

Report of the Assistant Director Neighbourhoods and Customer Services to the meeting of Regulatory and Appeals Committee to be held on the 27th October 2022

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Subject:

A report proposing the extension of the existing Public Space Protection Orders for Bradford City Centre, Keighley Town Centre, Shipley Town Centre and Bingley Town Centre.

Summary statement:

This report provides a summary of the statutory consultation responses and proposed amendments to the alcohol Antisocial Behaviour Public Space Protection Orders (PSPO's) for Bradford City Centre, Keighley Town Centre, Shipley Town Centre and Bingley Town Centre.

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Overview & Scrutiny Area: Corporate

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1.0 SUMMARY STATEMENT

This report provides a summary of the responses from the statutory consultation on the proposed extension, variation or discharge of the Public Space Protection Orders (PSPO's) for Bradford City Centre, Keighley Town Centre, Shipley Town Centre and Bingley Town Centre and submission of proposals arising from the responses to the consultations.

The report provides a summary of the responses from the statutory consultation on the proposed extension of the Alcohol Anti-social Behaviour Public Space Protection Order for Bradford City Centre, Keighley Town Centre, Shipley Town Centre and Bingley Town Centre and submission of the proposed Order for this Committee's approval.

2.0 BACKGROUND

2.1 In March 2014 the Government enacted new powers contained in the Anti-Social Behaviour, Crime and Policing Act 2014 (later referred to as 'the Act') relating to tackling anti-social behaviour including the making by local authorities of PSPOs. A PSPO can prohibit certain types of antisocial behaviour and make breaches of such subject to fixed penalties and prosecution before the Magistrates Court subject to a fine not exceeding £1000.00.

2.2 The power to create a Public Space Protection Order (PSPO) specifies an area where activities are taking place that are or may likely be detrimental to the local community's quality of life (in this case the district's urban centres). A PSPO can impose conditions or restrictions on people using that area.

2.3 At its meeting in on 12th September 2019 the Regulations and Appeals Committee approved the Council to proceed with a PSPO to help reduce anti-social drinking.

2.4 The Councils PSPO took effect on the 29th October 2019 and unless it is extended it will end by operation of law on 29th October 2022. The prohibitions included in this current PSPO are:

1. Person(s) within the exclusion Zone will not consume alcohol
2. Exemption shall apply in cases where the substances are used for a valid and demonstrable medicinal use, given to animals as a medicinal remedy, are cigarettes (tobacco) or vaporisers or are food stuff regulated by food health and safety legislation or for the avoidance of doubt the consumption of alcohol is on premises licensed under the Licensing At 2003.
3. Person within this area who breach this prohibition shall (with the exemption of the matters referred to in paragraph 2 above): surrender in accordance with the requirements under the section 63(2) intoxicating substances in his/her possession to an authorised person and the authorised person is thereafter authorised to dispose of any item under section 63(5) of the Act

4. An authorised person could be a Police Constable, Police Community Support Officer or Council Officer,

2.5 PSPOs can be varied or discharged OR extended under section 60 and 61 of the Act respectively.

2.6 Since 2019 there has been a total of 2,875 vessels that have been confiscated by the PSPO Officers.

2.7 Consultation methodology

2.7.1 The consultation was carried out in accordance with legal requirements as described in section 72 Anti-Social Behaviour Crime and Policing Act 2014.

2.7.2 Information about the consultation and links to the consultation documents, including the online survey, were posted on the Council's website.

2.8 Consultation summary findings

2.8.1 A total of 158 online surveys were submitted In addition, a number of Focus Groups were run with key stakeholders. There has been convincing support across the board for the extension of the PSPO and this is, therefore, the recommendation of this report.

2.8.2 It should also be pointed out, however, that the PSPO in isolation will not resolve the problems of street drinking by those with multiple and complex needs. Support work done in the 'Top of Town' area has shown that many from the 'street drinking community' had withdrawn from a range of services during the Covid period and this would be likely to make their needs more acute.

2.8.3 Since 2019 50% believe that that the level of alcohol related ASB has increased and 25% say that it has remained the same, with 12% saying that it has reduced.

2.8.4 89% support the extension of the PSPO in Bradford, 74% show support of PSPO in Keighley with 71% in Shipley and 64% in Bingley support the extension.

