

Report to Cabinet

26th November 2020

By Cabinet Member for Community Matters &
Wellbeing



DECISION REQUIRED

Not Exempt

Public Space Protection Order (PSPO)

Executive Summary

The purpose of this report is to inform the decision making process concerning whether Horsham District Council exercises its powers under the Anti-Social Behaviour Crime and Policing Act 2014 and continues to maintain a Public Spaces Protection Order (PSPO).

The PSPO aims to address a number of key issues raised by members the Community Safety Partnership that are having a detrimental effect on the quality of life for residents and visitors to the District.

The existing PSPO prohibitions include:

- Nuisance behaviour relating to alcohol
- Anti-social use of vehicles
- Dog fouling
- Lack of control of dogs
- Unauthorised access and nuisance behaviour (Parkour) - Horsham town only
- Racing of horse drawn vehicles on any dual carriageway, including the A24 and A264

In addition to the existing PSPO prohibitions, the following additional prohibitions are proposed for inclusion:

- No intoxication or possession of psychoactive substances

For Horsham Town only

- No unlicensed busking
- No selling of periodicals
- No anti-social behaviour or nuisance behaviour in car parks and stairwells
- No drinking of alcohol in The Causeway and Gardens of Remembrance

The Community Safety Team in conjunction with other agencies forming Community Safety Partnership have compiled significant evidence to support the need to introduce these prohibitions which existing powers either do not address as they do not exist, have been repealed previously or can only be applied after problems escalate.

The Community Safety Team aims to secure the support of Horsham District Council in decided to introduce an updated PSPO to protect the majority of law abiding citizens and contribute towards the Districts reputation as being a very safe place in which to live, work and visit.

Recommendations

That the Cabinet is recommended:

- i) To exercise its powers under the Anti-Social Behaviour, Crime and Policing Act 2014 to consult with the public on an updated Public Spaces Protection Order and delegate approval to the Director of Community Services in consultation with the Cabinet Member for Community & Wellbeing to implement an updated PSPO as detailed below, giving consideration to consultation feedback.

Reasons for Recommendations

- i) To allow Horsham District Council and Sussex Police to tackle the behaviour outlined within the report, therefore protecting the quality of life of those who live in, work in and visit our district.

Background Papers

Anti-Social Behaviour, Crime and Policing Act 2014

<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>

Anti-Social Behaviour, Crime and Policing Act 2014 – Reform of Anti-Social Behaviour Powers, Statutory Guidance for Frontline Professionals (July 2014).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

Wards affected: All

Contact:

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Background Information

1 Introduction and Background

- 1.1 The Anti-Social Behaviour, Crime and Policing Act 2014 received Royal Assent in May 2014 and simplified the range of powers available to professionals to tackle anti-social behaviour from the previous nineteen powers down to nine. The Act also introduced new statutory duties for local authorities and other relevant bodies; which include the requirement to conduct case reviews when requested to do so by members of the public. These changes are fundamental in our approach to dealing with all forms of anti-social behaviour.
- 1.2 Contained within the legislation are a number of powers that can be exercised by local authorities as well as the Police. The Act creates the ability for local authorities to prohibit all forms of anti-social behaviour by way of a Public Spaces Protection Order (PSPO). Following various Community Safety Partnership meetings a number of behaviours have been identified as causing concern to the community and meet the necessity test for the introduction of a PSPO within Horsham District.
- 1.3 We have had a PSPO in place since 2017 which prohibits certain activities. These include:
- Nuisance behaviour relating to alcohol
 - Anti-social use of vehicles
 - Dog fouling
 - Lack of control of dogs
 - Unauthorised access and nuisance behaviour (Parkour) - Horsham town only
 - Racing of horse drawn vehicles on any dual carriageway, including the A24 and A264
- 1.4 The Community Safety team have proposed the addition of additional prohibitions including:
- No intoxication or possession of psychoactive substances

For Horsham Town only

- No unlicensed busking
- No selling of periodicals
- No anti-social behaviour or nuisance behaviour in car parks and stairwells
- No drinking of alcohol in The Causeway and Gardens of Remembrance

Further detail on the additional prohibitions is included below.

- 1.5 The Council is required to undertake public consultation of changes to the PSPO. It is recommended this is completed in December/January before an updated report is presented to Cabinet for adoption.

2 Relevant Council policy

2.1 2019 Anti-Social Behaviour Policy.

2.2 The HDC Corporate Plan 2019-2023.

- A great place to live – we will plan for communities where people can work, live and prosper. Both our built and natural environments are highly valued and will be well managed to keep our District an attractive place to live.
- A thriving economy – Towns and villages are lively and welcoming.
- A strong, safe and healthy community – Continue to be the safest district in West Sussex.
- A cared for environment – prioritised protection of the environment and increased biodiversity. Improved award winning parks and open spaces.

3 Details

3.1 Public Spaces Protection Orders (PSPOs) are intended to deal with a particular nuisance or problem in a particular 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 designed to ensure the law-abiding majority can enjoy public spaces, safe from ASB.

3.2 When making an order the Council must be 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.

3.3 The Council can make a PSPO on any public space within the boundaries of Horsham District (the definition of a public space 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).

