PROPOSAL FOR PUBLIC SPACES PROTECTION ORDER

Town Ward.

1. **Summary**

1.1 This report sets out a proposal to implement Part 4, Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 to make a Public Spaces Protection Order (PSPO), to supress the growing incidents of crime and anti-social behaviour occurring principally during the night – time economy hours in Dartford Town Centre.

1.2 This report also proposes that the existing Town Centre Designated Public Place Order is replaced by the PSPO. There no other relevant orders within the proposed area.

2. **RECOMMENDATIONS**

2.1 That on being satisfied that the anti-social behaviour activities detailed in paras.3.15 and 3.16 of the report are having, or be likely to have, a detrimental effect on the quality of life of those in the locality, are persistent or continuing nature and unreasonable, the Strategic Director (External Services) be authorised to commence the statutory consultation to enable the Council to make a Public Spaces Protection Order prohibiting anti-social behaviour associated with the consumption of alcohol, misuse of substances and associated vehicle nuisance on terms set out in Appendix A to the report to apply to specific areas of Dartford Town Centre as shown on the Map at Appendix B.

2.2 That, should recommendation 2.1 be approved, a second report be presented to Cabinet which takes into account the outcome of the consultation process with a view to seeking authority for the Head of Legal Services to make the Public Spaces Protection Order for a period of three years.

2.3 That it be noted that the extant Designated Public Place Protection Order will expire on the making of the Public Spaces Protection Order.

3. **Background and Discussion**

3.1. Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, came into effect in October 2014, and allows local authorities to introduce Public Spaces Protection Orders (PSPOs) to tackle anti-social behaviour.

A PSPO is intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community’s qualify of life, by imposing conditions on the use of that area which apply to everyone. A PSPO is designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
3.2. The Council can make a PSPO on any public space within its area. The definition of public space is wide and 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, for example a shopping centre.

3.3. A public place may be designated by a PSPO, if the local authority is satisfied that specified behaviour is having, or is likely to have, 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 imposed.

3.4. Rather than the generic term ‘anti-social behaviour’, which is generally considered as behaviour which causes alarm and distress, or is repetitive so to cause harassment, the Act allows authorities to specify the particular behaviour to be prohibited or restricted by the PSPO.

3.5. In addition to prohibiting/restricting certain behaviour, the Act also allows authorities to specify certain ‘required behaviours,’ which must be complied with. An example of ‘prohibited’ and ‘required’ behaviours interlinking would be a PSPO to tackle dog fouling; which could prohibit owners from leaving dog waste, as well as a positive requirement that owners must carry a bag for collecting waste and present this when asked to do so by an officer.

3.6. The legislation allows for PSPOs to replace designated public place orders, dog control orders and gating orders. The Council has in place a designated public place order (DPPO) which covers part of the town centre, Central Park and the area around the War Memorial. It is proposed that these areas be incorporated within the area of the proposed PSPO such that the DPPO expires upon commencement of the PSPO. There are neither dog controls nor gating orders in place within the proposed PSPO designated area.

3.7. The Community Safety Unit (CSU) has become aware of anti-social behaviour and the anti-social use of vehicles within Dartford Town Centre. CCTV footage shows large groups of young people, who are normally associated with a vehicle, gathering, and engaging in anti-social behaviour which has been particularly prevalent in Westgate Car Park, Kent Road. Typically, the behaviour manifests itself in the taking of intoxicating substances, which may or may not be prohibited. In many instances, the ingestion or supply of the substances takes place within or from vehicles which are parked within the car park. Both evidence and intelligence suggests that a number of the perpetrators are not resident within the Borough but rather travel to Dartford from neighbouring London Boroughs once night clubs in their locality have closed.

3.8. This behaviour has led to a concerning rise in the level of street violence in the vicinity, both in terms of propensity and significance. As a result of this escalation, Kent Police have been required to deploy additional officers in an effort to quell the disorder. Both CCTV and
documentary evidence confirm and support the existence of anti-social behaviour, a summary of which can be found in Appendix A to the report. One particular incident was captured on social media which subsequently received more than 80,000 views within days of its occurrence. It is not unreasonable to conclude that the cumulative effect of this behaviour and the subsequent media coverage has resulted in the threshold for introducing a PSPO being met.

