

- 7.1 There are neither positive nor negative climate change/carbon emission implications arising from the report.

8. Financial implications

- 8.1. A total of £276 has already been spent in installing signage at Rochester Castle Gardens. The financial implications in extending the PSPOs relate to the cost of new signage at £46 each for which there will be a requirement for a further 20 at a cost of £920, the cost of the additional signage will be met within existing budgets.

9. Legal implications

- 9.1. The Anti-Social Behaviour Crime and Policing Act 2014 and associated guidance sets out a series of requirements for introducing PSPOs and the policy for their extension. As noted in the report, the process for the extension of the PSPOs required a programme of consultation as detailed above.

10. Recommendations

- 10.1. That Council approves of the extension for a further 3 years of the existing four town centre and two dog control PSPOs (not varied or discharged).

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Appendices

Appendix 1 – Maps to existing PSPOs in Chatham, Gillingham, Rochester and Strood.

Appendix 2 – Maps to existing PSPOs at Capstone and Riverside Country Park.

Appendix 3 – LGA Public Space Protection Orders, Guidance for Councils.

Background papers

None