

Part A

Report to: *Cabinet*
If other: *N/A*
Date of meeting: *Monday 27th November 2023*
Report author: *Kerrie Marks, Community Protection Lead*

Report sponsor: *Justine Hoy, Associate Director*
Portfolio holder: *Councillor Aga Dychton*
Report title: *Renewal and variation of Existing Public Space Protection Order's (PSPO's)*

1.0 Executive Summary

- 1.1 The purpose of this report is to approve the proposed renewal of two Public Space Protection Orders, each with a variation to the Order. Both PSPOs are due to expire December 2023 and will need to be extended before this time. Failure to do so will result in both PSPOs expiring.
- 1.2 The first part of the proposal is to renew the Albert Road South road closure PSPO, with one variation. Namely, the days of the week to which it applies, as requested by Hertfordshire Constabulary.
- 1.3 The second part of the proposal is to renew the PSPO for the town centre "no drinking zone", with one variation to increase the area of the PSPO, as requested by Hertfordshire Constabulary.
- 1.4 Hertfordshire Constabulary is seeking agreement from the council to renew and vary both PSPOs see appendices A and B. The Community Protection team agree with the renewal of both PSPOs, including the variation to both.

2.0 Recommendations

- 2.1 To approve the proposed renewal of the two Public Space Protection Orders, each with a variation to the Order.

3.0 Report pathway

3.1 Final review body: *Cabinet*

3.1.1 Indicative date: 27th November 2023

4.0 Contact Officer:

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Reviewed and signed off by: Justine Hoy, Associate Director Housing and Wellbeing

5.0 Detailed proposal

5.1 A Public Spaces Protection Order (PSPO) is made under the Anti-Social Behaviour, Crime and Policing Act 2014. It can be made where the council is of the opinion that the activities carried on in a public place have, or are likely to have, a detrimental effect on the quality of life of those in the locality or it is likely that activities will be carried on in a public place in that area and that they will have such an effect.

5.2 The effect of the activities are, or are likely to be, of a persistent or continuing nature, such as to make them unreasonable and justifying any restrictions or requirements imposed by the PSPO.

5.3 Watford currently has two PSPOs in place. One permits the closure of Albert Road South to non-commercial traffic on Friday, Saturday and Monday evenings from 21:00 hrs to 04:40hrs the following morning. The other allows for a Police Officer, PCSO or accredited officer to remove alcohol from anyone deemed drinking in public in the Town Centre, if it is considered they pose a threat to public order.

5.4 A PSPO can only be made for a maximum duration of up to three years, after which it may be extended if certain criteria under section 60 of the 2014 Act are met. This includes that an extension is necessary to prevent activity recurring, or there has been an increase in frequency or seriousness of the activity after the original PSPO would have expired.

5.5 Orders can also be varied under the 2014 Act, by altering the area to which it applies, or changing the requirements of the Order. Both Watford PSPOs expire in December 2023 unless renewed.

- 5.6 The Council's Housing and Wellbeing team and Hertfordshire Constabulary support the need for extending both PSPOs for a further three years, with a variation to each.
- 5.7 PSPO 1: Albert Road South Road closure
- 5.7.1 The recommendation is to renew and vary the Albert Road South Road closure PSPO.
- 5.7.2 Albert Road South has had a PSPO in place since 2017 it was renewed in 2020, it prohibits non-commercial vehicles from entering Albert Road South between the hours of 21:00 and 04:40 on Friday, Saturday and Monday nights to allow continued management of the nighttime economy and support the police dispersal plan.
- 5.7.3 The Order prevents members of the public from driving into and parking up in Sainsbury's car park, Albert Road South, on the evenings and times identified above.
- 5.7.4 It also prevents private hire vehicles from entering the area unless pre-booked. The operation and enforcement of the PSPO is currently undertaken by the Police.
- 5.7.5 The PSPO does not affect residents of Albert Road South or the deliveries to the businesses needing use of, Gaumont Approach, Service Road. No complaints have been received by residents or businesses about the PSPO.
- 5.7.6 The recommendation is for the continuation of the current PSPO, with one amendment to the days of the week to which it applies.
- 5.7.7 The popularity of the night-time economy on Monday evenings has reduced, alongside the demand Monday evenings place on Police resources.
- 5.7.8 Where a Bank Holiday falls on a Monday however, the night-time economy on the preceding Sunday night / into Monday morning can create as much demand, if not more, than a Friday or Saturday evening.
- 5.7.9 It is therefore requested that the closure on Monday's is removed from the PSPO and the PSPO varied to implement it on Sunday evenings preceding a Bank Holiday between the hours of 21:00 hrs and 04:40 hrs the following morning.

