


LONDON BOROUGH OF WALTHAM FOREST

Meeting / Date	Cabinet 7 July 2022	
Report Title	Extension of Public Space Protection Order covering all public spaces north and south of the North Circular Road (A406)	
Cabinet Portfolio	Councillor Khevyn Limbajee, Portfolio Lead Member for Community Safety	
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Wards affected	All Wards	
Public Access	Open	
Appendices	<p>Appendix 1 – PSPO Consultation Document on proposed Extension and Evidence Base</p> <p>Appendix 2 – Outcome of Public Consultation</p> <p>Appendix 3 – Proposed PSPO</p> <p>Appendix 4 – Proposed PSPO coverage map</p> <p>Appendix 5 – Metropolitan Police Service letter of support</p> <p>Appendix 6 – Equality Act Screener</p> <p>Appendix 7 – Timetable of implementation</p> <p>Appendix 8 – Public Consultation Comments</p>	

1. SUMMARY

- 1.1 Tackling anti-social behaviour [ASB] is a significant priority for residents and those working in and visiting the Borough. In 2017, a Public Space Protection Order (PSPO) was introduced in the southern wards of the Borough, using legislation available under the ASB Crime and Policing Act 2014 ('the Act'). The PSPO, which initially ran for the

maximum duration of three years, was introduced under this legislation as the appropriate tool to tackle specified forms of ASB in public spaces.

- 1.2 In October 2019, the Council approved the introduction of a PSPO to cover the area of the borough to the north of the A406. In September 2020, the Council also approved a 2-year extension to the existing PSPO covering the area to the south of the North Circular Road.
- 1.3 Both PSPOs were introduced in the borough to tackle a range of street-based anti-social behaviour (ASB) such as problematic street drinking, aggressive begging and the use of threatening and insulting language or behaviour.
- 1.4 The current PSPOs covering the areas to the south of the A406 and, separately, the north of the A406, are due to expire at midnight on 4 September 2022 and 9 October 2022 respectively. Under the Act, a PSPO may be renewed/extended if certain criteria are met.
- 1.5 Since its introduction, PSPO powers have been used extensively by Police and Council Officers to tackle ASB and is an integral part of the Council's action plan that supports its overarching ASB Strategy.
- 1.6 The evidence is that PSPO powers have made a positive contribution to the reduction in ASB incidences boroughwide. Further, before the introduction of the PSPO in the north of the borough in 2019, there had been a significant increase in the reporting of ASB compared with the area where the PSPO was already in place in the south of the borough.
- 1.7 We have consulted widely on the proposal to extend the PSPO for a further 3-years and to consolidate the two separate PSPOs into a single borough wide PSPO. This has included a 2-week public consultation, liaising with partners such as the Police and engaging with residents across all wards. Cabinet is asked to consider the outcome of that consultation and agree to the extension and modification of the PSPOs as set out below.

2. RECOMMENDATIONS

- 2.1 Cabinet is recommended to:
 - 2.1.1 Consider and note the information contained in the PSPO Consultation Document and Evidence Base at **Appendix 1**
 - 2.1.2 Consider and take into account the outcome of the public consultation regarding the proposed extension and modification of the PSPO at **Appendix 2**
 - 2.1.3 Note and take into account the letter of support from the Metropolitan Police Service at Appendix 6.
 - 2.1.4 Agree to the extension and modification of the PSPO at **Appendix 3** and PSPO coverage map at **Appendix 4** to begin on 5 September

2022 and to run for a period of three years expiring at midnight on 4th September 2025.

- 2.1.5 Note the timetable for management and implementation of the proposed PSPO at **Appendix 7**.
- 2.1.6 Subject to Cabinet agreeing 2.1.4, agree to delegate to the the Strategic Director of People responsibility for designating any additional PSPOs or introducing modifications where additional anti-social behaviours need to be managed in consultation with the Portfolio Lead Member for Community Safety and the Director of Governance and Law.
- 2.1.7 Subject to Cabinet agreeing 2.1.6, agree that Cabinet approval for PSPOs will only be sought where in the opinion of the Strategic Director of People in consultation with the Portfolio Lead Member for Community Safety and the Director of Governance and Law there are exceptional circumstances for doing so.
- 2.1.8 Note that a review report will be taken to Cabinet or Full Council by way of update bi-annually.

