

CABINET

Tuesday 6 October 2020

PUBLIC SPACE PROTECTION ORDERS (PSPOs)

EXECUTIVE SUMMARY

1. This report is presented to Cabinet to provide information about Public Space Protection Orders (PSPO) and to seek a decision on the extension of three PSPOs in the north of the District.
2. The Anti-Social Behaviour, Crime and Policing Act 2014 replaced Alcohol consumption in Designated Public Place Orders (DPPO) on the 20TH October 2017. DDPOs were introduced in Waveney in 2009 following extensive research and consultation which supported orders in Oulton Broad, Harbour and Kirkley wards.
3. These PSPOs expire on the 19th October 2020. Suffolk Police would like the existing PSPO's to be extended but in order to do so, there must be sufficient robust evidence to support the statutory criteria and meet the legal test laid out in this document Ref (1.7).
4. Alongside PSPOs, there is complimentary legislation that can be considered by Police. Confiscation of Alcohol (Young Persons) Act 1997, Dispersal Powers and Community Protection Notice (CPN).
5. Council Officers have notified Police of the expiration of the existing PSPOs and asked them to provide evidence to support the continuation/extension of all three PSPOs. Unfortunately, no supporting data has been received.
6. Data in relation to ASB in the relevant area is presented in Section 2.2 of this report but it is generic and therefore it is not possible to infer what particular outcome would be achieved through continuation of the PSPOs in each area. This data does suggest that the levels of ASB remains significant in the Harbour ward but not in Kirkley or Oulton Broad wards.

Is the report Open or Exempt?	Open
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Wards Affected:	Oulton Broad, Harbour and Normanston, Kirkley and Pakefield
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Cabinet Member:	Councillor Mark Jepson Assistant Cabinet Member for Community Health
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Supporting Officer:	Julia Catterwell Communities Officer 07768 817607 julia.catterwell@eastsuffolk.gov.uk
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1. INTRODUCTION

1.1. PSPOs were introduced in 2017 and the three current PSPOs are in place until October 20th, 2020.

1.2. The Home Office guidance states that proposed restrictions should focus on specific behaviours, be proportionate to the detrimental effect that the behaviour is causing/can cause, and be necessary to prevent it from continuing, occurring or reoccurring.

1.3. A PSPO can last up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years.

1.4. The Home Office states that robust Orders will be supported by a solid evidence base and rationale that sets out how the statutory criteria for each of the proposed restrictions have been met, and demonstrates a direct link between the anti-social behaviour and the PSPO being proposed in response to the behaviour.

2. ALTERNATIVE LEGALISATION

2.1. There are a number of alternative forms of legislation that could be used as an alternative to a PSPO, some of these are outlined below:

Community Protection Notice

2.2. An authorised person may issue a community protection notice to an individual aged 16 or over, or a body, if satisfied on reasonable grounds that—

(a) the conduct of the individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and

(b) the conduct is unreasonable.

2.3. A Community Protection Notice (CPN) could therefore instead be issued against a perpetrator of persistent antisocial behaviour. Failure to comply can lead to a fixed penalty notice, remedial action, or a court order.

Dispersal Powers

2.4. Authorisations to use dispersal powers under Section 35.

(1) A police officer of at least the rank of inspector may authorise the use in a specified locality, during a specified period of not more than 48 hours, of the powers given by section 35.

“Specified” means specified in the authorisation.

(2) An officer may give such an authorisation only if satisfied on reasonable grounds that the use of those powers in the locality during that period may be necessary for the purpose of removing or reducing the likelihood of—

(a) members of the public in the locality being harassed, alarmed, or distressed, or

(b) the occurrence in the locality of crime or disorder.

(3) In deciding whether to give such an authorisation an officer must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention. "Convention" has the meaning given by section 21(1) of the Human Rights Act 1998.

4) An authorisation under this section—

(a) must be in writing,

(b) must be signed by the officer giving it, and

(c) must specify the grounds on which it is given

3. PUBLIC SPACE PROTECTION ORDERS

Purpose of PSPOs

3.1. The aim of the PSPO is to tackle alcohol related anti-social behaviour and stop groups of people causing alarm, distress, harassment or a nuisance in a public place to improve the quality of life of local residents and support a vibrant, safe town where people enjoy living, working and visiting.

3.2. In summary, Public Spaces Protection Orders should help to:

(a) to support the police in continuing to tackle alcohol related ASB in public places around the town

(b) to provide the police with another effective tool to tackle groups of people causing alarm, distress, harassment, or a nuisance

(c) to demonstrate that anti-social drinking and anti-social behavior is not acceptable and will not be tolerated in the PSPO areas applicable to this order

(d) residents, businesses, and visitors to feel safe in the town e. protect the economic viability of the town

The PSPO Legal Tests:

3.3. The legal tests focus on the impact that anti-social behaviour is having on victims and communities. The Public Spaces Protection Orders that are in place have been made by the council as the activities or the behaviour concerned, carried out, or likely to be carried out in a public space and:

- 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

3.4. Any person who without reasonable excuse:

- does anything that they are prohibited from doing by a PSPO; or
 - fails to comply with a requirement to which the person is subject under a PSPO;
- Commits an offence.

Enforcement

3.5. A person guilty of an offence under the PSPO is liable on summary conviction to a fine not exceeding £500 in relation to alcohol provisions, and £1,000 in relation to all other provisions.

3.6. A fixed penalty notice may instead be issued offering the opportunity of discharging any liability to conviction for the offence by payment of the fixed penalty of £100 to the council within 14 days of issue.

Area Covered by the PSPO

3.7. The PSPO applies to all land:

- which is open to the air (including land which is covered but open to the air on at least one side);
- to which the public are entitled or permitted to have access (with or without payment); and
- which is outlined in red on the plan below

4. Overview of Consultation

4.1 In compliance with the Home Office Guidance, a consultation has been undertaken. This includes a survey sent to all parish/town councils on the 6th August 2020 within the PSPO area to disseminate locally. The survey was added to FRED and the Communities East Suffolk Facebook page also on the 6th August. An advert was placed in the EADT on Monday the 10th August.

4.2. An Advert was placed in the EADT on Monday the 10th August and subsequently in the Eastern Daily Press and the Lowestoft Journal. There were 61 responses from the EADT and two responses from the EDP and Lowestoft Journal. These two responses support the continuation of the PSPO's but also supported the new ASB legislation being less complicated and more flexible to implement.

4.3. The Police have provided interim numbers of when a Police Officer has used the PSPO power and updated their log system. However, The Police have since confirmed that this data incorporates all sorts of ASB so is not exclusive to the PSPO's.

2017 Harbour = 11	Kirkley = 0	O/Broad = 0
2018 Harbour = 141	Kirkley = 0	O/Broad = 0
2019 Harbour = 91	Kirkley = 2	O/Broad = 0
2020 Harbour = 52	Kirkley = 0	O/Broad = 0

5. HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

5.1. PSPOs help to deliver the priority "We will ensure our communities are safe, helping communities to address issues as early as possible, within the Enabling Communities theme of the new Strategic Plan.

