

## Community Leadership Committee

**9 March 2016**

<b>Title</b>	Review of Barnet's Designated Public Place Order (DPPO) and the introduction of the Public Space Protection Order (PSPO)
<b>Report of</b>	Jamie Blake, Commissioning Director, Environment
<b>Wards</b>	All
<b>Status</b>	Public
<b>Urgent</b>	No
<b>Key</b>	No
<b>Enclosures</b>	None
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### Summary

Barnet currently has in place a Designated Public Place Order (DPPO). The first DPPO in Barnet was introduced in January 2004 in North Finchley Town Centre to address anti-social behaviour and crime associated with street drinking. Between 2004 and 2011 a further seven town centres had DPPO's introduced, however in 2011, the police raised the issue of displacement of street drinkers into the residential areas of Barnet and therefore a borough wide DPPO was agreed.

In October 2014 the Secretary of State enacted new powers according to the Antisocial Behaviour, Crime and Policing Act 2014 relevant to Anti Social Behaviour (ASB); following this certain sections of the Police and Criminal Justice Act 2001 have been repealed and necessitate changes to the DPPO. All DPPO's currently in place can remain in force for a three year period following the enactment of the 2014 ASB Act. Therefore Barnet's current borough wide DPPO can remain in place until October 2017. However there are a number of other options that can be considered by the Safer Communities Partnership and the Community Leadership Committee (CLC).

<p>This report provides:</p> <ul style="list-style-type: none"> <li>i. An update on the current Barnet DPPO as requested in the 2015/2016 CLC work plan.</li> <li>ii. Details on the Public Space Protection Order (PSPO) a new power introduced in October 2014.</li> <li>iii. Options for members to consider and approve as to whether the DPPO remains in place until October 2017 and the use of the PSPO power in Barnet.</li> </ul>

<b>Recommendations</b>
1. The Committee note and comment on the contents of the report, specifically the new council power to implement and enforce a Public Space Protection Order.
2. That the Committee approve the DPPO remaining in place until 18 October 2017 and that the PSPO is implemented in areas where there is persistent ASB which includes street drinking and related anti-social behaviour and nuisance.
3. That the Committee support the approach of implementing a PSPO as part of a package of interventions that considers engagement with vulnerable offenders, the local community and partners where enforcement is considered against the most persistent offenders.
4. That the Committee approve that a PSPO longer than 6 months will be reviewed by the Community Safety MARAC every 6 months. This review will include consultation with the local community, members and a review of the evidence.
5. That the Committee approve that where, following the review as stated in recommendation 4 above, the ASB problems have been resolved the council and/or the Community Leadership Committee (depending on who initially authorised the PSPO) can revoke the PSPO.
6. That the Committee note that if a PSPO is authorised the Council will need to carry out a statutory consultation before making the order.
7. That the Committee support and approve the proposed authorisation approach set out in section 3.7 of this report and delegate the operational decision in relation to authorising a PSPO for up to three wards to the Commissioning Director for Environment in line with the Scheme of delegation for Officers.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The 2014-2015 CLC work plans noted that an item on the review of the effectiveness of Barnet's DPPO for street drinking was to be scheduled for a future CLC meeting. This item had originally been referred from the Business Management OSC of 11 March 2014. This item was put on hold pending the introduction and changes to the ASB tools and powers as it was inevitable the changes would impact on DPPOs.

1.2 As a result of the changes to the Anti-social Behaviour and Policing Act 2014 and subsequent repeal of relevant sections of the Police and Criminal Justice Act 2001 (relating to DPPO's) the current DPPO in Barnet, if left in place will expire automatically in October 2017. A new power has been introduced in the 2014 ASB legislation fairly similar to the DPPO referred to as the Public Space Protection Order (PSPO). This report is required to:

- Provide an update on the current DPPO to members.
- Seek member views as to whether the DPPO should remain in place until October 2017 or be revoked.
- Share options and provide a recommendation on the future of the DPPO and the authorisation of the PSPO to respond to alcohol related ASB and broader ASB issues.
- Provide further details on the Public Space Protection Order (PSPO)

### **Review of the Designated Public Place Order**

1.3 Section 13 of the Criminal Justice and Police Act 2001 and section 26 of the Violent Crime Reduction Act 2006 provided the power to local authorities in England and Wales to introduce Designated Public Place Orders (DPPOs).