3 PROPOSALS

- 3.1 Keeping the borough clean and safe is a priority for the local authority. Reducing ASB is pivotal in achieving this. Recent data indicates that an increasing proportion of our residents say that they are worried about ASB. The current proportion expressing concern is 52%, which is at the London average. Previously, the introduction of our ASB strategy and new operating model had halted the general upwards trend but we have seen a steady increase in the level of concern amongst our residents since the start of the pandemic up to current levels.
- 3.2 We know that ASB continues to be a concern for our residents. In 2021/22, 52% of residents reported that they are worried about anti-social behaviour.
- 3.3 Statutory guidance on the use of the Act makes recommendations on the use of the tools and powers therein.

The guidance states: ***“The powers introduced by the 2014 Act are deliberately local in nature. Those who work within and for local communities will be best placed to understand what is driving the behaviour in question, the impact that it is having, and to determine the most appropriate response.”***

- 3.4 In September 2020, the Council extended the PSPO covering the area south of the North Circular Road (A406). It also introduced a new PSPO in the north of the borough in October 2019.
- 3.5 Both PSPOs, which had strong public support via consultations, placed restrictions in relation to:
 - Drinking alcohol and behaviour associated with ASB or disorder
 - Intimidatory or aggressive begging

- Verbal abuse or otherwise behaving in a way that would cause harassment, alarm and distress to another person
 - Urination, defecation, spitting or littering in a public place
 - Gathering in groups of 2 or more whilst engaging in nuisance or criminal behaviour
 - Stopping a motor vehicle on zig zag lines outside a school during prescribed hours
- 3.6 In September 2020, the PSPO covering the area south of the North Circular Road (A406) was also varied to include the following restriction based on evidence gathered in the public consultation:
- No moped/motorbike driver or user shall gather in groups of 3 or more or drive/ride in such a way to cause harassment, alarm, distress, or annoyance to the community.
- 3.7 Given that 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.
- 3.8 Breaching a PSPO restriction is a criminal offence. The PSPO has provided Police Officers, Police Community Support Officers, Council Officers and persons delegated by the Council extra powers to enforce restricted activities. Officers can issue an instant fixed penalty notice of £100 or a fine of up to £1,000 if prosecuted.
- 3.9 Alternative methods used and that can also be considered to deal with ASB are Community Protection Warnings (CPWs), Community Protection Notices (CPNs) and in severe cases a Civil Injunction.
- 3.10 In March 2022, the Council carried out a review the effectiveness of the PSPO in the borough for the period it has been in place through a combination of data analysis and feedback from partners, residents and businesses. This information was used to inform the public consultation regarding the proposed extension of PSPO powers.
- 3.11 Between January 2019 and March 2022, the following enforcement actions had been taken in respect of identified breaches of the PSPO:
- 1988 Fixed Penalty Notices (FPNs) have been issued for street drinking, and urination in a public place. In addition, penalty charge notices have been issued in relation to persons stopping on zig zag markings outside schools.
 - 3357 Community Protection Warnings (CPWs) have been issued
 - 754 Community Protection Notices (CPNs) have been issued
- 3.12 In cases where an issued CPW does not result in a resolution of the identified ASB, a CPN is usually issued. The data indicates that in more

than 77% of cases the issuing of a CPW was sufficient to resolve the ASB without the need for further formal action.

