

EAST HERTS COUNCIL

KEY DECISION TO BE TAKEN BY HEAD OF HOUSING AND HEALTH

PUBLIC SPACES PROTECTION ORDER

WARD(S) AFFECTED: ALL

Purpose/Summary of Report

- To inform of the outcome of the consultation with residents and other stakeholders.
- To explain the proposed changes to the 2016 Public Spaces Protection Order (PSPO).
- To outline how enforcement of the proposals will be managed.

RECOMMENDATIONS: That the Head of Housing and Health acting under authority delegated under Part 3c, section 16.11 of the council's Constitution to make Public Spaces Protection Orders, having consulted the Head of Legal and Democratic Services:

(A)	Having considered the results of the consultation, approves the proposed variation of the Public Spaces Protection Order to include designated parish land subject to further consultation where applicable;
(B)	Approves the extension of the Public Spaces Protection Order for a further three years from 1 May 2019;
(C)	Approves the discharge of restrictions that relate to anti-social behaviour from 30 April 2019; and
(D)	Approves the authorisation of town and parish councils to enforce dog related PSPOs on their land subject to training and guidelines agreed by East Herts Council should they wish to take on this task.

1.0 Background

1.1 The Anti-social Behaviour, Crime and Policing Act 2014 provides local authorities with powers to create a Public Spaces Protection Order (PSPO) where they are satisfied that activities carried on in a public place:

- 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.

1.2 The current PSPO came into force on 1 May 2016 and created ten offences. These covered:

- dog fouling (across the whole district)
- dogs not being on leads when directed (across the whole district)
- dogs not being on leads in specified areas
- dogs in dog exclusion areas in specified areas
- walking more than four (4) dogs on East Herts owned land
- failing to produce a receptacle for picking up dog faeces (across the whole district)
- using a mechanically propelled vehicle in a disorderly or anti-social manner
- failing to meet the requirement to surrender possession when asked of any new psychoactive substances
- failing to observe the prohibition of alcohol consumption in five (5) designated areas (replacing the Designated Public Place Order (DPPO))
- shouting, swearing, screaming or making unnecessary noise where alcohol restrictions are in place.

1.3 A PSPO can be made for a maximum duration of up to three years, after which it may be extended, varied or discharged for up to a further three years. The current PSPO expires on 30

April 2019. As part of the process for extending or varying the PSPO there is a statutory requirement that the council publishes the order and carries out a further consultation process if the order is varied. If anyone fails to meet the requirements of the order or to comply with a request from an authorised officer, they could be issued with a Fixed Penalty Notice of up to £100 or prosecuted.

- 1.4 This report details the evidence for the proposed extension and changes to the 2016 PSPO and the results of the public consultation on the proposals.

2.0 Report

- 2.1 The current restrictions were introduced to deal with a range of issues including dog fouling, excluding dogs from certain areas (such as play areas) and restrictions to deal with emerging anti-social behaviour trends at that time.
- 2.2 The council has worked with Hertfordshire Police and partners to review current restrictions in place to ensure they are still proportionate and effective. The proposals include extending the dog control restrictions by another three years and amending the areas covered to include some town and parish council play areas and open spaces.
- 2.3 It is proposed to vary and extend (by three years) the current PSPO for the following dog control offences:
- 1) **dog fouling** – the existing provision that makes it an offence if a person in charge of a dog fails to clean up its faeces
 - 2) **dogs on leads when directed** – the existing provision that makes it an offence for failing to put a dog on a lead when directed to do so by an authorised officer
 - 3) **dogs on leads in specified areas** – the existing provision

that makes it an offence to not have a dog on a lead in all council owned allotments.

Proposed change: To incorporate additional locations as specified in Schedule 1 of the order.

4) **dog exclusion in specified areas** - the existing provision that makes it an offence to allow a dog onto council owned land which have been designated to exclude dogs:

- All fenced children's playgrounds and areas which are designated and marked for children's play
- All fenced games areas e.g. tennis, ball courts, skate parks
- All bowling greens
- Marked playing pitches – when in use for playing sports

Proposed change: To incorporate additional locations as specified in the proposed Schedule 1 of the order (see Essential Reference Paper 'C');

5) **walking more than four (4) dogs** – the existing provision that makes it an offence for an individual to take more than four (4) dogs onto any council owned land at any one time.

6) **failing to produce a receptacle for picking up dog faeces** – the existing provision which would require dog walkers to carry a poop bag or other means for clearing up after their pet.