- 5.7.10 Appendix A is a report from the Hertfordshire Constabulary which sets out the proposal and the justification for continuing the PSPO and the need for the variation in more detail.
- 5.8 PSPO 2: Consumption of alcohol in public spaces
- 5.8.1 The second PSPO is for the town centre “no drinking zone”, with a proposal to increase the area of the existing PSPO, as requested by Hertfordshire Constabulary and justified in Appendix B.
- 5.8.2 The “no drinking zone” PSPO exists to prevent the consumption of alcohol in public spaces.
- 5.8.3 The order is in force 24hrs a day.
- 5.8.4 The order applies to all public areas within the bounds of the PSPO as defined by the map (Appendix C).
- 5.8.5 The PSPO makes it an offence to fail to cease the consumption of alcohol within the prescribed area when asked to by a Police Officer, Police Community Support Officer, or accredited Council Officer.
- 5.8.6 The PSPO also makes it an offence to fail to surrender any container of alcohol when requested to do so by a Police Officer, Police Community Support Officer, or accredited Council Officer.
- 5.8.7 Failure to comply with either request can lead to the issuing of a fixed penalty notice or a prosecution and a maximum fine of £500.
- 5.8.8 The recommendation is for continuation of the current PSPO, with one amendment to the area to which it relates.
- 5.8.9 The recommendation is that the southern boundary be widened slightly so that the designated area incorporates additional streets and green spaces. This request is evidence-based and founded on a review of crime and ASB in that location as set out in Appendix B.
- 5.8.10 Appendix B, Page 8 identifies the area for the proposed new southern boundary of the PSPO.
- 5.8.11 The blue dots within this proposed new section of additional designated area, represent locations of where instances of ASB have been reported to

Police between 1st October 2020 and 25th June 2023. There are forty instances in total, including intoxicated individuals/groups in the High Street being rowdy, causing a noise nuisance and abusing passers-by.

5.8.12 In addition to these and other known instances of ASB in this location, there is ongoing Police activity in and around other key ASB hotspots, located within the existing PSPO, with a risk of displacing the nuisance further afield.

5.8.13 It is therefore considered prudent to broaden the boundary of the PSPO where it sits near those hotspots, most notably the High Street, St Marys church yard and Market Street.

5.8.14 This will give Police with the best possible ability to continue to proactively tackle to the ASB if it is displaced beyond the existing boundary.

5.8.15 Appendix C is a map identifying the current and proposed area of the order (by way of variation).

5.9 Cabinet is asked to approve the renewal and variation of both PSPOs.

5.10 Process of renewal

5.10.1 The process of renewal is that we are obliged to consult with the local Chief Officer of Police, the Police and Crime Commissioner, owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.

5.10.2 The guidance states two weeks consultation is sufficient.

5.10.3 The consultation process started the second week in October and was open to the public for comment for a period of three weeks. This generated three responses.

5.10.4 Consultation Response(s) Received

Consultation response	WBC response
<p>Councillor Aga Dychton noted that Canterbury Road was within the current PSPO area but had not been coloured on the PSPO map to match those streets surrounding it under the current order.</p>	<p>This was resolved to be an error in reproduction and resizing of the PSPO map. A request was sent to Hertfordshire Constabulary to amend the map accordingly.</p>
<p>In relation to the variation of the area into Watford Fields (“no drinking zone PSPO, a local resident who organises street parties raised the following:</p> <ul style="list-style-type: none"> (a) A request for the number of ASB alcohol related reports and raised concerns that the PSPO will move the “problem” to Riverside Road or Oxhey Parks. (b) Raised a concern that such implementation for a new order would affect the ability to hold street parties or public gatherings. 	<p>Responded directly to the member of the public.</p> <ul style="list-style-type: none"> (a) The request for variation by Hertfordshire Constabulary is evidence-based and founded on a review of crime and ASB. There are 40 instances of ASB in total between 1st October 2020 and 25th June 2023, provided by Hertfordshire Constabulary (Appendix B). (b) The concerns were met as the extension of the order would not prohibit such events and public consumption of alcohol. The PSPO makes it an offence to fail to cease the consumption of alcohol within the prescribed area when asked to by a Police Officer, Police Community Support Officer, or accredited Council Officer.
<p>A local resident (within the current PSPO area) raised concerns around displacement of street drinking from the PSPO zone and onto private land.</p>	<p>Responded directly to the member of the public. The PSPO for this area in question is already in place. The proposal is to renew this order. Encouraged the resident to report any concerns for ASB on private land to 101.</p>

5.11 Any challenge to the PSPO must be made in the High Court by an interested person within six weeks of it being made.

5.12 Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or problems in an area that cause harm to the quality of life of the local community.

6.0 The Council Delivery Plan 2022-2024 commits to promoting our welcoming and respectful town. Renewal and variation of both existing PSPOs would continue to improve feelings of safety and reduce fear and or perception of crime for residents and visitors of Watford.

6.1 Failure to comply with PSPO

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

6.1.2 A person does not commit an offence by failing to comply with a prohibition or requirement that the Council did not have power to include in the PSPO. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

6.1.3 Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice (FPN) would be the most appropriate sanction. The FPN can be issued by a Police Officer, Police Community Support Officer, or accredited Council Officer.

6.1.4 As part of the Community Safety 'Safer Watford' partnership, the council and Hertfordshire Constabulary are seeking renewal and variation of the existing PSPOs.

