

Neighbourhood Services and Enforcement Committee



Thursday 5 January 2023

Title	<i>Public consultation "Street Drinking"</i>
Purpose of the report	To Note
Report Author	Will Jack Community Safety Officer - Neighbourhood Services
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	Community Environment
Recommendations	Committee is asked to: 1. Note the results of the public consultation exercise on "Street Drinking"
Reason for Recommendation	The results of the consultation exercise confirms that there are insufficient grounds for the implementation of a Public Space Protection Order (PSPO) to tackle street drinking.

1. Summary of the report

- 1.1 This report is in direct response to the motion agreed at the Neighbourhood Services Committee on 24th February 2022

Motion: "That consultation be undertaken into the possibility of the Council making a Public Spaces Protection Order (PSPO) under Section 59 of the Anti- Social Behaviour, Crime and Policing Act 2014 in respect of the areas and activities in Spelthorne determined by the borough Commander"

- 1.2 This report seeks to outline and present the 2022 Public Consultation results that took place between the 23 September 2022 and the 14 October 2022. The participants were as follows:

- **Borough Commander for Spelthorne**
- **The Police & Crime Commissioner**
- **Town Centre Businesses**

- **Ward Councillors**
- **The Voluntary Sector**
- **Community Representatives**
- **Local residents/those working nearby (via a survey)**

2. Key issues

2.1 Following consultation with the Borough Commander the following issues were raised:

- People loitering and groups with intent to cause criminality or ASB.
- Street drinking and associated ASB.
- Public urination.
- Use of catapults.
- Use of balaclavas by offenders.

2.2 Having reviewed potential options for a PSPO proposal against existing legislation, in the case of catapults, the Community Safety Team considered that legislation was already in existence providing a power to search for articles used in the commission of an offence under S1 Criminal Damage Act 1971. The power to search is provided by S1(8) Police and Criminal Evidence Act 1984. Under S19 Police and Criminal Evidence Act 1984 a constable may seize items that are required as evidence of a criminal offence (subject to conditions). This was not entered into the public consultation.

2.3 In relation to balaclavas, the power to remove face coverings was considered to be sensitive and impractical in the circumstances. The legislation under S60AA Public Order Act 1994 providing police powers to remove disguises when a S60 authorisation is in place is highly controversial and requires a high level of rationale to implement. Furthermore, although some offenders wear face coverings, a large proportion of the community also wear them, particularly in cold weather. This could risk alienating law-abiding citizens and as such was not entered into the public consultation.

2.4 There is a significant amount of evidence to suggest that ASB has and continues to be committed by groups of individuals. There are occasions where lone offenders are responsible, however these are rare. It was considered and agreed that the problem of groups of potential offenders has been included within the PSPO consultation.

2.5 Public drinking within the borough is not seen to be a significant problem by the police however ASB linked to drinking in public has been the subject of Tactical & Co-ordination Group meetings over the past two years. The issue of street drinking when accompanied by ASB has been included in the consultation.

2.6 Public urination is closely linked to street drinking and has been the subject of complaints raised by residents. This has been included in the public consultation.

3. Options analysis and proposal

Appendix A relates to the public consultation document. Analysis is shown as follows:

3.1 The public consultation was sent out on all social media and council publications. The population of Spelthorne is approximately 95,000. 65 responses were received equating to 0.06% of the population actively engaged.

- 40% of responders were from Staines Upon Thames
- 33% of responders were from Sunbury
- 18% of responders were from Ashford
- 4% of responders were from Shepperton
- 3% of responders were from Laleham
- 1% of responders were from Halliford and Stanwell respectively.

3.2 In response to concerns about street drinking linked to ASB: -

89% of responders stated that this was a concern with 78% stating that they had witnessed this behaviour in the past year.

70% of responders did not feel that the police and local authority were effectively managing the problem.

3.3 When asked whether they would support the implementation of a PSPO to tackle these matters 93% were in favour of this.

3.4 The Community Safety Team proposal based the data taken from the public consultation alone is that there are insufficient grounds for the implementation of a PSPO to tackle street drinking. The responses must be taken in conjunction with police statistical data which reveals that between 01 April 2022 and the 30 September 2022 there were 5 cases of nuisance street drinking. Working with the poor response rate to the public consultation in tandem with the low cases reported to the police indicate that this is not a priority issue for the public. Similar public consultations have yielded substantial reports e.g. The PSPO for Nitrous Oxide Abuse received over 700 responses.