6. FINANCIAL AND GOVERNANCE IMPLICATIONS

6.1. If the PSPOs are not extended, the metal signs would need to be removed from the existing locations. The estimated cost of this is between £200-500 and this cost would be funded from the Community Safety budget.

The EADT advert cost £360, Eastern Daily Press advert including on their website on 27th August cost £288.40 and the Lowestoft Journal on 3rd September cost £100.

7. OTHER KEY ISSUES

7.1. This report has been prepared having considered the results of an Equality Impact Ref EQ1A235280867.

8. CONSULTATION

8.1. Survey sent to the parish/town councils to share within their local communities 6th August 2020.

8.2 EADT advert 10th August 2020. Survey placed on FRED and Communities Facebook page 6th August 2020. EDP advert

9. OTHER OPTIONS CONSIDERED

9.1. For the three PSPO's to be discharged and other ASB legislation to be utilised.

10. REASON FOR RECOMMENDATION

10.1. Legislation sets out several additional requirements for consultation before an Order is introduced, once it is implemented and where it is extended, varied, or discharged. We consider that the consultation requirements have been met and there is limited evidence about the need to retain the PSPO's in two of the three areas under consideration, based on the level of ASB recorded, the lack of additional evidence from the Police and the lack of responses to the consultation undertaken.

11. RISK

11.1. Once a PSPO has been made, any person who lives in the area covered by the order (or who regularly works in or visits that area) may apply to the High Court to question the validity of the order on the grounds that the local authority did not have the power to make the order, or to include/impose particular prohibitions or requirements in the order, or that it did not comply with a requirement of the Act in making the order. The High Court must receive an application within six weeks of the order being made. 36.

11.2. Without a PSPO in place, there is a risk that alcohol related ASB and vehicle related noise nuisance will continue and potentially escalate as the police will be unable to effectively address the issues. This would have a detrimental impact on the local community. There is a risk to the reputation of the council if we don't progress the order as we may be seen to be disengaged from the needs of the community and not proactively delivering against our commitment to maintain low levels of crime and anti-social behaviour.

12. CONCLUSION

12.1 In summary, the proposed Public Spaces Protection Order for Lowestoft's 3 areas will help:

- a. support the police in continuing to tackle alcohol related ASB in public places around the town
- b. provide the police with an effective tool to tackle groups of people causing alarm, distress, harassment or a nuisance
- c. demonstrate that anti-social drinking and anti-social behaviour is not acceptable and will not be tolerated.
- e. Ensure visitors feel safe in the town e. protect the economic viability of the town.

12.2 However, given the lack of evidence of a) use during the last three years and b) incidents of ASB in two of the three areas under consideration combined with the risks outlined in 11.1 about the validity of putting a PSPO in place, we believe that the PSPO should only be retained in the Harbour Ward.

RECOMMENDATIONS

1. That Cabinet agrees to extend the Public Space Protection Order for the Harbour ward for a further three years on the basis that the Public Space Protection Order has been used extensively in this ward, along with other legislative tools to support the Police to tackle alcohol related anti social behaviour in this location.
2. That Cabinet agrees that the Public Space Protection Orders for the Kirkley and Oulton Broad wards should not be extended on the basis that there is no evidence that the Public Space Protection Order for these areas has been used or that it has supported the Police in tackling alcohol related anti social behaviour in these locations.