- 3.13 The Council and Police ensure that appropriate safeguarding and support measures are implemented for those found breaching the PSPO, particularly where aggressive begging and street drinking associated with ASB is concerned. This could be a referral to our Drugs and Alcohol Service or a referral to our Homeless Outreach Service. Where appropriate, our priority will always be intervention before enforcement which has been demonstrated by this approach.
- 3.14 We can demonstrate that the PSPO has had a positive impact on reducing the level of ASB incidents in the area covered, alongside other approaches as part of our ASB Strategy.
- 3.15 The Metropolitan Police have been consulted and have expressed strong support for a single borough wide PSPO in the proposed terms, as a further tool to support their stated aims and objectives and a letter of support has been provided – see **Appendix 5**.
- 3.16 The proposed boroughwide PSPO contains restrictions on behaviours that can be evidenced on a borough wide basis. We recognise that there are other anti-social behaviours that might need to be managed on a local, non-borough wide basis. Where ASB of this nature has been evidenced, subject to Cabinet agreeing 2.1.6, additional localised PSPOs can be adopted to operate alongside any agreed borough wide PSPO.
- 3.17 As part of the review of the existing orders, a review of the current powers available to address the anti-social behaviours controlled by the PSPOs was undertaken. With regard to littering, it was determined that powers contained in the Environmental Protection Act were used as the most effective enforcement mechanism. As a result, it is not proposed that any renewed PSPO would include controls around littering.
- 3.18 The public consultation was publicised on the Council's website between 8 June and 22 June 2022 for a period of 2 weeks. Further publicity has taken place via social media and community engagement. The outcomes of this consultation are presented at **Appendix 2** and are summarised in Section 6 below.
- 3.19 It is proposed to extend a single boroughwide PSPO for a period of 3-years until September 2025. The proposed PSPO is presented at **Appendix 3** and the proposed coverage map is presented at **Appendix 4**.

4 OPTIONS & ALTERNATIVES CONSIDERED

- 4.1 An alternative is to tackle ASB across the borough without using PSPO powers. The PSPO provides additional powers to tackle ASB over and above other controls and there is strong public support for the extension of these powers. There is evidence that the use of PSPO powers has been effective in tackling incidences of ASB in the Borough and an approach that seeks to rely solely on non-PSPO powers is not recommended.

- 4.2 The Council could alter the proposed area covered by the PSPO and/or conditions contained within the PSPOs, however, this is not recommended as the evidence based shows that the existing PSPOs have had a beneficial impact in reducing anti-social behaviour, and the outcome of the consultation exercise undertaken supports the proposed modifications and changes made to create one borough-wide PSPO.

5 SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

- 5.1 The Strategy seeks to deliver a safer, cleaner and greener Waltham Forest. It also seeks to support the delivery of the ASB Strategy 2019-2024 and will link into the 15-minute neighbourhood.

6 CONSULTATION

- 6.1 The proposals to implement a single boroughwide PSPO and to extend the order for a further 3 years was put out for public consultation through an online survey. This was promoted by local councillors, via the Councils various social media accounts and through face to face community engagement with residents and businesses across the borough. The online consultation ran from 8 June to 22 June 2022.
- 6.2 The responses of this consultation are laid out in detail at **Appendix 3**. There were 383 responses, of which 56.54% lived within the area south of the A406 and 34.82% lived within the area north of the A406.
- 6.3 Of those who expressed a view, 85.41% in the south of the borough and 80.95% in the north of the borough agreed with the Council proposal to extend the PSPO for a further 3 years until 2025.
- 6.4 There was high support of 80.74% to make a single borough-wide PSPO rather than two separate orders as is currently in place.
- 6.5 Regarding the specific terms within the PSPO, support from the public remained high, with an average of 87.8% supporting each of the proposed restrictions.
- 6.6 In respect of the restriction relating to moped/motorbike riders gathering in groups of 3 or more or drive/ride in a way to cause harassment, alarm, distress or annoyance in the community. This restriction is currently only in place in the south of the borough, however, 89.21% of respondents support this restriction which will be included in the recommended boroughwide Order.
- 6.7 Of the respondents that completed the survey, 186 provided comments laid out in **Appendix 8**. There is high support for further restrictions to be considered by the Council including adults riding bicycles, mopeds and E-scooters on the pavement [15.6%], vehicle related noise nuisance [6.9%] and concerns around dog fouling/dogs on a lead [6.5%].
- 6.8 Of the people who provided comments 10 respondents raised equalities concerns in regard to there being a disproportionate impact on particular

characteristics. These concerns related to the possible impact of the PSPO to target ethnic minorities, the homeless and young people.

