

Slough Borough Council

Report To:	Cabinet
Date:	17 th June 2024
Subject:	Public Spaces Protection Order
Lead Member:	Cllr Ishrat Shah - Equalities, Public Health and Public Protection
Chief Officer:	Tessa Lindfield – Director - Public Health
Contact Officer:	Sue Dicks - Community Safety - Public Protection
Ward(s):	All
Key Decision:	YES
Exempt:	NO
Decision Subject To Call In:	YES
Appendices:	Appendix 1 - Proposed Public Spaces Protection Order Appendix 2 – Equalities Impact Assessment

1. Summary and Recommendations

1.1 This report seeks the approval of the cabinet and sets out the proposal of approving the making of a Public Space Protection Order (PSPO) for the Borough of Slough. This will impact all wards to address current ongoing issues of anti-social behaviour (ASB) affecting the local community.

1.2 Recommendations:

Cabinet is recommended to:

- Approve the making of the proposed Public Spaces Protection Order within all wards in Slough in order to address current ongoing issues of anti-social behaviour affecting the local community for a maximum period of three years as defined by the Anti-Social behaviour Crime and Policing Act 2014.

1.3 Reason: to address current ongoing issues of anti-social behaviour (ASB) affecting the local community.

1.3.1 Without a borough wide PSPO, it is considered inevitable that the behaviours that need to be addressed will persist causing harm to the area, the community's confidence in the authorities tasked to protect them from such anti social behaviour and the potential loss of confidence in using the defined public space for their lawful business or recreation.

1.3.2 Evidence provided in this report and in consultation feedback indicate that:-

- Consumption of alcohol carried on in public place within the borough's area have had a detrimental effect on the quality of life of those in the locality, or
- It is likely that consumption of alcohol or refusing to stop drinking alcohol will be carried on in a public place within that area and that they will have such an effect.

And that the effect, or likely effect of the said activities:

- Is, or is likely to be, of a persistent or continuing nature
- Is, or is likely to be, such as to make the said activities unreasonable and
- Justifies the restrictions to be imposed by the proposed notice.

Therefore, officers of Slough Borough Council are satisfied on reasonable grounds that the conditions set out in Section 59 and 60 of the Anti-Social Behaviour, Crime and Policing Act 2014, are met for this PSPO to be authorised and to remain in force for 3 years.

1.4 Commissioner Review

This report has been reviewed by Commissioners and there are no specific comments to add.

2. Report - Introductory paragraph

2.1 The Council plays a fundamental lead role in the overall Safer Slough Partnership (SSP) response to anti-social behaviour. This report therefore welcomes Cabinet approval for a borough-wide Public Space Protection Order (PSPO).

2.2 The implementation of the PSPO will contribute towards the delivery of the Council's **Vision and Corporate Priorities 2023 to 2027.**

- i. A town where residents can live healthier, safer and more independent lives,
- ii. A borough for children and young people to thrive,
- iii. Enabling residents and communities,
- iv. Strengthening partnerships,
- v. Resident focused,
- vi. Building trust.

2.2 Options considered

- 2.2.1 **Do nothing – This is not recommended** for the reasons cited within this Report. There is significant community support demonstrated by way of complaints made to both the Council and the police.
- 2.2.2 Introduce a PSPO that only covers certain wards for certain conditions – **This is not recommended** for the reasons cited within this report. The feedback from consultation and complaints records over the last three and half years shows that these behaviours impact across the borough. To attempt a ward by ward approach may prove confusing to the public and those officers expected to enforce this PSPO.
- 2.2.3 The proposal is to make a PSPO covering the whole borough of Slough to address current ASB issues affecting the local community for a maximum period of three years as defined by the Anti-Social Behaviour Crime and Policing Act 2014.
- 2.2.4 The proposed PSPO in **Appendix 1**, drafted by Legal Services, is bespoke to the particular frequent occurrences of incidents of ASB in the borough of Slough and the PSPO relates to where these incidents occur. It also takes into account issues of displacement and changes in circumstances that have been reported to ensure that the PSPO is fit for purpose.
- 2.2.5 Before a PSPO is made, the Council has to publish the draft order in accordance with regulations published by the Secretary of State.
- 2.2.6 The Council can make a PSPO on any public space within its own area. The definition of 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.