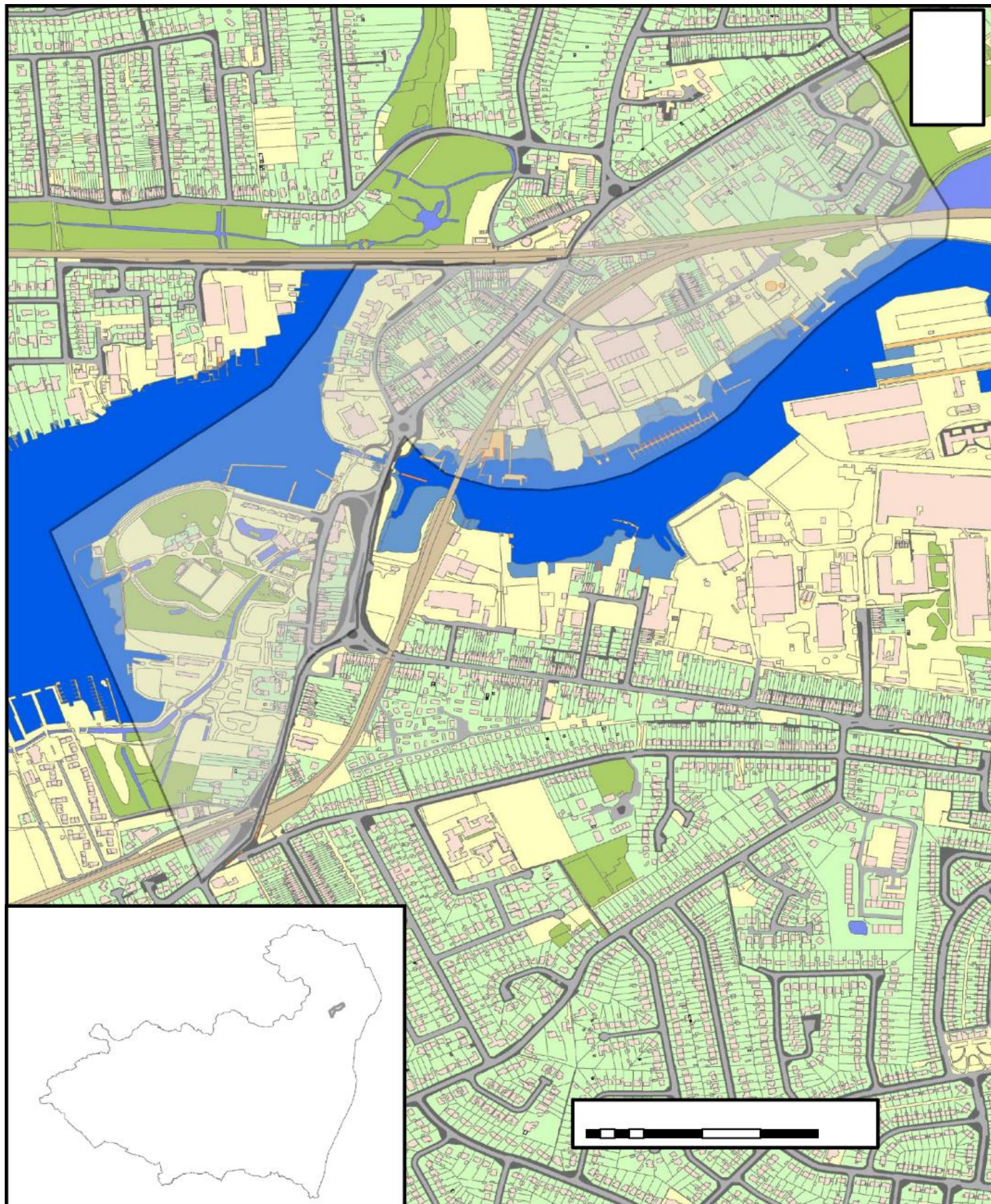
APPENDICES

Appendix A	Maps of PSPO areas and Order
Appendix B	Results of survey

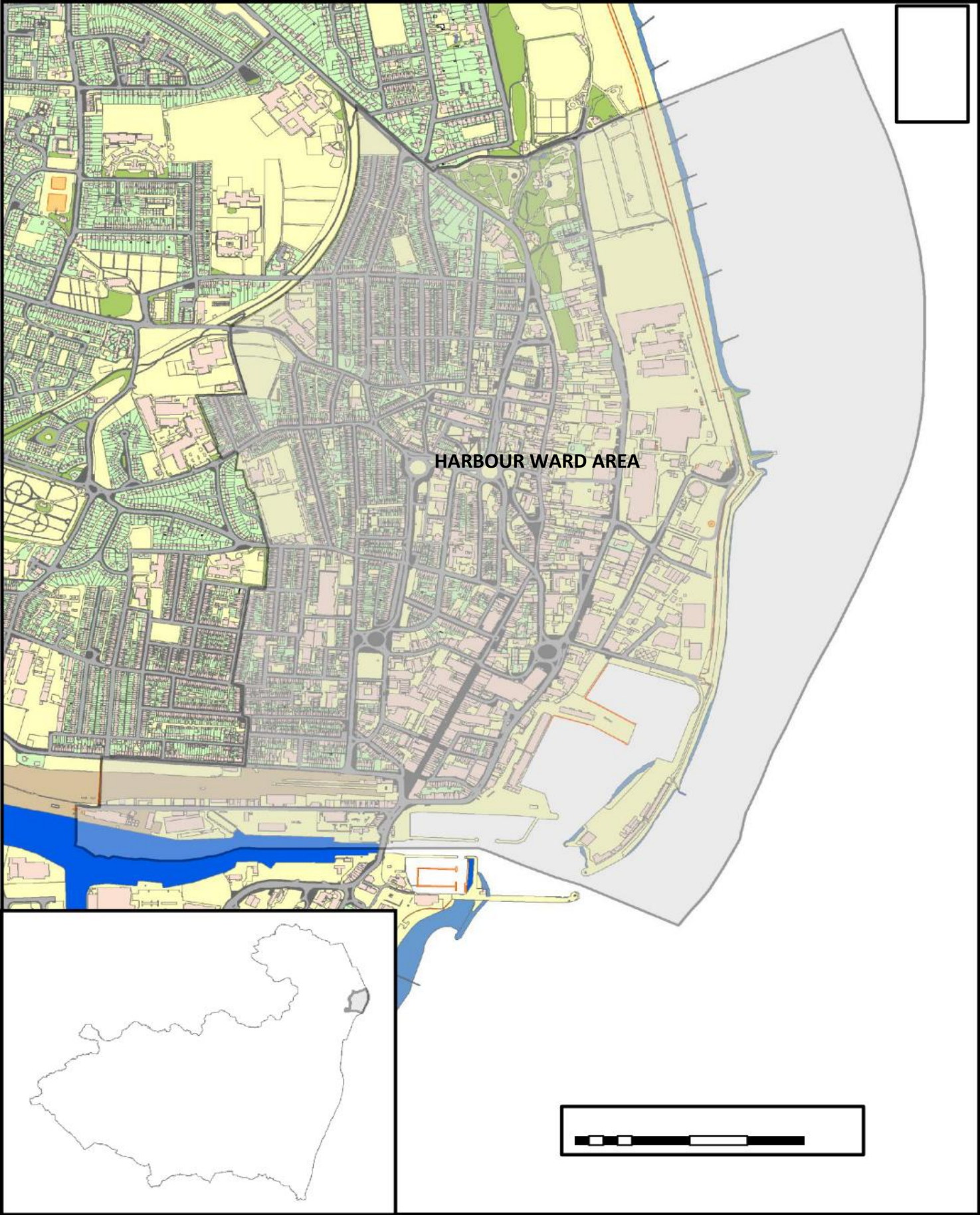
BACKGROUND PAPERS Please note that copies of background papers have not been published on the Council's website www.eastsuffolk.gov.uk but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

Date	Type	Available From
	Public Spaces Protection Orders Guidance for Councils	Julia Catterwell

