

DECISION-MAKER:	CABINET		
SUBJECT:	EXTENDING CONTROLS ON STREET DRINKING USING PUBLIC SPACES PROTECTION ORDERS		
DATE OF DECISION:	14 MARCH 2022		
REPORT OF:	Councillor Vassiliou CABINET MEMBER FOR COMMUNITIES, CULTURE AND HERITAGE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Gavin Derrick Service Manager – Environmental Health, Trading Standards and Community Safe	Tel: 023 8091 7537
	E-mail:	gavin.derrick@southampton.gov.uk	
Director	Name:	Mary D’Arcy Executive Director – Communities, Culture and Homes	Tel: 023 8083 4611
	E-mail:	mary.d’arcy@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY	
None	
BRIEF SUMMARY	
This report seeks Cabinet approval to extend the existing Public Spaces Protection Orders (PSPOs) which control street drinking in five localities within the city for a three year period, up to April 2025	
RECOMMENDATIONS:	
(i)	To consider the representations received in relation to this matter in response to the consultation carried out between 21 January and 18 February 2022 as set out in Appendix 1.
(ii)	To approve the extension of the five Public Spaces Protection Orders to control street drinking in the localities shown in the maps at Appendix 2.
REASONS FOR REPORT RECOMMENDATIONS	
1.	The anti-social behaviour associated with street drinking continues to cause problems in some parts of Southampton and can have a detrimental impact on the quality of life for those who live and work in or visit the City and generates complaints to either the Council or the police.
2.	The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers to tackle anti-social behaviour. The Act allows the local authority to make a Public Spaces Protection Order (PSPO) if it is satisfied that: <p style="margin-left: 40px;">a. activities carried on in a public place have had or will have a detrimental</p>

	<p>effect on the quality of life of those in the locality; and</p> <p>b. the activities are persistent or continuing and are unreasonable; and</p> <p>c. the restrictions imposed by an order are justifiable.</p> <p>A public spaces protection order can last for a period of three years after which it may be extended by the local authority for a further three-year period.</p>
3.	<p>Public spaces protection orders (PSPOs) provide the police and other 'authorised persons' with powers to tackle the anti-social behaviour which is restricted by the order.</p> <p>Police officers or 'authorised persons' may:</p> <ul style="list-style-type: none"> - direct individuals not to engage in an activity which is prohibited by the PSPO; - issue a fixed penalty notice (up to £100) to anyone who fails to comply with the requirements of the PSPO; - and in the case of a person consuming alcohol in a location covered by a PSPO, can require that person to stop consuming alcohol and if consumption continues, to surrender the alcohol. <p>Failure to comply with the requirements of a PSPO is an offence, which can result in a fine of up to £1,000 on conviction.</p>
4.	<p>In April 2016, the Council created five PSPOs to control street drinking in localities where anti-social behaviour associated with this activity was particularly prevalent. The orders were extended for a further three-year period in 2019 and are due to expire on 30 April 2022.</p>

5.	<p>Since the introduction of the PSPOs, the Council has worked in partnership with the police to tackle the anti-social behaviour associated with street drinking and the power to require alcohol to be surrendered is regularly used.</p>
----	---

6.	<p>The power to control street drinking is not available through other legislation and it is recommended that the controls on street drinking in the existing PSPOs are extended for a further three-year period.</p>
----	---

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7.	<p>The PSPOs could be allowed to expire on 30 April 2022 and not extended, but this would remove the power to deal with anti-social street drinking (allowing police officers to require a person to stop consuming or surrender their alcohol).</p>
----	--

8.	<p>Street drinking could be controlled by creating a PSPO to cover the entire city, but this would be difficult to justify as anti-social behaviour associated with this activity does not cause problems in many parts of the city.</p>
----	--

DETAIL (Including consultation carried out)

9.	The legislation requires the local authority to carry out the ‘necessary consultation’ before making a public spaces protection order, which includes consulting the chief officer of Police and the Police and Crime Commissioner.
10.	<p>Consultation on the proposals to extend the controls on street drinking was carried out between 21 January and 18 February 2022. The 28 day consultation allowed interested persons time to consider the proposal and respond to the consultation in line with the <i>Gunning</i> principles.</p> <p>The consultation was promoted in the following ways by:</p> <ul style="list-style-type: none"> • sending emails or letters to stakeholder networks • publication on our website • issuing a press release to local media • posting on social media • featuring in various Council e-alerts
11.	270 people responded to the consultation. Most respondents (90.7%) live in the city. A report on the consultation is included as Appendix 1.
12.	The majority of respondents (87%) agree with the proposal to extend the PSPO controls on street drinking.
13.	The police have responded to the consultation and are ‘supportive in extending the controls on street drinking within Southampton for another three years’ (see appendix 3)
14.	The police and crime commissioner has responded to the consultation and ‘would support the proposed extension of PSPOs by Southampton City Council’ . (see appendix 4)
15.	Complaints about anti-social behaviour linked to street drinking will generally be reported to the police. A review of complaint data recorded on the police database confirms an ongoing trend of reports about anti-social behaviour linked to street drinking across Southampton and particularly in the city centre. Discussion with police officers and PCSOs has confirmed the powers provided by the PSPOs are regularly used to tackle the anti-social behaviour associated with street drinking.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
16.	Some costs may be incurred if additional signs are required to facilitate enforcement activity in areas where street drinking is prevalent. Any additional costs will be met from within existing budgets.
17.	The PSPOs provides a mechanism for fixed penalties to be issued to individuals failing to comply with the requirements of the PSPO, but it is not anticipated that this will provide a significant revenue stream, as the requirement to surrender alcohol provides an effective deterrent to street drinking.
<u>Property/Other</u>	

