

Report to: **West Devon Borough Council**

Date: **Tuesday 2nd November 2021**

Title: **Public Space Protection Order – Alcohol and Anti-Social Behaviour**

Portfolio Area: **Wellbeing - Cllr Leech**

Wards Affected: **Tavistock**

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

Author: **Richard Easthope** Role: **Environmental Health Specialist**
Contact: **email: Richard.Easthope@swdevon.gov.uk**

Recommendations:

That the Council resolves to:

- (1) **Agree the Tavistock Meadows** Alcohol and Anti - Social Behaviour Public Space Protection Order 2021 as set out in Appendix A

1. Executive summary

1.1 The Report asks Members to consider the recommendations as to whether or not an Alcohol and Anti-Social Behaviour Public Space Protection Order should be made in relation to an area within the Borough of West Devon. The recommendation is based on an assessment of the evidence as to whether or not the statutory grounds for making the Order have been established. The location in question is Tavistock, specifically the area outlined in the map in appendix A, the area known as “The Meadows”.

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. The PSPO’s proposed is in relation to alcohol and 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 or Borough 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 Tavistock Town Council has made a recommendation to the Borough Council for the creation of a public space protection order in the Meadows area of Tavistock. This was recommended due to a rise in anti-social behaviour in the area. The Police have supported this recommendation.

2.2 A 33 day consultation was launched on the 4th August which ran until the 5th September inclusive. The public and other stakeholders such as town and parish councils were asked to submit their comments on the proposal during this period.

A summary of the responses received are listed anonymously in appendix C.

2.3 In addition to the public consultation West Devon Borough Council has worked with Devon and Cornwall Police to obtain crime figures relating to the proposed area. Please see Appendix D.

3. Outcomes/outputs

3.1 The wording to accompany the proposed Order is as follows:

Anti-social behaviour

- At all times, persons will not act in a manner that is causing or is likely to cause, harassment, alarm or distress in the designated area.

Alcohol

- Alcohol must be disposed of or surrendered if requested by an authorised officer

3.2 Fines for breach of an Alcohol or Anti-Social Behaviour PSPO are set at £100.00 per offence, issued in the form of a Fixed Penalty Notice (FPN). 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 response from the Office of the Police and Crime Commissioner (OPCC) in support of the proposals for a PSPO in the Meadows can be found below in Appendix B.

4. Options available and consideration of risk

4.1 The Council can decide not to make any Alcohol or Anti-Social Behaviour 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/Borough councils) have a duty to consider the impact of all their functions and decisions on crime and disorder in their local area.

As referred to by the OPCC 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 Anti-Social Behaviour, particularly that associated with alcohol use.

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 an Anti-Social Behaviour and Alcohol Public Space Protection Order is made for the Tavistock Meadows area based on the evidence set out in the relevant appendices attached to this report:

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 West Devon Borough 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 will be costs associated with the production and fixing of appropriate signage which is required for the PSPO's to be enforceable.</p> <p>There may be additional staffing costs associated with increased enforcement activity in the prescribed area.</p>
Risk	Y	<p>The risk of not agreeing the Order is 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 – Map of proposed PSPO area – Red shaded area denotes PSPO area

Appendix B – Consultation response from the Office of the Police and Crime Commissioner

Appendix C – Summary of Public Consultation responses received between the 4th August and the 5th September 2021.

Appendix D – Tavistock Crime statistics, specifically relating to Anti-Social Behaviour in the Meadows and the surrounding area