



# Licensing Committee

## 8 February 2017

<b>Report Title</b>	<b>Public Space Protection Order (Review of Designated Public Place Order) Consultation</b>	
<b>Wards Affected</b>	All	
<b>Accountable director</b>	Kevin O'Keefe	
<b>Originating service</b>	Governance - Licensing	
<b>Accountable employee(s)</b>	Jo Till Tel Email	Section Leader (Licensing) 01902 550189 <a href="mailto:Joanne.till@wolverhampton.gov.uk">Joanne.till@wolverhampton.gov.uk</a>

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### Recommendation for action:

That Councillors of the Licensing Committee consider proposals to introduce a Public Space Protection Order to tackle alcohol-related anti-social behaviour in the city.

## **1.0 Purpose of Report**

- 1.1 To inform Councillors of a consultation to consider a proposal presented to cabinet regarding a City wide Public Space Protection Order as part of a public consultation.

## **2.0 Background**

- 2.1 A city-wide Designated Public Place Order (DPPO) has been in place in Wolverhampton since April 2013. The order provides Police with powers to require any person to stop drinking and surrender alcohol if they are causing or likely to cause anti-social behaviour (ASB).
- 2.2 The Anti-social Behaviour, Police and Crime Act 2014 came into force in October 2014 which has replaced DPPO orders. This Act now allows for more specific prohibitions to address specific ASB concerns. Further details are contained within the Scrutiny report attached as an Annex.

## **3.0 Proposals**

- 3.1 Anti-Social Behaviours reports suggest there is a need to retain the existing powers under the current DPPO. The level of DPPO use within St Peter's, part and City Centre neighbourhoods is a reflection of ongoing nuisance caused by Street Drinking within these locations. It is proposed that an inclusion of a street drinking ban for St Peter's and Park wards within the PSPO. Further details are contained within the Scrutiny report attached as an Annex.

## **4.0 Consultation**

- 4.1 A six week consultation on the proposals commenced on 5 January 2017 and will run until 16 February 2017. The consultation can be accessed electronically via the following link: <https://www.surveymonkey.co.uk/r/CH7LGTG>

## **5.0 Implementation**

- 5.1 Subject to Cabinet authorisation of the PSPO on 22 February 2017, the proposals must then be formally publicised and will be subject to a six week period during which an appeal against the proposals can be made. Should no appeal be made against the proposal the PSPO would come into force on 6 April 2017. Further details are contained within the Scrutiny report attached as an Annex.

## **6.0 Financial Implications**

- 6.1 The financial implications associated with the PSPO were identified in a report to the Adults and Safer City Scrutiny Panel on 31 January 2017 (see attached). Any consultation process costs are to be met from existing Community Safety Team budgets. It was also noted that fixed penalty charges of £80 can be imposed for breaches of PSPO prohibitions. This is not, however, anticipated to generate significant levels of income as the focus of the PSPO is on deterring anti-social behaviour. [GE/20170127/Z]

## **7.0 Legal Implications**

7.1 Details are contained within Scrutiny report attached as an Annex. [SH/27012017/Z]

## **8.0 Equalities Implications**

8.1 Details are contained within scrutiny report attached as an Annex.

## **9.0 Environmental Implications**

9.1 Details are contained within scrutiny report attached as an Annex.

## **10.0 Human resources implications**

10.1 Details are contained within scrutiny report attached as an Annex.

## **11.0 Corporate landlord implications**

11.1 Details are contained within scrutiny report attached as an Annex.

## **12.0 Schedule of background paper**

12.1 Not applicable.



## ANNEX

Cabinet Member Consultation			
Cabinet member(s) consulted	Consulting employee	Mode of consultation	Primary date of consultation
Cllr Paul Sweet	Karen Samuels, Head of Community Safety	face to face	21 Nov 2016
<b>Key comments arising from consultation (if applicable):</b>  Cllr Sweet supported the proposals and advised on consultation arrangements with ward members. A further briefing is being arranged to update on feedback from the consultation. Cllr Reynolds has been briefed prior to commencement of consultation.			



