



CABINET

Tuesday, 03 October 2023

Subject	Public Space Protection Order - Harbour Ward, Lowestoft
Cabinet Member	Councillor Mike Ninnmey Cabinet Member with responsibility for Community Health
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Is the report Open or Exempt?	OPEN
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Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable.
Wards Affected:	Harbour & Normanston

Purpose and high-level overview

Purpose of Report:

The purpose of this report is to provide contextual information to Cabinet about Public Space Protection Orders (PSPO) and to seek extension of the existing Harbour and Normanston Ward PSPO for a further three years.

The Anti Social Behaviour, Crime and Policing Act 2014 replaced Alcohol Consumption in Designated Public Place Orders (DPPOs) with PSPOs in 2017. The current Harbour Ward PSPO was agreed in 2017 and extended for a further three years in October 2020. It expires on 23rd October this year.

If Cabinet agree to extend the PSPO, the start date would be 23rd October 2023 and the end date would be 22nd October 2026.

In summary, the PSPO:

Prohibits people from having alcohol in their possession, care, or control in any public place within the Harbour Ward (called the “Restricted Area” – the area within the grey line on the map) where they are or have been consuming alcohol, or intend to consume alcohol, within that restricted area.

As currently, it would not in itself be an offence to drink alcohol in this area. However, it would be an offence to fail to comply with a request by an Authorised Officer (e.g. a Police officer) to cease drinking or to surrender alcohol.

Options:

PSPO to be reviewed/continued/varied/discharged

During the 3-year term of a PSPO it can be extended, varied, or discharged if circumstances changed.

PSPO to be extended

A public spaces protection order may be extended by the local authority that made it.

Other ASB (Anti Social Behaviour) Legislation to be utilised:

There are several alternative forms of legislation that could be used as a more appropriate alternative to a PSPO, some of these are outlined below:

Community Protection Notice

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.

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

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 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

Recommendation/s:

That the extension of the Public Space Protection Order (PSPO) for the Harbour Ward for a further three years be agreed.

Corporate Impact Assessment

Governance:

Police and East Suffolk Council to continue to work in partnership regarding ongoing monitoring of crime/non crime within the Harbour ward, concerning increase or decrease of alcohol related issues.

ESC (East Suffolk Council) policies and strategies that directly apply to the proposal:

East Suffolk Council Anti Social Behaviour Policy 7th June 2022, review date 4th April 2025

Environmental:

No specific environmental implications.

Equalities and Diversity:

Equality Impact Analysis (EqIA) - EQIA537800101 completed, and no negative impacts identified. It is notable that, at the ESC Scrutiny Committee meeting on 29th August 2023, the police fed back information that the majority of ASB resulting from street drinking in the Harbour ward, was by adults in the 30s/40s/50s age range and not by young people.

Financial:

The only identified additional cost is £500 for clearer, larger signage in Lowestoft Town Centre. An application for funding to cover this cost has been made to the East Suffolk Community Safety Partnership.

If the PSPO is not extended, some metal signs would need to be removed from the existing locations which would incur some cost.

Human Resources:

None

ICT:

If the PSPO extension is agreed, the ESC web pages will need to be updated.

Legal:

Under Section 60(2) of the Anti Social Behaviour, Crime and Policing Act 2014, the Council can extend the period for which the PSPO has effect for a period of up to 3 years if satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence after the expiry of the initial PSPO of the activities identified in the order, or an increase in the frequency or seriousness of those activities after that time

Under Section 72 of the Anti Social Behaviour, Crime and Policing Act 2014, the Council must carry out the necessary consultation, the necessary publicity, and the necessary notification (if any), before extending a PSPO.

The necessary consultation means consulting with the Chief Officer of Police, and the local policing body, whatever community representatives the Council thinks it appropriate to consult and the owner or occupier of any land within the area to be the subject of the PSPO - the requirement to consult with the owner or occupier applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

There are no statutory requirements about the length of the consultation process. However, it should be ensured that its duration allows sufficient time to meaningfully engage with all those who may be impacted by the PSPO, the guidance envisages that this may take several weeks.

The necessary publicity means publicising the proposal.

The necessary notification means, notifying the Town/Parish Council and County Council for the area to be the subject of the PSPO.

Under the statutory guidance, consideration should also be given to how the use of the PSPO power may impact on vulnerable members of society and the displacement effects of any order

If a PSPO is made, then it would need to be published in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations - this requires the PSPO to be published on the Council website and for the Council to cause to be erected on or adjacent to the public place to which the order

relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to the fact that the order has been made, extended or varied (as the case may be); and the effect of that order being made, extended or varied (as the case may be).

When deciding whether or not to extend this PSPO section 72(1) of the Anti-social Behaviour, Crime and Policing Act 2014 the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention of Human Rights, these rights can be may be subject to such formalities, conditions, restrictions or penalties (restrictions only in relation to Article 11) as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others.

Under Clause 66 of the Anti Social Behaviour, Crime and Policing Act 2014 a failure to comply with the statutory requirements for making of a PSPO will not automatically invalidate a PSPO, however an individual who lives in the restricted area or who regularly works in or visits that are can challenge the PSPO provided they make an application within 6 weeks of the making of the PSPO.

Risk:

There are other tools and powers that the Police could utilise to deal with alcohol related anti social behaviours. However, there is a risk that if the PSPO is not extended and the Council allows it to be discharged, there could be an increase in alcohol related anti social behaviour in the Harbour Ward, in particular the town centre of Lowestoft.

External Consultees:

Police, Ward Councillors, Lowestoft Town Council, Town centre businesses.

Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: <i>(Select only one primary and as many secondary as appropriate)</i>		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P08	Maximising health, well-being, and safety in our District	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input checked="" type="checkbox"/>

T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education, and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
How does this proposal support the priorities selected?			
<p>This proposal clearly supports the Strategic Plan priority around ‘maximising health, wellbeing and safety in our District. ASB is a priority for the East Suffolk Community Safety Partnership. The consultation undertaken in support of this report clearly shows that the vast majority of the public who responded to the survey supported the continuation of the PSPO in this specific area of Lowestoft. The PSPO does and would contribute to the safety of businesses, residents and visitors using Lowestoft Town Centre.</p>			

Background and Justification for Recommendation

1 Background facts	
1.1	<p>Provisions in the Anti Social Behaviour Crime and Policing Act 2014 enable District Councils to make, continue, or discharge Public Space Protections Orders (PSPOs). The Home Office has issued clear guidance in which it is stated that PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community’s quality of life, by imposing conditions on the use of the area which apply to everyone (See PSPO Guidance in Background Papers at the end of this report).</p> <p>The existing PSPO under consideration for extension prohibits the consumption or possession of alcohol in a public place, if the behaviour of the person possessing or consuming the alcohol is having a detrimental impact on residents, visitors, and businesses within the Harbour Ward. This report recommends to Cabinet that the PSPO should be extended.</p>

1.2	<p>WHAT THE LEGISLATION REQUIRES</p> <p>Section 59 of the 2014 Act states that a PSPO may be made if two conditions are satisfied.</p> <ul style="list-style-type: none"> • The first condition is that activities carried on in a public place within the authority’s area have had or are likely to have a detrimental effect on the quality of life of those in the locality • The second condition is that the effect or likely effect of those activities is or is likely to be of a persistent or continuing nature, is or is likely to be unreasonable, and justifies the restrictions to be imposed.
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2 Current position

2.1	The current PSPO for Harbour Ward expires on 23 rd October 2023.
2.2	<p>This PSPO has been in place for 6 years (previously in the form of a DDPO). Enforcement of a PSPO is a matter for the council in partnership with the local police. It prohibits people from having alcohol in their possession, care, or control in any public place within the Harbour Ward (called the “Restricted Area” – the area within the red line on the map) where they are or have been consuming alcohol, or intend to consume alcohol, within that restricted area.</p> <p>As currently, it would not in itself be an offence to drink alcohol in this area. However, it would be an offence to fail to comply with a request by an Authorised Officer (e.g. a Police officer) to cease drinking or surrender alcohol.</p>

3 How to address current situation

3.1	It is proposed that the Public Space Protection Order (PSPO) for the Harbour Ward be extended for a further 3 years on the basis that the Police have provided evidence of the need to continue the PSPO as a tool to tackle alcohol-related anti social behaviour in the Harbour ward.
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4 Reason/s for recommendation

4.1	<p>A police review of Harbour Ward took place over a 12-month period from March 2022 to March 2023 – see the report by Alison Hogg from Norfolk & Suffolk Constabulary in Appendix B.</p> <p>A review was commissioned to establish if there is a requirement for the continuation of the PSPO granted in 2020 in respect of alcohol use, and whether there is additional demand that may warrant additional PSPO conditions being imposed.</p> <p>Data to support the continuation of the PSPO in respect of prohibiting alcohol use, and other problems to consider, includes:</p> <p>CADs (Computer Aided Dispatch) with a youth or alcohol tag over the last twelve months were analysed by the Police. There were 182 of these, 64% were alcohol related and 36% youth related.</p>
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	<p>Violence against the person is the highest crime type in this area, of which more than quarter (27%) occur in streets/open public spaces or licenced premises. One third of all public order and drug offence crimes also occur in these public locations.</p> <p>However following consideration of the evidence, the Human Rights Act 1998, and following consultation with the Police and other interested bodies it is not considered necessary to add additional conditions to the PSPO.</p>
4.2	<p>Consultation has been undertaken with the Police, Environment Protection, ESC Legal Team, Lowestoft Rising, Lowestoft Vision, Lowestoft Town Council and ward councillors.</p>
4.3	<p>Public Consultation</p> <p>Two public (face to face) consultations were carried out in Lowestoft Town Centre by the Communities Officers and advertised on all ESC platforms, Lowestoft Town Council, Police Website and Lowestoft Journal Newspaper. In addition a short (eight question) survey was developed to capture views.</p> <p>197 people responded, of these; 137 said they were local and lived in Lowestoft. The two largest age groups who answered were 55-64 years of age and 65 -74 years of age. 83 people (43.2%) heard about this consultation via Facebook.</p> <p>92.39% of respondent said the PSPO should be extended by three years, with only 6.9% saying it should not be extended. However, there were a couple of residents at the consultation who ticked 'no to extension' by mistake.</p> <p>115 respondents stated that alcohol related anti social behaviour in Lowestoft was a big problem, whilst only 7 people answered that it wasn't really a problem. Asked if they had either been affected by anti social behaviour or witnessed any negative behaviours; 165 people stated that they had been affected by alcohol, followed by 162 people who had seen rowdy/inconsiderate behaviour, 144 were affected by litter, 130 affected by drugs and 24 people by 'other.' The subsequent following question was 'How did this impact you?' to which the highest response (143 people) was 'being afraid and unsafe'.</p> <p>The last question asked for additional comments which can be seen in Appendix C.</p>

Appendices

Appendices:	
Appendix A	Harbour Ward Street addresses and map of PSPO
Appendix B	A Hogg Harbour Area Demand report May 2023
Appendix C	PSPO Harbour Consultation 2023
Appendix D	PSPO Sign

Background reference papers:		
Date	Type	Available From
September 2023	Local Government Association - Public Spaces Protection Orders: Guidance for Local Councils	Public Spaces Protection Orders – Guidance for Councils