

Report to Cabinet

24 February 2021

Subject:	Implementation of 2 Boroughwide Public Space Protection Orders relating to Alcohol Consumption and Dog Fouling
Cabinet Member:	Cllr Maria Crompton – Deputy Leader of the Council
Director:	Alan Caddick Director of Housing & Communities
Key Decision:	Yes
Contact Officer:	Tessa Mitchell Business Manager Community Safety & Resilience tessa_mitchell@sandwell.gov.uk

1 Recommendations

- 1.1 That approval be given to the implementation of 2 Boroughwide Public Space Protection Orders covering the following:

Alcohol:

'enables authorised officers / constables, where satisfied that nuisance or disorder associated with alcohol is occurring, to require people not to consume alcohol in the area and to surrender any alcohol in their possession. It is an offence to fail to comply with these requirements without reasonable excuse'.



Dog Fouling:

“making it an offence for a person in charge of a dog to fail to pick up the dog’s faeces forthwith should it defecate whilst in their control. Registered disability assistance dogs and their users are exempt from the requirements of this order”

- 1.2 That the Director – Housing and Communities be authorised to implement the Public Spaces Protection Orders (PSPOs) as referred to in 1 above, to help combat crime and anti social behaviour in the Borough and support public health, for a three year period, commencing 1 March 2021.
- 1.3 That the Public Space Protection Orders relating to consumption of alcohol in a public place and dogs as set put in Minute No. 181/17 be no longer proceeded with.

2 Reasons for Recommendations

- 2.1 In October 2017, SMBC introduced 4 Boroughwide PSPOs; 1 in relation to consumption of alcohol in a public place and 3 in relation to dogs. These were previously in place as a Designated Public Place Order and 3 Dog Control Orders which under the transitional arrangements of the Anti-Social Behaviour Crime and Policing Act 2014 automatically became Public Space Protections Orders.
- 2.2 PSPOs last for up to 3 years and then need to be reviewed. Having undertaken this review and public consultation it is recommended that 2 of these PSPOs, those related to alcohol consumption and dog fouling are renewed.
 - Both have been relatively well used during the last 3 years with 45 and 20 FPNs being issued respectively. As well as providing useful enforcement powers they have both also provided additional engagement opportunities to improve behaviour and enable support to be offered where necessary.






The alcohol PSPO works in tandem with the West Bromwich Town Centre PSPO, introduced in 2019, which has also been very

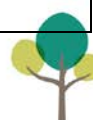





effective in reducing crime and ASB in the designated area. The powers of both complement each other, particularly in relation to street drinking and homelessness which remains an issue in Sandwell.

- Both issues are ongoing Public Health considerations.
- Both PSPOs have been supported by Sandwell's Multi Agency Borough Tasking Group
- Both issues remain a concern in Sandwell with our public consultation showing 100% support for the Dog Fouling PSPO and 86% support for the Alcohol PSPO.
- Both PSPOs demonstrate the council's commitment to listening to its residents, partners and communities and to take action to address issues that are important to them.

3 How does this deliver objectives of the Corporate Plan?

	<p>Best start in life for children and young people</p> <ul style="list-style-type: none"> • Avoidance of dog mess in public places which is a considerable health risk to children. • Ability to challenge street drinkers and others so as to set an example related to behaviours and health
	<p>People live well and age well</p> <ul style="list-style-type: none"> • Standards set around cleanliness of public spaces and support for those with alcohol issues / dependency. This is particularly helpful in relation to proactive engagement with street drinkers / rough sleepers.
	<p>Strong resilient communities</p> <ul style="list-style-type: none"> • PSPOs provide SMBC and other partners additional tools and powers to effectively reduce and manage ASB and its negative impact on residents • Both PSPOs support public confidence in relation to challenging Anti-Social Behaviour through offering advice and support and sanctions for non-compliance.