2.3. Background

- 2.3.1 In October 2014 the government implemented the Anti-Social Behaviour Crime and Policing Act 2014 which gives local authorities and police more effective powers to deal with anti-social behaviour. One of the new powers is a Public Spaces Protection Order (PSPO) which can be used to regulate activities in particular public places that can have a detrimental effect on the local community.
- 2.3.2 PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 2.3.3 In October 2017, the Council implemented a PSPO for 9 identified areas within Slough – this did not cover the entire Borough as there was insufficient evidence at that time to do so. That PSPO expired in October 2020 and the Council have since been gathering evidence to implement a new PSPO. The police have also provided

the Council with their statistical information to support the need for the proposed PSPO.

2.3.4 The current terms of the Proposed Order would be to prohibit the following activities with the Borough:

- **The consumption of alcohol or being in possession of an opened container that is reasonably believed to contain alcohol. This provision does not apply to alcohol being consumed within premises licensed under the Licensing Act 2003 or s115E of the Highways Act 1980.**
- **Refusing to stop drinking alcohol or hand over any containers (sealed or unsealed) which are believed to contain alcohol, when required to do so by a police officer or authorized officer.**

2.3.5 Previous PSPOs included clauses of urinating or defecating in a public space except in a premises designed for that purpose; and spitting saliva or any other product from the mouth onto the ground without making any attempt to collect or remove the saliva or product. It was decided not to add these into the currently proposed Order due to the Police having legislative powers to deal with lewd behaviour around urinating and defecating. Regarding spitting, this clause was removed as there have not been reports around this in the previous PSPO, and it is unnecessary to raise expectations of residents that this particular clause can be enforced without additional resources.

2.3.6 Thames Valley Police have been consulted and are in agreement for the Council to keep the PSPO simple and focus on what is do-able, achievable and realistic. It is agreed that it would be impossible to enforce actions like group gatherings without the associated ASB, urinating, defecating and spitting. Thames Valley Police are supportive of and are able to enforce the alcohol prohibitions only.

2.3.7 Legal Services have looked at various clauses and the legality of each clause. Their feedback has been invaluable to ensure the Council is working within the law and in line with statutory guidance. Legal Services have also agreed to keep the PSPO simple so there is no confusion or unrealistic expectations from residents. It is also necessary to ensure the clauses are tightly drafted to make them easy and reasonable to enforce.

2.4 Why change is needed?

2.4.1 Currently there is **no** PSPO in place in Slough to restrict drinking in public spaces and surrendering alcohol. The Council have liaised with Legal and agreed terms and conditions for the Borough wide PSPO. The terms and conditions will make the PSPO simpler and easy to understand. For members of the public, they will know what is in place and what can be enforced. For enforcement teams at SBC and the police themselves, it will be easier to carry out their enforcement role using the PSPO to deal with on street behaviour.

2.4.2 Both the Police and the Council continue to receive regular complaints relating to the consumption of alcohol in the street and local parks. Due to issues of displacement with previous PSPO's, it is necessary that the proposed PSPO cover the whole of the borough of Slough.

2.4.3 **National context:** Nationally, evidence shows that PSPO's are successful in areas where they have the resources to enforce, such as Accredited Street Wardens and Enforcement Officers (LA and Police) on the ground regularly patrolling the areas.

2.5 **Local context:** Both Council and Police data over the last 12 months showed continued complaints of street drinking and the negative impact this is having on residents.

2.6 **Consultation:**

2.6.1 A statutory public consultation has been carried out from 15th January 2024 to 12th February 2024 (4 weeks), with a notice of proposal placed on the council's website. The responses from the public consultation accounted for 267 responses in favour and 20 against the proposed Order.

