

**POLICY AND RESOURCES
COMMITTEE**

25 November 2015

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Urgent Decision Referral from Communities, Housing and Environment Committee 17 November 2015: Public Spaces Protection Order for Town Centre

Final Decision-Maker	Policy and Resources Committee
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Sarah Robson, Housing and Community Manager
Classification	Public
Wards affected	

This report makes the following recommendations to this Committee:

The report is provided to the Committee to inform the debate on the referral under consideration and makes no recommendation. The Committee must choose to:

- Endorse the original decision; or
- Agree the proposed amendment as set out in the referral

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable

Meeting	Date
Policy and Resources Committee	25 November 2015

Urgent Decision Referral from Communities, Housing and Environment Committee 17 November 2015: Public Spaces Protection Order for Town Centre

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report relates to the referral to the Policy and Resources Committee of the decision of the Communities, Housing and Environment Committee at its meeting on 17 November 2015 made in relation to Agenda Item 13: Public Spaces Protection Order for Town Centre.
 - 1.2 The report sets out the desired outcome of the referral.
 - 1.3 The Policy and Resources Committee can decide to endorse the original decision of the Communities, Housing and Environment Committee or may substitute a different decision. The proposals set out at paragraph 5 below give the Policy and Resources Committee the ability to amend the original decision, by adding an agreement to start the process of considering whether PSPOs are also appropriate for rural areas of the Borough.
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2. REASONS FOR URGENCY

- 2.1 The Communities, Housing and Environment Committee unanimously approved the recommendation for a borough wide consultation with regards to introducing a Public Spaces Protection Order in and around the town centre to commence on 30 November 2015 for an 8 week period. Any delay to the consideration of this decision referral will have a consequential effect on the period of consultation and subsequent implementation.

3. INTRODUCTION AND BACKGROUND

- 3.1 In the last three years, the Council's preventative approach to ASB has led to a reduction in the number of incidents of ASB across the Maidstone Borough recorded by Police as a 25% drop over the three year period. However, Maidstone still has the 5th highest number of reported incidents in the County (after Thanet, Canterbury, Swale and Dover). Analysis of ASB including environmental nuisances across Maidstone, highlights that the High Street ward continues to experience the highest volumes, with Fant and Bridge wards seeing a significant increase.
- 3.2 As a Council, we are determined to reduce this figure further, and use the new tools and powers within the Anti-Social Behaviour, Crime and Policing Act 2014 to enhance the partnership approach where appropriate.
- 3.3 The Council continues to receive repeated complaints from residents, visitors and local businesses about unreasonable anti-social behaviour including street drinking, increased littering from legal highs (e.g.

empty laughing gas canisters) and verbal intimidation from the street population, including beggars and rough sleepers over the last year. Complaints showed that the anti-social behaviour was having a detrimental effect on the quality of life of those living in or using certain areas, reducing their ability to feel safe in, use or enjoy public spaces.

- 3.4 One of the key powers of interest to the Council, partners and the community is the Public Spaces Protection Order (PSPO). PSPO's are designed deal with a particular nuisance or problem in a specified area by placing conditions on the use of the area and providing sanctions for those that do not comply.
- 3.5 On 20 October 2014, the Government implemented most of the Anti-Social Behaviour Crime and Policing Act 2014 ("the Act"). The purpose of the Act is to give local authorities and others more effective powers to tackle anti-social behaviour (ASB), providing better protection for victims and communities.
- 3.6 Amongst these new tools and powers are Public Spaces Protection Orders (PSPO's), which are designed to control use of public spaces. It is for each individual Council to determine what behaviour(s) they want to make the subject of a Public Space Protection Order.
- 3.7 Public Space Protection Orders provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems. An Order should help to significantly reduce incidents of relevant ASB in the area over the long-term and improve the quality of life for residents, visitors to the town and local businesses.
- 3.8 Local authorities can make an order as long as two conditions are met:

First condition:

Activities carried out in a public space within the local authority'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 out in a public place within the area that will have such an effect.