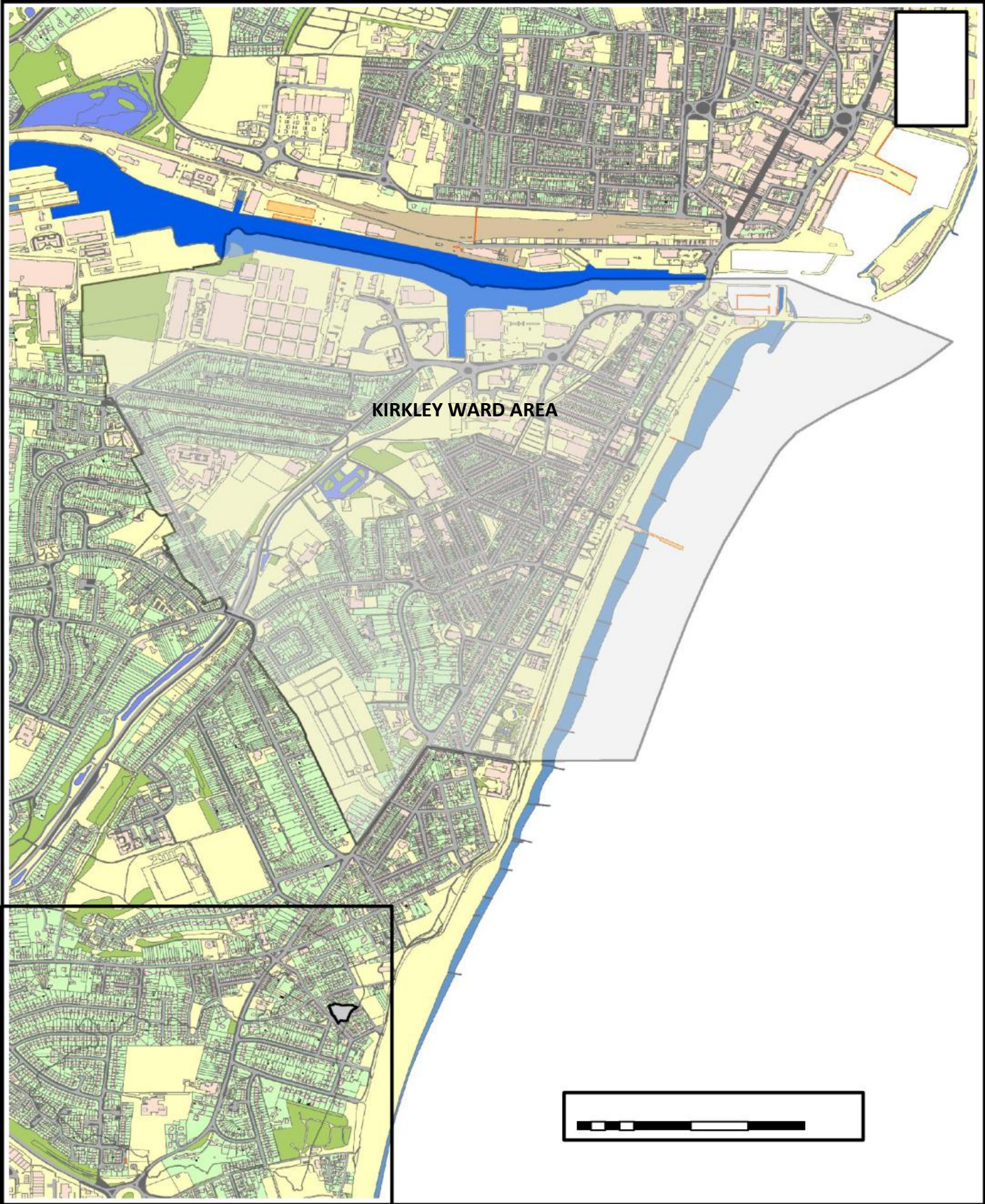
OULTON BROAD AREA



HARBOUR WARD AREA



KIRKLEY WARD AREA



Appendix B

CRIMINAL JUSTICE AND POLICE ACT 2001

ALCOHOL CONSUMPTION IN DESIGNATED PUBLIC PLACES ORDER 2007

The Waveney District Council (in this Order called “the council”) hereby make the following Order under Section 13(2) of the said Act:

1. The land described in the Schedule below and shown on the map attached to this Order, being land in the area of the Council which is land to which the Criminal Justice and Police Act 2001 applies, is hereby designated for the purposes of that Act.
2. This Order may be cited as the Alcohol Consumption in Designated Public Places Lowestoft Order (No 1) 2008 and shall come into force on 1st March 2009.

SCHEDULE

This Designated Area covers the roads listed below, either in whole or in part and all areas of public open space, play areas, car parks, and cycle paths within the area edged red on the plan: -

Harbour - Central Ward

Adrian Court, Adrian Road, Alexandra Road, Arnold Street, Beresford Road, Boston Road, Britten Centre (including Market Area), Burton Street, Cathcart Street, Chapel Court, Chapel Street, Church Road, Christ Church Square, Clapham Road North, Compass Street, Crown Score, Crown Street East, Crown Street West, Cumberland Place, Dove Street, Dukes Head Street, Factory Street, Gas Works Road, Godfreys Court, Gun Lane, Herring Fishery Score, High Street, Jacobs Court, Jacobs Street, Leiston Road, London Road North, Love Road, Old Market Street, Old Market Plain, Martins Score, Milton Road East, Milton Road West, Newcombe Road, Princes Road, Raglan Street, Rant Score, Reeve Street, Spurgeon Score, St Peter’s Court, St Peter’s Street, Tennyson Road, Thurston Road, Triangle Market, Triangle Yard, Water Lane, Wesley Street, Whapload Road, Wilde Street, Winnipeg Road

Harbour – North Ward

Albany Road, Arnolds Bequest, Belle Vue Park, Cambridge Road, Cart Score, Church Road, Clarence Road, Edinburgh Road, Great Eastern Linear Park, High Street, Ipswich Road, Lighthouse Score, Mariners Score, Mariners Street, Melbourne Road, North Denes – including beach area and sea wall, Osborne Street, Oxford Road, Park Road, Queens Road, Royal Avenue, Sparrows Nest Gardens, St Margaret’s Plain, St Margaret’s Road, Sussex Road, The Hemplands, The Ravine, Whapload Road, Worthing Road, Yarmouth Road

Harbour - South Ward

Alexandra Road, Alma Road, Alma Street, Battery Green Road, Beach Road, Bevan Street East, Bevan Street West, Bon Marche, Camp Road, Clapham Road Central, Clapham Road South, Commercial Road, Denmark Road, Ethel Road, Flensburgh Street, Gordon Road, Granville Road, Grove Road, Hamilton Road, Haward Street, Knights Court, London Road North, Love Road, Marina, Milton Road East, Milton Road West, Newcombe Road, Norwich Road, Old Nelson Street, Police Station Road, Raglan Road, Raglan Street, Regent Road, Rishton Road, Roman Road, Seago Street, Stanley Street, Station Square, Suffolk Road, Summer Road, Surrey Street, Till Road, Toning Street, Trafalgar Street, Trinity Road, Walton Road, Waveney Road, Wollaston Road

Kirkley – North Ward

Anchor Street, Bandstand Pier, Beaconsfield Road, Belvedere Road, Bixley Green, Bixley Road, Bruce Street, Carlton Road, Claremont Road, Clement Road, Clement Square, Cleveland Road, Clifton Road, Economy Road, Enstone Road, Esplanade, Freemantle Road, Grosvenor Road, Horn Hill, John Street, Kirkley Cliff, Kirkley Street, Lawson Court, Lawson Road, Levington Court, London Road South, Lorne Park Road, Lorne Road, Lovewell Road, Marine Parade, Martins Avenue, Mill Road, Newark Road, Ontario Road, Parade Road North, Parade Road South, Payne Street, Pier Terrace, Richmond Place, Richmond Road, Royal Green, Royal Plain, Royal Terrace, Royal Thoroughfare, Salisbury Road, Southwell Road, South Pier, St John's Road, St Leonard's Road, Union Place, Victoria Terrace, Waterloo Road, Wellington Esplanade, Wellington Gardens, Windsor Road, Yacht Basin

Kirkley - South Ward

Apple Tree Close, Badgerwood Close, Carlton Road, Cliff Road, College Road, Fen Park, Harold Road, Hill House Gardens, Jubilee Parade, Kensington Gardens, Kensington Road (part), Kingswear Court, Kirkley Cemetery, Kirkley Cliff Road, Kirkley Gardens, Kirkley Park Road, Laurel Road, London Road South, Pakefield Road, Rectory Road, St Aubyn's Road, St Peter's Road, South Beach, Victoria Beach

Kirkley - West Ward

Birds Lane, Durban Road, Horn Hill, Kimberley Road, Kirkley Run, Notley Road, Riverside Business Park, Riverside Road, Waveney Crescent, Waveney Drive

Oulton Broad – East/West Wards (part)/ Whitton – North Ward (part)

