

London Borough of Hammersmith & Fulham

Report to: Deputy Leader – Councillor Sue Fennimore

Date: 13/10/2020

Subject: Decision to extend and vary the borough-wide Public Spaces Protection Order (PSPO) relating to the Consumption of Alcohol

Report author: Beth Morgan, Community Safety Policy and Service Development Officer

Responsible Director: Sharon Lea, Strategic Director of Environment

Summary

Public Spaces Protection Orders (PSPOs) are a tool that can be used by local authorities to address Anti-Social Behaviour (ASB) and the impact that this behaviour can have on individuals and communities (under the Anti-Social Behaviour, Crime and Policing Act 2014). There is currently a PSPO covering the whole of Hammersmith & Fulham which includes several prohibitions and requirements relating to the consumption of alcohol and dog control.

In relation to the consumption of alcohol, this PSPO gives authorised council and police officers powers to ask people to stop drinking alcohol in public and to ask people to surrender or dispose of any alcohol in their possession. Those who refuse can be issued with a Fixed Penalty Notice. This PSPO is due to expire on 19 October 2020.

This report details the outcome of a public consultation on whether to extend, discharge or vary these powers. It recommends extending the PSPO prohibitions/requirements relating to alcohol and varying the PSPO to remove the prohibitions/requirements relating to dogs. It has been agreed that a separate consultation exercise will be carried out regarding a new PSPO relating to dog control, as this would allow the council to consult more widely on potential amendments to the existing prohibitions/requirements relating to dogs and possible additional prohibitions specific to ASB in our parks and open spaces.

Recommendations

1. That the Deputy Leader authorises the extension of the current PSPO prohibitions/requirements relating to alcohol.
2. That the Deputy Leader authorises the variation of the PSPO to remove the prohibitions/requirements relating to dogs.

Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Creating a compassionate council	The PSPO enforcement plan will align with the Metropolitan Police 4 'E' model – Engage, Explain, Encourage, Enforce to addressing ASB and will prioritise safeguarding and support. Enforcement action will only be taken as a last resort.
Doing things with local residents, not to them	This decision was informed by an extensive public consultation exercise which received 432 responses .
Taking pride in H&F	The PSPO supports the council and police to tackle anti-social behaviour in streets and parks and ensure the borough is a safe place for all.

Financial Impact

Any costs arising from the contents of this report will be contained within existing approved budget.

Legal Implications

The Anti-Social Behaviour Crime and Policing Act 2014 gives the Council the power to make a PSPO.

Before confirming the Order the Deputy Leader must be satisfied that ASB related to alcohol is having a detrimental effect on the quality of life of those in the locality. Also that that the effect of the ASB is, or is likely to be, of a persistent and continuing nature; and is, or is likely to be, unreasonable. In addition, the Home Office statutory guidance states that the proposed restrictions should, be proportionate to the detrimental effect that the behaviour is causing and be necessary to prevent it continuing.

Also as set out in the report, the Anti-Social Behaviour Crime and Policing Act 2014 requires consultation and public communication exercises before a PSPO is introduced/implemented.

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Background Papers Used in Preparing This Report

None

COUNCIL'S AMBITION

What is a PSPO?

1. The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a set of streamlined tools to address ASB and minimise the impact that this behaviour can have on individuals and communities.
2. Public Space Protection Orders are one of those tools. Through the provisions of the Act, local authorities have the power to draft and implement a PSPO provided certain criteria and legal tests are met.
3. PSPOs differ from other tools as they are council led and are designed to prohibit certain activities or can require that people do certain things when engaging in certain activities within a defined public area. They should focus on an identified problem behaviour rather than targeting specific individuals or properties. A breach of a PSPO is a criminal offence.

History of PSPO's in H&F

4. Before the act came into force, H&F had a borough wide Controlled Drinking Zone (CDZ). The CDZ was designed to target alcohol-related ASB across the borough.
5. Following the introduction of the Act, in 2017 the CDZ was directly subsumed into a PSPO (along with Dog Control Orders) to address issues in relation to 'Dog Control', 'Dog Fouling' and the 'Consumption of Alcohol'.
6. The current order states the following prohibitions under Section 4 (i-vi):

Exclusion

A person in charge of a dog is prohibited from taking that dog onto, or permitting the dog to enter or to remain on land within the restricted area referred to in Schedule 1 of this Order unless –

- that person has a reasonable excuse for failing to do so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or
- is subject to the exemptions listed in Schedule 1.