1.4 On 1 September 2001, sections 12–16 of the Criminal Justice and Police Act 2001 came into force. DPPO powers enable local authorities to designate places where restrictions on public drinking apply. However, they can only be used in areas that have experienced alcohol-related disorder or nuisance.

1.5 These powers are not intended to disrupt peaceful activities. While police officers have the discretion to require an individual to refrain from drinking regardless of behaviour. The Home Office guidance issued at the time advised local authorities:

- That it would not be appropriate to challenge an individual consuming alcohol where that individual is not causing a problem.
- That bodies responsible for introducing and enforcing DPPOs must keep in mind section 13 of the Criminal Justice and Police Act 2001 which makes it clear that this power is to be used explicitly for addressing nuisance or annoyance associated with the consumption of alcohol in a public place.

1.6 It is important to note that these powers do not make it a criminal offence to consume alcohol within a designated area.

1.7 An offence is committed if the individual refuses to comply with a constables request to refrain from drinking. Those enforcing these powers must take care that they do not state (either verbally or via signage) that the consumption of alcohol in a designated area, in itself, constitutes a criminal offence.

- 1.8 Barnet initially had four Designated Public Places Orders introduced to tackle anti-social behaviour and crime associated with discrete street drinking populations and nuisance related to the night time economy, the areas were:
- North Finchley Town Centre, introduced January 2004
  - Finchley Town Centre introduced, January 2004
  - Hendon Town Centre, introduced January 2004
  - Cricklewood Town Centre, introduced May 2010
- 1.9 Additional Designated Public Place Orders to tackle street drinking were put in place in:
- Edgware Town Centre and environs
  - Golders Green Town Centre and environs
  - West Hendon Town Centre and environs
  - Burnt Oak Town Centre and environs
- 1.10 An extension to the North Finchley zone was requested by the Police due to the displacement of street drinkers into the surrounding residential area. The Police requested a borough wide DPPO because of displacement into the surrounding areas. Other local authorities were also extending their existing discrete zones to borough wide coverage because of displacement. As a result Barnet council agreed a borough wide DPPO on the 29th May 2012.
- 1.11 Anti-social Behaviour complaints from residents in Barnet have included dog fouling, street drinking, rough sleepers, illegal encampment, urination and defecation in a public places, littering and fly tipping. Whilst a number of initiatives have helped to reduce the impact and prevalence of this behaviour, there is the potential, should the DPPO be removed, it would remove the power of the police to confiscate alcohol from those who are drinking in public and causing ASB.
- 1.12 Barnet currently has approximately 150 signs across the borough. Table 1 shows the interventions the police have recorded between 24 July 2010 and 18 October 2015. These figures are provided as a guide only as there is no set way that police collate these types of seizures as there are several indices used by officers.

Table 1: Police enforcement of the DPPO from 24/07/2010 to 18/10/2015

Ward	Alcohol Confiscated	Sec 5 public Order Warning	PND Issued	Dispersal	Street drinking related issue reported
Childs Hill	152	5		24	Yes
Burnt Oak	1	8		4	Yes
West Hendon	11				Yes
Hendon	3				Yes
Edgware	1			1	Yes
West Finchley	31		1 (*) 1		Yes
Finchley Church End	7				Yes
Brunswick Park	2				Yes
Golders Green	5				Yes
Mill Hill	3	3			Yes

(\*) Issued to off licence for selling to an intoxicated person.

