

PUBLIC SPACES PROTECTION ORDER – LONDON ROAD, HALSTEAD

Cabinet – 14 March 2024

Report of: Deputy Chief Executive and Chief Officer People & Places

Status: For Approval

Also considered by: People & Places Advisory Committee – 5 March 2024

Key Decision: No

Executive Summary: On 14 December 2023, Cabinet agreed to consult the public on a proposal to introduce a new Public Spaces Protection Order (PSPO). The creation of bespoke PSPOs provides officers and partners (Kent Police) with an additional tool on top of existing powers and legislation to tackle specific issues of antisocial behaviour. The consultation responses show there is public support for all measures, whilst providing an insight into the views of the public as well as Government's recommended position when implementing PSPOs. This report summarises the results of the statutory public consultation and seeks approval for the introduction of the PSPO measures and Order.

This report supports the Key Aim of: The Sevenoaks District Community Safety Partnership Plan and Community Plan

Portfolio Holder: Cllr Lesley Dyball

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Recommendation to People and Places Advisory Committee

- a) To note the contents of the report and the outcome of the public consultation.
- b) To support the recommendation to Cabinet for the implementation of a Public Spaces Protection Order (PSPO) and its measures at London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road as shown in Map area, for a period of up to 3 years.

Recommendation to Cabinet

- c) To note the contents of the report and the outcome of the statutory 6-week public consultation.
- d) To approve the implementation of a Public Spaces Protection Order (PSPO) and its measures at London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road as shown in Map area, for a period of up to 3 years, with effect from 1 May 2024.

Introduction and Background

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.
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.
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.

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.
5. 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.
6. 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.
7. Councils are responsible for making the PSPO, although the Police also have enforcement powers. District Councils take the lead in England with county councils undertaking the role only where there is no district council. The power is not available to parish councils or town councils.
8. The PSPOs have replaced dog control orders, designated public place orders (also known as Alcohol Control Zones) and gating orders.

The requirements of a PSPO

9. The Council can make a PSPO on any public space in its own boundary 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 district (even land owned by parish councils or Kent County Council).
10. 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.

11. PSPOs are not about stopping responsible people from using publicly accessible land and this PSPO is not to exclude young people attending The Vine, but to provide Local Authorities and other Local Government departments with the means to help deal with persistent issues, which can be damaging to local communities.
12. In addition to the specific statutory consultation requirements, the Council has to adhere to the publication requirements which form part of the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 ("The regulations"). These specify both advertising requirements and the need for notification to be placed on land affected.
13. 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.
14. 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.'
15. 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.'

16. 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.
17. Should the PSPO be implemented, the Council will work with the Police to ensure that front-line officers are aware of the power and how to use it, to maximise the impact of the PSPO.
18. A breach of the PSPO is a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) or prosecution. If prosecuted, an individual could be liable for a fine.
19. 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.

Results of the Public Consultation for the proposed PSPO for London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road

20. In accordance with the statutory guidelines the Council consulted with the Chief Officer of the police as well as the local policing body for the affected areas, and they have confirmed their agreement to the introduction of the PSPO.
21. Following agreement by Cabinet on 14 December 2023 to carry out consultation on the introduction of new Public Spaces Protection Order the public consultation formally opened on Thursday 28 December 2023 and closed on midnight on Thursday 25 January 2024. The public were asked to

provide views on the introduction of measures to address motor vehicle nuisance that can have a detrimental effect on the local community.