# Adults and Safer City Scrutiny Panel

31 January 2017

<b>Report title</b>	Public Space Protection Order (Review of Designated Public Place Order)	
<b>Cabinet member with lead responsibility</b>	Councillor Paul Sweet Public Health and Wellbeing	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Linda Sanders	
<b>Originating service</b>	Community Safety, Public Health and Well Being	
<b>Accountable employee(s)</b>	Karen Samuels	Head of Community Safety
	Tel	01902 551341
	Email	Karen.samuels@wolverhampton.gov.uk
<b>Report to be/has been considered by</b>	Strategic Executive Board	20 Dec 2016

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## Recommendations for noting:

The Panel is asked to:

Contribute towards the consultation on proposals to introduce a Public Space Protection Order to tackle alcohol-related anti-social behaviour in the city.

## **1.0 Purpose**

- 1.1 To present findings from a review of the existing city-wide Designated Public Place Order (DPPO), in force since April 2013.
- 1.2 Seek views on the introduction of a Public Space Protection Order (PSPO) to address alcohol-related anti-social behaviour (ASB) in the city.

## **2.0 Background**

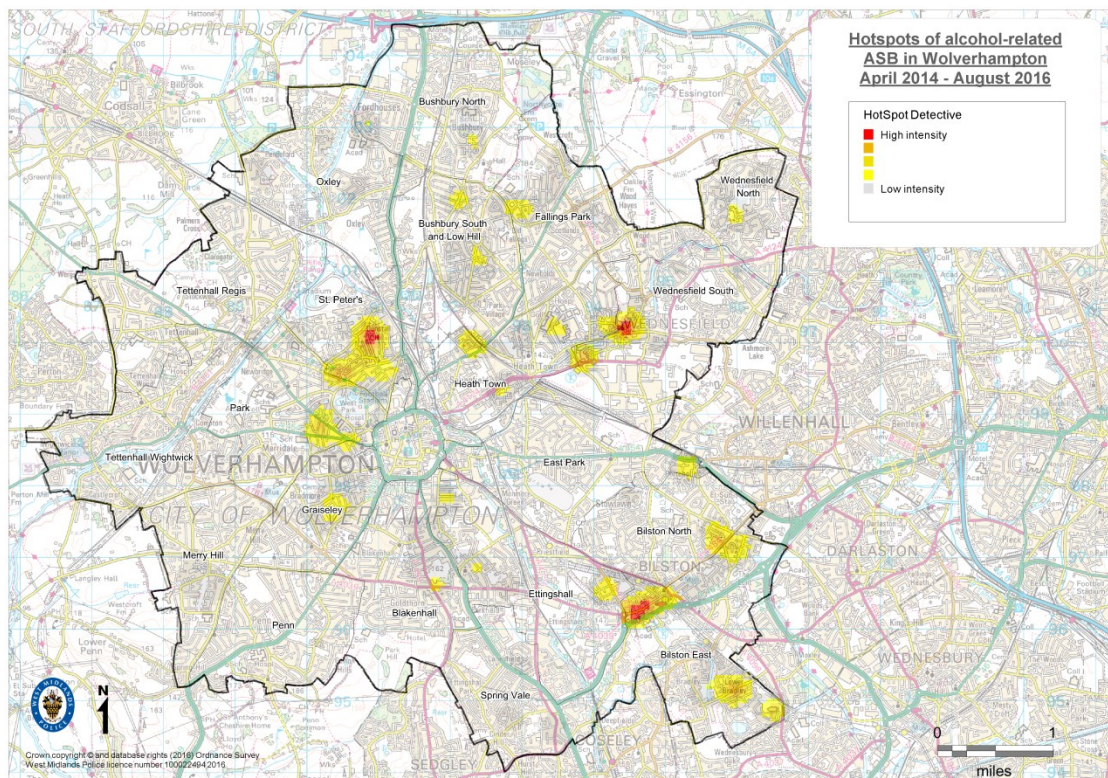
- 2.1 A city-wide Designated Public Place Order (DPPO) has been in place in Wolverhampton since April 2013. The order provides Police with powers to require any person to stop drinking and to surrender alcohol if they are causing or are likely to cause anti-social behaviour (ASB).
- 2.2 The Anti-social Behaviour, Police and Crime Act 2014 came into force in October 2014 and introduced streamlined tools and powers to replace existing orders; DPPOs have been replaced by generic Public Space Protection Orders (PSPOs) which provide the opportunity to add in more specific prohibitions to address the specific ASB concerns being experienced.
- 2.3 Wolverhampton has been at the forefront of trialling PSPOs in the West Midlands, with two piloted in Low Hill and Park Village since Sept 2015. These have proved to be largely successful within these locations but have required a more focused and coordinated effort across agencies to manage the logistics around application and enforcement; a multi-agency ASB Steering Group is in place to facilitate this.
- 2.4 The proposals for implementation of the PSPO directly support the following Corporate Plan objectives:
  - Keeping the City Clean – by reducing the prevalence of alcohol-associated litter within designated locations.
  - Supporting Businesses, Encouraging Enterprise and Investment – improving city image by targeting hotspot locations where street drinkers congregate.
  - Keeping the City Safe – creative use of new legal powers to tackle ASB.