Leads

A person in charge of a dog, at any time, must keep the dog on a lead in the restricted area detailed in Schedule 2 of this Order unless -

- that person has a reasonable excuse for failing to do so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so.

Leads by Direction

A person in charge of a dog, at any time, must put and keep the dog on a lead when directed to do so in the restricted area detailed in Schedule 3 of this Order unless –

- that person has a reasonable excuse for failing to do so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so.

Specified Maximum

A person in charge of more than one dog, at any time, must not take more than 4 dogs in the restricted area detailed in Schedule 4 of this Order unless

- that person has a reasonable excuse for failing to do so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so.

Fouling

If a dog defecates at any time on land in the restricted area detailed in Schedule 5 of this Order and the person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –

- that person has a reasonable excuse for failing doing so; or
- the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so; or
- is subject to the exemptions listed in Schedule 5.

Alcohol

Persons in the restricted area detailed in Schedule 6 of this Order will, on the request of a Police Officer, Police Community Support Officer or authorised person from the Council cease drinking alcohol and will dispose of or surrender

any alcohol in their possession when asked to do so, unless subject to exemptions listed in Schedule 6.

7. In relation to the consumption of alcohol the restricted area is the borough of Hammersmith & Fulham. Exemptions relate to authorised licenced premises, places where the sale or consumption of alcohol is permitted under s115 of the Highways Act 1980 or Council-operated licensed premises.
8. The current PSPO is due to expire on 19 October 2020.

Why do we need a PSPO and what does the council want to achieve?

9. The current PSPO was introduced to support the council and the police to work in partnership to address alcohol-related ASB in public places.
10. The PSPO gave authorised council and police officers powers to ask people to stop drinking alcohol in public and to ask people to surrender or dispose of any alcohol in their possession in cases where the officer believed the individual was causing, or was likely to cause, ASB. Those who refused could be issued with a Fixed Penalty Notice.
11. The council's priority is to balance the rights of residents and visitors to enjoy alcohol responsibly in our public spaces with the need to support action to stop the minority of people who drink alcohol and behave anti-socially.
12. The council has conducted an extensive public consultation in order to identify whether alcohol-related ASB continues to have a detrimental effect on H&F residents, businesses and visitors, to ensure that the current powers remain proportionate to the scale of the problem and to ensure that there is public support for these powers to be extended.

DETAILED ANALYSIS

Proposals and Analysis of Options

13. The council could choose to:

Option 1: Extend and vary the current order (recommended option)

14. This option involves:

- (a) removing the prohibitions/requirements relating to dogs (Section 4(i) – 4(v)) so a more comprehensive and targeted options analysis and public consultation exercise can be carried out and a new PSPO introduced covering dog control and other prohibitions/requirements specific to our parks and open spaces; and
- (b) extending the life of the remainder of the PSPO (i.e. Section 4(vi) – 'alcohol') for a further three years so that it expires on 19 October 2023.

