

**PUBLIC SPACES PROTECTION ORDER - LONDON ROAD, HALSTEAD, ORPINGTON
BY PASS BADGERS MOUNT AND THE M25 SPUR ROAD**

People & Places Advisory Committee 30 November 2023

Report of: Chief Officer People & Places

Status: For Approval

Also considered by: Cabinet

Key Decision: Yes

Executive Summary: The Community Safety Unit working alongside Kent Police, Met Police and Bromley Council would like to propose a Public Spaces Protection Order (PSPO) for 3 years at London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road. The area proposed is managed by KCC Highways. This report is for the 4 week public consultation to go ahead online that then the proposed PSPO would then go through the Councils Committee process. The roundabout comes under Bromley.

This report supports the Key Aim of: Community & Corporate Plan

Portfolio Holder: Cllr. Dyball

Contact Officer(s): Kelly Webb, Ext. 7474

Recommendation to (title of committee):

(a) (if only one recommendation then delete (a))

Recommendation to People & Places Advisory Committee

To approve the report for the consultation to take place

Introduction and Background

- 1.1.1 The Anti-social Behaviour, Crime and Policing Act 2014 placed a new duty on the Council to tackle Anti-social Behaviour (ASB), working co-operatively with the Police, social landlords and other agencies. The Act put victims at the heart of the response to ASB and was intended to give professionals the flexibility they needed to deal with any given situation.

- 1.1.2 Public Spaces Protection Orders (PSPOs) were one of a number of new tools contained within the Act and were intended to deal with a particular nuisance or problem in a particular area that was detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They were designed to ensure the law-abiding majority could use and enjoy public spaces, safe from anti-social behaviour.
- 1.1.3 Councils are responsible for making the new PSPO. District Councils will take the lead in England with county councils undertaking the role only where there is no district council. The new power is not available to parish councils or town councils.
- 1.1.4 The PSPOs have replaced dog control orders, designated public place orders (also known as Alcohol Control Zones) and gating orders.

1.2 The requirements of a PSPO

- 1.2.1 The council can make a PSPO on any public space in its own area. The definition of a public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre. It does not just apply to land owned by the District Council but to any open space anywhere in the borough (even land owned by Parish Councils or Kent County Council).
- 1.2.2 Before making a PSPO the council must consult with the local police. This is an opportunity for the police and council to share information about the area and the problems being caused as well as to discuss the practicalities of enforcement. In addition, the owner or occupier of the land should be consulted as well as community representatives as appropriate.
- 1.2.3 The test for a PSPO is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
 - 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.
- 1.2.4 The Statutory Guidance for frontline professionals on the Anti-social Behaviour, Crime and Policing Act 2014 advises that

'the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is

being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.'

- 1.2.5 In relation to groups hanging around/ standing in groups/ playing games, the guidance advises as follows

'It is important that councils do not inadvertently restrict everyday sociability in public spaces. The Public Spaces Protection Order should target specifically the problem behaviour that is having a detrimental effect on the community's quality of life, rather than everyday sociability, such as standing in groups which is not in itself a problem behaviour.'

Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.

People living in temporary accommodation may not be able to stay in their accommodation during the day and so may find themselves spending extended times in public spaces or seeking shelter in bad weather. It is important that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.'

- 1.2.6 A single PSPO can include multiple restrictions and requirements in one order. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead.
- 1.2.7 The maximum duration of a PSPO is three years but they can last for shorter periods where appropriate. At any point before expiry the council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or reoccurring. If a new issue arises in an area where a PSPO is in force the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. As well as varying the PSPO, a council can also seek to discharge it at any time.

1.3 The proposed PSPO for London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road

1.3.1 Officers from agencies such as Sevenoaks District Council, Kent Police, Met Police and Bromley Council have used evidence and professional judgement to develop this proposed PSPO and have considered all issues/areas against the stated test process. Over the past 18 months following other PSPOs introduced in areas such as Dartford and Southend car meets have unfortunately moved into the Sevenoaks District/Bromley Border of Hewitts Roundabout and London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road.

1.3.2 From 1 October 2022 to 12 October 2023 there have been 20 reports to Police regarding car meets and nuisance vehicles at London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road and the CSU have received over 15 reports including 6 in the last 2 months. The incidents occur sporadically and late at night into the early hours making the Policing of the location difficult.

1.3.3 From Met Police, especially Hewitts Roundabout they have supplied the following:-

With regards to reports this is a tricky one due to it being on the border of KENT and the way the 101/999 calls are routed and also the different locations given by everyone that calls in. Going back through emails and the What's app group we set up with the local residents I would take an educated guesstimate based on the following.

Despite the Met seemingly closing down the larger gatherings due to the operations our team has put together there is still a hard-core few who attend this location on a regular basis.

Based on our intel apart from a short period in the summer when they were completing the road works we have received a steady flow of calls and reports to the location mainly on a Friday, Saturday or Sunday evenings.

Met Police have had approx. 260 calls from multiple residents

Met Police have issued 172 - Section 59s and 232 CPWs to drivers and passengers all with restrictions not to return to the area. This is based on video footage sent in and also officers in attendance.

