



**Cabinet**  
12 October 2020

**Report from the Strategic Director  
of Regeneration and Environment**

**Extension of Borough-Wide Street Drinking Public Spaces  
Protection Order to October 2023**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	Two Appendix 1: PSPO Area Map Appendix 2: Breakdown of Alcohol Related Offences
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**1.0 Purpose of the Report**

- 1.1 Brent Council is committed to maintaining a clean and safe environment and it is the Council's responsibility to keep the local environment clear of litter, anti-social behaviour, including other local environmental quality issues affecting the lives of residents and other members of the public.
- 1.2 Public Spaces Protection Orders (PSPO) were made available under the Anti-Social Behaviour Crime and Policing Act 2014 (The 2014 Act) to enforce activities (nuisance behaviour) in a public place within the authorities area that is, or is likely to have a detrimental effect on the quality of life for those in the locality. By 20 October 2017 all Local authorities were required to replace Controlled Drinking Zones (CDZs) with PSPOs or discontinue them. Cabinet of 11 September 2017 agreed to replace the Borough Wide CDZ with a Public

Spaces Protection Order for the maximum duration of 3 years. The PSPO came into force on 20 October 2017 in accordance with the legislation and now requires extending before it expires. This paper outlines the PSPO enforcement data since the order was implemented and consultation findings on the proposed recommendation to extend the PSPO.

## **2.0 Recommendations for Cabinet**

That Cabinet agree to:

- 2.1 Extend the Borough wide street drinking PSPO for a further 3 years, commencing from 20 October 2020 to 19 October 2023 on the grounds that it is necessary to prevent an increase in the frequency or seriousness of those activities.

## **3.0 Detail**

- 3.1 Under Section 59 of The 2014 Act, a PSPO may be made by the Council after consultation with the Police, Mayor's Office for Policing and Crime, and any other relevant bodies, groups or individuals (such as community leaders or users of a particular area/facility). The PSPO places restrictions and/or requirements on people using the area defined by the PSPO. Breach of a PSPO is a criminal offence and could lead to a fixed penalty notice of £100 or a maximum penalty of £1000 if prosecuted.
- 3.2 The prohibition and mapped out area for which the PSPO will be enforced can be seen in Appendix 1, Aside from extending the duration, the prohibition and localities remain the same.
- 3.3 The legal requirements regarding the Council's powers to make and extend PSPOs are set out in section 6 of this report. They must be taken into account (in particular paragraphs 6.1 to 6.4) when considering extending the proposed restriction.

### **Street drinking in Brent**

- 3.4 Following the implementation of a Borough wide street drinking PSPO, there have been 887 alcohol offences which has shown a downward trend from the preceding 3 years. Police data has shown that 57% of all alcohol related offences involved violence within that period. The data also shows evidence of street drinking offences in all wards in Brent with Stonebridge, Wembley Central, Harlesden and Tokyngton being the Wards with the highest frequency of offences. A full breakdown can be seen in Appendix 2.
- 3.5 Complaints around consumption of alcohol creating a nuisance was the second highest category reported to the Anti-Social Behaviour Team between January 2018 and July 2020. There have been 84 complaints reported to the Anti-Social Behaviour Team during that period and there have been 9 member and MP complaints, including 3 service requests regarding drinking hotspot areas.

- 3.6 Brent Police in conjunction with the Council's ASB Team have issued either warnings or fixed penalty notices for breach of this PSPO to 392 individuals between 1 January 2018 and 31 July 2020. Similarly, the Council's Environmental Enforcement Team and the Neighbourhood Patrol Team, who are authorised teams to enforce the PSPO, have issued 310 Fixed Penalty Notices for street drinking non-compliance from 1 January 2018 to 31 July 2020.
- 3.7 There is therefore clear evidence of a direct causal link between street drinking and unlawful or anti-social behaviour
- 3.8 The extension of this PSPO will maintain the Council's ability to continue to monitor and take enforcement action where necessary, including safeguarding members of the public and signposting individuals to alcohol treatment services commissioned by Brent.
- 3.9 The Council's current approach where someone is evidenced to have been drinking alcohol on the street is to approach the individuals concerned, issue a warning and request them to stop drinking alcohol. If they fail to comply, a fixed penalty notice is issued. A vulnerability protocol is in place between the police and council to ensure that those with mental health, substance misuse issues and or other vulnerabilities have enforcement waived and are triaged to support services. Enforcement data is also monitored to see if there are adverse impacts on those persons with protected characteristics as set out in the Equalities Act 2010. Westminster Drug Project (WDP) an organisation that works with people with protected characteristics, have treated 663 people for alcohol abuse between 1 April 2018 and 31 July 2020. The extension of the PSPO will continue to aid the identification of individuals with alcohol misuse issues and ensure effective signposting to support services like WDP
- 3.10 Offenders who continue to breach after being issued with a fixed penalty notice will be referred for prosecution and be subject to other anti-social behaviour tools and powers such as Community Protection Notices. Criminal Behaviour Orders will also be considered to ban individuals from areas. A breach of these orders could lead to a large fine or a custodial sentence at the discretion of the court.
- 3.11 Commissioned services such as St Mungo's and WDP are tasked monthly through the Council's Brent Joint Action Group to proactively outreach in areas which have been identified as drinking hotspots, to ensure alcohol treatment pathways and homeless needs are addressed.
- 3.12 In light of recent legislation restricting the hours of pubs and clubs to 10pm, there is a potential to see an increase in street drinking activity and this is currently being monitored.