2.4 Following discussions with Hertfordshire Police it is also proposed that the restrictions relating to anti-social behaviour (ASB) will be discharged and removed from the order. This is after careful consideration and evaluation of their use. There are a range of other measures as outlined in paragraph 2.5 to deal with individuals involved in ASB that can be more effective

and targeted in terms of addressing the identified problems.

2.5 It is proposed to discharge and remove the following anti-social behaviour offences from the current PSPO:

1) **using a mechanically propelled vehicle** in a disorderly or anti-social manner.

During the three years the PSPO has been in place the Community Safety Partnership (CSP) has not had reason to make use of this power. Signage was produced and displayed in two locations where there were continued reports of vehicle related nuisance (predominantly cars racing in car parks). The approach from the CSP was to seek to educate and change behaviour with signage as a first step. In doing so, the issues either reduced or where needed other powers were used; for example taking action where another criminal offence had been committed. The CSP has also found that in areas where there has been persistent vehicle related nuisance, there are often other practical measures that can be taken that help prevent or deter the problem such as requesting the landowner to improve the security or design of the land. In addition, should a person(s) be identified as causing a nuisance with a motorised vehicle then there are other powers under the ASB Crime and Policing Act 2014 that can be used to address this.

Proposed change: to remove this provision from the PSPO.

2) **failing to surrender possession**, when asked, of new psycho active substances (commonly known as legal highs) or a drug that is not alcohol or tobacco on any land within the district.

The CSP included this condition within the PSPO prior to any guidance from the Home Office being made available. Since this time the Psychoactive Substances Act 2016 has come into effect that has allowed agencies to address the

longer term and root causes of the use of new psychoactive substances. Where there is evidence of use, for example paraphernalia finds, then the most appropriate action would be taken depending on the evidence available.

Proposed change: to remove this provision from the PSPO.

3) **prohibition of alcohol consumption** in five (5) designated areas.

The CSP has not made use of this PSPO power over the past three years. The CSP believed this was needed to help address any alcohol related disorder in the five locations named within the PSPO, however, an unintended consequence is that a PSPO can penalise the majority whilst trying to tackle a minority. Under the ASB Crime and Policing Act 2014 there are a number of other powers available that allow agencies to take action against the minority who cause problems in the district. These measures are more sustainable in terms of monitoring, resources and costs. Within the district there are a number of initiatives and procedures in place to address problems linked to the night time economy, for example:

- Pubwatch – a network of licensees and partner agencies to monitor those who cause problems within licensed premises. Anyone who persistently does so can be placed on the PubWatch scheme which prohibits their entry to licensed premises
- CCTV – the town centres have CCTV in place to help capture evidence of any disorder. The council is currently undertaking a review of CCTV in the district to ensure that it is meeting the need
- Scannet – a Hertfordshire Police and Crime Commissioner funded initiative used in premises with late licenses to scan the ID of persons entering
- specific Police operations at key times of the year

- using more appropriate powers under the ASB Crime and Policing Act against individuals who have come to notice for ASB or criminal behaviour e.g. a Community Protection Warning or Criminal Behaviour Order. This will also be in conjunction with signposting them to any support services they may need should they have any dependency needs.

This power was not intended to address underage drinking as there are already powers available to the Police in regards to this. In addition, where there are identified 'street drinkers', the CSP wants to work with those persons to help address their possible addictions and put in place a longer term resolution. The issuing of a fixed penalty notice would not necessarily achieve this.

This power is dependent on Police resources and does not necessarily address the underlying root causes. The CSP is therefore confident that by continuing its partnership working and using a variety of methods there is not a need for this power.

Proposed change: to remove this provision from the PSPO.

- 4) **shouting swearing, screaming** or making any unnecessary noise in a disorderly or anti-social manner in area where alcohol restrictions are in place.
The above condition has not been used during the three years the PSPO has been in place. The rationale for use was to take action against alcohol related ASB in the designated areas, however, upon reflection the CSP acknowledges this condition was not practical in terms of enforcement. Instead the CSP will continue to use the previously listed measures to take action against person(s) who act in an anti-social manner in the district.

Proposed change: to remove this provision from the PSPO.