	<p>Quality homes in thriving neighbourhoods</p> <ul style="list-style-type: none"> • These PSPOs address ASB, which is an essential component of creating a thriving neighbourhood. • Both also demonstrate the council's commitment to listening to its residents, partners and communities and to take action to address issues that are important to them
	<p>A strong and inclusive economy</p>
	<p>A connected and accessible Sandwell</p>

4 Context and Key Issues

4.1 Background

In October 2017 SMBC introduced 4 Boroughwide PSPOs; 1 in relation to consumption of alcohol in a public place and 3 in relation to dogs. These were previously in place as a Designated Public Place Order and 3 Dog Control Orders which under the transitional arrangements of the Anti-Social Behaviour Crime and Policing Act 2014 automatically became Public Space Protections Orders. PSPOs last for 3 years and then need to be reviewed. Following review it was found that 2 of the dog PSPOs, relating to keeping dogs on leads and prohibiting entry to specific areas had not been utilised at all. The national PSPO guidance concentrates on the need for proportionality and suggests that the question to be asked is: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? In relation to 2 of the dog orders it was clearly not; however, the ones relating to alcohol consumption and dog fouling have continued to be utilised and there is still considerable support for continuing these requirements for the reasons outlined above.

4.2 Alcohol

It is recognised that the consumption of alcohol in public spaces can be closely linked with Anti-Social Behaviour (ASB). In 2017 Sandwell introduced a Boroughwide PSPO relating to alcohol consumption which



‘enables authorised officers / constables, where satisfied that nuisance or disorder associated with alcohol is occurring, to

require people not to consume alcohol in the area and to surrender any alcohol in their possession. It is an offence to fail to comply with these requirements without reasonable excuse’.

This PSPO has been well used over the past 3 years, not only providing a useful additional enforcement tool where necessary but also opportunities for engagement and education. This has helped address ASB concerns and shown that PSPOs, used effectively, help increase public confidence through effective response to residents’ concerns about anti-social behaviour.

Sandwell continues to have issues with street drinking and a multi-agency Commercial Centres Group has been established, Chaired by the ASB Team Manager, to tackle these issues. This group reports into Borough Tasking. Street Drinking is particularly prevalent in West Bromwich where this PSPO works exceptionally well alongside the West Bromwich Town Centre PSPO which prohibits:

- *Acting or inciting others to act in a manner that causes, or is likely to cause, harassment alarm or distress to any person.*
- *Threatening any person with violence and /or being verbally abusive towards any person.*
- *Begging or asking members of the public for money or loitering for the purpose of begging or asking members of the public for money.*
- *Causing a motor vehicle or trailer to stand on a road and /or footpath so as to cause any unnecessary obstruction of the road and /or footpath.*



4.3 Public Consultation

A public consultation was undertaken regarding this PSPO between 16th November 2020 and the 8th January 2021. Guidance regarding undertaking Consultations on a Public Space Protection Order was published by the Local Government Association in 2018. This guidance was adhered to, being mindful also of Covid 19 restrictions regarding face to face meetings, and the proposed PSPO was advertised in the local press, The Sandwell Herald and on SMBCs website and social media. Other specific consultees were:

West Midlands Police	Office of the Police & Crime Commissioner
West Midlands Fire Service	West Midlands Ambulance Service
SMBC Public Health	Cranstoun
DECCA	CENTRO

86% of responses supported the PSPO with comments including:

‘There is a BIG problem in Dartmouth Park with youths drinking after about 3.30. This has resulted in thousands of pounds worth of vandalism this year’

‘The Carters Green area has too many take away premises selling high alcohol drinks including one open 24 hours 7 days a week. This results in street drinking in the Guns Village area . The litter can be found at the bottom of Guns Lane any day or night. But this is only part of the problem there are occasionally scuffles and fights and the area is used has a toilet . Carters Green is becoming a no-go area at night’.

‘Alcohol abuse and ASB have been identified as a key factor in arson incidents and other fire related occurrences.

64% of respondents reported witnessing inappropriate behaviour linked to alcohol consumption in public places ranging from fights and scuffles to litter and areas being used as toilets, leading some to avoid areas of Sandwell altogether.



'Avoid the areas'

'Makes me uncomfortable and on edge'

'It's not acceptable behaviour, the litter makes the area like a tip'.

21% of respondents stated they witnessed such behaviour daily with 43% saying weekly / regularly.

SMBCs Public Health Team were concerned that those who enforce this PSPO should be equipped to conduct a quick AUDIT to ascertain

dependency level and the appropriateness of confiscation and link drinkers into Blue Light/ community services. This is a very pertinent comment and will be picked up through SDAP and Borough Tasking.

