

Report to: **Executive**

Date: **8th July 2021**

Title: **Public Space Protection Order – Alcohol**

Portfolio Area: **Wellbeing - Cllr J Hawkins**

Wards Affected: **As set out in the recommendations below**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

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RECOMMENDATIONS:

That the Executive RECOMMEND that Council:

- 1. RESOLVES to agree the:**
 - a) Dartmouth Alcohol Public Space Protection Order 2021 as set out in Appendix A;**
 - b) Ivybridge Alcohol Public Space Protection Order 2021 as set out in Appendix B;**
 - c) Kingsbridge Alcohol Public Space Protection Order 2021 as set out in Appendix C.**
 - d) Salcombe Alcohol Public Space Protection Order 2021 as set out in Appendix E**
 - e) Agree the Totnes Alcohol Public Space Protection Order 2021 as set out in Appendix G.**

- 2. does not make a Public Space Protection Order at this time for the following areas:**
 - (a) Modbury as set out in Appendix D;**
 - (b) South Brent as set out in Appendix F; and**
 - (c) Woolwell as set out in Appendix H.**

1. Executive summary

1.1 The Report asks Members to consider the recommendations as to whether or not an Alcohol Public Space Protection Order should be made in relation to eight towns or areas with the District of South Hams. Each recommendation is based on an assessment of the evidence as to whether or not the statutory grounds for making each Order have been established. The eight towns or areas in question are: Dartmouth, Ivybridge, Kingsbridge, Modbury, Salcombe, South Brent, Totnes and Woolwell, these being the most likely areas where potential issues might arise.

1.2 Sections 59 to 75 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) set out the powers that a Local Authority has to regulate behaviour within a specified area with public access, to prevent anti-social behaviour from causing a detrimental impact to the quality of life to those in the locality. This includes the power for principal councils to make Public Space Protection Orders (PSPO's) in respect of public places. The purpose of a PSPO is to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. It can be used to deal with existing problems that are likely to continue in the future. For the purpose of this report, the PSPO's proposed are in relation to alcohol and the related anti-social behaviour that can have a detrimental impact on some communities.

Only a Local Authority can make a PSPO in respect of a public place within its area. The definition of "local authority" under the Act is a district council. Parish and Town Councils do not have the power to issue PSPO's.

1.3 PSPO's allow a local authority to respond to concerns of anti-social behaviour in a specific area by prohibiting certain activity and/or requiring specified things to be done within it. The Council must be satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- Activities currently carried out in a public place within the area of the authority have had a detrimental effect on the quality of life of those in the locality.
- OR
- It is likely that activities will be carried out in a public place within that area and that those activities will have such an effect.

The second condition is that:

- It is (or is likely to be) of a persistent or continuing nature.
- It is (or is likely to be) such to make the activities unreasonable; and
- Justifies the restrictions imposed by the notice.

Any prohibitions or requirements imposed by the PSPO must be made in strict regards to ceasing the anti-social behaviour or reducing it. As such, any requirements must be proportionate and tailored to the behaviour of concern and to the persons causing it.

2. Background

2.1 The eight towns listed in paragraph 1.1 above were all subject to an Alcohol PSPO from January 2018. These were in place for 3 years and the Council now needs to decide whether or not to make new Orders based on evidence of need and following consultation with the public, police and other relevant bodies (see below).

2.2 A 30 day consultation period for each of the eight towns and areas was launched on 18th November 2020 and ran until 18th December 2020 inclusive. The public and other stakeholders such as town and parish councils were asked to respond to the following points if they lived or worked in any of the 8 areas, about their thoughts on the Orders relating to alcohol related anti-social behaviour:

- What is your view on the Public Spaces Protection Order in your area to address alcohol related anti-social behaviour in the locality?
- Do you have any evidence of alcohol related anti-social behaviour - for example reports to Police or concerns raised with an agency?
- Where does this anti-social behaviour take place?
- What is the impact of that behaviour on you and your community/business quality of life?

A summary of the responses received for each town or area are listed anonymously under the following appendices:

Dartmouth – Appendix A
 Ivybridge – Appendix B
 Kingsbridge – Appendix C
 Modbury – Appendix D
 Salcombe – Appendix E
 South Brent – Appendix F
 Totnes – Appendix G
 Woolwell – Appendix H

The public consultation also included all town and parish councils. Any responses from town and parish councils have been included in the relevant appendix for each town or area.

2.3 In addition to the public consultation South Hams District Council has worked with Devon and Cornwall Police to obtain the crime figures, where possible, based on police logs which are presented in table format in each of the appendices A - H. Also, where possible the Police Neighbourhood Team Leader for each town has provided a brief summary for context.

2.4 The proposed areas to be included within each of the areas considered are shown on the maps in Appendix I to this report.

3. Outcomes/outputs

3.1 The wording to accompany any of the proposed Orders is as follows:

The Order "...requires that any person within the PSPO area; shall surrender any open vessel containing alcohol to an authorised person when requested to do so by that authorised person..."

3.2 Fines for Fixed Penalty Notices for breach of an Alcohol PSPO offences are set at £100.00 per offence. Fixed penalty notices may be issued by the Police or a person authorised by the Council.

