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24 SEPTEMBER 2020

PROPOSAL FOR RENEWAL OF 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 renew a Public Spaces Protection Order, in order to suppress incidents of crime and anti-social behaviour occurring in Dartford Town Centre.

2. RECOMMENDATIONS

- 2.1 That on being satisfied that the anti-social behaviour activities detailed in paras.3.10 and 3.11 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 in nature and unreasonable, the Strategic Director (External Services) be authorised to commence the statutory consultation to enable the Council to renew its 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 the draft Order at 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, a further 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 further period of three years.

3.1. Background and Discussion

- 3.2. Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, allows local authorities to introduce Public Spaces Protection Orders (PSPOs) to tackle anti-social behaviour.
- 3.3. A PSPO is intended to deal with a particular nuisance or problem in a specific 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. A PSPO is designed to ensure that the law-abiding majority of people can use and enjoy public spaces, safe from anti-social behaviour.
- 3.4. 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.
- 3.5. A public place may be designated by a PSPO if the local authority is

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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.

- 3.6. Rather than the generic term 'anti-social behaviour', which is generally considered as behaviour which causes alarm and distress, or is repetitive so as to cause harassment, the Act allows authorities to specify the particular behaviour to be prohibited or restricted by the PSPO.
- 3.7. In addition to prohibiting/restricting certain behaviour, the Act also allows local 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.
- 3.8. The legislation allows PSPOs to replace designated public place orders, dog control orders and gating orders. The orders applying to the Town Centre were replaced by the PSPO in 2017.
- 3.9. The PSPO was implemented after the Community Safety Unit (CSU) had become aware of anti-social behaviour and the anti-social use of vehicles within Dartford Town Centre. This, unfortunately, is still the case and 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. They have, on occasions, also been observed to drop litter. An additional factor has been the recent growing prominence of "car meets" where car enthusiasts gather to display their, often, customised vehicles. The subsequent driving behaviour and noise nuisance raises a lot of concern amongst the community. Dartford has been subjected to a number of these events, the most prominent one being in Sainsbury's Car Park earlier in 2020, where the PSPO was used to very good effect against this particular incident.
- 3.10. Street violence can and does escalate from anti- social behaviour and alcohol and substance abuse, making the Town Centre Area with its night time economy particularly vulnerable. Going forward, the regeneration of the Town Centre, whilst offering facilities and leisure opportunities to the Community, will also need to be protected from the anti-social behaviour that such an economy can bring. Police data indicate that Town ward suffers more incidents of anti-social behaviour than any other parts of the Borough. Perhaps more telling evidence for continuing the PSPO can be found within the contemporaneous log that is maintained by the Council's CCTV operators. For the period 01/02/19

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– 01/02/20 (thereby eliminating any influences brought about by the pandemic) the log has 3615 entries that relate to “Street Drinking”, 84 to “Urination” 273 to “littering”, 36 to “Threatening behaviour”, 143 to “Drug taking/misuse”, 48 to “Drug Dealing”, 132 to Vehicle based anti-social behaviour and dangerous driving, of which 12 relate to West Gate Car Park, and 389 unspecified reports of anti-social behaviour. It is to be stressed that it is not been suggested that all of these records would amount to breaches of the proposed PSPO conditions. Consideration should also be given that the CCTV Operators’ role is to record everything they see which in many cases is minor. This, coupled with the fact that the majority of these incidents have not been reported to the police may indicate the low level of threat people witnessing the behaviours are feeling. However, it does serve to evidence that the behaviours the PSPO is designed to restrict are likely to be present within the Town Centre once the current health emergency has passed.

- 3.11. In relation to Westgate Car Park, the CSU has received a number of complaints from residents living in the vicinity. It is acknowledged that a significant proportion of the complaints relate to the noise emanating from the nearby nightclub (which a PSPO has no power to influence). However, a number of complaints also relate to the anti-social behaviour residents suffer late at night, which draws inference as to the importance Westgate Car Park has in relation to anti-social behaviour.
- 3.12. Whilst there is a temporal symmetry with the Dartford Town Centre’s night time economy profile for some of the conditions within the PSPO, 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 inappropriate for enforcement. The PSPO is therefore regarded as an important step in making Dartford Town Centre more resilient to this type of behaviour.
- 3.13. A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years.

The following provides a review of the PSPO that has been in place over the past 3 years.

- The PSPO was the first one introduced across the District and challenges presented themselves during its lifetime that could not reasonably be foreseen and have provided learning points.
- Very few penalty notices have been issued for breaching of the PSPO. However, there are a number of reasons for this. For example, Police policy does not allow Fixed Penalty Notices to be issued to homeless people, a number of whom are persistent offenders in relation to street drinking, particularly around One Bell Corner. The PSPO does, however, require persons to surrender any open containers of intoxicating substances in their possession, when required by an authorised officer. If the individual complies then no offence occurs. This is a valuable tool in the Police’s armoury and is used often.

