

CABINET MEMBER FOR HOUSING AND HEALTH

26 July 2023

Timetable	
Meeting	Date
Housing, Health and Environment Policy Advisory Committee	11 July 2023
Overview and Scrutiny Committee	18 July 2023
Cabinet Member for Housing and Health	26 July 2023

Public Spaces Protection Order – Town Centre Renewal

Will this be a Key Decision?	Yes
Urgency	Not Applicable
Final Decision-Maker	Cabinet Member for Housing and Health
Lead Head of Service	Head of Housing and Regulatory Services
Lead Officer and Report Author	Martyn Jeynes, Community Protection Team Manager
Classification	Public
Wards affected	High Street, Bridge Ward, East Ward, Fant Ward

Executive Summary

The following report is in relation to the proposed renewal of the Town Centre Public Space Protection Order (PSPO), which is used as one of a number of legislative tools and practices to challenge and discourage anti-social behaviour in the Town Centre. The PSPO contains specific requirements in relation to Begging and Street Drinking Controls. The renewal has been coordinated in collaboration with stakeholders, including Kent Police, One Maidstone, local Ward Members and the Cabinet Member for Housing and Health. We ask the committee to consider the proposal before being passed to the Cabinet Member for Housing and Health for decision.

Purpose of Report

Recommendation to Cabinet Member/Decision

This report asks the Cabinet Member for Housing and Health to Committee to consider the following recommendation:

1. That delegated authority be given to the Head of Housing and Regulatory Services to renew the existing Town Centre Public Space Protection Order for a further 3 years.
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Public Spaces Protection Order – Town Centre Renewal

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>• Accepting the recommendations will materially improve the Council’s ability to achieve Safe, Clean and Green. We set out the reasons other choices will be less effective in section 2.</p>	Community and Strategic Partnerships Manager
Cross Cutting Objectives	The report recommendations support the achievement of the Health Inequalities cross cutting objectives by ensuring there is a strong focus on preventative work that is intelligence driven so as to maximise the opportunities to reduce health inequalities in partnership with the police and other community safety related partners.	Community and Strategic Partnerships Manager
Risk Management	There is a Statutory Requirement to review PSPOs every three years. The management of PSPOs will be subject to the current performance management arrangements within the service, with performance benchmarking as part of the process.	Head of Housing and Regulatory Services
Financial	It is anticipated that the continued delivery of the PSPO will be resourced from within existing budgets.	Head of Housing and Regulatory Services
Staffing	Delivery of the PSPO will continue to be overseen by the Community Protection Team in partnership with Kent Police and One Maidstone. Authorised Officers will complete appropriate training in order to be able to issue fixed penalties and deal with prosecutions.	Head of Housing and Regulatory Services

Legal	As contained within the body of the report, any enforcement by way of prosecution, or non-payment of FPN and any other legal process will have resource implications for MKLS. These are not anticipated to be any different than the current PSPO.	Robin Harris Legal Team
Information Governance	Private information obtained within the process of delivering the PSPO will be managed in accordance with Environmental Health, Waste Crime & Community Protection Enforcement Policy and the Council's Data Protection Policy.	Head of Housing and Regulatory Services
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Head of Housing and Regulatory Services
Public Health	The Community Protection Team is under the reporting line of the Head of Housing and Regulatory Services. The focus is strongly on preventative work that is intelligence driven so as to maximise the opportunities to reduce health inequalities in partnership with the Police and other Community Safety related partners.	Housing & Inclusion Team Leader
Crime and Disorder	The continued delivery of the PSPO will contribute to make Maidstone town centre a safer place by promoting the message and enforcement of appropriate standard of conduct and behaviour.	Head of Housing and Regulatory Services
Procurement	Appropriate procurement methods will used to procure consultation, publicity and signage.	Head of Housing and Regulatory Services
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and; <ul style="list-style-type: none"> • There are no implications on biodiversity and climate change. 	Head of Housing and Regulatory Services