2.6 Consultation relating to the proposed changes to the 2016 PSPO ran from 3 December 2018 to the 13 January 2019. This included consultation posters in the council's open spaces, information packs in libraries, e-communication and direct communication with statutory consultees such as the Police, Hertfordshire County Council and all town and parish councils in the district. A copy of the consultation document is given in **Essential Reference Paper 'B'**

2.7 The consultation resulted in 254 responses. Overall the majority of the responses were supportive. The results obtained for the consultation are as follows:

Proposal	% of All Consultees who agree with proposals
Dog fouling - the extension of existing provision	96%
Dogs on leads when directed - the extension of existing provision	91%
Dogs on leads in specified areas - the variation and extension of existing provision	83%
Dog exclusion in specified areas - the variation and extension of existing provision	83%
Walking more than four (4) dogs - the extension of existing provision	86%
Failing to produce a receptacle for picking up dog faeces - the extension of existing provision	92%
Using a mechanically propelled vehicle in a disorderly or anti-social manner – discharge of this provision	58%
Fail to surrender possession when asked of any new psychoactive substances – discharge of this provision	63%
To fail to surrender alcohol when asked in a designated area– discharge of this	64%

provision	
Shouting, swearing, screaming or making unnecessary noise where alcohol restrictions are in place – discharge of this provision	63%

- 2.8 The results show support for the extension of the six existing dog control offences and the variation of the order to include the additional areas requested by the town and parish councils.
- 2.9 Over 58% of respondents gave support for discharging the other ASB related offences, this majority is perhaps lower than the other proposals as respondents may have concerns about how agencies will address the issues. However, as outlined in paragraph 2.5 the CSP will continue to use powers available under the ASB Crime and Policing Act. There were also few concerns raised about some specific ASB issues in localised areas. These related to issues including drug taking, dangerous driving, ball games and fireworks. Individuals will be responded to regarding these issues where they have left contact details.
- 2.10 10 town and parish councils have responded and confirmed support for the PSPO extension and additional areas in schedule 1 to be included.
- 2.11 Requests were also made to add areas to the PSPO, not included in the schedule 1. These were:
- The playground and meadow, off High Street, Stanstead Abbots - dogs excluded
 - King George V Memorial Field, High Wych – dogs excluded from the play area
 - High Wych Allotments – dogs on leads
 - Allen's Green Playing Fields (registered Village Green)

- 2.12 It is proposed that these areas will be added to the order from 1 May 2019, subject to consultation with users of the areas taking place, and comments considered before the order is made by the Head of Housing and Health.
- 2.13 Ware Town Council requested a separate PSPO to prevent the feeding of pigeons in Amwell End. A local consultation process will be undertaken before a separate decision is made regarding this.
- 2.14 Other comments arising from the consultation process have been analysed and responses provided where necessary. – a summary of these is shown in **Essential Reference Paper 'D'**.
- 2.15 Some responses also had concerns with regards to the council effectively enforcing these measures, in particular dog fouling and litter on open spaces. A restructure of the enforcement team has increased capability and the council has 4 officers employed who are authorised to issue FPNs as part of their role. It is anticipated that increased patrols will take place once the new team has settled in. It should be noted however that a key aspect in successfully dealing with dog fouling, is community support and intelligence which enables targeted interventions. In a large rural district random patrols are highly unlikely to be effective.
- 2.16 Where town and parish councils have specified additional land to be added to the order, the council have offered the option for them to carry out enforcement and act as authorised officers to issue FPNs on behalf of EHC. Bishops Stortford Town Council has agreed to investigate this option in more detail Other town and parish councils have confirmed that they will instead carry out education initiatives and intelligence gathering.
- 2.17 It is proposed that for a period of three months after the introduction of the PSPO, officers will use their discretion and adopt an informal/educational approach to the enforcement

of the any additional areas added to the order. During this period a campaign will run engaging with the town and parish councils, particularly on the issue of replacement signage and patrolling of hotspots.

- 2.18 The previous PSPO conditions were imposed as agencies felt they were needed to address those issues. However, experience has shown that other, more specific legislative tools within the ASB Crime and Policing Act 2014 are proving more effective. The Community Safety Partnership wants to focus its resources and attention on those who cause ASB and take the most appropriate action against them rather than having blanket wide conditions. Agencies continually monitor crime trends and data and should there be an evidential need for a PSPO then this would be considered and consultation taken. The CSP will continue to work collaboratively to ensure the district remains a safe place to live, work and visit.
- 2.19 The results of the consultation have informed the development of the amended draft PSPO which is provided in **Essential Reference Paper 'C'**. The consultation findings are summarised in **Essential Reference Paper 'D'**. Approval is now sought to bring the extended and varied PSPO into force for a further 3 years with effect from 1 May 2019.

3.0 Implications/Consultations

- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

None.

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