- 86% of responses were from Slough residents and 58% of responses were from people working in Slough.
- One of the questions asked as part of the consultation was "Do you support the proposed Public Spaces Protection Order for consumption of alcohol for a period of 3 years?", requiring a Yes or No response. 93% said yes and 7% said no.
- Some comments received as part of the consultation were as follows:-

"We need to stop the antisocial behaviour in public places at any cost. We don't feel safe on the road or in the parks."

"Not nice to see people drinking on streets. Makes me feel un-safe. They urinate and defecate on street in full view of public. Not what I want to view or for my children to witness. Disgusting."

"We are an established business paying commercial rates having to put up with daily anti-social behaviour. I hope this legislation is monitored and the responsible people of this community are at last protected."

"People drink on practically every street corner and throw/ discard their cans, bottles and other rubbish/litter on the streets, in people's gardens and in park and streams. It is absolutely disgraceful and people really don't care. I would love you to implement this."

"ASB from alcohol consumption has been a major issue in Slough Town Centre for several years and is causing problems for local businesses and residents resulting in visitors actively avoiding the area. This PSPO is long overdue."

"It is needed to stop people being drunk and causing problems for shoppers and residents."

“It is about time this has issue has to be controlled because it is an intimidating and disgusting atmosphere, which arises from people drinking and hanging around.”

- 2.6.2 The legally required consultation with the Chief Officer of Police and the local policing body for the police area that includes the restricted area has been undertaken and record of that consent for this borough wide PSPO has been received by the Council on 25th January 2024 from the Local Police Authority Commander (Superintendent).
- 2.6.3 Members were also consulted with on 18th January 2024 and received necessary information in the Members Weekly Bulletin.

3. Implications of the Recommendation

- 3.01 This proposed Borough wide PSPO will support the Council in its effort to further reduce the levels of anti social behaviour in the area. It will be demonstrative of the Council’s commitment to work in collaboration with partners such as the Thames Valley Police Service and other support services to provide a safe environment for residents and ensuring residents feel able to report incidents through increased confidence in the Council being able to help.

3.1 Financial implications

- 3.1.1 The budget held within the Public Health & Public Protection Community Safety, Housing Regulation & Enforcement service includes legal costs and other operational expenditure totalling £5,200.
- 3.1.2 Thames Valley Police have contributed £5,000 towards the implementation of the PSPO.
- 3.1.3 If the PSPO is breached, the offender is liable to a £100 fixed penalty notice or upon conviction for the substantive offence. Breach of a PSPO is a criminal offence prosecuted in the Magistrates Court. The Council will be responsible for issuing fixed penalty notices and prosecutions should offenders fail to pay the fixed penalty notice. To date, due to compliance of individuals, the Council have not prosecuted any individual for breaching the alcohol prohibitions within any PSPO.

3.2 Legal implications

- 3.2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 provides the power and process for implementing a PSPO.
- 3.2.2 As noted earlier in this report, there are certain conditions that have to be met in order for the council to make a PSPO. A PSPO sets a restricted area within which doing specified things are prohibited, or are required, or both.
- 3.2.3 **Section 59** of the Anti-Social Behaviour, Crime and Policing Act 2014 states that:

A Local Council may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- Activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality, or
- It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:

- is, or is likely to be, of a persistent or continuing nature
- is, or is likely to be, such as to make the activities unreasonable and
- justifies the restrictions imposed by the notice

3.2.4 Section 60 - **Duration of orders** – of the Anti-Social Behaviour, Crime and Policing Act 2014 states that:

- (1) A public spaces protection order may not have effect for a period of more than 3 years, unless extended under this section.
- (2) Before the time when a public spaces protection order is due to expire, the Council that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

- (3) An extension under this section—
 - (a) may not be for a period of more than 3 years;
 - (b) must be published in accordance with regulations made by the Secretary of State.
- (4) A public spaces protection order may be extended under this section more than once.

3.2.5 Before making or extending an Order, the Council must consult with the chief officer of police, the Police and Crime Commissioner and any representatives of the local community it considers appropriate. There are also requirements to publicise, and notification requirements in relation to a proposed PSPO.