Bridge Road, Commodore Road, Constable Close, Everitt Road, George Close, Harbour Road, Harrison Road, Lakeland Drive, Leathes Close, Lothing Street, Marsh Road, Moor Place, Mutford Close, Nicholas Everitt Park including Colmans Land, Normanston Drive (part), Sea Lake Road, Saltwater Way, The Boulevard, Tideway

Copies of the Order and accompanying map may be inspected at Council Offices during normal office hours. The Order may also be viewed via the Website at: -

www.waveney.gov.uk

Dated 1st March 2009

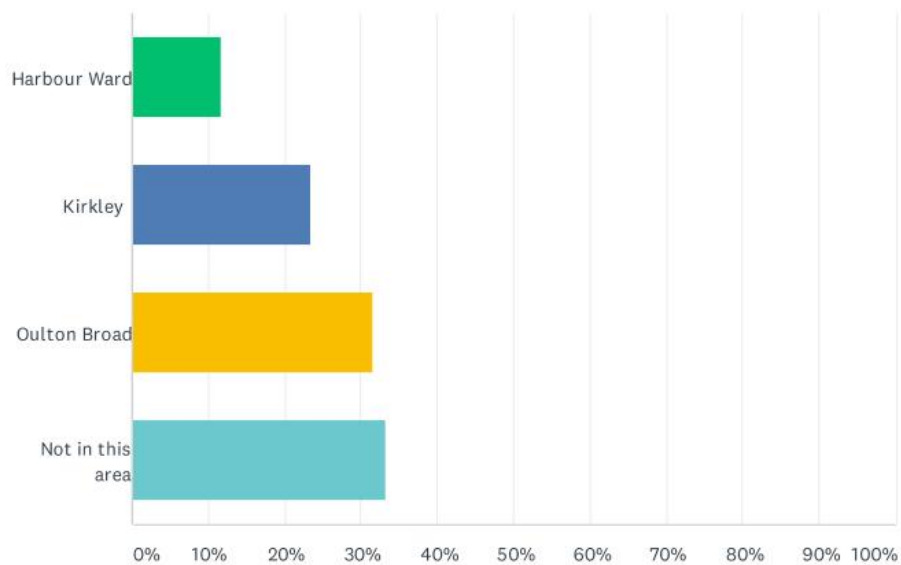
The Common Seal of Waveney District Council was hereunto affixed in the

Please note it is not an offence under this Order to consume alcohol in any place to which a premises licence or club premises certificate has effect and is being used, at that time or for 30 minutes after the cessation of the same. Further it is not an offence to consume alcohol when there is a temporary events notice in effect or facilities or activities relating to the sale or consumption of intoxicating liquor are for the time being permitted by virtue of a permission granted under section 115E of the Highways Act 1980.

18/08/20 please note that this Order is the original DDPO that converted to a PSPO in 2017, issued and agreed by Waveney District Council

Q1 Do you live in any of the following area's with a current PSPO?

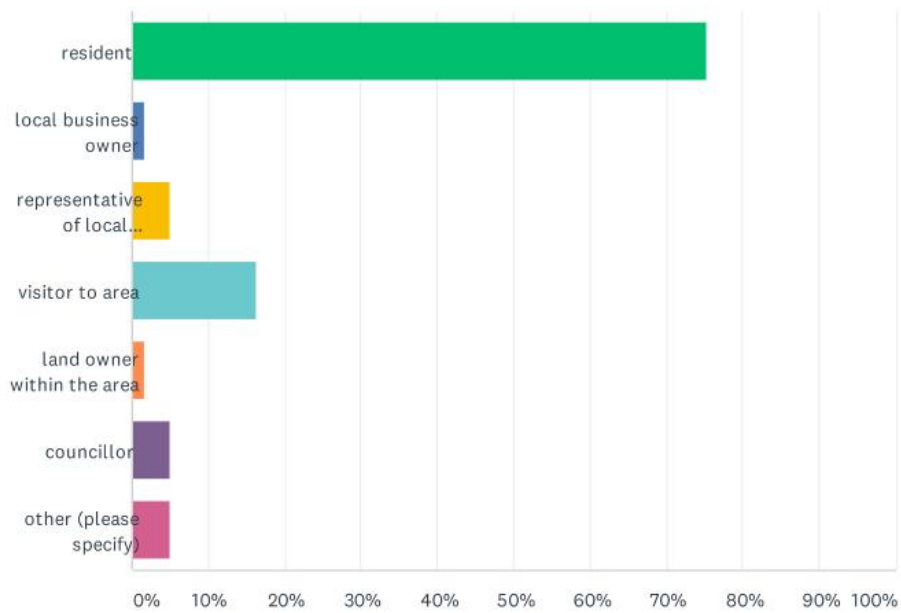
Answered: 60 Skipped: 1



ANSWER CHOICES	RESPONSES	
Harbour Ward	11.67%	7
Kirkley	23.33%	14
Oulton Broad	31.67%	19
Not in this area	33.33%	20
Total Respondents: 60		

Q2 Your relationship to your identified area above.

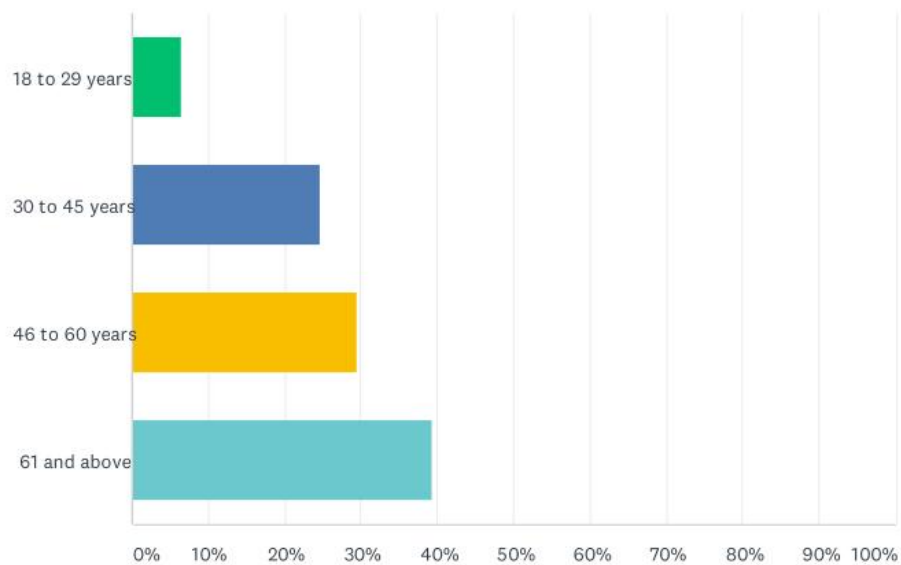
Answered: 61 Skipped: 0



ANSWER CHOICES	RESPONSES	
resident	75.41%	46
local business owner	1.64%	1
representative of local voluntary or community group	4.92%	3
visitor to area	16.39%	10
land owner within the area	1.64%	1
councillor	4.92%	3
other (please specify)	4.92%	3
Total Respondents: 61		

Q3 Please indicate your age range.