## **3.0 Review of Existing DPPO Arrangements**

- 3.1 Data highlighting use of the DPPO between April 2014 - Aug 2016 shows the power has been applied more extensively in the City Centre, St Peter's and Park areas. This is in part, attributable to Police patrolling strategies in these locations in response to local concerns raised about street drinking.

Neighbourhood	Count	% of total
Wolverhampton City Centre	248	64%
Park	90	23%
St. Peter's	31	8%
Wednesfield South	5	1%
Bilston East	3	<1%
Graiseley	3	<1%
Heath Town	3	<1%
Tettenhall Regis	2	<1%
Blakenhall	1	<1%
Bushbury South and Low Hill	1	<1%
East Park	1	<1%
Ettingshall	1	<1%
Oxley	1	<1%

- 3.2 In addition to use of the DPPO, the review also captured reports of alcohol-related ASB and where these are occurring across the city. There is a wide geographic spread of these reports across all areas of the city, however, the City Centre (453 reports), and the locations which include Bilston Town Centre (316 reports) and Wednesfield Town Centre (178 reports) feature as the main hotspots for alcohol-related ASB; with these areas linked directly to the night time economy.





## **4.0 Multi-agency response to tackling alcohol-related ASB**

- 4.1 The DPPO has been used as part of a suite of measures to respond and manage alcohol-related ASB which includes active Police patrols, ASB team civil enforcement against known perpetrators, licensing restrictions and advice to off-licenses and targeted outreach by Recovery Near You, the city's drug and alcohol treatment provider. The multi-agency steering group coordinates delivery responses to ASB across the various enforcement agencies which is underpinned by a commitment to joint and shared enforcement.

## **5.0 PSPO Proposals**

- 5.1 The volume and geographic spread of alcohol-related ASB reports over the period would suggest there is a need to retain the existing powers held by Police under the current DPPO.

### **5.1.1 Recommended Proposal:**

A continuation of existing DPPO powers on a city-wide basis authorising Police to require a person to stop drinking and surrender alcohol where ASB is occurring or is likely to occur.

- 5.2 The level of DPPO use within St Peter's, Park and City Centre neighbourhoods, however, is a reflection of the ongoing nuisance caused by street drinking within these locations. This is supported by ongoing reports through PACT and Tasking meetings and via businesses that street drinking remains a priority for these areas.

- 5.2.1 **Recommended Proposal:** Inclusion of a street drinking ban for St Peter's and Park wards, which includes the City Centre (as designated on **Appendix A** attached) within the PSPO. This prohibition would not apply to premises which are licensed for the supply of alcohol so would not impede these legitimate business functions; this includes any curtilage (e.g. a beer garden or pavement seating area).

- 5.2.2 The prohibition would also include a waivering option to allow for public drinking at organised events within these locations (e.g. Christmas market) via applications made for temporary event notices through the Council's Licensing Team.