22. Public consultation was carried out in a number of ways to give the public as much opportunity to express their views and included:
 - Access to all documentation and an online questionnaire via the Council's website
 - Access to hard copies of documentation and downloadable paper copies of the questionnaire that could be posted to the Council (or emailed)
 - Consultation with key stakeholders such as Kent Police and Parish Councils
 - Communication via face book, twitter and the Council website
23. There were 113 responses received in total and all from the online questionnaire.
24. The PSPO consultation results are presented as a general overview with recommendations and individual tables of results provided in more detail under this. The outcome presented an overwhelming support for the PSPO. There is further information in Appendix 1.
25. Local Government Association (LGA) guidance for councils suggests that the consultation process should assess the appropriate balance for any proposed new measures ensuring they are supported and appropriate. The public consultation undertaken by the Council demonstrates that the public supported all measures. These are:
 - i. Action 1: 98.23% of the responses supported 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 in or on London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road
 - ii. Action 2: 96.16% of the responses supported Sounding horns or playing loud music
 - iii. Action 3: 98.23% of the responses supported revving engines
 - iv. Action 4: 98.23% of the responses supported Causing danger to other road users (including pedestrians)
 - v. Action 5: 93.81% of the responses supported Causing damage or risk of damage to property
 - vi. Action 6: 98.23% of the responses supported Exceeding the permitted

speed limit or racing

- vii. Action 7: 96.46% of the responses supported performing stunts (including but not limited to performing doughnuts, skidding, handbrake turns, wheel spinning)
 - viii. Action 8: 96.46% of the responses supported Being verbally abusive, swearing or intimidating members of the public.
 - ix. Action 9: 98.23% of the responses supported Causing obstruction of a public highway or publicly accessible place (whether by moving or stationary vehicles or otherwise).
 - x. Action 10: 98.23% of the resources supported 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
 - xi. Action 11: 98.23% of the resources supported 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
 - xii. Action 12: 98.23% of the resources supported 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.
26. PSPOs are not the answer for everything – Councils and partners will still need to continually review issues, considering whether there are easier and more effective tools for dealing with motor nuisance, such as; Community Protection Warnings (CPWs), Community Protections Notices (CPNs), targeted responses to individuals with multi-agency support from the Community Safety Unit.
27. When introducing a PSPO, it should be noted that the most robust Orders directly address the detrimental behaviour, rather than activities which may not in themselves be detrimental or which target characteristics that might be shared by some of those responsible (or with the wider public). The Home Office’s statutory guidance reiterates that PSPOs should be used responsibly

and proportionately, only in response to issues that cause anti-social behaviour, and only where necessary to protect the public.

Other options considered and recommendation

28. The Council could chose not to pursue a PSPO. However, based on the public consultation responses and given the length of time that the nuisance has been ongoing and the detrimental effect the behaviour is having on local residents and businesses, this is not a recommended option.
29. It is therefore recommended to bring the PSPO and its twelve measures into place for the area London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road as listed in the consultation document. However, it should be noted that appropriate interventions will be always be carried out in the first instance to address the issues concerned e.g. through education, prevention, accessing support services, carrying out proactive projects and Community Safety operations to address the issues and using the most appropriate tools, powers and legislation as appropriate when enforcement is required.
30. To strengthen the communications messages around the proposed measures and to set out in detail the protocols around the use and implementation of the PSPO, new signage will be installed along with ongoing media and communications.

Application of the PSPO

31. The LGA guidance on PSPOs states that used proportionately and in the right circumstances, PSPOs allow local areas to counter unreasonable and persistent behaviour that affects the quality of life of its residents. They can send a clear message that certain behaviours will not be tolerated, and help reassure residents that unreasonable conduct is being addressed. It would be the responsibility of the relevant authorised officer to decide the most appropriate and proportionate response to any antisocial behaviour encountered.
32. In conclusion, whilst PSPOs provide a useful tool for addressing ASB which includes motor nuisance there will be alternative ways of dealing with issues on a case by case basis and this will be the case for the measures in the PSPO as well as those excluded from it. The PSPO will act as another tool for authorised officers to use and will help with education messages and positive interventions. The next stage will be to work with the relevant Council departments, Bromley Council, Met Police and Kent Police to develop the relevant protocols as these will clearly define which agency (whether Council officers or the police) will help to educate, prevent and enforce elements of the PSPO and in what circumstances and how.