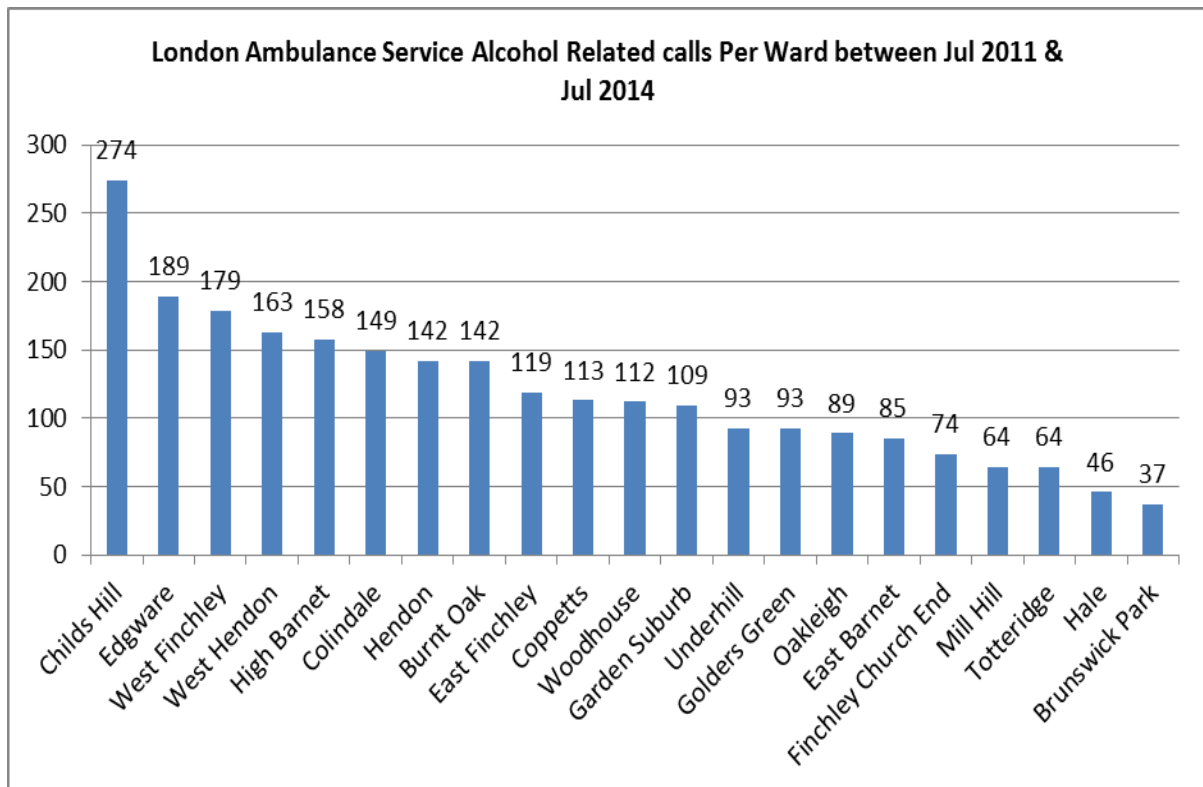
- 1.13 The table highlights the most affected areas in Barnet are West Finchley and Childs Hill. The figures do not provide a complete picture of the action that has been taken to address street drinking. Crimes and ASB can be recorded in many different categories depending on the primary offence and are recorded across four police systems. It can take a selection of different interventions from as simply speaking to someone, to move them on, to referring the individual to a support service or providing advice and information.

### **Alcohol related Crime, Disorder and Nuisance**

- 1.14 There is a well established link between alcohol and crime or anti-social behaviour. Most cases are reported directly to the police and fewer to the local authority.
- 1.15 On the 16<sup>th</sup> April 2014, Barnet Trading Standards conducted statistical analysis into the impact of premises licensed in Barnet. The report focused on the relationship between the concentration of licensed premises and the impact of alcohol related crimes on the community. The report also identified repeat locations for alcohol related violent crime and the impact on emergency services.

- 1.16 The analyses showed licensed premises to sell/consume alcohol are spread across the borough with a high concentration in HA8, NW4, NW11, EN5, N12 and N3.
- 1.17 HA8 specifically from Station Road to the High Street, A5 down to Montrose Avenue are the borough hotspots for street drinking, NW11 is also indicated as a borough hotspot.
- 1.18 The research project reveals that the density of licensed premises especially on and off premises (where alcohol is sold for consumption on or off the premises), contribute to alcohol misuse and source the upsurge in number of alcohol related calls made to the London Ambulance Services (LAS) this is linked to intensification in 999 calls. The analysis also highlighted that 4% of calls to LAS from July 2011 to July 2014 were related to underage drinking.
- 1.19 Alcohol plays a significant impact on crimes in the borough at the locations with clusters of premises where alcohol is sold for consumption on or off the premises. The analysis identified HA8 with the highest concentration of the boroughs off license premises followed by NW4, EN5, NW11, N12, NW2 and N3 these locations are within 2.5 miles radius of the A5 that connects these boroughs hotspots including Edgware Road through Colindale and West Hendon.
- 1.20 HA8, EN5, NW9, NW11 and NW4 have the highest number of license premises and also have high volume of alcohol related crimes.
- 1.21 Alcohol also impacts on ambulance operations in Barnet and is linked to an upsurge in 999 calls as well as contributing towards incidents of abuse and assault on ambulance crew.