## **6.0 Consultation**

- 6.1 Police are in full support of the proposed prohibitions on public street drinking within the designated locations; it will support enforcement efforts to tackle pockets of street drinkers congregating in hotspot locations reported by residents and businesses which can have a negative impact on trade and city image. Police are confident, however, that the discretionary confiscation powers currently in place, if continued, would be sufficient to respond to alcohol-related ASB covering the night time economy within Wednesfield and Bilston town centres.
- 6.2 A six week consultation was launched on the proposals on 5 January and will run until 16 February 2017; this will include briefings with ward Councillors from St Peter's and Park, the business sector including the City Centre BID, voluntary and community sector,

Communities of Interest, designated service leads within the City Council, Councillors, community networks/forums and external partners such as Police and Wolverhampton Homes. A Frequently Asked Questions sheet has been produced to provide clarification on aspects of the proposal (**Appendix B** attached). The consultation can be accessed electronically via the following link: <https://www.surveymonkey.co.uk/r/CH7LGTG>

- 6.3 The views of Adults and Safer City Scrutiny Panel are invited on these proposals by responding to the following questions:

*The PSPO would provide a continuation of existing city-wide discretionary powers held by the Police to request the surrender of alcohol where anti-social behaviour is occurring or is likely to occur as a result of alcohol consumption.*

- a) *Would you be in support of Police retaining this discretionary power?*

*There is an opportunity for the PSPO to include an outright street drinking ban in St Peter's and Park wards. The selection of these locations has been informed by data on the existing use of DPPO powers and reports of alcohol related anti-social behaviour in these locations. This would not affect the activity of legitimate licenced premises or organised events within these areas.*

- b) *What are your views on the introduction of a street drinking ban within these locations?*

- 6.4 The Council's Communications team is leading all communications relating to these proposals and is actively promoting opportunities to feed in via City People and social media.
- 6.5 Responses to the consultation will be captured and inform the Cabinet report and any subsequent decision by Cabinet on how to proceed.

## **7.0 Implementation**

- 7.1 Subject to Cabinet authorisation of the PSPO on 22 February 2017, the proposals must then be formally publicised and will be subject to a six week stand still period during which an appeal against the proposals can be made to the High Court before coming into force. Proposals will be advertised through partner and community networks, social media, the Council and SWP websites and an advertisement in the local press.
- 7.2 Subject to Cabinet approval, and assuming no appeal against the proposals is lodged with the High Court, the PSPO would come into force on 6 April 2017.
- 7.3 The conditions of the PSPO would be in place for a period of three years; revisions to the prohibitions contained within the PSPO are not proposed within this period, however, the impact of the order will be closely monitored to allow for any operational variations across partners to be built in as required. The PSPO will be subject to review before its expiry in April 2020.

## **8.0 Financial implications**

- 8.1 The cost of the statutory notice, consultation and signage will be met from existing budgets within the Community Safety Team.
- 8.2 Breach of PSPO prohibitions can result in fixed penalty notices being issued by authorised Council Officers or other persons designated by the Council. A penalty charge of £80 will be applicable in these circumstances, though it is not expected that the PSPO will generate any notable income as the main focus is to deter ASB or follow through with enforcement against perpetrators of ASB. [GS/20012017/W]

## **9.0 Legal implications**

- 9.1 The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) came into effect on 20 October 2014.
- 9.2 Section 59 of The Act gives local authorities the power to make PSPOs which are intended to deal with ASB and nuisance in a particular area that is detrimental to the local community’s quality of life by imposing conditions on the use of that area.
- 9.3 The Act places limitations on how a PSPO can be used to restrict the consumption of alcohol in a public space where the test has been met. A PSPO cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol. There are also limitations where either Part 5 of the Licensing Act 2003 or section 115E of the Highways Act 1980 applies, as these already provide safeguards against ASB.
- 9.4 Before making a PSPO, councils must consult with the local police (section 72(3) and 72(4) of the Act). Formal consultation was held with West Midlands Police on this matter on 8 November 2016 where support for these proposals was recorded.
- 9.5 The Act also stipulates that councils must consult with the local community on any proposed PSPO. Consultation opportunities have been widely publicised across the city within communities, councillors, business sector and partner agencies.
- 9.6 Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue. The PSPO will be publicised locally. Signage will not be erected until after the six week period or, if an appeal is lodged, after any High Court ruling. [AS/23012017/S]

## **10.0 Equalities implications**

- 10.1 An equalities screening has been carried out and there is no evidence to suggest that the proposal would be directly or indirectly discriminatory. Data relating to use of the existing DPPO and the proposed PSPO is reliant on Police recording systems which do not capture data concerning individuals where alcohol has been confiscated unless a crime

has been committed. Views from the city's voluntary and community sector and Communities of Interest have been actively sought as part of the consultation.