3.3 Before making a PSPO, the Council must consult with the Police at Chief Officer level and the Devon, Cornwall and Isles of Scilly Police and Crime Commissioner. The Council has received the following response from the Office of the Police and Crime Commissioner (OPCC):

"...After discussions with the Police in the South Hams area, the OPCC don't have any objections to the proposed PSPOs in Totnes, Salcombe, Kingsbridge,

Dartmouth and Ivybridge, providing enough evidence was presented to the Council through the consultation process.

It is the OPCC's understanding that, at present, there may not be enough reason to justify alcohol-related PSPOs in Modbury, South Brent and Woolwell, given the Police have had few reports of alcohol-related ASB [anti social behaviour] in these areas..."

4. Options available and consideration of risk

4.1 The Council can decide not to make any Alcohol Orders at this time but if this were to happen the Council could be open to criticism that it is not upholding its responsibilities under Section 17 of the Crime and Disorder Act 1998. This states that all relevant authorities (which includes district councils) have a duty to consider the impact of all their functions and decisions on crime and disorder in their local area.

The Police have the option of various other powers available to them, such as Section 5 of the Public Order Act 1986 or Section 35 of Anti Social Behaviour, Crime and Policing Act 2014 which is time limited to 24 or 48 hours and has the ability to disperse individuals who are likely to harass or alarm members of the public.

However, Public Space Protection Orders are the preferred option supported by the Police as the most effective way of dealing with alcohol related anti-social behavioral issues (as set out in the evidence attached in the Appendices).

4.2 As outlined in section 1.3 above, in order to apply a Public Space Protection Order the Council must be satisfied on reasonable grounds that in doing so, it is necessary to prevent:

- Occurrence or recurrence of the activities identified in the order, or
- An increase in the frequency or seriousness of those activities after that time.

4.3 If the Council does not agree a PSPO for an area at this time, then there is no legislation or reason to suggest that one cannot be sought in the future if circumstances for the area were to change.

5. Proposed Way Forward

It is recommended that Alcohol Public Space Protection Orders are made for the following areas based on the evidence set out in the relevant appendices attached to this report:

Dartmouth (see appendix A).
Ivybridge (see appendix B)
Kingsbridge (see appendix C)
Salcombe (see appendix E)
Totnes (see appendix G).

It is recommended that no Alcohol Orders are made in respect of the following areas at this time as there is insufficient evidence:

Modbury (see appendix D)
 South Brent (see appendix F)
 Woolwell (see appendix H)

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>Under the Anti-social Behaviour, Crime and Policing Act 2014, Public Space Protection Orders (including the surrender of any alcohol) may be made by South Hams District Council if satisfied on reasonable grounds that:</p> <ul style="list-style-type: none"> • 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 it is likely that activities will be carried on in a public place within that area and that they will have such an effect. Further, • the effect, or likely effect, of the activities is, or is likely to be of a persistent or continuing nature • the effect, or likely effect, of the activities is, or is likely to be, such as to make the activities unreasonable, and • the effect, or likely effect, of the activities justifies the restrictions imposed by the notice. <p>Any restrictions or prohibitions that are to be imposed must be both reasonable and aimed at preventing or reducing the risk of the detrimental effect continuing.</p>
Financial implications to include reference to value for money	Y	<p>There are no direct financial implications for making the Orders.</p> <p>Costs are being sought to replace the existing metal signs which currently show a 3 year Order from 2018.</p>
Risk	Y	<p>The risk of not agreeing the Orders recommended for the 5 areas are set out in paragraph 4.</p> <p>Applying the Public Space Protection Order requires the Borough Council and Police to support said Orders through enforcement.</p> <p>Poor enforcement performance will lead to customer dissatisfaction which will impact on the Borough Council's and Police's reputation.</p>
Supporting Corporate Strategy	Y	Wellbeing, Environment and Communities

Climate Change - Carbon / Biodiversity Impact	N	There are no direct carbon/biodiversity impact arising from the recommendations.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no equality and diversity implications.
Safeguarding	N	There are no direct safeguarding implications.
Community Safety, Crime and Disorder	Y	The Orders are generally preventative. They prevent the behaviour from occurring. However the can and will be enforced as required. Section 17 of the Crime and Disorder Act requires local councils to be jointly responsible for the prevention of crime and disorder with police.
Health, Safety and Wellbeing	Y	A locality with little to no antisocial behaviour (through alcohol) has a large impact on the mental and physical wellbeing of its residents
Other implications	N	Human Rights - In deciding whether to make a public space protection order and if so, what it should include, the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights.

Supporting Information

Appendices:

Appendix A: Dartmouth area listed street names, consultation feedback, police data and statement

Appendix B: Ivybridge area listed street names, consultation feedback, police data and statement

Appendix C: Kingsbridge area listed street names, consultation feedback, police data and statement

Appendix D: Modbury area listed street names, consultation feedback, police data and statement

Appendix E: Salcombe area listed street names, consultation feedback, police data and statement

Appendix F: South Brent area listed street names, consultation feedback, police data and statement

Appendix G: Totnes area listed street names, consultation feedback, police data and statement

Appendix H: Woolwell area listed street names, consultation feedback, police data and statement

Appendix I: Map of each town and the area for discussion.