6.1.5 The review and outcomes process are council managed, but ultimately implemented and operated in partnership with local Stakeholders and Police.

6.2 Issues

6.2.1 The existing PSPOs were previously granted and operated without any significant risks or issue emerging.

6.2.2 The existing PSPOs have not faced any challenge.

6.2.3 The PSPOs are well understood by the Hertfordshire Constabulary and public alike.

6.2.4 Their operation has meant that the use of its powers has been limited to engage the public with advice, as to the need to cease drinking if asked to do so by a police officer or authorised officer within the designated area of operation for the order.

6.2.5 Enforcement has been limited to removal of alcohol from a person refusing to cease drinking when asked to, there has been no move to further enforce through FPN or further sanction.

7.0 Implications

7.1 Financial

7.1.1 The Chief Finance Officer comments that the activity outlined in the report is deliverable within existing budgets and resources.

7.2 Legal issues (Monitoring Officer)

7.2.1 The Group Head of Democracy and Governance comments that the legal implications are contained within the body of the report. The council has to be satisfied that there is justification as per the provisions of the 2014 Act in order to continue and/or vary the PSPO.

8.0 Risks

Nature of risk	Consequence	Suggested control measure	Response (treat, tolerate, terminate, transfer)	Risk rating (combination of severity and likelihood)
A challenge is made to the order, requiring further appeal review	A delay in the order being applied leading to public criticism and possible reputational damage	The legal framework applied correctly would meet this risk	Tolerate	4
That an incident of public disorder or injury occur in	Possible reputational damage	The current measures and practice employed for the last 20 years	Tolerate	2

application of the seizure of alcohol		reduces this risk to low risk		
The order is allowed to lapse without renewal	Leading to public criticism and possible reputational damage	Extensive communications would need be undertaken to explain the change of designated area	Tolerate	4

9.0 Equalities, Human Rights and Data Protection

9.1.1 Equalities

- 9.1.1.1 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to:
- 9.1.1.2 • eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- 9.1.1.3 • advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- 9.1.1.4 • foster good relations between persons who share relevant protected characteristics and persons who do not share them.
- 9.1.1.5 As this is a renewal of the current PSPOs an equalities impact analysis has been undertaken.
- 9.1.1.6 The analysis is attached as Appendix D to this report.

10.0 Human Rights

- 10.1.1.1 The Human Rights Act 1998 (ECHR) is a key piece of legislation. In reviewing this request consideration has been given to the specific rights detailed below.
- ECHR Article 8 – Right to Privacy / Family Life.
- ECHR Article 10- Right to Freedom of expression.
- ECHR Article 11 – Freedom of Association.
- ECHR Article 14 – Freedom from Discrimination.
- ECHR Protocol 1 Article 1 – Enjoyment of one’s possession.

10.1.1.2 In reaching conclusions balance has been given to what is the right thing to do in law and ethically to protect the wider community from the criminal and anti-social behaviour of a few.

10.1.1.3 Consideration has also been given to what the community would expect the authorities to do in such circumstances.

11.0 Data Protection Impact Assessment

11.1.1.1 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

12.0 Sustainability

12.1.1 No impact to sustainability identified in relation to this proposal.

13.0 People Implications

13.1.1 Staff resource required from Community Safety Manager and the Communications Team in delivering the consultation process. Ongoing implementation implications are the same as currently required, and predominantly resourced by Hertfordshire Constabulary.

14.0 Community Safety/Crime and Disorder

14.1.1 The continuation and variation of the PSPO is supported by Hertfordshire Constabulary and the justification is set out in appendices A and B.

15.0 Property

15.1.1 No impact to property identified in relation to this proposal.

16.0 Next steps should recommendations be approved

16.1 If approved at Cabinet, communications will confirm the renewal of both PSPOs (and variation to both). This will be followed by a period of six weeks for members of the public to appeal the order.

16.2 Any 'damaged' existing PSPO signage will be replaced.

16.3 Potential to challenge:

- 16.3.1 PSPOs can be challenged under the Act on the grounds that the local authority did not have the power either to make the Order or include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the legislation.
- 16.3.2 Challenges must be made to the High Court within six weeks of the Order being made, and by an individual who lives in, regularly works in or visits the restricted area.
- 16.3.3 The High Court can uphold, quash or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.
- 16.3.4 As with all orders and powers, the making of a PSPO can be challenged by judicial review on public law grounds within three months of the decision or action subject to challenge.

17.0 Appendices

- 17.1 Appendix A - Request for renewal and variation of the current Public Spaces Protection Order – Albert Road South, by CI Andy Wiseman.
- 17.2 Appendix B – Request for renewal and variation of the current Public Spaces Protection Order – Consumption of alcohol in public spaces, by CI Andy Wiseman.
- 17.3 Appendix C – PSPO (Albert Road South) Map – current and proposed area of order.
- 17.4 Appendix D - Equality Impact Assessment

18.0 Background papers

No papers were used in the preparation of this report.