- 6.9 We have chosen to adopt a public health model to manage ASB and community safety in our Borough as we understand the necessary help and support for all are key to effecting real change.
- 6.10 Most of our interventions have been in the form of warnings (community protection warnings). Over the course of the current PSPO in both the north and the south of the borough, we have identified and engaged with several individuals with needs and have referred them to agencies for support.
- 6.11 Our approach, which is covered in the ASB strategy, is to provide support or outreach services to lessen the chance of further anti-social behaviour where individuals are vulnerable.
- 6.12 Fixed Penalty Notices (FPNs) cannot be issued to under 18's, therefore young people are often issued a verbal warning for breach of the PSPO. Where we identify locations where young people are associated with ASB, we work in partnership with outreach services to carryout engagement rather than enforcement.
- 6.13 Other comments referred to the appropriate use of the powers contained within the PSPO by the Council and Police.
- 6.14 There are two forums that convene regularly to discuss, evaluate and monitor the use of enforcement powers. The Council and Police have a joint process in relation to the enforcement of the PSPO and the issuing of FPN's or Community Protection Warnings are regularly reviewed to ensure proportionality, necessity and relevance in relation to ASB.

7 IMPLICATIONS

7.1 Finance, Value for Money and Risk

- 7.1.1 The council has adopted a multi-agency approach to tackling ASB. The majority of actions arising from the extension of the PSPO are covered as part of a "Business as usual" approach. All costs from adopting this model will be contained within existing budgets or any mitigation required will be subject to the usual approval processes.
- 7.1.2 The PSPO extension does not require additional staff, it will be enforced by both the Council and Police as business as usual.

7.2 Legal

- 7.2.1 There are a number of pieces of legislation that address anti-social behaviour and set out duties with which to tackle ASB. Sections 6(a) of the Crime & Disorder Act (1998) places responsibility on a local authority to formulate and implement a strategy for the reduction of crime and disorder in the area including anti-social and other behaviour adversely affecting the local environment.
- 7.2.2 The Anti-social Behaviour, Crime and Policing Act 2014 brought enhanced powers to the local authority, police and partners such as

health, probation and social housing providers. Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 granted the Council the power to make a Public Space Protection Order. Such an order can only be made if the Council is satisfied that two grounds are met: The first condition is that (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or (b) 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 (a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions imposed by the notice.

7.2.3 The existing Orders made by the Council will expire in September 2022 (south of A406) and October 2022 (north of A406) if not extended at that time.

7.2.4 Under Section 60(2) a local authority that has made an 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.

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

7.2.5 Under Section 61(1)(a) an Order in force may be varied by altering or removing a prohibition or requirement included in the order or adding a new one provided that the variation is one which is reasonable to impose in order to prevent the detrimental effect from continuing, occurring or recurring, or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence. Members are being asked to vary the existing Orders to become a single PSPO and to remove restrictions that could be adequately controlled outside of PSPO powers.

7.2.6 When making, extending the period of or varying an Order the Council must consult in accordance with Section 72(4) of the Act. The consultation requirements means consulting with (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area; (b) whatever community representatives the local authority thinks it appropriate to consult; and (c) the owner or occupier of land within the restricted area.

7.2.7 The consultation undertaken complied with legal requirements. To complete the process members must conscientiously take into account the views expressed by those who have taken part in the consultation when making their decision. Consultation responses are not binding on decision makers but need to be taken into account.

- 7.2.8 Home Office guidance states that restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.
- 7.2.9 Under Section 72(1) of the 2014 Act, local authorities must have regard to the freedoms permitted under articles 10 (freedom of expression) and 11 (freedom of assembly) of the Human Rights Act 1998 when drafting, extending, varying or discharging an Order. Members must be satisfied that the extension and variation to the Order is necessary in the interests of public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
- 7.2.10 There is provision within the Anti-social Behaviour Crime and Policing Act 2014 for any person to challenge the validity of a PSPO or variation of a PSPO within 6 weeks of the date on which the Order or its' variation is made, by making an application to the High Court.
- 7.3 Equalities and Diversity**
- 7.3.1 By providing all residents within the Borough equivalent support using the tools and powers within the ASB Crime and Policing Act 2014, the extension of this PSPO ensures greater adherence to the Equalities Act. An Equality Assessment Screener is at Appendix 6.
- 7.4 Sustainability (including climate change, health, crime and disorder)**
- 7.4.1 Benefits of this PSPO may include the reduction in street-based ASB such as littering and other enviro-crimes. Sustainability will be considered when recommending the introduction of additional lighting, etc; ensuring low-energy options are used.
- 7.5 Council Infrastructure**
- 7.5.1 PSPO Signs will need to be installed at various locations to inform the public that the borough is subject to a Public Spaces Protection Order (PSPO).
- 7.5.2 Timetable is at **Appendix 7**.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985

None