4.4 Findings & Recommendations

A PSPO is an opportunity to engage with individuals and to offer support and advice. Enforcement is always a final resort. There are many examples of such engagement and assertive outreach work taking place across Sandwell supported by our strong partnership approaches.

The number of responses to the consultation were low, but those who did respond overwhelmingly supported this PSPO as part of a suite of measures to combat alcohol consumption in public places and provided an overview of the issues that this is continuing to cause across the Borough. A full copy of the Consultation Report is attached as Appendix 1.

PSPOs, used effectively, help increase public confidence through effective response to residents' concerns about anti-social behaviour. This can clearly be demonstrated in relation to the alcohol requirement. As well as the enforcement work, it has also enabled engagement and a number of targeted interventions in relation to street drinkers across the borough. It is therefore, recommend that these powers are renewed.



4.5 Dog Fouling

In 2017 Sandwell also introduced a PSPO ‘**making it an offence for a person in charge of a dog to fail to pick up the dog’s faeces forthwith should it defecate whilst in their control**’ This PSPO has also been relatively well used over the past 3 years, not only providing a useful additional enforcement tool where necessary but also opportunities for engagement and education. This power promotes responsible dog ownership and reinforces the Public Health messages in relation to dog fouling and keeping our streets and green spaces clean and safe for all.

4.6 Consultation

A public consultation regarding this PSPO ran alongside the PSPO proposed above, between 16th November 2020 and the 8th January 2021. Guidance regarding undertaking Consultations on a Public Space Protection Order was published by the Local Government Association in 2018. This guidance was adhered to, being mindful also of Covid 19 restrictions regarding face to face meetings, and the proposed PSPO was advertised in the local press, The Sandwell Herald and on SMBCs website and social media. Letters and emails were also sent to the following consultees:

West Midlands Police	Office of the Police & Crime Commissioner
West Midlands Fire Service	West Midlands Ambulance Service
SMBC Public Health	CENTRO
The Kennel Club	The Ramblers

100% of respondents supported this PSPO with comments including:

‘Dog fouling creates mess and degrades the quality of the streets of Sandwell..’

‘I have a dog and always clean up. I’m sick and tired of all the dog mess I have negotiate on the pavements when out walking’.



'I am a dog owner and walk my dog daily and am appalled at how much dog mess is not picked up in the areas where I walk'

68% of respondents stated they witnessed such behaviour; 37% on a daily basis and a further 26% on a weekly / regular basis.

4.7 Findings and Recommendations

The Kennel Club's response highlighted the need to take account of assistance dogs and to use the PSPO as an engagement opportunity to support responsible dog ownership:

'increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog faeces can be disposed of in normal litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog'

Engagement is a key part of any PSPO and we have also taken account of The Kennel Clubs feedback by adding an exemption for registered disability dogs.

Other respondents felt that more patrols, cameras and education needed to be put into place. As a Council it is recognised that PSPOs need to be used as part of a strategy that includes enforcement alongside other engagement to tackle these issues as effectively as possible. The use of a PSPO should never be used in isolation as for many types of crime, ASB and other unacceptable behaviour other remedies are more appropriate and more effective.

Responses to this consultation were also limited in numbers but feedback from those who took the time to respond were clear that there is public support for this PSPO as part of a toolkit of measures to continue to address this issue which continues to be a concern across the borough. A full copy of the Consultation Report is attached as Appendix 2.



PSPOs, used effectively, help increase public confidence through effective response to residents' concerns about anti-social behaviour. This can clearly be demonstrated in relation to dog fouling and as well as the enforcement work, it also enables engagement and opportunities to promote responsible dog ownership and important public health messages. It is therefore, recommend that these powers are renewed.

5 Alternative Options

5.1 Sandwell has had controls in place in relation to alcohol and dog fouling for many years. It is clear that both these issues remain public concerns and enforcement figures indicate that they are both still needed and serve a purpose in dealing with these issues and providing reassurance for residents. These PSPO's are supported by partners and will ensure direct action is taken using the most suitable tools and powers as required by the individual situation. We could opt to not renew these powers and deal with any issues individually but this will require significant resources and not enable the engagement opportunities that we will have through the use of a PSPO. This is not recommended.