Met Police and Bromley Council have been trying to get a Camera installed for many months but seem to have hit a wall over ownership of the lampposts and weight of the cameras, plus power supply issues.

Both Kent and Met Police do routinely deploy units to visit the area on a Thursday, Friday and Saturday evenings.

- 1.3.4 A multi-agency meeting was set up to address the concerns that was raised by residents reporting to Sevenoaks District Council, Kent Police, Met Police and Bromley Council. A report of issues was sent to Bromley Council and Sevenoaks District Council by a resident which is attached as Appendix A and includes the area concerned.
- 1.3.5 We would need to do a public consultation for a 4 week period if the agreement to do this goes ahead and this would be online.
- 1.3.6 The restrictions proposed for the PSPO are to include:
- 1.3.7 a) Engaging in, promoting, encouraging or assisting in the carrying out of any anti-social behaviour connected to the use of a mechanically propelled vehicle including but not limited to a car cruising event* (see definition below) in or on London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road. The activities include but are not limited to:
- a) (1) Sounding horns or playing loud music
 - (2) Revving engines
 - (3) Causing danger to other road users (including pedestrians)
 - (4) Causing damage or risk of damage to property
 - (5) Exceeding the permitted speed limit or racing
 - (6) performing stunts (including but not limited to performing doughnuts, skidding, handbrake turns, wheel spinning)
 - (7) Being verbally abusive, swearing or intimidating members of the public.
 - (8) Causing obstruction of a public highway or publicly accessible place (whether by moving or stationary vehicles or otherwise)
 - (9) Parking on a footway
 - (10) Sudden and harsh acceleration and braking
- b) Engaging in, promoting, encouraging, or assisting in the use of mechanically propelled vehicle which causes or is likely to cause danger to the public in or on London Road, Halstead, Orpington by Pass Badgers Mount and the M25 Spur Road

c) (1) Promoting, organising, or publicising the occurrence of Car Cruising* to take place in or on London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road (including but not limited to the use of email, the internet, social media, or any publication or broadcast medium); or

(2) attending any meeting in or on a London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road either as a mechanically propelled vehicle owner, driver, passenger or spectator where a reasonable person would consider that Car Cruising was taking place or was likely to take place.

1.3.8 *Definition of Car Cruising Event*

**Although most people attend these meetings in their cars, the definition of car cruising relates to any 'mechanically propelled vehicle, whether intended or adapted for use on a road'. Therefore, meetings using off road motorbikes or quadbikes are also included.*

It is two or more mechanically propelled vehicles collecting on the public highway or a publicly accessible place and those people associated with the collecting vehicles acting in an anti-social way. It can be either planned or unplanned.

Anti-Social Behaviour includes:

- Obstructing highways, residential or business properties
- Dangerous driving or inconsiderate driving
- Excessive noise caused by an engine, horn or amplified music
- Verbal abuse, swearing or intimidation of members of the public

1.4 **Enforcement processes and penalties**

1.4.1 It is an offence for a person, without reasonable excuse, to:

- do anything that the person is prohibited from doing by a PSPO
- fail to comply with a requirement to which the person is subject under a PSPO.

1.4.2 If a person fails to adhere to the PSPO they may be issued with a Fixed Penalty Notice (FPN). Where the FPN is not paid within the required timescale, court proceedings may be initiated.

1.4.3 Fixed Penalty Notices will be issued by authorised District Council staff and that the fixed penalty notice fine be set at £100, with immediate effect.

Summary of timelines

1.4.4 The latest timeline for the process is set out below:

- 30 November 2023 – People & Places Advisory Committee
- 14 December 2023 – Cabinet decision to on whether the consultation is granted
- If granted 15 December – Consultation Goes live until 4 January
- 5 March 2024 – People & Places Advisory Committee
- 14 March 2024 – Cabinet decision to on whether is granted and order signed off.
- 1 April 2024 - New PSPO implemented in place and communications plan in place and new signage designed based on the feedback.
- April 2026 - PSPO will be reviewed after 2 years, but can remain in place for up to 3 years

Key Implications

Legal Implications and Risk Assessment Statement.

1.4.5 The power to make a PSPO is contained in section 59 of the 2014 Act. A local authority can only make a PSPO if it is satisfied on reasonable grounds that the conditions set out at paragraph 1.2.3 have been met.

1.4.6 In deciding whether to make/ extend/ vary or discharge a PSPO, the Council is required to have particular regard to the rights or freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights.

1.4.7 Once the final PSPO measures are agreed the PSPO will need to be published in accordance with the regulations made by the Secretary of State.

Financial

Although there are no direct costs associated with the establishment of the PSPO, there will be a resource implication for the District Council for issuing Fixed Penalty Notices and the work associated with this.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment

Wellbeing

This document supports wellbeing and looks at this throughout the document.

Conclusions

For the Committee to approve the report and to approve that the 4 week consultation takes place from 15 December 2023.

Appendices

Appendix A - Report from Residents

Appendix B - Map outline of proposed area

Appendix C - Draft Survey

Sarah Robson

Deputy Chief Executive and Chief Officer - People & Places