Second condition:

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 activities unreasonable and Justifies the restrictions imposed by the notice.

- 3.9 Local authorities, when considering implementing a Public Space Protection Order, must have particular regard to the rights of freedom of expression and the freedom of assembly before making an order.
- 3.10 In terms of any consultation, local authorities must consult with the Chief

Officer of Police, the Police and Crime Commissioner, whichever community representatives the local authority deems appropriate and, as far as is reasonably practicable, with the owner or occupier of the land in question.

- 3.11 The local authority must also notify the County Council and any Parish Council (where appropriate) before making any Order.
- 3.12 The Order must identify and publicise (e.g. on social media and through the provision of public signage in the designated areas) the public space as a 'restricted area' and must prohibit specified activities being carried out in the restricted area (prohibitions), or require specified things to be done by persons carrying out specific activities in that area (requirements), or both.
- 3.13 Any prohibition or requirement must be reasonable and proportionate in order to prevent the detrimental effect from occurring or reoccurring, or must reduce the detrimental effect or reduce the risk of its occurrence, reoccurrence or continuance.
- 3.14 A prohibition or requirement may be framed so that it applies to all persons, persons in specified categories, or to all persons except those in specified categories. It can be applicable at all times, or only at specified times, or at all times except those specified. Also, so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified. Public Space Protection Orders can be made for a maximum of three years. The legislation provides that they can be extended at the end of the period, (if the authority is satisfied on reasonable grounds that it is necessary for various reasons), but only for a further period of up to three years. However, orders can be extended more than once. Local authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge an order but further consultation must take place for varying or discharging orders.
- 3.15 The orders can be enforced by Police Officers, and Council Officers and in relation to Fixed Penalty Notices or requirements not to consume alcohol authorised PCSOs
- 3.16 Before making the order the local authority must notify potentially affected people of the proposed order, inform those persons of how they can see a copy of the proposed order, notify them of how long they have to make representation, and consider any representations made.
- 3.17 Any interested person can challenge the validity of a Public Space Protection Orders in the High Court but the challenge must be made within six weeks of the making of the Order. An 'interested person' means an individual who lives in the restricted area or who regularly works in or visits that area.
- 3.18 It is proposed that the Council considers consulting upon a Public Space Protection Order to cover prohibiting the following activities, which will support the current efforts to improve town centre public spaces where

behaviours have a detrimental effect on the quality of life of those in the locality.

- 3.19 There are currently 4 key issues identified by the Council's Strategic Assessment, alongside Kent Police and other partners for the use of a PSPO to be investigated. These are begging, new emerging drugs, sleeping in a public space and drinking in a public space.
- 3.20 Advice received from national experts is that empirical evidence should be collated by the local authority and their key partners in order to support the requirement for the PSPO. The evidence should demonstrate the nature of the nuisance and their duration in order to satisfy the First and Second Conditions set out in paragraph 3.8 above.
- 3.21 Although this is the first PSPO the Council has considered, additional PSPOs could come forward where they are supported by the evidence to demonstrate that the terms of the PSPO are reasonable and proportionate to the activity the PSPO is seeking to address.

4. DESIRED OUTCOME OF REFERRAL

- 4.1 The referral notification at Appendix A sets out the desired outcome. To assist the committee this is replicated below:

"That the Communities, Housing and Environment Committee receive a report setting out a strategic assessment of anti-social behaviour, crime and disorder for the rural areas of the borough and recommended action for reduction of these issues".