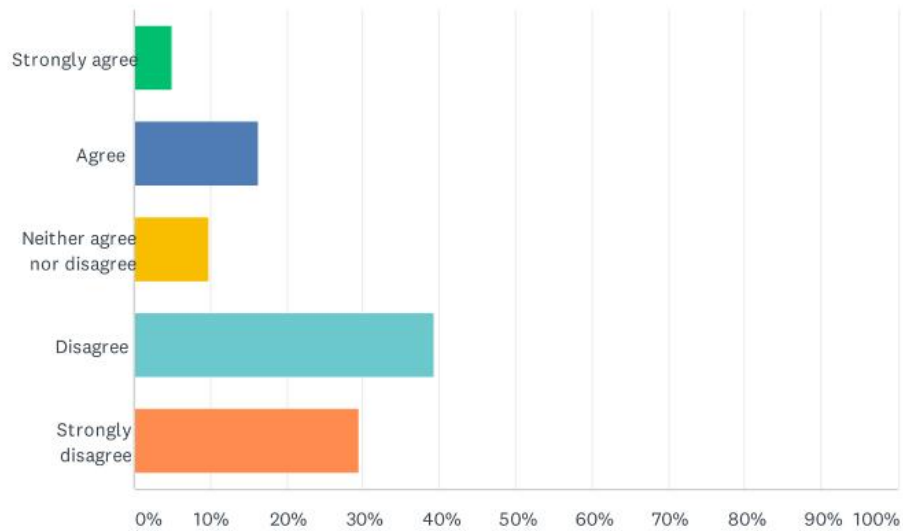
Answered: 61 Skipped: 0



ANSWER CHOICES	RESPONSES	
18 to 29 years	6.56%	4
30 to 45 years	24.59%	15
46 to 60 years	29.51%	18
61 and above	39.34%	24
Total Respondents: 61		

Q4 I have not witnessed any anti-social behaviour in the last twelve months.

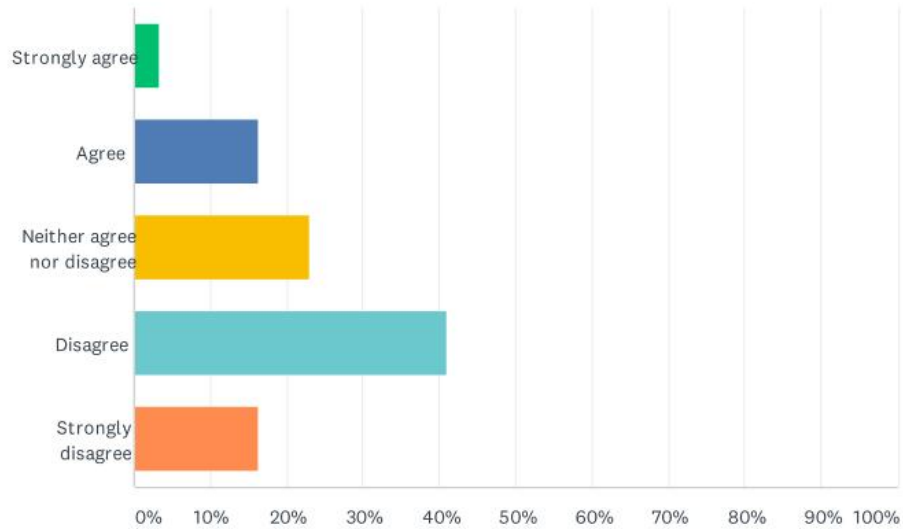
Answered: 61 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	4.92%	3
Agree	16.39%	10
Neither agree nor disagree	9.84%	6
Disagree	39.34%	24
Strongly disagree	29.51%	18
TOTAL		61

Q5 Alcohol related anti-social behaviour has declined in my identified area.

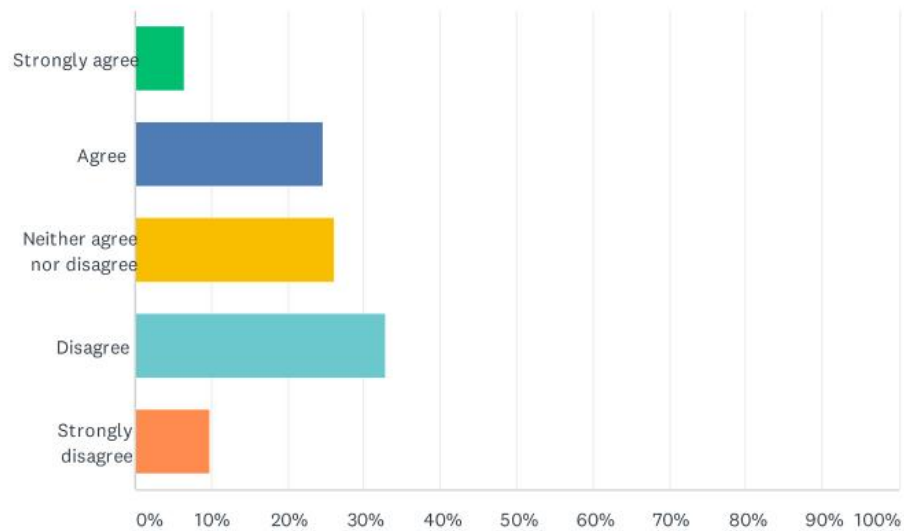
Answered: 61 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	3.28%	2
Agree	16.39%	10
Neither agree nor disagree	22.95%	14
Disagree	40.98%	25
Strongly disagree	16.39%	10
TOTAL		61

Q6 I do not understand the current PSPO legislation.

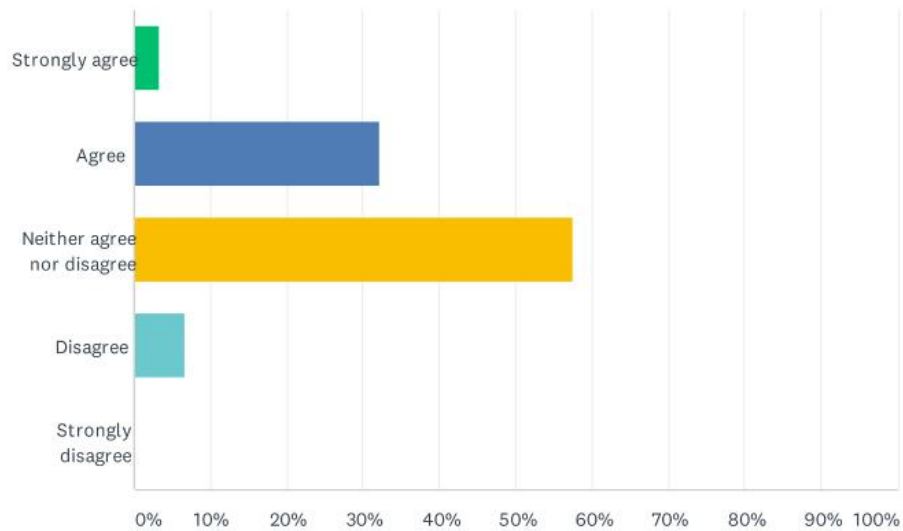
Answered: 61 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	6.56%	4
Agree	24.59%	15
Neither agree nor disagree	26.23%	16
Disagree	32.79%	20
Strongly disagree	9.84%	6
TOTAL		61

Q7 I think the new ASB legislation is less complicated and more flexible to implement.

