

# Bath & North East Somerset Council

MEETING	<b>Cabinet</b>	
MEETING DATE:	<b>12<sup>th</sup> September 2024</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 3542</b>
TITLE:	<b>Proposed Public Spaces Protection Orders to restrict alcohol consumption (resulting in anti-social behaviour) in public spaces in Bath and Midsomer Norton</b>	
WARD:	All wards in Bath City, Midsomer Norton Redfield and Midsomer Norton North wards.	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Appendix 1. Consultation responses on draft Public Spaces Protection Order for Bath City and Midsomer Norton		
Appendix 2. Draft Order: Bath City (map attached)		
Appendix 3. Draft Order: Midsomer Norton (map attached)		
Appendix 4. Equality Impact Assessment for Bath City and Midsomer Norton		
Appendix 5. Bath City & Midsomer Norton PSPO Consultation Equality Data Analysis		

## 1 THE ISSUE

**1.1** The Public Spaces Protection Orders which restrict street drinking operating in Bath City and Midsomer Norton expire in September 2024. Public Spaces Protection Orders (PSPOs) are implemented under the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”). This report invites the Cabinet to determine whether to renew the PSPOs and therefore restrictions on street drinking in these areas, following a consultation as required by the legislation.

## 2 RECOMMENDATION

The Cabinet is asked to:

**2.1** Consider the outcome of the consultation on Public Spaces Protection Orders to restrict street drinking in the City of Bath and Midsomer Norton.

- 2.2 Consider the legislative criteria for adopting PSPOs, as set out in Section 4 of this report.
- 2.3 In the light of 2.1. and 2.2 above make the Bath City Order and Midsomer Norton Order as set out in Appendix 2 and Appendix 3 of the report.
- 2.4 Request the Head of Legal Services or an authorised signatory on their behalf to sign and seal the Bath City Order and the Midsomer Norton Order.
- 2.5 Request the Head of Corporate Office to undertake publicity relating to any agreed Order.
- 2.6 Request the Community Safety Partnership to receive regular monitoring reports on the impact of the PSPOs, including equality impacts, and updates on support and treatment available for people who misuse alcohol including street drinkers.
- 2.7 Thank those who were involved in the consultation process and publicise the outcomes of the consultation.
- 2.8 Consider whether the decision for future PSPO Order Renewals for Bath City and Midsomer Norton should be treated as a single member decisions.

### **3 THE REPORT**

- 3.1 The Criminal Justice and Police Act 2001 gave the Police the power to seize and dispose of alcohol if they believed someone is, has or is about to consume it where a Designated Public Place Order is in force. Failure to comply with the Police request was made an arrestable offence and punishable by a fine. Councils were given the power to “designate” and make a Designate Public Place Order where they were satisfied that nuisance or annoyance to members of the public or a section of the public, or disorder, had been associated with consumption of alcohol in that place.

#### **The Act**

- 3.2 The Anti-social Behaviour, Crime and Policing Act 2014 made a number of changes to the law on anti-social behaviour. A key change was the introduction of Public Spaces Protection Orders (PSPOs) to replace Designated Public Place Orders.
- 3.3 Statutory Guidance states that PSPOs are intended to deal with a particular nuisance or problem in an area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area which apply to everyone.

**3.4** A PSPO can be made where the Cabinet is satisfied that the legal test is met in 4.1 below. In 2017 the Council agreed to implement a PSPO for the whole of the City of Bath and a further Order for public spaces around the Midsomer Norton Town Centre.

**3.5** In September 2021, the Cabinet adopted the above and agreed to their continuation until September 2024.

## **4 STATUTORY CONSIDERATIONS**

### **The Legal Test**

**4.1** Section 59 of the Act outlines the legal test which must be satisfied in order for a PSPO to be made. The Cabinet needs to be satisfied on reasonable grounds that two conditions are met:

(1) 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.

(2) The second condition is that the effect, or likely effect, of the activities –

(a) is, or is likely to be, of a persistent or continuing nature,

(b) is, or is likely to be, such as to make the activities unreasonable, and

(c) justifies the restrictions imposed by the notice.

**4.2** "Public place" is defined in section 74(1) of the Act as "any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of expressed or implied permission."

**4.3** A legal challenge to a PSPO must be made to the High Court within 6 weeks of being made and can only be made by an individual who lives in, regularly works in, or visits the restricted area.

**4.4** A PSPO can remain in force for up to a maximum of three years and should be reviewed before expiry in order to determine whether or not it should be extended.

## **Premises to which an alcohol prohibition does not apply**

**4.5** Section 62 of the Act prescribes premises to which alcohol prohibition does not apply as:

(1)(a) premises (other than council-operated licensed premises) authorised by a premises licence to be used for the supply of alcohol;

(b) premises authorised by a club premises certificate to be used by the club for the supply of alcohol;

(c) a place within the curtilage of premises within paragraph (a) or (b);

(d) premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol or which, by virtue of that Part, could have been so used within 30 minutes before that time;

(e) a place where facilities or activities relating to the sale or consumption of alcohol are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses).