15. To extend a PSPO means to increase the amount of time the order shall remain in place, for a period of up to a further three years.
16. The findings of the public consultation demonstrate that an extension of the PSPO is required to prevent an increase in frequency or seriousness of ASB as well as to suppress recurring alcohol-related ASB:
 - 370 respondents (85.65%) felt 'very concerned' or 'moderately concerned' about street drinking in H&F (Question 8).
 - 345 respondents (79.86%) had witnessed anti-social behaviour that they believed was a result of street drinking in H&F in the last year (Question 9).
 - 374 respondents (86.57%) supported the current PSPO relating to the consumption of alcohol (Question 13).
17. Under section 59 of the 2014 Act, local authorities must be satisfied that the behaviour is having a detrimental effect on the quality of life of those in the locality, is persistent or continuing in nature, is unreasonable and justifies the restrictions being imposed. An extension can be deemed necessary under s60 of the Act if it is necessary to prevent the activity recurring, or that there has been an increase in frequency or seriousness of the activity.
18. The findings of the public consultation (outlined in Appendix 3) evidences that alcohol-related ASB continues to have a detrimental effect on the quality of life of H&F residents and visitors, is persistent or continuing in nature, is unreasonable and justifies the restrictions being imposed. There is also evidence of public support for this PSPO (374 respondents (86.57%) supported the current PSPO relating to the consumption of alcohol (Question 13)).
19. Responses to Question 11 of the consultation indicate that many incidents of alcohol-related ASB were not reported to agencies and thus suggests that alcohol-related ASB is more prevalent than police/council data would suggest. Out of 367 responses to this question only 76 responses confirmed they had reported incidents to authorities.
20. Extending the PSPO will thus continue to enable agencies to tackle alcohol-related ASB, deter individuals behaving antisocially and promote a safer borough to visit and reside within.
21. This option would also vary the order (to change the conditions of the order) to remove the prohibitions/requirements relating to dogs. It has been agreed that a separate consultation exercise will be carried out regarding a new PSPO relating to dog control, as this will allow the council to consult more widely on potential

amendments to the existing prohibitions/requirements relating to dogs and potential additional prohibitions specific to ASB in our parks and open spaces.

Option 2: Extend the current order as is

22. The full breadth of prohibitions/restrictions in this order could be extended, including prohibitions/restrictions relating to dog control.
23. This is not a recommended option given the distinct nature of these two forms of ASB (alcohol-related ASB and dog control). As outlined above it has been agreed that a separate consultation exercise will be carried out regarding a new PSPO relating to dog control, as this will allow the council to consult more widely on possible changes to the existing prohibitions/requirements relating to dogs and potential additional prohibitions specific to ASB in our parks and open spaces.

Option 3: Vary the behaviours or geographical scope of the order

24. This option would involve changing the conditions of the order, either in terms of the behaviours it seeks to tackle or the geographical scope of the order.
25. For example, the council could choose to change the prohibitions/restrictions to introduce an outright ban of alcohol consumption in public spaces, or to limit prohibitions/restrictions to particular times.
26. This is not a recommended option on the basis that 374 respondents (86.57%) supported the current prohibitions/restrictions relating to alcohol (Question 13). While a minority of respondents (15) expressed their support for an outright ban of alcohol in public places, many other respondents expressed their support for allowing responsible alcohol consumption in public places. Any additional prohibitions on the consumption of alcohol must be proportionate to the detrimental effect that the associated anti-social behaviour is causing and be necessary to prevent it continuing.
27. The council could choose to vary the geographical scope of the order. For example, to restrict the prohibitions/restrictions to particular 'hot-spot' areas.
28. This is not a recommended option on the basis that responses to Question 11 of the consultation show that residents have witnessed alcohol-related ASB in a broad range of locations across the borough. Limiting the prohibitions/restrictions to particular 'hot-spot' areas, such as parks and high-streets, could also negatively impact residents by displacing ASB into nearby residential areas.
29. The consultation responses highlight that respondents feel more unsafe in H&F during the night than during the day (Questions 6 and 7) and highlight the areas

where these forms of ASB are most prevalent. This information will be used to support evidence-led engagement and enforcement as part of the council's enforcement plan.

Option 4: Discharge the order

30. This option would involve removing the order on the basis that it is no longer required.
31. The findings of the public consultation outlined above (and in Appendix 3) do not support this as the recommended option and demonstrates the continued need for the PSPO.

Further Considerations

32. Responses to Question 14 of the consultation highlighted several other important factors which should be taken into account, including:
33. The need for a **robust PSPO engagement and enforcement plan** which:
 - Ensures the powers are being enforced appropriately and fairly
 - Aligns with the Metropolitan Police 4 'E' model (Engage, Explain, Encourage, Enforce) to work alongside police to address these concerns and to ensure enforcement action will only be taken as a last resort
 - Prioritises safeguarding and support
 - Ensures enforcement is evidence-led and is concentrated in areas of highest concern for residents
 - Provides clear training to authorised enforcement officers, including service managers and supervisors
34. The need for a **clear communications plan** to ensure H&F residents and visitors know:
 - About the PSPO, the prohibitions/restrictions and the penalties for non-compliance
 - How to report incidents of alcohol-related ASB to the council and police
 - How the PSPO will be enforced to allow for the responsible consumption of alcohol in public but also for action to be taken when such consumption causes, or is likely to cause, ASB
35. The need for **coordinated action to tackle associated ASB** such as noise, litter, urination and graffiti.
36. The **impact of Covid-19 on our public spaces and reported ASB**. Many respondents noted the increase in alcohol-related ASB during the Covid-19 period (including urination, breaching of social distancing restrictions, unauthorised music events and large gatherings in public places). Changes in licensing laws following the easing of lockdown restrictions also allowed on-licensed premises to provide off-licence sales, without the need for a separate application. It also introduced a new 'Pavements Licence' as a more streamlined,