3.9. The current increase in policing levels aimed at countering the rise in violence, whilst welcome and necessary is unlikely to be sustained over the medium or long term. In addition, it is worth noting that whilst there is a temporal symmetry with the Dartford Town Centre’s night-time economy profile, this behaviour cannot, in the main, be attributed to breaches of licensing conditions by Town Centre clubs and pubs. The behaviour takes place within the public spaces of the Town making licensing law not appropriate for enforcement. The PSPO is therefore regarded as an important step in making Dartford Town Centre more resilient to this type of behaviour.

3.10. As stated above, part of the Town Centre, including Central Park and the area around the War Memorial, are covered by a DPPO. This DPPO will lapse in October 2017 if not replaced by, or incorporated into, a PSPO. To lose those provisions would be highly detrimental to the town centre environment, and it is to be noted therefore that the proposed PSPO area incorporates the current DPPO. The draft PSPO additionally seeks to address behaviours which are unacceptable in any public open space but particularly so in the vicinity of the War Memorial e.g. urinating or defecating in public and swearing; such disrespectful behaviour prompting anger and also distress in others. Although the anti-social behaviour at the two locations (Central Park/War Memorial and Westgate car park) differs, the range/nature of the anti-social behaviour is damaging to the local community. Furthermore, it is believed that should the PSPO only focus on the car park, then there is a high risk of displacement occurring, which, when it occurs will not only fail to deal with the behaviour but also undermine the credibility of the PSPO. Legislation allows for the amendment of PSPOs and so, creating a single Order which covers the town centre area and which incorporates existing provisions will bring both clarity to the community and the ability to respond to other types of anti-social behaviour in the future by means of an PSPO amendment. The legitimacy of this approach, which has been used elsewhere, will be tested by the consultation process.

3.11. The Westgate Car Park, Kent Road is subject to a Council Off - Street Parking Places Order 2016. There is no duplication between the conditions of the 2016 Order, which remains in place, and that of the proposed PSPO.

3.12. The PSPO is designed to stop individuals or groups committing anti-social behaviour in a public space. It can apply at all times; or a specified time; or all times except a period specified. It can apply in all circumstances; or in specified circumstances.
3.13. The Council must consult with the Police, the Police and Crime Commissioner and other relevant bodies prior to making the PSPO. Police consultation should be carried out through the Chief Officer for the force responsible for the area, although details could be agreed by working-level leads. This is an opportunity for the Police and Council to share information about the area and the problems being caused as well as discuss the practicalities of enforcement. Kent County Council as highway authority will also be consulted.

3.14. The Council must also consult with whatever community representatives it deems appropriate. This could be a group such as a residents association, or a group of individuals such as users of a park. Before the PSPO is made, the Council must also publish the draft PSPO in accordance with the legislation.

3.15. Consultation will be carried out in accordance with the Council’s Consultation and Engagement Strategy Toolkit. The feedback received from the Consultation will be collated by the Community Safety Unit and will inform the final recommendations to Cabinet regarding the conditions and implementation of the PSPO.

3.16. The draft consultation questionnaire is to be found at Appendix D. If the recommendations in this report are approved, the questionnaire will be professionally formatted and made available as both an online and printed document.

3.17. A PSPO can be appealed in the High Court by anyone who lives in, regularly works in, or visits the area the PSPO affects. This appeal must take place within six weeks of the PSPO being made. The grounds for such a challenge are constrained by the legislation.

3.18. Enforcement of the PSPO will normally be carried out by Police Officers, Police Community Support Officers (PCSOs) and [Council] Officers under delegated authority. They will use discretion in the exercise of this power. A Police Officer, PCSO, or other authorised officer may issue a penalty notice for breaching the PSPO, or prosecute in the Magistrates’ Court. If convicted, a fine of up to £100 may be imposed.