#### **11.0 Environmental implications**

- 11.1 The proposals would have a positive environmental impact by reducing the litter associated with street drinking within St Peter's and Park wards.

#### **12.0 Human resources implications**

- 12.1 There are no human resource implications associated with this proposal.

#### **13.0 Corporate landlord implications**

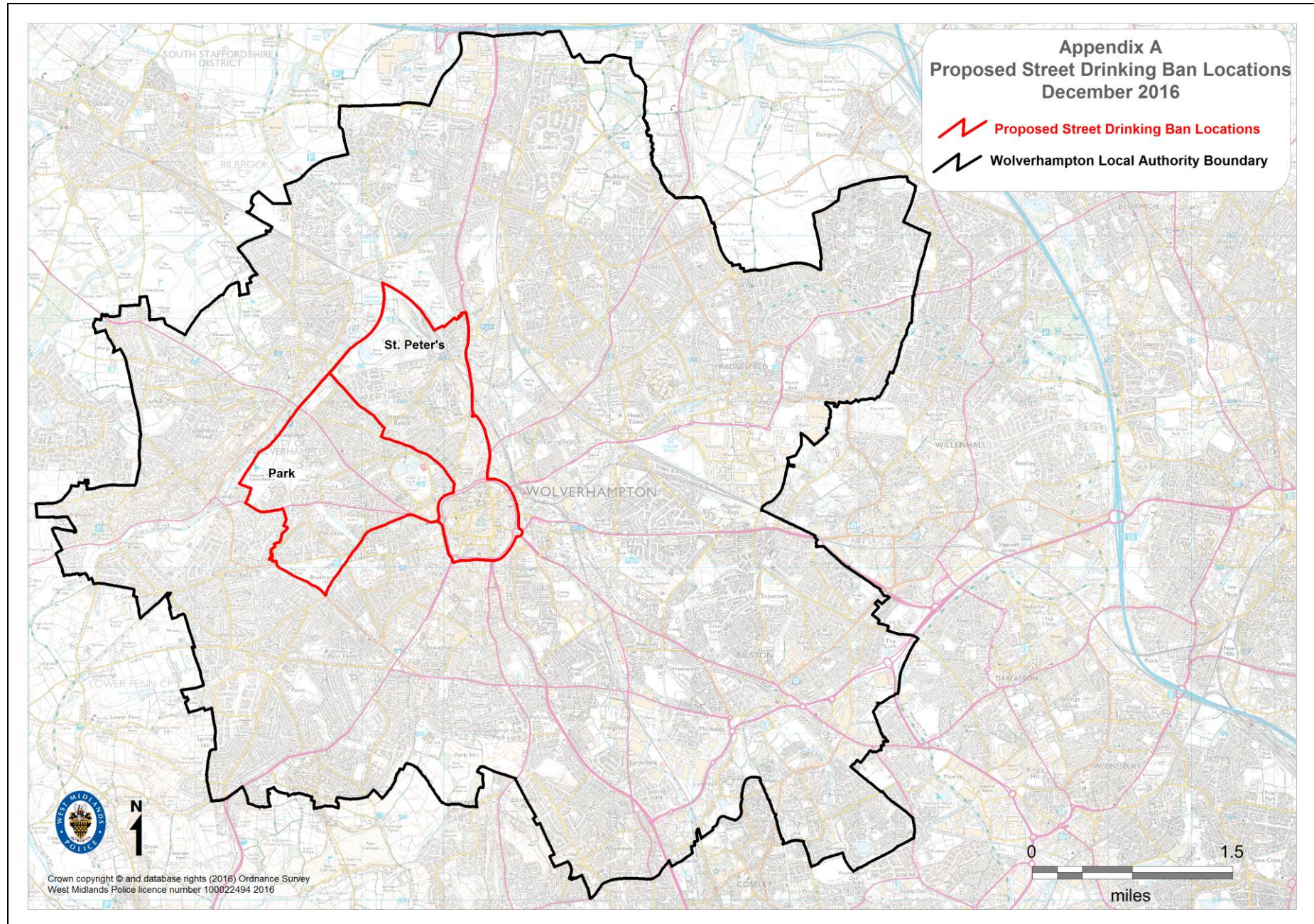
- 13.1 There are no corporate landlord implications associated with this proposal.