flexible approach to Tables and Chairs Licensing. During this time footfall in the borough's parks and open spaces also increased. Extending the order will support the police and the council with taking coordinated action to manage the increase in alcohol-related ASB in public places (and covid-19 public health concerns) and to ensure the borough's streets and parks remain a safe and pleasant place for all to enjoy (whilst allowing the responsible consumption of alcohol).

Reasons for Decision

37. The findings of the public consultation (outlined in Appendix 3) evidences that alcohol-related ASB continues to have a detrimental effect on the quality of life of H&F residents and visitors, is persistent or continuing in nature, is unreasonable and justifies the restrictions being imposed. There is also evidence of public support for the current PSPO.
38. The consultation findings demonstrate that an extension of the order is required in order to prevent an increase in frequency or seriousness of alcohol-related ASB and to tackle recurring alcohol-related ASB.
39. Varying the order to remove the prohibitions/requirements relating to dogs will allow for a more comprehensive and targeted options analysis and public consultation exercise regarding a new PSPO covering dog control and other related issues specific to our parks and open spaces.

Equality Implications

40. The Council has given due regard to its responsibilities under Section 149 of the Equality Act 2010 and it is not anticipated that there will be any negative impact on any groups with protected characteristics from the approval of the recommended option.
41. Officers have undertaken an Equalities Impact Assessment (Appendix 2) which overall has been considered neutral. Where a potential negative impact has been identified for a particular protected characteristic (disability), appropriate mitigating actions have been proposed.

Implications completed by: Fawad Bhatti, Policy & Strategy Officer, tel. 07500 103617.

Risk Management Implications

42. Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or anti-social behaviour in a particular area that is detrimental to the local community's quality of life. The orders impose conditions on the use of that area which apply to everyone so residents, businesses and visitors to the borough can use and enjoy our public spaces and be safe from anti-social behaviour.

Implications verified by: Michael Sloniowski, Risk Manager 020 8753 2587

Consultation

43. Public consultation is required to extend or vary a PSPO under the Act, and requires input from police, the owners or occupiers of the land within the affected area, and community representation.
44. Public consultation took place between 24 July 2020 and 16 September 2020. The consultation was advertised online on the council's website and promoted via NextDoor and Twitter.
45. The Community Safety Unit shared the consultation with the Parks Commission, Policing and Crime Commission, Friends of Parks groups, Hammersmith Business Improvement District, Residents Associations and Faith Forums. The three major football clubs on borough Chelsea, Fulham and Queens Park Rangers were also invited to input into the consultation.
46. It was also shared internally amongst council staff and with other professional agencies such as the Metropolitan Police, London Ambulance Service, London Fire Brigade, local NHS Trusts, Probation Services, local Drug and Alcohol Service providers and Homelessness and Street Outreach providers.
47. The consultation received **432 responses** - 374 (86.57%) stated that they supported the current PSPO, 23 (5.32%) did not and 35 (8.10%) were 'not sure'.
48. 294 responses were received from those who live in H&F (68.06%), 102 from those who both live and work in H&F (23.61%), 32 from professionals who work in H&F (7.41%) and 4 from those who neither live nor work in the borough but visit regularly.
49. The findings of the public consultation are included in Appendix 3.
50. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. This consultation has taken place and the chief of police has confirmed they are in support of the recommended option.

List of Appendices:

- 1. Appendix 1 - Draft Order**
- 2. Appendix 2 - Equality Impact Assessment**
- 3. Appendix 3 - Consultation Findings**