3.19. The CSU recommends the making of a Public Spaces Protection Order which will prohibit a range of behaviours evidenced over the past months within the Town Centre. It will also absorb the current DPPO which operates across the Town Centre. Such a change is specifically catered for within the legislation. The aim will be to maintain existing controls on anti-social behaviour caused by street drinking and additionally reduce the anti-social behaviour emanating from vehicles and their occupants that appear to loiter in the Town Centre for no discernible reason. The behaviours that will be prohibited/restricted are detailed in draft PSPO at Appendix A to the report. The area of land affected by the PSPO is shown on the Order Map at Appendix B to the report.
4. Relationship to the Corporate Plan

The proposal supports the Corporate Plan by contributing to the creation of an environment that makes Dartford the place of quality and choice, a place where people choose to live, work and enjoy their leisure time.

**Safer Communities:** To create a safer Borough in which to live, work and socialise.

**SC1:** To use the Council’s statutory functions to ensure public safety in the Borough.

**SC2:** To reduce anti-social behaviour

**SC3:** To increase public perception of the borough as a safe place

5. Financial, legal, staffing and other implications and risk assessments

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<th>Table</th>
<th>Description</th>
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<tr>
<td><strong>Financial Implications</strong></td>
<td>The cost of this initiative will be approximately £3,000. It includes the provision of signs in the designated area and the cost of notices for the consultation process. The cost will be funded from the Community Safety Budget. Whilst the intention of the PSPO is not to raise revenue but to solve the current disorder problem, some costs may be offset by money raised through enforcement as any income from fines levied will be credited to the Council.</td>
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<td><strong>Legal Implications</strong></td>
<td>In establishing which restrictions or requirements should be included, the Council should ensure that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring.</td>
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<td><strong>Equality Duty</strong></td>
<td>The consultation process does not adversely impact on any particular protected characteristic group. The impact of the PSPO will be considered once the consultation has been completed, so that the feedback can be taken into account. A Customer Access Review will be undertaken following consultation and prior to making the PSPO.</td>
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<td><strong>Crime &amp; Disorder</strong></td>
<td>The duty placed on the Council to consider crime and disorder is one of the main factors in considering both the consultation and making of a PSPO.</td>
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<td><strong>Staffing Implications</strong></td>
<td>Enforcement can be carried out by Police Officers, Authorised Police Community Support</td>
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Officers and [Council] Officers under delegated authority. Additionally, outsourcing the enforcement to an appropriate third party organisation is an option, although this will require specific delegations before implementation.

As a breach of a PSPO can be dealt with by way of Fixed Penalty Notices (FPNs), these will have to be designed and printed. Furthermore, given that the proposals include the issuing of FPNs, there will be administrative implications within the organisation to support the case work that will be generated from effective enforcement. There are a number of options that could be considered in order to meet this increase in demand should Cabinet authorise the commencement of consultation on this PSPO. Final proposals will be included in the further report to Cabinet at the conclusion of the consultation.

**Administrative Implications**

As staffing Implications

**Risk Assessment**

There is no uncertainty or overt risk to the council in conducting the consultation exercise, other than reputation of the council should the consultation exercise raise community expectation only for the PSPO application to fail to materialise.

The risk afforded by implementing the PSPO will only be able to be accurately assessed once the results of the consultation have been collated and assessed.

6. **Details of Exempt Information Category**

Not applicable

7. **Appendices**

Appendix A – Draft Public Spaces Protection Order
Appendix B - Public Spaces Protection Order Map
Appendix C - Incidents in Westgate Cark Park, Kent Road from CCTV log
Appendix D – Consultation Questionnaire
<table>
<thead>
<tr>
<th>Documents consulted</th>
<th>Date / File Ref</th>
<th>Report Author</th>
<th>Section and Directorate</th>
<th>Exempt Information Category</th>
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<tbody>
<tr>
<td>Anti-Social Behaviour Crime and Policing Act 2014</td>
<td>11.11.16</td>
<td>Tony Henley (01322) 343502</td>
<td>Enforcement Regulatory Services (EAR's) Strategic</td>
<td>N/A</td>
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