18.	None.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
19.	Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 provides the local authority with the power to make a PSPO and sets out the procedure for making an order.
20.	Section 60 of the Act allows a local authority to extend an existing order for a further three-year period if satisfied on reasonable grounds that doing so is necessary.
21.	<p>The requirements of the PSPOs can be enforced by police officers or 'other persons' authorised by the Council.</p> <p>Section 63 allows a police officer or other authorised person to direct a person not to consume alcohol, or to surrender alcohol (or anything believed to be alcohol).</p> <p>Section 68 of the Act allows a police officer or other authorised person to issue a fixed penalty notice to a person who continues to consume alcohol when directed not to or fails to surrender alcohol (or anything believed to be alcohol). The notice offers the person the opportunity of discharging any liability to conviction for the offence by paying a fixed penalty up to £100 to the local authority.</p>
22.	<p>The Council's Head of Service - Consumer Protection and Environmental Services has delegated power to authorise persons to enforce the requirements of the PSPOs in accordance with Sections 63 and 68 of the Act.</p> <p>It is intended to authorise appropriately trained Council officers to enforce the requirements of the PSPOs</p>
<u>Other Legal Implications:</u>	
23.	The introduction of PSPOs by both Southampton City Council and other local authorities has been controversial and the subject of some scrutiny by interested parties. This has particularly been the case where the orders have restricted 'rough sleeping' or been perceived as criminalising poverty or homelessness. Controls on 'rough sleeping' are not included in this proposal, which only seeks to extend the control of anti-social street drinking.
24.	<p>Section 66 of the Act does allow an 'interested person' to apply to the High Court to question the validity of a PSPO on the grounds that either:</p> <ol style="list-style-type: none"> a. the local authority did not have the power to make the order; or b. there was failure to meet a requirement set out in Chapter 2 of the Act. <p>Any action must be made by a person who regularly lives or works in the area covered by an order and must be made within six weeks of the order being made.</p>
25.	In renewing the PSPO the Council has had regard to the restrictions on personal freedoms under the Human Rights Act 1998, particularly Articles 10 and 11 (freedom of expression and freedom of assembly) and the impact of the

	proposed measures under the Equalities Act 2010. The proposals do not disproportionately impact any group sharing protected characteristics and the restrictions on personal freedoms are strictly limited to areas and behaviours directly linked with evidence of anti social behaviour having a disproportionate impact on the amenity of the neighbourhood and wider community. The restrictions are therefor considered necessary and proportionate in the circumstances to prevent anti social behaviour, crime and disorder and protect public safety.
25.	A template copy of the public spaces protection order is included as Appendix 5.
POLICY FRAMEWORK IMPLICATIONS	
26.	The Council's corporate plan 2021-25 includes the priority to 'work with our partners to tackle anti-social behaviour [and] violence... through greater joint work with police and our partners'
27.	Reducing anti-social behaviour in the city and reducing the harm caused by alcohol are priorities for the Safe City Partnership.
28.	Southampton's alcohol strategy seeks to create a 'safe, healthy and vibrant city where people who choose to drink alcohol do so safely and responsibly'.

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	Bargate, Bevois, Freemantle, Peartree, Portswood, Millbrook, Shirley, Woolston
<u>SUPPORTING DOCUMENTATION</u>	

Appendices	
1.	Consultation Feedback - Public Spaces Protection Orders
2.	Maps showing the proposed boundaries of the PSPOs in the City Centre, Portswood, Shirley, Woolston and Bitterne).
3.	Consultation response from Hampshire Police
4.	Consultation response from the Police and Crime Commissioner
5	Template of the Public Spaces Protection Order

Documents In Members' Rooms

1.	ESIA
Equality Impact Assessment	
Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	Yes
Privacy Impact Assessment	
Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out.	No

Other Background Documents

Other Background documents available for inspection at:

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
1.	None