2.8.5 Since the Public Space Protection Order (PSPO) was introduced 40% do not feel any safer in the exclusion zone where as 38% have not seen any difference

2.8.6 Some of the comments of why people feel less safe are:

- There are more anti-social street drinkers
- Not enough officers to enforce and the PSPO is not effective
- The current PSPO arrangements do not address the issue either in principle; or in terms of staffing available to address the problem
- There is always raised voices and public fighting in these areas, amongst the anti-social people
- Aggressive verbally, intimidated

- 2.8.7** As a result of the above figures and comments, amendments have been made to the order to tackle some of the issues raised.
- 2.8.8** The PSPO is an additional tool to tackle anti-social behaviour/drinking. There are other measures that the Council employ to deal with persistent offenders. This could be in the form of issuing Community Protection Warning/Notices as well as Criminal Behaviour Order (CBO).
- 2.8.9** The main area of concern for alcohol related ASB are in the following areas
- Ivegate
 - Crowgill Park, Shipley
 - Centenary Square,
 - Hustlergate,
 - North Parade
 - Bottom of Sunbridge Road
 - Church Green
 - Low Street benches;
 - Around B&M and behind Evan's Cycles
 - Low Street top, bus station
 - Bradford City Centre
 - Forster Square
- 2.8.10** Full summary of the findings from the online consultation is attached at Appendix A.
- 2.8.11** Focus groups were carried out with Support Agencies (Bridge Project, Homeless Outreach Project, and Change, Grow, Live, Business Improvement District (BID), Bradford's City Centre Beat (subscription business support service) and the City Centre Neighbourhood Policing Team.
- 2.8.12** Support agencies felt that there is a need for the extension of the PSPO and fully support it. However, they felt that for people with complex needs/ trauma a Fixed Penalty notice is less likely to deter them than confiscating alcohol so would be useful to keep this power.
- 2.8.13** City Centre Beat welcome the extension of the PSPO to challenge anti-social drinking in the city centre. However, they were also keen that the Order needs greater resourcing to have an impact on the problems, particularly associated with street drinkers.
- 2.8.14** Bradford BID fully support the extension of the PSPO and recognise that it has had an impact on tackling anti-social behaviour. However, in doing so, they also would like to place on record their view that the current Order lacks effectiveness and request the Council to strengthen its resources for enforcement of the order , particularly with regard to street drinking.
- 2.8.15** West Yorkshire Police support the extension of the Order (see letter of support from Bradford Divisional Commander Chief Superintendent Rob McCoubery). Neighbourhood Policing Inspectors for Keighley and Bradford Central feel that the

current PSPO would be more effective with greater resourcing and that the current wording in the Order could be amended to allow the Officers to better respond to anti-social behaviour.

- 2.8.16** To respond to the concerns raised by partners and the public we are seeking to amend the Order going forward to allow us to better respond to incidents of anti-social behaviour. This will enable us tackle and take action against the more persistent offenders. The new wording is proposed to include in the revised order adds to the list of behaviours that constitute a breach of the Order:

Repeated drunken and anti-social behaviour is such which includes but is not restricted to:

- Shouting
- Swearing
- Intimidating others
- Harassing others
- Urinating in a public place.

- 2.8.17** The full order with the maps for Bradford City Centre, Keighley Town Centre, Shipley town Centre and Bingley Town Centre is attached at Appendix B, C, D and E.

3.0 OTHER CONSIDERATIONS

3.1 Public Space Protection Orders

- 3.1.1** A Public Space Protection Order is an order that identifies the space to which it applies and can make requirements, or prohibitions within the area. This means that the local authority can, require people to do specific things in a particular area or not to do specific things in a particular area. The local authority can grant the prohibitions/requirements where it believes that they are reasonable in order to prevent or reduce the detrimental impact. The order can be made so as to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances. The order can apply for a maximum of three years upon which the process of reviews and consultation must be repeated to ensure the issues is still occurring and the order is having the required effect. Thereafter it can be extended for a further three years and, upon the reviews and consultation taking place, can be extended more than once for further periods of three years.
- 3.1.2** Failure to comply with the order is an offence. Breaches of the order can also be discharged by use of a fixed penalty notice (FPN) of £100.00.
- 3.1.3** The Act is not overly prescriptive about the necessary process required for application of these powers. It has therefore been necessary to design a process that is considered to be appropriate and suitably robust.
- 3.1.4** A local authority may extend the period for the PSPO if satisfied on reasonable grounds that doing so is necessary to prevent.

- (a) occurrence or recurrence after that time of the activities identified in the order
- or
- (b) an increase in the frequency or seriousness of those activities after that time.

The recommendation following the consultation period and examination of the evidence is to extend the Public Space Protection Order in Bradford City Centre, Bingley Town Centre, Shipley Town Centre and Keighley Town Centre for another 3 years.

3.2 OPTIONS

- 3.3** This report provides a summary of the consultation responses and identifies the types of anti-social behaviour of main concern to those who submitted a response.
- 3.4** The existing Public Space Protection Orders may be varied extended or discharged to reflect the issues raised through the consultation process. Approval is now sought from this Committee to confirm the recommendations.
- 3.5** The Committee may resolve to support all the recommendations or to reject some or more of the recommendations.

4 FINANCIAL & RESOURCE APPRAISAL

The cost of implementation of the proposed Order, including the cost of the public notices will be met from within existing resources.

5 RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no risk management or governance issues apparent.

6 LEGAL APPRAISAL

- 6.2** The Act came into force on 20th October 2014. This Act contains the provisions for the making of a Public Space Protection Order.
- 6.3** Under section 59 local authorities have the power to make Public Space Protection Orders if satisfied on reasonable grounds that two conditions are met.