Implications

<p>Resources:</p>	<p>Financial, staffing, land/building implications</p> <p>The implementation of these PSPOs will not require any additional strategic resources that require the council or partners to operate outside existing budgets.</p>
<p>Legal and Governance:</p>	<p>Legal implications including regulations/law under which proposals are required/permitted and constitutional provisions</p> <p>Under sections 59-75 of the Anti-social Behaviour, Crime and Policing Act 2104, local authorities have powers to make PSPOs.</p> <p>The Council can only make a PSPO when it is satisfied on reasonable grounds that the activities carried out or likely to be carried out in a public place have a detrimental effect on the quality of life of those in the area and are persistent, continuing and</p>



unreasonable. The Council would also need to be satisfied that the restrictions imposed were justified.

Should anyone object to the granting of a PSPO they would have to make a High Court application within 6 weeks of the order being granted.

For that appeal to be successful they would have to show that the Council did not have the power to make the order, as the issue covered has not been demonstrated, usually by empirical evidence, to be a significant enough issue to justify the restriction. The other grounds for the appeal would be to demonstrate that the consultation process was inadequate.

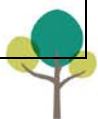
PSPOs can only apply to public places. This means any place to which the public, or and sections of the public, on payment or otherwise, have access to as of right or by virtue of express or implied permission.

The Council must comply with the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 by publishing the orders on its website and by erecting notices on or near the affected land sufficient to draw the attention of the public to the face that the orders are in place and the effects of this.

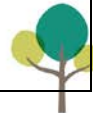
A PSPO can last up to three years unless it is extended by the relevant local authority (section 60).

More than one extension can be granted, with each extension lasting up to three years. Where a PSPO is extended then the relevant local authority should comply with the necessary publication requirements

Non-compliance with a PSPO is an offence which can result in the issue a fixed penalty notice of up to £100, if appropriate. If the Fixed Penalty Notice is not paid, court proceedings can be initiated to prosecute for the offence of failing to comply with the PSPO where the maximum fine is currently £1000 (level 3 on the standard scale). Following conviction, the Council



	could apply for a Criminal Behaviour Order which can contain both prohibitions and positive requirements.
Risk:	<p>Risk implications, including any mitigating measures planned/taken, health and safety, insurance implications</p> <p>Tackling crime and anti-social behaviour through partnership working is central to the delivery of the Community Safety Strategy 2019-21 and Strategic Assessment 2020. This is business as usual and adheres to all required risk assessments and required mitigations.</p>
Equality:	<p>Implications for equality (all aspects and characteristics) including how meeting Equality Duty, equality impact assessments</p> <p>An EIA has been completed as part of this process. In particular we have been aware that street drinkers are often particularly vulnerable and the PSPO guidance specifically requires the council to consider the appropriateness of a PSPO to address issues caused by those who are homeless and rough sleeping. This PSPO will facilitate ongoing engagement with this group and offer them advice and support to address their issues.</p> <p>Feedback from The Kennel Club has also highlighted the need for some assistance dogs to be exempt from this PSPO and for that to be recognised by those undertaking enforcement activities.</p>
Health and Wellbeing:	<p>Implications of the proposals on health and wellbeing of our communities</p> <p>Reducing and managing anti-social behaviour, and protecting its victims has a positive impact on health and wellbeing.</p> <p>Engaging with and supporting vulnerable people in relation to alcohol consumption, who are also more vulnerable to becoming victims of crime and exploitation will also have a positive longer-term impact on their health and wellbeing.</p>
Social Value	<p>Implications for social value and how the proposals are meeting this (for e.g. employment of local traders, young people)</p>



	Both PSPOs support environmental enhancements and provide opportunities for engagement with local residents regarding public health messages and strengthening civic pride. Enforcement is done through our locally employed EPOs – in full
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7. Appendices

- Appendix 1 Consultation Report Alcohol
- Appendix 2 Consultation Report Dog Fouling
- Appendix 3 Proposed PSPO in relation to Alcohol
- Appendix 4 Proposed PSPO in relation to Dog Fouling
- Appendix 5 Equality Impact Assessment

8. Background Papers

- Anti-Social Behaviour, Crime and Policing Act 2014.
- LGA Guidance in Relation to PSPO Implementation 2018

