

Joint Cabinet and Cabinet (Resources) Panel

29 July 2020

Report title	Renewal of the Public Space Protection Order – Drinking Restrictions	
Decision designation	AMBER	
Cabinet member with lead responsibility	Councillor Jasbir Jaspal Public Health and Wellbeing	
Key decision	Yes	
In forward plan	Yes	
Wards affected	All wards	
Accountable Director	John Denley	
Originating service	Community safety, Public Health and Wellbeing	
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Report to be/has been considered by	Public Health Leadership Team	29 June 2020
	Strategic Executive Board	30 June 2020
	Scrutiny Board	14 July 2020

Recommendations for decision:

The Cabinet is recommended to:

1. Approve the renewal of the Public Space Protection Order (PSPO) drinking restrictions.
2. Approve the recommendations for a city-wide PSPO, subject to the mandatory six-week legal challenge period allowed, which includes the same proposals as the previous order. To extend prohibitions on public drinking within Park and St Peter's wards (to include the city centre)

1.0 Purpose

- 1.1 To present the findings from the review of the existing PSPO which was in force from April 2017 – April 2020.
- 1.2 To seek approval for the PSPO to be renewed with the same restrictions as the previous order, this order is sort due to the powers extended to Local Authorities from the Anti-social Behaviour, Police and Crime Act 2014.

2.0 Background

- 2.1 At a Cabinet meeting in February 2017, Cabinet authorisation was granted for the introduction of a city-wide PSPO which introduced drinking restrictions. The order gives Police the power to require a person or persons drinking in a public space to stop drinking and surrender their alcohol if they care causing or are likely to cause an anti-social behaviour (ASB).
- 2.2 Failure to comply with this request can lead to a fine/arrest or prosecution. The city-wide PSPO granted further restrictions for Park and St Peter's wards; in the boundaries of these wards there was an outright ban on public drinking. This requirement was included in the order due to the disproportionate number of community complaints and calls to service the Police attended.
- 2.3 The PSPO has been successful in reducing the number of complaints received from our communities and calls to service, more detailed information can be found in section 3 of this paper.
- 2.4 The proposals directly support the following Council plan priorities;
 - Strong, resilient and healthy communities – by reducing the prevalence of alcohol-associated litter in designated locations and using legislation to tackle nuisance and ASB
 - More goof jobs and investment in our city – improving the city image by targeting hotspot locations where public drinkers congregate

3.0 Review of the existing arrangements

- 3.1 The PSPO is not a public drinking ban, with the exception of Park and St Peter's Wards. Therefore, in the majority of the city it does not stop people from drinking alcohol in public spaces. It provides discretion for Police officers and officers identified by the Local Authority, such as Enforcement Officers to determine if ASB is being or is likely to be caused as a result of a person's consumption of alcohol.
- 3.2 During the period the PSPO has been in place Police records show that there have been over 2845 calls to service to alcohol related incidents (figures are recorded from 1 March 2017 – 29 February 2020). A breakdown of the annual figures is show below. The number of incidents has reduced year on year, in part to use of the PSPO legislation to

prevent public space drinking. Over the three-year period, there has been a 35% decrease in public space drinking where a nuisance or ASB has been caused.

- 2017-2018 – 1202 calls to service
- 2018-2019 – 862 calls to service
- 2019-2020 – 781 calls to service

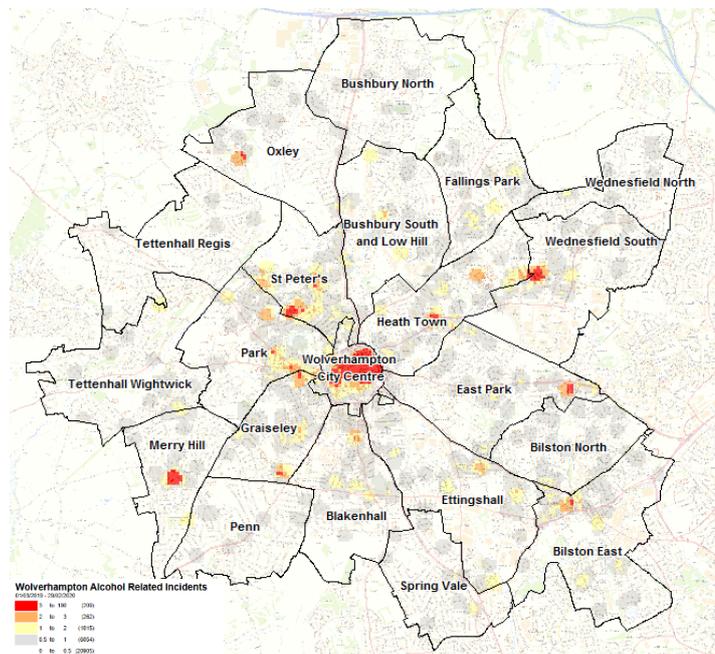
3.3 Data also shows that most complaints and calls to service are contained within Park and St Peter’s wards. City Centre falls within these wards, therefore it is understandably higher, and therefore appropriate for an outright drinking ban.