#### **4.0 Alternative Options Considered**

- 4.1 Consideration was given to look at parts of Brent where street drinking is most prevalent and implement a PSPO in those particular areas. However, the data referenced in Appendix 2 has shown street drinking offences in all wards in Brent. There is also a risk of displacing the problem to other areas in Brent

should selective areas be implemented. Extending the existing borough-wide drinking PSPO also provides Brent Council with the ability to provide a consistent approach to tackling alcohol related ASB across the Borough.

## **5.0 Financial Implications**

- 5.1 There is no cost to affixing the notices as the current notices in place are not time limited. Furthermore, there are no additional officer costs to enforce the PSPO.
- 5.2 Should the PSPO not be extended there is an estimated cost of £5000 to remove the current signage prohibiting street drinking.
- 5.3 Annual income generated from fixed penalty notices for breach of the PSPO is estimated at £8000.

## **6.0 Legal Implications**

- 6.1 The 2014 Act provides the Council with power to make PSPOs in the areas where a particular nuisance or problem occurs which is detrimental to local community's quality of life, by imposing conditions on the use of those areas. In order to issue a PSPO, the Council must be satisfied on reasonable grounds that the two statutory conditions set out in s59 (2) and s59 (3) are met and that it is reasonable and proportionate for the restrictions.
- 6.2 S60 of The Act sets out the requirements in order to extend a PSPO. It states that a PSPO has effect for not more than three years and may be extended in order 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.*
- 6.3 Furthermore, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 (SI 2014/2591), when a local authority has made, extended or varied a PSPO, that local authority must publish the order and erect notices publicising the fact that an Order has been made and the effect that it has.
- 6.4 The council will need to evidence that it has given regard to The Human Rights Act 1998. The rights and freedoms provided for in the Human Rights Act are qualified rights which means they can lawfully be restricted providing it is a proportionate and necessary means of achieving a legitimate aim. In considering the Human Rights Act the council must balance the rights and freedoms of individuals, in relation to the proposed restrictions imposed, against the needs of the wider community.

## **Business Planning Act 2020**

- 6.5 The Business Planning Act 2020 temporarily modifies the Licensing Act 2003 to provide an automatic extension to the terms of most premises licenses which only permit the sale of alcohol for consumption on the premises to allow the sale of alcohol for consumption off the premises. It's important to note that the provisions in the Act do not override or suspend PSPOs that ban the consumption of alcohol in public. However, licensed premises in such an area and wanting customers to be able to consume alcohol outside or off the premises, can apply to the Council for an exemption.

### **7.0 Equality Implications**

- 7.1 The implementation and policing of the PSPO will be in accordance with the Equality Act 2010. There will be no discriminatory policing of this proposed order in line with our Public Sector Equality Duty.

- 7.2 The Public Sector Equality Duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a "protected characteristic" and those who do not share that protected characteristic. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

- 7.3 Consideration must also be given how these restrictions regarding extending the proposed PSPO might impact adversely on those persons with protected characteristics as set out in the Equalities Act 2010 and whether there should be any mitigated actions proposed in relation to any potential adverse impacts of such proposals.

- 7.4 An Equality Impact Assessment has been carried out around the PSPO enforcement since the order was enacted. A summary of those findings show an overrepresentation of males issued warnings and notices. There are challenges in obtaining data around race, sexual orientation, or religious belief and there are current plans in progress to mitigate this by developing more joined up enforcement structures between the council and police.

### **8.0 Any Other Implications (HR, Property, Environmental Sustainability - where necessary)**

- 8.1 None.

### **9.0 Consultation with Ward Members and Stakeholders**

- 9.1 A six week consultation was conducted from 20 July 2020 to 31 August 2020. 354 respondents participated in the consultation to extend the borough wide street drinking PSPO. This is typically a good response rate for a consultation as the recent Budget 2019-2022 consultation received 275 responses. The consultation was publicised on the Council website in accordance with the

legislation. All ward members, all Safer Neighbourhood Teams in Brent, the Safer Neighbourhood Board and all resident groups in Brent, signed up to receive notifications from the Council, all received an alert of the consultation. A press release was also sent to the Kilburn Times to notify the wider public and information was included in the Council's weekly electronic newsletter which is sent to Brent residents.

- 9.2 Over 90% of respondents strongly agree or agree that the PSPO should be extended for a further 3 years. Less than 10% of respondents strongly disagree or disagreed with the proposed extension, showing an overwhelming majority in favour of extending the existing PSPO.
- 9.3 The overall Consultation findings show that most participants are in favour of the extension of the PSPO for a further 3 years however a small minority who opposed the order expressed doubts on the resourcing capacity to effectively monitor or enforce, vulnerable individuals unfairly targeted and an unnecessary regulation in the absence of public disorder. As outlined in the paper the current enforcement protocol safeguards vulnerable people and the use of crime data will dictate how resources are shared across the borough.
- 9.4 The Safer Neighbourhood Board and Brent Police Inspector have both written a statement of support to extend the order for a further 3 years

**Report sign off:**

**ALAN LUNT**

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