5. RESPONSE AND REASONS FOR RECOMMENDATIONS

- 5.1 Recommendation 1 would allow the Council to move forward and conduct consultation with respect to the proposed Public Space Protection Order for Maidstone town centre within the boundary set out in the report to the Communities, Housing and Environment Committee and for the order to cover legal highs, particularly laughing gas users, street drinking, street begging and rough sleeping which have been identified from local crime or performance data as key issues for the town centre.
- 5.2 Recommendation 2 would both allow the Council to move forward with respect to the PSPO for Maidstone town centre and require a report to be presented to the Communities, Housing and Environment Committee concerning the strategic assessment of anti-social behaviour, crime and disorder for the rural area of the borough. In turn consideration can be given to the appropriateness of a PSPO and other interventions based on evidence relating to locations including Headcorn and Staplehurst.
- 5.3 Notwithstanding this, specific concerns about crime and disorder in any area of the borough should be highlighted to the Maidstone Community Safety Unit,

who can review and address issues on a case by case basis through normal, daily operational working channels.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The Public Spaces Protection Order in the town centre will be subject to an 8 week public consultation from 30 November 2015 dependent on the decision to undertake this being endorsed by the Policy and Resources Committee
- 6.2 If recommendation 2 is agreed then an additional action will be undertaken to report the strategic assessment of crime and disorder for the rural areas of the borough to the Communities, Housing and Environment Committee.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Keeping Maidstone Borough an attractive place for all: Public Space Protection Orders provide Councils with a flexible power to implement local restrictions to address the effect on quality of life caused by a range of anti-social behaviour issues in public places in order to prevent future problems and ensure safe and attractive environment.	Head of Housing and Community Services
Risk Management	The management of Public Space Protection Orders will be subject to the current performance management arrangements within the service, with performance benchmarking as part of the process.	Head of Housing and Community Services
Financial	It is anticipated that implementation will be resourced from within existing budgets. There may also be additional legal costs and costs associated with the introduction of the individual PSPOs. These will be looked at on a case by case basis as	Head of Finance and Resources

	<p>they occur. The payment of fixed penalty notices within the new regime will generate a small income for the council. This will be pooled with the existing FPN income from other enforcement activities and used to fund awareness campaigns and legal action as appropriate in the delivery of a cleaner, safer Maidstone.</p> <p>Initial costs of consultation of this type would be in the region of £500.</p> <p>Additionally, there is a cost of signage and promotion which could reach £5,000 and require on-going maintenance budgets if the order is approved. These costs will need to be met from within the Housing and Community Services existing budget.</p>	
Staffing	<p>Authorised officers will need to have completed appropriate training in order to be able to issue fixed penalties and deal with prosecutions.</p>	<p>Head of HR Shared Service</p>
Legal	<p>Legal implications for the process of consulting upon and implementing a PSPO are covered in the body of the report.</p> <p>Should an Order be implemented MKLS will need to be instructed to act in respect of any unpaid FPN and/or prosecution matters arising and resourced according to the volume of matters likely to arise.</p>	<p>Head of Legal Partnership</p>
Equality Impact Needs Assessment	<p>Incidents of ASB will continue to be dealt with in line with the emerging strategy and in line with our equalities framework.</p> <p>These legislative changes are designed to have a significant community impact in preventing and limiting anti-</p>	<p>Policy & Information Manager</p>

	social behaviour. EQIA to support this report.	
Environmental/Sustainable Development	None.	Head of Housing and Community Services
Community Safety	The introduction of Public Space Protection Orders will contribute to making Maidstone town centre a safer place by promoting the message and enforcement of appropriate standard of conduct and behaviour.	Head of Housing and Community Services
Human Rights Act	<p>The council must ensure that all statutory conditions are satisfied before a PSPO can be adopted and ensure it complies with its duties under the Equality Act 2010.</p> <p>The council must consider if the proposed PSPO will breach of the council's code of conduct – including disproportionate interference with a number of fundamental rights protected by the Human Rights Act.</p> <p>The council must ensure it balanced the problems of anti-social behaviour in its town centre with the rights of individuals</p>	Head of Housing and Community Services
Procurement	Appropriate procurement methods will used to procure consultation, publicity and signage.	Head of Finance and Resources
Asset Management	None.	Head of Housing and Community Services

7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Referral Form

- Appendices B-F: Appendices from original report to CHE – 17 November 2015
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8. BACKGROUND PAPERS