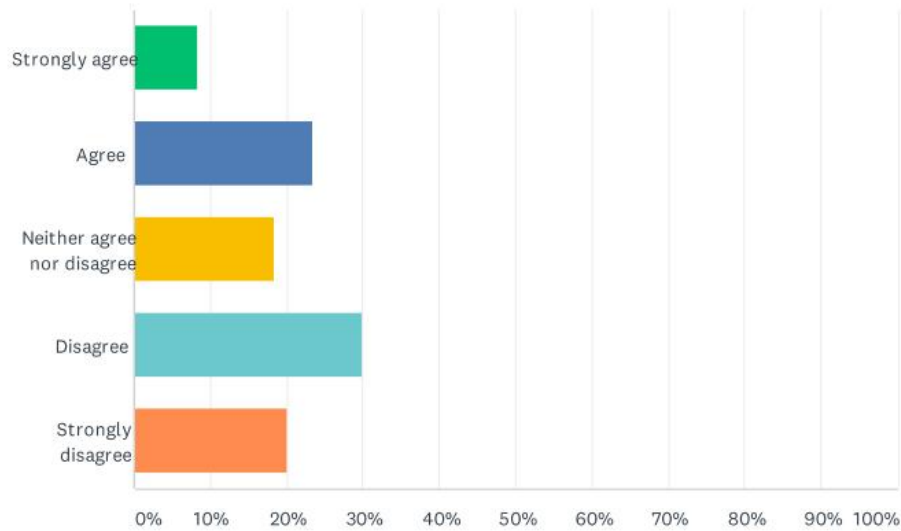
Answered: 59 Skipped: 2



ANSWER CHOICES	RESPONSES	
Strongly agree	3.39%	2
Agree	32.20%	19
Neither agree nor disagree	57.63%	34
Disagree	6.78%	4
Strongly disagree	0.00%	0
TOTAL		59

Q8 Now that the police have new powers to deal with ASB and problem drinking in all public places, I think the council should not reinstate the present orders covering just a few specific locations.

Answered: 60 Skipped: 1



ANSWER CHOICES	RESPONSES	
Strongly agree	8.33%	5
Agree	23.33%	14
Neither agree nor disagree	18.33%	11
Disagree	30.00%	18
Strongly disagree	20.00%	12
TOTAL		60

SECOND SURVEY – 19/08/2020

Q1

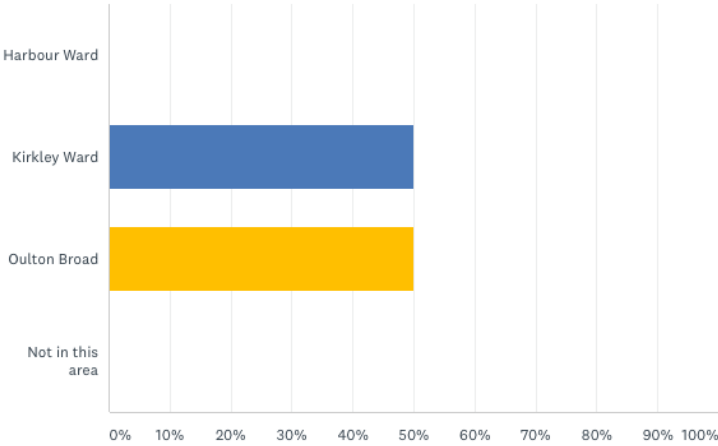


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Do you live in any of the following area's with a current PSPO?

Answered: 2 Skipped: 0

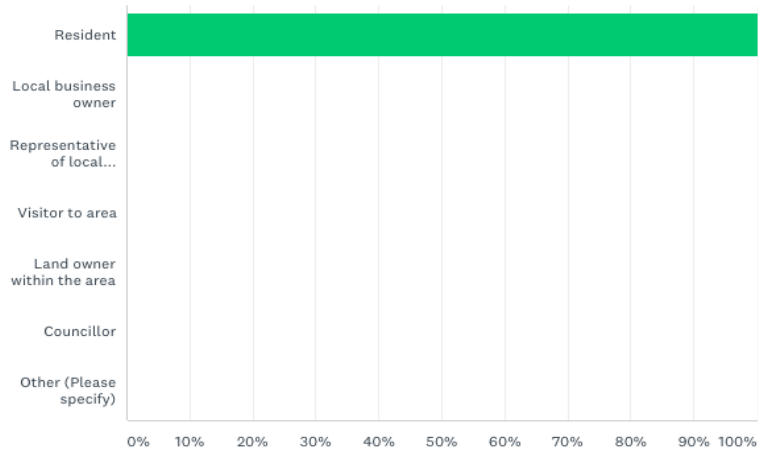


ANSWER CHOICES	RESPONSES
▼ Harbour Ward	0.00% 0
▼ Kirkley Ward	50.00% 1
▼ Oulton Broad	50.00% 1
▼ Not in this area	0.00% 0
Total Respondents: 2	



What is your relationship to your identified area in the question above?

Answered: 2 Skipped: 0

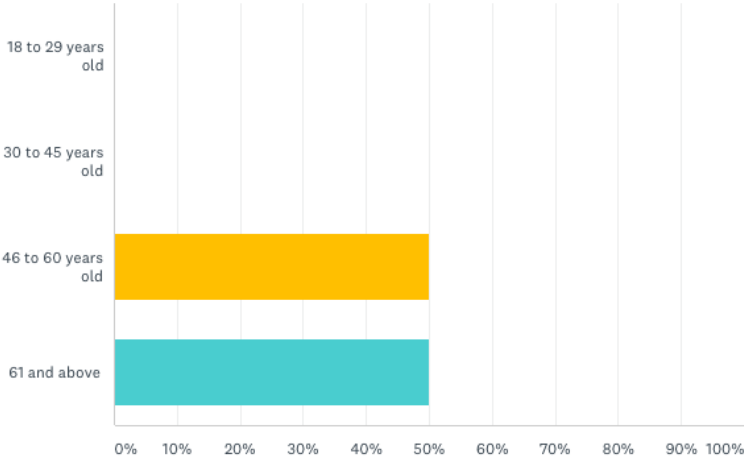


ANSWER CHOICES	RESPONSES	
▼ Resident	100.00%	2
▼ Local business owner	0.00%	0
▼ Representative of local voluntary or community group	0.00%	0
▼ Visitor to area	0.00%	0
▼ Land owner within the area	0.00%	0
▼ Councillor	0.00%	0
▼ Other (Please specify)	0.00%	0