Year	Calls to service City Centre	St Peter’s and Park
2017 -2018	243 calls (20.2%)	176 (14.6%)
2018- 2019	150 calls (17.4%)	122 (14.1%)
2019-2020	147 calls (18.8%)	121 (15.5%)

Both locations account for the majority of calls from across the city and are disproportionately affected by street drinkers causing nuisance and ASB.

3.4 The reduction in calls to service does demonstrate that the PSPO is a valuable tool in tackling ASB and street drinking and has effectively been applied by officers to reduce incidents, using arrests and prosecution as a last resort.

Reviewing the success of the PSPO consideration was also given to ASB and nuisance caused as a result of street drinking in other locations across the city. The map below (2019-2020) shows that there are some other high service areas. Many of which link to areas where there is a night time economy. However, outside of these areas all neighbourhood policing teams report receiving complaints of ASB or nuisance relating to street drinking. This varies for example from 121 incidents in Park and St Peter’s wards, to 42 incidents in Wednesfield South, strongly related to the Bentley Bridge area and 5 in Tettenhall Regis and provides evidence of the need for the continuation of existing police powers to confiscate alcohol where alcohol related nuisance or ASB is occurring.



4.0 Multi-agency response to tackling alcohol-related ASB

4.1 A PSPO to restrict the nuisance caused by alcohol-related ASB will not on its own achieve the desired impact of curbing this nuisance behaviour. It will, however, be used in conjunction with a wide range of multi-agency initiatives, which together, are used to reduce the risk of this source of ASB occurring, provide the necessary powers for relevant agencies to act when it does occur and take a stronger enforcement line against perpetrators. A summary of supporting initiatives is detailed below:

A partnership response addresses reports of alcohol-related ASB which has included initial engagement/advice given to perpetrators including:

- Signposting to support agencies
- Advice/liaison with housing providers where perpetrators live
- Advice to off-licences selling alcohol
- Targeted outreach with Recovery Near You, the city's drug and alcohol provider
- Enforcement action against perpetrators including warning letters, and civil action such as civil injunctions and tenancy enforcement
- Restricting the sale of alcohol in areas deemed to be particularly vulnerable to alcohol related ASB
- Police adopt an early intervention approach whilst patrolling to prevent ASB occurring

5.0 Consultation

5.1 The process for seeking authorisation of a PSPO requires consultation to be undertaken with Police and with communities impacted by the order. Police are in support of the introduction of a PSPO to retain the existing city-wide discretion of officers to seek surrender of alcohol and for a public drinking ban to be applied to St Peter's and Park wards, in line with the proposals detailed in section 5 of this report.

5.2 West Midlands Police are lending full support to the inclusion of the City Centre within prohibitions for a public drinking ban, as this would aid ongoing positive working relations between Police and the business sector, supporting a range of joint initiatives such as Pubwatch, Facewatch and existing partnership working with the Business Improvement District.

5.3 A four-week public consultation on the proposals supported by the City Council's communications Team has been undertaken. The consultation ran from 27.05.2020 until 29.06.2020. The consultation has comprised direct communications to councillors, which includes briefings with ward councillors for St Peter's and Park wards, the business sector including the City Centre BID, designated service leads within the City Council and external partners such as Police and Wolverhampton Homes.

5.4 Opportunities to feed in to the consultation have been widely advertised through council communications, websites, via partner organisations, community networks and social media.