2. INTRODUCTION AND BACKGROUND

- 2.1 The current Public Space Protection Order (PSPO) for the Town Centre is due to expire in September 2023. This is part of the 3-year review process that affords local authorities to check that the PSPO remains relevant and appropriate for renewal. The current PSPO has been in place since 2017, having been reviewed and renewed in 2020.
- 2.2 In 2020, as part of the renewal, a report was provided that explained that enforcement of the PSPO is undertaken by both Kent Police and Maidstone Borough Council in partnership, providing a useful tool to sit alongside a range of other powers, to reduce ASB in the town. 3 years later this still remains the case.
- 2.3 The current PSPO provisions are summarised as follows:
- **Begging** – whilst already an offence in law, the provision extends the provision to include loitering, presenting signs, cups/hats or other materials in order to encourage people to give them money.
 - **Street Drinking**- PSPOs replace alcohol control zones and allows Kent Police to challenge anti-social drinking by either:
 - Removing the alcohol
 - Excluding a person from the area
 - And/or issuing a fixed penalty notice/prosecute

Enforcement of the PSPO

- 2.4 The use of the PSPO varies depending on each of the provisions although both remain effective as a largely preventative tool.
- 2.5 In relation to **Begging**, the very effective Housing Outreach Service provide a proactive service who engage with rough sleepers and beggars to support them into appropriate services and, where eligible, into supported accommodation. The PSPO, in most cases, provides the Outreach team with a degree of leverage to dissuade individuals from begging and to undertake the support being offered. Where necessary the Community Protection Team will engage with the person and provide further discouragement, before acting if the behaviour persists. In some case, the begging is found to be being undertaken at professional level. In these cases, further action is considered through either an FPN, Prosecution or through other Community Protection Powers. The effectiveness of the Outreach Team and the Community Protection Team is such that enforcement of the begging provision has remained largely informal, in keeping with our Enforcement Policy and regulatory codes of practice. Our work has shown that the Criminal Justice System, including the use of Fixed Penalty Notices on vulnerable people, who often have complex health and financial needs, is less effective and ultimately more expensive than the approach undertaken in Maidstone.
- 2.6 Owing to its nature, the Alcohol provision is largely enforced by Kent Police, supported by the One Maidstone Ambassadors. As described in 2.3, the PSPO sets out a number of actions available to officers. "Removing the alcohol" and "excluding a person from the area" are by far the most common use of

this provision. Unfortunately, due to their informal nature, the use of these techniques is largely unrecorded. Whilst the provision exists to issue an FPN, officers rarely need to use this provision and when they do it is often at a point where other police powers come into effect, such as causing affray, which is an arrestable offence.

- 2.7 However, as an insight to how effective the PSPO is, in 2021 a specialist team of Police Community Support Officers, the ASB Task Force, were deployed in Maidstone to help tackle increasing issues of ASB and Crime in the area around Brenchley Gardens. In a 3-month period, the team reported to have used the PSPO more than 250 times to undertake alcohol seizures and move beggars on.
- 2.8 Whilst enforcement remains largely informal, not renewing the PSPO would remove an effective tool for dealing with some of the lower-level issues in the Town Centre by both the Community Protection Team and the Police.
- 2.9 There are other offences that could have been included in the PSPO, but the Community Protection Team and partners have a range of other powers in place to challenge unwanted behaviour. As an example, Community Protection Powers are already used in Maidstone more extensively than all comparable local authorities. As an example, One Maidstone Ambassadors are empowered to issue formal warnings, known commonly as CPWs, which are extremely effective, for a range of street level offences. These include, but are not limited to:
 - banning persistent shoplifters from specific stores
 - being in a large group and acting in an anti-social way
 - or wearing articles of clothing, so as to conceal one's identity.