3.2.6 Under the Act, an interested party can challenge the making of a PSPO, or its variation, by way of an application to the High Court. The grounds for such a challenge are that the Council did not have the power to make or vary the order or to include certain prohibitions/requirements, or that a requirement under the Act was

not complied with. There is a 6-week time limit to make such an appeal from the date of the order or variation.

- 3.2.7 Where an Order has been made and has come into effect, it is an offence to fail to comply with its provisions.
- 3.2.8 In October 2014 the government implemented the Anti-Social Behaviour Crime and Policing Act 2014 which gives local authorities and police more effective powers to deal with anti-social behaviour. One of the new powers is a Public Spaces Protection Order (PSPO) which can be used to regulate activities in particular public places that can have a detrimental effect on the local community.
- 3.2.9 Councils will be responsible for making the new PSPO although enforcement powers will be much broader. The test 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.
- 3.2.10 The council can make a PSPO on any public space within its own area. The definition of 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.
- 3.2.11 PSPOs are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 3.2.12 These orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.
- 3.2.13 The PSPO will create an offence for the perpetrators of the types of prohibitions contained within the PSPO. This means that if a PSPO is breached the offender is liable to a £100 fixed penalty notice or upon conviction for the substantive offence. Breach of a PSPO is a criminal offence prosecuted in the Magistrates Court. It is not an offence to drink alcohol in a controlled drinking zone. However, it is an offence to fail to comply with a request to cease drinking or surrender alcohol in a controlled drinking zone.
- 3.2.14 The proposed PSPO is only applicable to over 18's. The Council have taken into account that young people/under 18's are a difficult age to enforce against. Furthermore, there are alternative means of dealing with the behaviour rather than criminalizing young people.

3.2.15 The duration of the PSPO will be for 3 years and will be reviewed regularly. Should it be necessary to extend or vary the PSPO in anyway, this can be done provided there is evidence in support to do so. As well as varying the PSPO, the Council can also seek to discharge it at any time. For instance, when the problem has ceased to exist or the land ceases to be classified as a public space.

3.3 Risk management implications

3.3.1 Whilst the statutory process and guidance has been followed in the preparation of this Borough wide PSPO, there remains a possibility that the lawfulness of the PSPO could be challenged. It should be noted that the community have been afforded consultation via the Council's website and officers have taken the consultation responses into account in the preparation of this new PSPO.

3.3.2 The communities and stakeholders affected by the issues that the PSPO is trying to address, want the PSPO to be approved and implemented. These communities want to see this application process followed through to its ultimate outcome - failure to do this could potentially make these communities feel that the council has failed them in helping to address their issues of ASB where they live.

3.3.3 The proposed PSPO is to be enforced by the Police, by directing an individual to stop drinking. A potential risk to be considered is whether there will be adequate resources available to enforce the Order. Having had ongoing discussions with the Police, they are in full support of having the proposed PSPO in place and are confident they will have the resources to be able to enforce the alcohol prohibitions.

3.4 Environmental implications

3.4.1 Due to issues of displacement with previous PSPO's, it is necessary that the new proposed PSPO cover the whole of the borough of Slough.

3.5 Equality implications

3.5.1 The Public sector equality duty is set out in section 149 of the Equality Act 2010.

3.5.2 A public authority must, in the exercise of its functions, have *due regard* to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 3.5.1 An Equality Impact Assessment (EIA) has been completed and reviewed as part of this process, to ensure the approach does not have a disproportionate or adverse impact. The proposed PSPO does not discriminate against the 9 protected characteristics, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. The completed EIA is included in **Appendix 2**.
- 3.5.2 The EIA show that some protected groups may be affected by the proposed PSPO but no negative impact has been identified. Going forward, this will continue to be monitored as noted above. In addition, mitigating and support measures are proposed for persons likely to be the subject of breaching the PSPO. Support will be provided to any protected group to address their alcohol dependency.
- 3.5.3 The decision to take enforcement action will be decided on a case by case basis and dependent upon the assessment of the facts and evidence supporting each one.

4. Background Papers

None.