33. Examples of how alternative methods can be used for both the measures included and not included in the PSPO are described below:
34. The use of Community Protection Warnings (CPWs) and Community Protection Notices (CPNs) can be used to address the motor vehicle nuisance and Sect 59s issued by Police.
35. In terms of performance measures, as FPNs are the action of last resort, we will also collect data in terms of how the Council and other agencies (Kent Police, Met Police etc.) use proactive engagement, education, warnings or signposting to support services in support of the PSPO. Any evidence obtained by the Police must be provided to the Local Authority as the prosecuting authority where a decision will be made by Legal Services in partnership with CSU (as per the National Policing Guidelines on the prosecution for Breaches of CPNs and PSPOs).
36. Where concern has been expressed by the public on resourcing enforcement, clear protocols will be developed with relevant partners and where appropriate, authorised Council officers are trained and supported to promote education messages and prevention interventions, alongside enforcement.

Duration of a PSPO

37. The maximum duration of a PSPO is three years, however, they can last for shorter periods where appropriate. Whilst a PSPO is in place, the Local Authority can extend it by up to three years if deemed necessary to prevent the original behaviour from occurring or recurring. They should also consult with the local Police and any other relevant community representatives. If approved, this PSPO will be reviewed in two years to ensure it remains fit for purpose.

Summary of timelines

38. The latest timeline for the process is set out below:
 - 5 March 2024 – People & Places Advisory Committee
 - 14 March 2024 – Cabinet decision to on whether the PSPO is granted and order signed off.
 - 11 May 2024 - New PSPO implemented in place and communications plan in place and new signage designed.
 - May 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.

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.

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.

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.

The Council needs to ensure that the powers are used in a reasonable, consistent, appropriate and proportionate manner and must comply with the consultation requirements set out in this report.

The area that the PSPO covers must be considered as part of the consultation and data collection, as the Council must evidence that there is a significant nuisance or problem in a specific area that is detrimental to the local community's quality of life.

If we do pursue a new PSPO it will be important to ensure that its scope and the process for introduction is in accordance with the powers and requirements of the 2014 Act. Any challenge to a PSPO would have to be made by an interested person by way of an application in the High Court for permission to seek a Judicial Review. That application must be made within six weeks of the PSPO being made. An interested person is someone who lives in, regularly works in, or visits the restricted area.

A person who receives an FPN due to a breach of PSPO can also challenge the validity of the order. This means that only those who are directly affected by the restrictions have the power to challenge. This right to challenge also exists where an order is varied by a council. Interested persons can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements.

In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with. When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court can uphold the PSPO, quash it, or vary it.

The Council will have to take measures to mitigate against these risks by, for example, embarking on a full consultation process, publishing the proposed order and map and

putting in place measures to publicise the PSPO through street signage and an intention to publish the final Order on the Council website in accordance with the act.

The PSPO only significantly affects communities living or working in one ward of the Sevenoaks District. It is therefore not a key decision and is not subject to call in, which means that it can be implemented immediately.

Financial implications

There are limited capital or revenue implications associated with this report. The primary cost if we were to proceed with a PSPO would be installing new signage through the proposed PSPO zone and would be met from existing budgetary provision. This will cost approximately £500-£1000. There may be a staffing 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

If we were to work towards introducing a new PSPO this will enable the Council and its partners to utilise additional powers to motor vehicle nuisance within the selected area, helping to increase quality of life and wellbeing in the area affected.

Conclusion

The Council has a duty to do all that it reasonably can to prevent crime and disorder in its area and work towards delivering the objectives of the Sevenoaks District Community Safety Plan. The implementation of any PSPO has been supported by the public consultation and will assist with meeting these requirements of the Community Safety Plan by providing the Council and Police with additional powers to tackle the issues identified. This report seeks approval to implement a PSPO at London Road, Halstead, Orpington By Pass Badgers Mount and the M25 Spur Road.

Appendices

Appendix A - Full Consultation Results

Sarah Robson

Deputy Chief Executive and Chief Officer – People & Places