Consultation on the renewal

- 2.10 Prior to public consultation, a review of the existing PSPO was undertaken with key stake holders, including One Maidstone and Kent Police, who all felt that the existing measures were effective and needed to be renewed to support existing processes.
- 2.11 A public consultation was then undertaken between 10 March and 8 May 2023 and received 788 responses. A copy of the report on the consultation can be found in Appendix 1. The Consultation shows overwhelming (91.3%) support for renewing the existing measures.
- 2.12 An objection was raised by the Liberty Human Rights (Appendix 2) in relation to the Begging aspect of the PSPO. The response from Liberty appears to conflate begging with homelessness but that is not an accurate interpretation of what actually takes place in Maidstone Town Centre. Street homelessness has largely been eradicated, with consistent low or zero street counts being maintained for a number of years. This has been achieved by interventions to support and assist people from becoming entrenched street homeless as outlined in 2.5. The PSPO has always been used as a tool of last resort, when the continued offers of support are rejected and the behaviour of the individual is negatively impacting on local residents and businesses. This is borne out by the low instances of the PSPO being needed to be served. It has

evolved into a preventative measure that is particularly useful when tackling 'professional beggars' who are not homeless but travel into the Town Centre and harass members of the community going about their daily lives.

2.13 It is therefore misleading to characterise the use of PSPO to tackle begging as being an infringement on the most destitute in our community. We continue to provide a rapid response service to those who might find themselves street homeless. There is no reason why persons should need to beg in order to sustain their basic needs due to the services that are available within and operate out of Trinity, which is ideally located within the Town Centre.

2.14 In relation to other concerns in the Town Centre, a number of other issues were raised, such as drunken behaviour and large groups of young people. As detailed in 2.9, there are a range of powers available to deal with such matters and the introduction of a Town Centre Task Force in June 2022 has shown how effective partnership can lead to significant improvements across a range of offence types. The following figures are a comparison of fiscal years, with the Task Force launching in June 2023.

Reported crime- (21/22 to 22/23) Fiscal year.

Violence against women and girls	8% decrease
Night-time economy Crimes	17% decrease
Anti-social behaviour	28% decrease
Neighbourhood Crime	16% increase

2.15 As you see, all but one category has seen significant reductions. Increases in neighbourhood crime, those crime specific to the type of neighbourhood, is largely due to increases in thefts and shoplifting. Some of this is due to increase confidence in reporting, with police and One Maidstone Ambassadors working with businesses to rebuild confidences and securing evidence. Anecdotally we are seeing a lot more thefts of "essential" as opposed to "luxury" items such as food and nappies, which is a national trend linked to the cost-of-living crisis.

2.16 It is unrealistic to remove all crime and ASB from a busy Town Centre, but the volume of reported issues with ASB are reducing. There are still those in our community who are responsible for the majority of all the ASB and the work of the Town Centre Task Force is focussed around those individuals who cause the most harm. Improving public perception remains an area of priority for the Town Centre and work is ongoing with MBCs Communications Team and the team at One Maidstone to challenge the narrative created by social media and local news reporting.

2.17 A summary of the consultation result and the proposed renewal have been shared with the Kent Police District Commander, the local Ward Members, the Portfolio Holder, and no concerns have been raised. Throughout the last year we have regularly engaged with Ward Members for the area, through Ward Cluster meetings, which has enabled us to demonstrate the effectiveness of our approach and to respond to local concern, as necessary.