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- The PSPO should also be seen as only one way of tackling anti-social behaviour in the Town Centre. The CSU, through its partnership with the Police and the Dartford Town against Crime Partnership (DTAC) have used Community Protection Warnings (CPW) and Community Protection Notices (CPN) against persistent offenders, as it is normally a more appropriate response. There are currently 16 CPWs and/or CPNs issued to individuals who are persistently behaving in an anti-social manner. The conditions with such warnings and notices will often include exclusion from the PSPO area, which again illustrates its value, as it provides legitimacy to the CPW/CPN process.
 - At the commencement of the PSPO, it was the intention to use CCTV as primary evidence in relation to breaches, particularly in relation to vehicle-related anti-social behaviour in West Gate Car Park. The PSPO applies to drivers. Complications arise when the registered keeper details do not match the driver witnessed breaching the PSPO.
- 3.14. Enforcement resourcing has been an issue. It has become clear that local (rather than response) police officers are more engaged with some aspects of the anti-social behaviour legislation. The recent increase in Town based police officers will provide additional capacity in this regard. Additionally at the commencement of the PSPO in 2017, the Council had a very limited enforcement capability of its own. However, employees of the LA Support (Kingdom) Services Group are now authorised officers for the purposes of the legislation, and a restructure of Parking Services has enabled Civil Enforcement Officers to enforce PSPO violations. Unfortunately, the effects of these changes are yet to be felt due to the COVID -19 pandemic, which saw the temporary withdrawal of these services.
- 3.15. 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.
- 3.16. 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.
- 3.17. The Town ward PSPO was made on 12 September 2017 but not implemented until 13 November of the same year. Orders can remain in place for 3 years. Officers believed the cessation date to be the anniversary of its implementation (i.e. 13 November 2020) and were working towards a new Order being implemented by that date. The Police are aware that the previous Order has expired and that a new Order is intended to be made. The CSU Inspector has pledged her support and is confident that, particularly in light of new COVID 19 restrictions, use of section 34 (power to disperse) will be effective, should the need be identified.

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- 3.18. The Council must consult, formally, 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.
- 3.19. The Council must also consult with whatever community representatives it deems appropriate. Before the PSPO is made, the Council must also publish the draft PSPO in accordance with the legislation.
- 3.20. 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.
- 3.21. The draft consultation questionnaire at Appendix C to the report will be appropriately formatted and made available online. The validity of any consultation could have been questioned had it been conducted during lockdown. Effective, safe consultation continues to be a challenge in the current pandemic climate. It is anticipated that the majority of consultation will be web- based. However, efforts will be made to consult with both the relevant businesses and their customers through engaging with DTAC members.
- 3.22. 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.
- 3.23. Enforcement of the PSPO will normally be carried out by Police Officers, Police Community Support Officers (PCSOs) and [Council] Officers under delegated authority (as highlighted at paragraph 3.15). 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.
- 3.24. Experience has shown that the PSPO is not the panacea that will stop all anti-social behaviour in Dartford Town Centre. It is however an important factor which can be used in conjunction with other powers, which the legislation offers. The data provides the evidence of need in relation to applying the PSPO across the whole town and its legitimacy will again be tested by the consultation process.
- 3.25. The CSU recommends the renewal of the PSPO that will prohibit a range of behaviours that continue to be evidenced within the Town Centre. The aim will be to maintain controls on anti-social behaviour caused by street drinking and additionally reduce the anti-social behaviour emanating

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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 the 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*

Financial Implications	<p>The cost of this initiative will be approximately £4,000. It includes the provision of new signs in the designated area and the cost of notices for the consultation process.</p> <p>Whilst the intention of the PSPO is not to raise revenue but to solve the current disorder problem, some costs may be offset by the increased income from fines levied now that LA Support (Kingdom) Services Group are authorised to enforce the Order, a proportion of which will be credited to the council</p>
Legal Implications	<p>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.</p>
Equality Duty	<p>The consultation process does not adversely impact on any particular protected characteristic group. The</p>

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Crime & Disorder	<p>renewal 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.</p> <p>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.</p>
Staffing Implications	<p>Enforcement can be carried out by Police Officers, Authorised Police Community Support Officers and [Council] Officers under delegated authority as well as LA Support (Kingdom) Ltd, whose employees have been deemed to be an appropriate third party</p> <p>The breach of a PSPO can be dealt with by way of Fixed Penalty Notices (FPNs). It is anticipated that LA Support (Kingdom) will be the issuing officers for the majority of FPNs and will be responsible for all costs and resourcing of the administration of the FPNs.</p>
Administrative Implications	As per staffing Implications
Risk Assessment	<p>There is no uncertainty or overt risk to the council in conducting the consultation exercise, other than the reputation of the council should the consultation exercise raise community expectation only for the PSPO application to fail to materialise.</p> <p>The risk to any Dartford Borough Council officer engaged in the issuing of an FPN will be included in their role based risk assessment.</p>

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 – Consultation Questionnaire

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BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
Anti-Social Behaviour Crime and Policing Act 2014	13.09.20	Tony Henley (01322) 343502	Enforcement Regulatory Services (EAR's) Strategic	N/A