- 5.5 From the 537 responses received there was widespread support for continuation of the existing city-wide Police powers to confiscate alcohol where it was a feature of ASB; whilst there was also support and an understanding of the rationale for proposals to introduce an outright public drinking ban in St Peter's, Park and City Centre.
- 5.6 Respondents overwhelming let support to the renewal of the PSPO without any changes, and supported Police maintaining the Powers granted by the PSPO.
511 respondents were in support 95%
26 respondents did not support 5%
- 5.7 When asked about the outright ban in St Peters and Park wards (Inc. City Centre), respondents who lived or visited that area were again in support of continuation of the outright ban.
381 respondents were in support of the outright ban 71%
30 respondents did not support the outright ban 6%
126 respondents did not live or visit the area 23%
- 5.8 Scrutiny Board were consulted on 14 July 2020. The board were in favour of the renewal of the order, ensuring that there was the ability to review the order. Allowing the ability to vary the order as required if there was an evidence base to suggest that other locations would benefit from an outright drinking ban to reduce alcohol related ASB and nuisance.
- 5.9 A full summary of feedback can be seen in **Appendix 2**

6.0 Evaluation of alternative options

- 6.1 **Option One**; The recommended proposal is for a continuation of the PSPO powers on a city-wide basis, with an outright drinking ban in St Peters and Park wards. This would allow the Police to require a person or persons to stop drinking and surrender their alcohol where ASB is occurring or likely to occur. The outright ban in St Peters and Park wards would allow police to require a person drinking to stop immediately regardless of any ASB being caused. Enabling swifter action to be taken by Police on the confiscation of alcohol where public drinking is occurring and for fixed penalty notices to be issued by Police or officers authorised by the Council where a breach of the PSPO has occurred.
- 6.2 The proposed prohibitions would include a waivering option to allow for public drinking at organised events within these locations, such as City Centre and West Park when applications are made for temporary event notices through the Council's Licensing Team. With the exception of this requirement to apply for a waiver, there would be an outright public drinking ban within these designated locations with no discretion applied regarding its enforcement. The designated geographic boundaries relating to the PSPO is detailed on **Appendix 1**

- 6.3 There are limitations within the legislation of using a PSPO to restrict the consumption of alcohol where a premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol or where licensing or Highways legislation already exists to control alcohol-related ASB; the proposals within the PSPO would therefore not be used to impede legitimate business functions or to undermine existing safeguards in place to monitor and regulate licensed premises
- 6.4 Sergeant Sean Corrigan covers the City Centre. On 15th May 2020, he stated “*the PSPO has been invaluable in the policing of the night time economy.*”
- 6.5 Sergeant Lee Plant covers St Peters and Park wards. On 15th May 2020, he stated “his officers engage with drinkers on an almost daily basis (during the warmer months in St Peters and Park ward.” Sergeant Plant continues “Whitmore Reans, along Newhampton Road, the Avion Centre and West Park continues to have issues with ASB and nuisance drinking that’s unpleasant for the community having to walk past groups, of men generally drinking.”
- 6.6 **Option Two**; To renew the city wide PSPO, without the requirement for an outright drinking ban in St Peters and Park Ward. This option would still allow Police and other agreed enforcement operatives to require a person or persons to stop drinking and surrender their alcohol where ASB is occurring or likely to occur and confiscate alcohol if deemed necessary but would not stop people from drinking at all in the highest call to service areas.
- 6.7 A huge amount of multi-agency and partnership work has taken place in St Peter and Park wards over the last two years. This work has included reducing street drinking and drug use in the Ward areas, improving the physical look of the area, improving security and removing the fear of crime. Not enforcing the outright ban in these ward areas would allow people to drink opening on the streets without the Police being able to take any action (unless ASB was, or was likely to occur), removing a vital tool available to us. This may also harm the community trust and relationships which have been developed and cause some reputational damage.
- 6.8 **Option Three**: No renewal of the PSPO. The PSPO is an excellent deterrent and is tool used frequently by the Police to protect the public. It would reduce the preventative measures available to us as a Local Authority and the local Police and would likely lead to an increase in street drinking, particularly around the night time economy. The PSPO provides reassurance to members of the public visiting the city and allows for swift police action to address issues.