3.4 It is an offence for a person, without reasonable excuse, to do anything that they are prohibited from doing by a PSPO or for them to fail to comply with a requirement to which they are subject to under a PSPO.

3.5 Taking into account the specific test outlined in 3.2 above, the following prohibitions are being sought to be added to the existing prohibitions:

No intoxication or possession of psychoactive substances (District wide) – this prohibition is proposed to state that no person shall drink, inhale, inject, or otherwise use or be in possession of any intoxicating substances, or “legal highs”, or drug paraphernalia including nitrous oxide canisters. An authorised officer can seize and dispose of any such substances if found.

For Horsham Town only

No unlicensed busking – Licensed buskers are required to meet certain conditions and to make available their badge for inspection by Horsham District Council Neighbourhood Wardens, Police, Environmental Health or Licencing officers. If added to the PSPO, failure to either produce their badge or to stick to the conditions would lead to a fixed penalty notice.

No selling of periodicals – this prohibition would prevent aggressive sales of “prizes tickets” under the guise of the tickets being periodicals. Sellers of periodicals do not need a street trading licence. It is proposed to implement a prohibition for the selling of periodicals in the town centre in order to tackle the aggressive selling techniques employed by this company, whilst not affecting legitimate selling such as the Big Issue.

No anti-social behaviour or nuisance behaviour in car parks and stairwells - there have been numerous complaints of anti-social behaviour within the car parks in the town centre, caused by young people consuming alcohol or drugs, causing damage and playing loud music. These activities have given rise to complaints to both the Council and the Police from residents and are causing nuisance, annoyance and distress to other members of the public wishing to use these public spaces.

No drinking of alcohol in The Causeway and Gardens of Remembrance - there have been numerous complaints by residents in The Causeway of groups of street drinkers gathering at the benches at the north end of the road where they engage in anti-social behaviour such as public urination, using threatening and abusive language, and being drunk and disorderly. It is proposed that the drinking of alcohol within the restricted areas of The Causeway and Gardens of Remembrance is prohibited.

4 Next Steps

- 4.1 Undertake public consultation of the continuation of the existing PSPO prohibitions and the proposed additional prohibitions.
- 4.2 Consider the response from consultation, consider any required updates to the proposals and implement the revised PSPO.
- 4.3 Once granted the PSPO must be widely advertised, this includes a legal requirement to publish the Order on the council’s website. Appropriate signage will also need to be placed at strategic locations throughout the district. We will also need to provide updated guidance documents to HDC officers and Sussex Police to ensure they are aware and understand the added prohibitions.

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 The PSPO prohibitions have presented to the Community Matters and Wellbeing Policy Development Advisory group on 15th September 2020 who supported maintaining the existing prohibitions and the inclusion of the additional prohibitions.

There was concern around the no drinking of alcohol in The Causeway and Gardens of Remembrance due to the problem simply moving to another location.

5.2 The Council's Monitoring Officer and Director of Corporate Resources, the S151 Officer, have been consulted and their comments have been incorporated into this report

5.3 The Council Senior Leadership Team have considered the existing and proposed additional prohibitions and no concerns were raised.

6 Other Courses of Action Considered but Rejected

6.1 Do nothing – the existing PSPO runs until 31st March 2021. Without a PSPO in place there would likely be an increase in anti-social behaviours without the ability for enforcement locally which would adversely affect our communities. This is neither appropriate nor viable.

7 Resource Consequences

7.1 With the additional prohibitions proposed there would be an additional cost of signage to highlight that they are in place. It is anticipated that the costs will be kept to a minimum and costs will be met by existing Community Safety Partnership budgets.

8 Legal Considerations and Implications

8.1 The legal authority for this matter comes directly from the legislation in question and the duties that arise from it.

9 Risk Assessment

9.1 By not taking action to tackle anti-social behaviour there is a risk to the Council in terms of meeting both statutory duties and also with regard to public perception.

10 Procurement implications

10.1 There no procurement considerations in respect of this action.

11. Equalities and Human Rights implications / Public Sector Equality Duty

11.1 Equality analysis will need to be undertaken to ascertain the potential impact on staff, service users, vulnerable groups and wider communities groups that share protected characteristics and take actions to mitigate any negative impact as each project is developed and implemented.

11.2 Under equality legislation, the Council has a legal duty to pay 'due regard' to the need to eliminate discrimination and promote equality in relation to Race, Disability, Gender including gender reassignment, Age, Sexual Orientation, Pregnancy and maternity, Religion or belief. The Council also has a duty to foster good relations,

and to consider the impact of its decisions on human rights. The law requires that this duty to pay 'due regard' is demonstrated in the decision making process. Therefore, your report should contain a statement as to whether the recommendation has a particular impact on any of the above groups and whether an Equalities Impact Assessment is required.

12 Environmental Implications

- 12.1 A number of the prohibitions proposed seek to protect our environment and green spaces through the reduction and prevent of anti-social behaviour.

13 Other Considerations

- 13.1 Consideration has been made to how this proposal will operate in parallel with the councils GDPR and data protection principles. The Community Safety Team and partners already enforce the existing PSPO prohibitions in a legal and appropriate way. They will continue to operate in accordance with all appropriate legislation with the additional prohibitions proposed.