#### **14.0 Schedule of background papers**

- 14.1 There are no background papers.



## Appendix A – Proposed Street Drinking Ban Locations







## **APPENDIX B**

### **Public Space Protection Orders Frequently Asked Questions**

#### **What is a Public Space Protection Order?**

Public Place Protection Orders (PSPO) are orders made by the local authority under powers which were given to them under the Anti-social Behaviour, Crime and Policing Act 2014.

These powers make it possible for Local Authorities to deal with a particular nuisance or problem which is detrimental to the local community's quality of life by imposing conditions on the use of that area which apply to everyone. They are designed to ensure the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour (ASB).

The Council is consulting on proposals to implement a PSPO which will provide a continuation of city-wide discretionary powers held by the Police to request the surrender of alcohol where ASB is occurring or is likely to occur as a result of alcohol consumption. There is also an opportunity to include additional prohibitions on street drinking within designated locations.

#### **Is this a ban on drinking alcohol in public areas?**

Proposals could include introducing a street drinking ban for St Peter's and Park wards, to include the city centre. For these localities, consuming alcohol in a public place would not be permitted.

These prohibitions would not affect legitimate trading activity of licenced premises. Consequently, land within the curtilage of licenced premises certified to serve alcohol. E.g. a pub beer garden or paved seating area would not be affected.

There are also options to waiver these prohibitions to support organised events, so the order would not apply to events covered by a temporary event notice. This could be an outdoor Christmas Fete where mulled wine is sold for example.

For designated areas which have an outright street drinking ban imposed, drinking alcohol in a public place would not be permitted. As explained above, this would not apply to drinking within the curtilage of licenced premises or in circumstances which have been covered by a temporary event notice.

## **Why have these areas been selected?**

Police already have discretionary powers to require that a person ceases drinking and surrenders alcohol where ASB is occurring or it likely to occur as a result of their alcohol consumption. This has been in place since the introduction of a city wide Designated Public Place order (DPPO) in April 2013.

Data collected since April 2014 and ASB reports by residents and businesses within St Peters and Park wards and in the city centre indicate that more robust measures are needed to respond to concerns highlighted in these areas.

## **How will Police use their discretion on applying this power?**

The PSPO gives Police the authority to request that a person ceases drinking and surrenders alcohol upon request where they are causing ASB or are likely to cause ASB as a consequence of their alcohol consumption. This discretionary power would apply to all areas within the Wolverhampton Local Authority boundary.

For areas which have an imposed outright street drinking ban, alcohol consumption would not be permitted in any public place unless within the curtilage of a licenced premises or in circumstances covered by a temporary event notice.

## **What can the Police do?**

The Police would have the power to request that a person drinking alcohol anywhere within the Wolverhampton Local Authority boundary stops drinking, or ask the person to surrender all alcohol, sealed or not within their possession if they reasonably believe the individual or group are causing or likely to cause ASB or disorder.

In areas where there is an outright street drinking ban, the Police have the power to confiscate all alcohol when street drinking is occurring. Where these prohibitions are breached officers authorised by the council can issue a fixed penalty notice of £80.00.

## **Am I breaking the law if I drink in a designated area?**

If prohibitions are introduced to impose a street drinking ban in St Peter's and Park wards including the city centre it would be an offence to drink alcohol in a public area within these localities. Drinking alcohol in a public place in other areas of the city would be permitted as long as this does not cause, or is likely to cause anti-social behaviour.



**What can I do if I witness someone drinking in a designated area or causing alcohol related anti-social behaviour?**

Do not call 999 unless a person's behaviour poses a threat to life, where there is on-going violence or if a crime has been committed and the offenders are still at or near the scene.

If you witness and are concerned about anti-social drinking you can report it by emailing your local Neighbourhood Policing Team or by calling the non-emergency telephone number 101. Alternatively, you could keep a diary of the incidents and speak to your local neighbourhood Police Officer.

**When will this be implemented in Wolverhampton?**

If the terms of this proposed PSPO are approved, the order would come into effect in April 2017.

**To complete the survey please follow the link below:**

<https://www.surveymonkey.co.uk/r/CH7LGTG>