7.0 Reasons for decision(s)

- 7.1 It is recommended that the PSPO be renewed in full -a citywide drinking ban, including an outright ban in St Peter and Park wards. This would allow the Police to require a person or persons to stop drinking and surrender their alcohol where ASB is occurring or likely to occur. The outright ban in St Peters and Park wards would allow police to require

a person drinking to stop immediately regardless of any ASB being caused. Enabling swifter action to be taken by Police on the confiscation of alcohol where public drinking is occurring and for fixed penalty notices to be issued by Police or officers authorised by the Council where a breach of the PSPO has occurred. The recommendation has been supported by the consultation results highlighted in section 6 of the report and is welcomed by West Midlands Police.

8.0 Implementation

- 8.1 Subject to Cabinet authorisation of the PSPO, the proposals must be publicised and will be subject to a six-week period during which an appeal against the proposals can be made to the High Court before coming into force. This will include communications through partner and community networks, social media, the Council and SWP websites and an advertisement in the local press.
- 8.2 Subject to Cabinet approval and assuming no appeal against the proposals is lodged with the High Court within the six-week timeframe, the PSPO would come into force on Monday 14 September 2020.
- 8.3 The conditions of the PSPO would be in place for a period of three years; revisions to the drinking ban prohibitions relating to St Peter's and Park wards, including the City Centre can be incorporated following a 12-month review capturing the impact of the restriction and consideration for any variation of the order to include other specified locations. The impact of the order will be closely monitored. The PSPO will be subject to review before its expiry in September 2023.

9.0 Financial implications

- 9.1 The cost of the statutory notice, consultation and signage will be met from existing budgets within the Community Safety Team. 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

[JB/06072020/V]

10.0 Legal implications

- 10.1 The Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") came into effect on 20 October 2014.
- 10.2 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.

- 10.3 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.
- 10.4 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 20th May 2020, where support for these proposals were recorded.
- 10.5 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, a survey was run on the consultation pages of the Council's Website (28 May to 29 June) within communities, councillors, business sector and partner agencies.
- 10.6 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.
- 10.7 Section 61 of the Act makes provision to review a PSPO which is in force and to vary the terms of the order which can be based upon the review findings. Furthermore, the maximum duration of a PSPO is three years, so proposals to undertake a full review prior to its expiry in September 2023 would be appropriate. The recommendations in section 10.1 (iii) and (iv) can therefore be accommodated within the legal framework.

[AS/02072020/A]

11.0 Equalities implications

- 11.1 An equalities screening has been carried out. There is no evidence to suggest that the proposal may be directly or indirectly discriminatory. Data relating to use of the existing DPPO and the proposed PSPO is reliant on Police recording systems which will not capture data concerning the individuals concerned unless a crime has been committed; anecdotal reports regarding the use of the existing DPPO indicate no identified disproportionality regarding its use.
- 11.2 The proposed public drinking ban covering St Peter's, Park Wards and the City Centre would be applied universally to avoid the potential for discriminatory practice.

12.0 Climate change and environmental implications

- 12.1 The proposals would have a positive environmental impact by reducing the litter associated with public drinking within City Centre, St Peter's and Park wards.

13.0 Human resources implications

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

15.0 Corporate landlord implications

16.0 There are no corporate landlord implications associated with this proposal.

17.0 Health and Wellbeing Implications

17.1 The PSPO will have a positive impact on alcohol related crime and along with other tools reduce the number of people drinking and alcohol dependency across the city. Positively impacting on both the health and wellbeing of individuals.

18.0 Covid Implications

18.1 The PSPO can be used along with a suite of other tools to deter people from drinking in park and green spaces. This is particularly pertinent during the Covid-19 restrictions and lockdown measures. There has been an increase in people enjoying parks and green spaces, including drinking in these areas as they are not able to frequent public houses. The prompt renewal of the PSPO will allow police to confiscate alcohol from those causing a nuisance and reduce the number of ASB complaints. This measure may also contribute to deterring people from gathering to drink.

19.0 Schedule of background papers

19.1 There are no background papers

20.0 Appendices

20.1 Appendix 1 – Proposed Ban Areas PSPO Renewal

20.2 Appendix 2 – Consultation outcomes PSPO Renewal