The first condition is that—

- a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

6.4 The second condition is that the effect, or likely effect, of the activities—is, or is likely to be, of a persistent or continuing nature,

- a) is, or is likely to be, such as to make the activities unreasonable, and
- b) Justifies the restrictions imposed by the notice.

6.5 Activities can include things that a person or a group does, has done or should do (in order to reduce the detrimental effect). As with any new legislation of its type, this is untested ground and the legislation will be further defined in years to come by a process of appeals and High Court rulings. Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the new Orders states that “interested persons” may challenge the validity of any order in the High Courts. This means that the Council could face a challenge against its ability to implement the Order. An application of this nature must be made within six weeks; beginning on the day the Order is made or varied. There are three grounds upon which a challenge could be made, these are:

- That the local authority did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied)
- That a requirement under this element of the legislation not complied with in relation to the order or variation
- The High Court would have the power to quash, amend or uphold the order.

6.6 The penalty for breaches of a PSPO relate to fixed penalty notices and fines alone, which may lead to significant levels of non-payment. The suite of new powers available however would allow officers to utilise a range of measures for those identified as persistently breaching the order, for example:

- Community Protection Notices could be issued against the individuals
- An Anti-Social Behaviour Injunction (ASBI) could be sought against individuals, which carries tougher sanctions (and ultimately imprisonment)
- A Criminal Behaviour Order could be sought. Breach of the PSPO is an offence and upon conviction, individuals could be made subject to a Criminal Behaviour Order. This carries both tougher sanctions, along with the ability to implement positive conditions.

6.7 Convention rights, consultation, publicity and notification

(1) A local authority, in deciding—

- a) whether to make a public spaces protection order (under section 59) and if so what it should include,
- b) whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long,

- c) whether to vary a public spaces protection order (under section 61) and if so how, or
- d) whether to discharge a public spaces protection order (under section 61), must have particular regard to the rights of freedom of expression and freedom of assembly set out

7 OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

- 7.1.1** Generally, it is understood that anti social behaviour (ASB) has a disproportionate affect on the most vulnerable in our communities.
- 7.1.2** The Public Sector Equality Duty, which is part of the Equality Act 2010, came into effect on 5 April 2011.
- 7.1.3** The Council must, in the exercise of its functions, have due regard to the need to:
 - Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
 - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
 - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 7.1.4** Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- 7.1.5** Implementation of the PSPO supports all of the equality objectives as set out above. The Order most closely relates to the anti-social behaviour of some of the most vulnerable people in the district. To this end we will continue to work with relevant support agencies, encouraging people to access support and liaising with support agencies as much as possible so that the most vulnerable people are cared for.

7.2 SUSTAINABILITY IMPLICATIONS

There are no sustainability implications apparent.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no greenhouse gas emissions impacts apparent.

7.4 COMMUNITY SAFETY IMPLICATIONS

Anti-social behaviour can have an adverse impact on town and city centres. Any actions the authority can take to improve community safety and consequently the reputation of the District will be of benefit to residents, visitors and businesses.

7.5 HUMAN RIGHTS ACT (HRA) IMPLICATIONS

Individuals have rights established under the HRA some of which are absolute and some of which are qualified.

The Council is required under the HRA to balance the rights of those affected by the order, against the rights of the community to enjoy the area proposed to be included in the order without being subject to acts of anti-social behaviour as evidenced by complaints to the police and as prohibited by the draft order.

There is a legal requirement to have particular regard when making decisions whether to extend vary or discharge PSPOs to articles 10 and 11 of the European Convention on Human rights.

7.6 TRADE UNION IMPLICATIONS

There are no trade union implications apparent.

7.7 WARD IMPLICATIONS

The PSPOs are spread across the following wards, although they are not coterminous and their impact at a ward level varies.

- City Ward
- Manningham Ward
- Shipley Ward
- Bingley Ward
- Keighley Central Ward

8 NOT FOR PUBLICATION DOCUMENTS

There are no items that are not for publication.

9 RECOMMENDATIONS

Regulatory and Appeals Committee is asked to approve:

- 9.1** That the Assistant Director, Neighbourhoods and Customer Services be authorised to extend the current PSPOs for three years in Bradford City Centre, Shipley Town Centre, Bingley Town Centre and Keighley Town Centre with the amendments made.

10. APPENDICES

- 10.1** Appendix A – Consultation Summary
- 10.2** Appendix B – Bradford City Centre Order
- 10.3** Appendix C – Keighley Town Centre Order
- 10.4** Appendix D – Shipley Town Centre Order
- 10.5** Appendix E – Bingley Town Centre Order
- 10.6** Appendix F – Email from Deputy Mayor's Office
- 10.7** Appendix G – Support from District Commander of West Yorkshire Police

11 OTHER BACKGROUND DOCUMENTS