3.5 The Human Rights Act 1998 states that interference with a subject's rights should only be carried out in cases where it is both **proportionate and necessary** to do so in pursuance of a legitimate aim.

4. **Proposals for management**

A proposal has been set forward by the Community Safety Team to manage existing Street Drinking occurrence utilising an intelligence-led problem-solving approach. This will assess the scope of the problem in real terms and ensure that a partnership process is implemented to tackle issues.

Partnership Action Days (PAD) held monthly incorporate all partners dedicated to tackle community crime and disorder as part of the Community Safety Strategy. It is felt that the cases of Street Drinking are best managed here where partners have additional resources and can consider future resilience by referrals to the appropriate agencies e.g., High Impact Complex Drinkers Scheme under the Health Security Agency.

5. Financial implications

- 5.1 The main financial implication in relation to the making of a PSPO is signage. Every identified area within the order must have the correct signage placed at the location. This would include strategically placed larger signs covering the highway, the estimated costs for all appropriate signs would be £10,000.
- 5.2 The Surrey Safer Stronger Partnership (SSSP) Budget would need to be utilised to finance this, alternatively a growth bid would need to be submitted for 2023/24 as part of the budget setting process if the PSPO was to be implemented as no funding is available or has been allocated to cover these costs.
- 5.3 There are no additional financial implications as the Community Safety team and JET officers are fully funded by Spelthorne Borough Council.
- 5.4 There would also need to be a communications campaign which would include the production of several posters and flyers that could be delivered to strategic points in the borough as well as the Council Community noticeboards, there would be some cost for production which would also need to be drawn from the SSSP budget.

6. Risk considerations

- 6.1 Corporate risk assessments are in place to manage general risk. Tactical risk assessments are utilised to manage specific tasks and activities such as Junior Citizen.
- 6.2 There is a potential risk to the safety of Local Police personnel when dealing with members of the public who could be under the influence of alcohol and are drinking in public place. This is a matter for police to manage.

7. Other considerations

- 7.1 Consideration should be given to whether a PSPO would be appropriate in this case.

8. Legal considerations

- 8.1 The making of a PSPO or a variation to a PSPO can only be made if the Local Authority are satisfied on reasonable grounds that:
- (i) the activities, as set out in the 2014 Act, are carried out or likely to be carried out, in a public place:
 - Are having a detrimental effect on the quality of life of those in the locality, or
 - It is likely that those activities will be carried out in a public place within that area and that they will have such an effect and
 - (ii) that the effect or likely effect of those activities:
 - is or is likely to be of a persistent or continuing nature, and
 - Is or is likely to be such as to make the activities unreasonable, and
 - justifies the restrictions to be imposed.

Further, the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order —

(a) to prevent the detrimental effect referred to in (ii) above from continuing, occurring, or recurring, or

(b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence, or recurrence.

8.2 The Council must also have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 respectively of the Convention for the Protection of Human Rights and Fundamental Freedoms.

8.3 Article 11 provides for freedom of peaceful assembly and association with others; but both articles recognise that such freedoms are subject to restrictions imposed by law which are necessary in a democratic society in the interests of prevention of crime and disorder, protection of health or morals of others or for the protection of the rights and freedoms of others. It is considered that the proposed PSPO does not strike the correct balance in terms of the nature and extent of the restrictions sought to be imposed and the areas involved, having regard to the issues and the consultation responses outlined in this report and that such freedoms may be affected more than is necessary.

9. Equality and Diversity

9.1 The Council which includes the work of the SSSP, and its partners recognises the diversity of the people and the communities of the borough and is committed to:

- Working with our partners and the boroughs many communities to understand and meet the needs of individuals and communities, and improve their opportunities, wellbeing, and ability to live together productively.

Tackling areas of potential discrimination to ensure that services are offered equitably and appropriately.

- Ensuring that all services provided by or on behalf of the Council are appropriate, inclusive, accessible, and fair.
- Involving the wider community, service users and partner organisations in consultation to ensure that views are taken account of.
- Building closer links with all communities across the district and using our influence within the local community to give a lead to partners and other local agencies to promote equalities.

10. Sustainability/Climate Change Implications

10.1 There are no implications for Sustainability or Climate Change as the results of the consultation show that there are insufficient grounds for implementing a PSPO related to "Street Drinking".

11. Timetable for implementation

11.1 The public consultation exercise has now been completed

12. Contact

12.1 Will Jack Community Safety Officer

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Background papers: There are none.

Appendices:

Appendix A – Public Consultation Summary Document.

Appendix B – Police ASB statistics