3. AVAILABLE OPTIONS

- 3.1 **Do Nothing** – Not renewing the PSPO would remove a useful tool that is readily used to tackle issues associated with anti-social drinking and begging. This would likely lead to an increase in issues and the risk of reputational damage. This would not be aligned with our Strategic Plan and may be considered a failure of our duty under the Crime and Disorder Act 1998 to take steps to reduce crime and anti-social behaviour within our Borough.
- 3.2 **Implement some of the proposed measures or additional measures**– Committee may wish to choose to only implement certain aspects of the PSPO or additional measures. This is not recommended as the thorough and detailed process undertaken to date has brought forward the recommendations set out in section 4 as the most appropriate and proportionate measures at this time. Choosing to implement only one of the recommendations may suggest that the Committee are not willing to listen to the public opinion gathered and the advice provided by officers and stakeholders for the Town Centre. In addition, any new measures may need to be consulted on prior to implementation, which would delay implementation of the proposed measures, but as outline in section 2, other tools are available to deal with most forms of ASB, where evidence or resources allow.
- 3.3 **Increase the resourcing levels for the delivery of the PSPO**- as detailed in the report, the enforcement of the PSPO is a largely through partnership work between various MBC Departments, One Maidstone and Kent Police. Members could ask that this is reviewed and for additional resources to be provided for this purpose. However, as part of the current Community Safety Partnership Plan, a Town Centre Task Force was introduced in June 2023, to enable various agencies and partners to work effectively together to reduce ASB and Crime. The results shown in 2.14 supports this approach and the effectiveness of existing tools, including the current PSPO
- 3.4 **Authority given to Head of Housing and Regulatory Services to renew the existing PSPO** - This is the preferred option as detailed in section 4.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred and recommended option is 3.4, for the Cabinet Member for Housing and Health to give delegated authority to the Head of Housing and Community Services to renew the existing Public Space Protection Order (Appendix 3) for a further 3 years.
- 4.2 As previously reported, the MBC's Outreach Team have significantly reduced the number of street homeless around the Borough. The PSPO allows them to challenge members of the street population, particularly those known for ASB and/or with complex needs. The Police actively use the PSPO to require those behaving inappropriately to surrender their alcohol and leave the area without the need to formalise the issue. Like any busy town, particularly one with a thriving night-time economy, there will still be occasional issues

with both ASB from street drinking and begging. The PSPO remains a vital tool and, through the Town Centre Task Force, we will continue to ensure a collaborative and proactive approach to problem solving and tackling ASB.

- 4.3 The consultation response detailed in section 2 demonstrates public support for the proposed measures. It also demonstrates that continued work is needed to reassure the public that steps have been taken to reduce issues around street begging and anti-social drinking. Concerns raised by Liberty Human Rights have also been considered and addressed through effective local practices.
- 4.4 The Anti-Social Behaviour, Crime and Policing Act 2014 sets out under Section 60 a legal test in that the local authority that made the order may extend the period for which an order 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
- 4.5 We are satisfied given the occurrence and recurrence of the issues the order seeks to control that the need for the order remains necessary and proportionate to address behaviour associated with begging and ASB in relation to drinking alcohol.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 As detailed in section 2.
- 6.2 The matter was considered by the Housing, Health and Environment Policy Advisory Committee and Overview and Scrutiny Committee (acting as the Crime and Disorder Committee) on the 11 and 18 July 2023 respectively. The former supported the report's recommendation, and the Overview and Scrutiny Committee recommended an additional action.
- 6.3 As per the recommendation from overview and scrutiny committee, further clarification has been sought from MKIP Legal Services Team. Legal Services have confirmed that they are content with the wording of the PSPO and the measures it seeks to control. Legal Services sort clarification as to whether it was possible to evidence the impact of the PSPO, as is required for the renewal. In a response similar to the one provided to the committee, the evidence of the need for the PSPO rests in the effectiveness of the processes in supporting vulnerable people in Maidstone and challenging those who behave inappropriately whilst in possession of

alcohol, not necessarily through the taking enforcement action. This means that engaging with individuals and explaining the PSPO results in compliance rather than punitive action. This has resulted in no fixed penalty notices needing to be issued, which may give the incorrect impression that they are not needed. Officers are therefore satisfied that both the measures outlined in the PSPO are proportionate and necessary for use in tackling ASB in Maidstone Town Centre and the minimal risk of appeal remains within the appetite of the local authority.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 If approved, the Head of Housing and Community Services will renew the existing Public Space Protection Order for a further 3 years, which will be sealed by Legal Services. The order will be published on our website and appropriate signage replaced in the areas covered by the order.

8. REPORT APPENDICES

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

- Appendix 1: Consultation Summary Report
 - Appendix 2: Consultation response from Liberty Human Rights
 - Appendix 3: Proposed PSPO Draft
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