**4.6** A prohibition in a public spaces protection order on consuming alcohol also does not apply to council-operated licensed premises –

(a) when the premises are being used for the supply of alcohol, or

(b) within 30 minutes after the end of a period during which the premises have been used for supply of alcohol.

## **Equality and convention rights**

**4.7** The Council must have particular regard to the rights of freedom of expression and freedom of assembly and association set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms when deciding whether to make, extend, vary or discharge a PSPO and what it should include, if appropriate.

**4.8** Article 10 protects the right to freedom of expression but this is a qualified right which may be interfered with if such interference is in accordance with the law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority or impartiality.

**4.9** Article 11 protects the right to freedom of assembly and association, but this is a qualified right which may be interfered with if such interference is in accordance with the law and is necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or the administration of the State.

**4.10** It is considered that any infringement of these Convention rights through the making of the proposed PSPO would be properly regulated by the law including the Act and is necessary in a democratic society. Any such infringement would be in the promotion of a legitimate aim namely for the prevention of disorder or crime, for the protection of the rights and freedoms of others.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

**5.1** The legal costs of preparing any agreed Order will be met from within existing budgets. Subject to Cabinet agreeing any Order, further work will be undertaken on updating any required statutory signage and additional publicity relating to the Order. Wherever possible this will be sought from within existing budgets with funds also sought from external sources and partners.

## **6 RISK MANAGEMENT**

**6.1** A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## **7 EQUALITY**

**7.1** An [Equality Impact Assessment](#) was carried out prior to consultation. (Appendix 4). Through our Equality Impact Assessment, a number of positive impacts were identified as arising from a PSPO, particularly where this reduces the fear of crime and anti-social behaviour.

**7.2** Further equality impacts were identified through the consultation process, to clarify whether those with protected characteristics are disproportionately impacted by a PSPO. This data is summarised in Appendix 5.

## **8 CLIMATE CHANGE**

**8.1** Not Applicable. There are no known impacts of a PSPO on climate change.

## **9 OTHER OPTIONS CONSIDERED**

**9.1** Take no action. This would result in reduced enforcement powers for Avon and Somerset Police to tackle anti-social behaviour.

## **10 CONSULTATION**

### **Consultation requirements**

**10.1** Under Section 72 of the Act, Councils must consult with the Chief Officer of Police, local policing body (in this case the PCC), community representatives it thinks appropriate to consult and the owner or occupier of the land within the restricted area.

**10.2** The requirement to consult with the owner or occupier of land within the proposed restricted area does not apply to land that is owned and occupied by the local authority; and applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

**10.3** The proposal for Bath City and Midsomer Norton subject to consultation was to renew the PSPOs as far as possible on a 'like-for-like' basis, with regard to both the geographical scope of the areas and the framing of the orders themselves. A 6-week formal consultation period ran from 08<sup>th</sup> of July 2024 to 16<sup>th</sup> of August 2024 for both Bath City and Midsomer Norton, details of which can be found in Appendix 1.

### **Key Considerations**

**10.4** There are complaints about groups of people who regularly congregate in certain areas and often behave in an unpleasant manner to anyone passing by.

**10.5** Key areas of concern include Widcombe, Manvers Street, Abbey Church Yard, Kingsmead Square, Riverview Court Area, Palace Yard Mews sheltered car parks, Westgate, North Parade Bridge, river yards from the weir, Milsom Street, Union Street, High Street and also Hedgemoor Park, Moorland Road, Memorial Gardens at Shaftesbury Road and the lane between Canterbury Road and Junction Road. Issues have also been identified surrounding Henrietta Park.

**10.6** Consultation comments have highlighted the importance of active enforcement of PSPOs and police presence with regards to enforcing these.

**10.7** Evidence from the consultation demonstrates that antisocial behaviour caused by alcohol consumption has had a detrimental effect on the quality of life of people in the City of Bath and Midsomer Norton. This includes:

- Reports of residents avoiding the city centre because of feeling intimidated or having concerns for their safety due to anti-social drinking.
- Intimidation caused by anti-social behaviour such as aggressive begging, shouting, swearing, and abuse targeted at passersby.
- Frequent noise, littering and damage caused by alcohol related anti-social behaviour. This includes broken glass from alcohol bottles anywhere in the city centre.

**10.8** To make any Order, the Cabinet needs to be satisfied on reasonable grounds that the conditions set out at 4.1 are met.

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<b>Background papers</b>	Public Spaces Protection Orders to restrict alcohol consumption in public spaces in Bath 2021-2024 (signed and sealed) – Can be found here:  <a href="https://democracy.bathnes.gov.uk/mglIssueHistoryHome.aspx?IIId=39062&amp;PlanId=399&amp;RPID=87196579">https://democracy.bathnes.gov.uk/mglIssueHistoryHome.aspx?IIId=39062&amp;PlanId=399&amp;RPID=87196579</a>  Previous Cabinet decision & papers from 2021 can be found here:  <a href="https://democracy.bathnes.gov.uk/ieDecisionDetails.aspx?ID=1607">https://democracy.bathnes.gov.uk/ieDecisionDetails.aspx?ID=1607</a>
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