Q3

Please indicate your age range:

Answered: 2 Skipped: 0

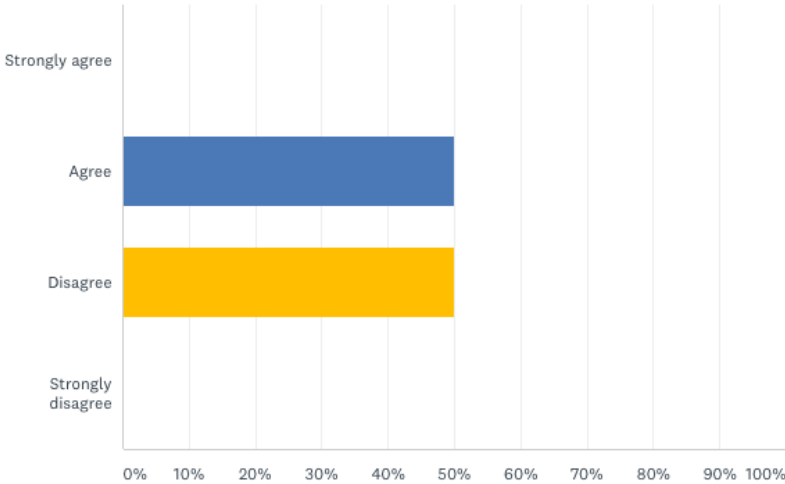


ANSWER CHOICES	RESPONSES	
▼ 18 to 29 years old	0.00%	0
▼ 30 to 45 years old	0.00%	0
▼ 46 to 60 years old	50.00%	1
▼ 61 and above	50.00%	1
TOTAL		2

Q4

I have not witnessed any anti-social behaviour in the last twelve months:

Answered: 2 Skipped: 0

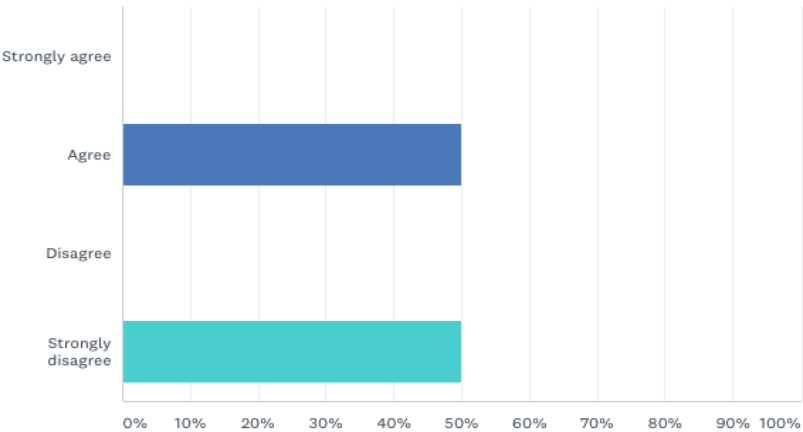


ANSWER CHOICES	RESPONSES	
▼ Strongly agree	0.00%	0
▼ Agree	50.00%	1
▼ Disagree	50.00%	1
▼ Strongly disagree	0.00%	0
TOTAL		2

Q5

Alcohol related anti-social behaviour has declined in my identified area:

Answered: 2 Skipped: 0

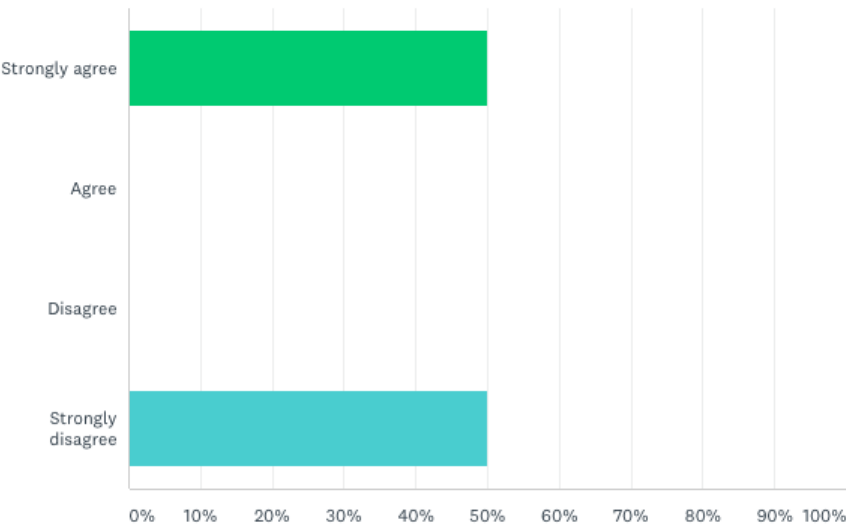


ANSWER CHOICES	RESPONSES	
Strongly agree	0.00%	0
Agree	50.00%	1
Disagree	0.00%	0
Strongly disagree	50.00%	1
TOTAL		2

Q6

I do not understand the current PSPO legislation:

Answered: 2 Skipped: 0



ANSWER CHOICES	RESPONSES	
Strongly agree	50.00%	1
Agree	0.00%	0
Disagree	0.00%	0
Strongly disagree	50.00%	1
TOTAL		2

Q7

Would you like the PSPO's to continue in your area?

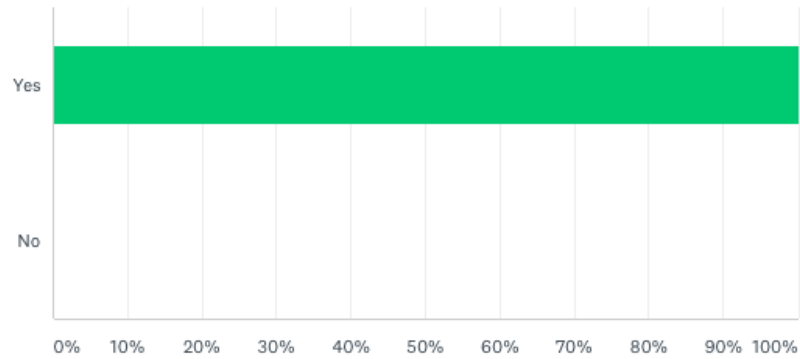


Customize

Save as ▼

Would you like the PSPO's to continue in your area?

Answered: 1 Skipped: 1



ANSWER CHOICES ▼	RESPONSES ▼
▼ Yes	100.00% 1
▼ No	0.00% 0
TOTAL	1