**Graph 1: Alcohol related calls to the LAS from July 2011 – July 2014**



1.22 The data of Alcohol related calls to LAS in Barnet borough between July 2011 and July 2014 shows 2,494 calls were made; this is 3% of all alcohol related calls made in London. The graph one above shows the number of calls made to LAS per ward in Barnet (the figures are cumulative and take no account of the borough population). This gives some indication that the areas identified as the borough hotspots for licensed premise comprise a high volume of alcohol related calls to LAS.

Table 2: Alcohol Related Calls to London Ambulance Service from July 2011 to July 2014

Rank	Boroughs	Number of alcohol related calls to LAS between Jul 2011 – Jul 2014
1	Westminster	10161
2	Camden	5579
3	Lambeth	5057
4	Southwark	4708
5	Ealing	3653
6	Hackney	3366
7	Brent	3360
8	Croydon	3347
9	Islington	3265
10	Tower Hamlets	3176
11	Newham	3126
12	Wandsworth	3063
13	Lewisham	3025
14	Haringey	2860
15	Hillingdon	2598
16	Hammersmith Fulham	2582
<b>17</b>	<b>Barnet</b>	<b>2494</b>
18	Waltham Forest	2445
19	Redbridge	2423
20	Kensington Chelsea	2308
21	Hounslow	2246
22	Greenwich	2172
23	Havering	2097
24	Enfield	1969
25	Merton	1690
26	Kingston-upon-Thames	1688
27	Bromley	1648
28	Harrow	1606
29	Barking Dagenham	1566
30	<i>City Of London</i>	<i>1488</i>
31	Richmond Upon Thames	1264
32	Sutton	1209
33	Bexley	1174

- 1.23 The table above shows the total number of alcohol related calls which were made to London Ambulance Service (LAS) broken down into each borough. The figures show Westminster at the top of the table. The figure is high, because Westminster is considered as one of the busiest boroughs in terms of socialising, night time economy and businesses. Camden is ranked second and London Borough of Barnet is ranked at 17.

### **Introducing the Public Space Protection Order (PSPO)**



- 1.24 As stated earlier in the report, PSPOs were introduced in the ASB Act 2014.
- 1.25 Unlike a DPPO, the PSPO is not limited to alcohol related nuisance and can cover a wide range of antisocial behaviours for example:
- Begging;
  - Having a dog off a lead causing a nuisance;
  - Loitering and causing ASB. This includes being in a group drinking, swearing, shouting and intimidating others;
  - Misusing a public toilet, this includes taking drugs;
  - Urination or defecating in a public place.
- 1.26 Local Authorities have the power to implement a PSPO in a specified area if they are satisfied on reasonable grounds that the following two grounds are met:
- (i) Activities carried on in a public place within the Authority's area have had
- (a) 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.
- (ii) 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.
- 1.27 A PSPO is an order made by the council and is designed to stop individuals or groups behaving anti-socially in a public space. The order allows both restrictions and requirements to be set (an order can contain a number of these) and these can be applied universally or targeted against certain groups at certain times.
- 1.28 A PSPO can be used to restrict the consumption of alcohol in a public space (with a number of limitations) although like the current DPPO it is not an offence to drink alcohol in a "controlled drinking zone". An offence is committed when an individual fails to comply with a request to cease drinking or surrender alcohol within the zone. The order can be enforced by police officers, council officers and where designated by PCSO's.
- 1.29 Failure to comply with either a prohibition or requirement of the order is an offence and carries criminal sanctions. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine not exceeding level three on the standard scale (currently £1000). Breaches of the order can also be discharged by use of a fixed penalty notice (FPN).

- 1.30 The Act is not specific about what constitutes an appropriate consultation for the PSPO. Before the Council can make an order it is required to consult with, the Police and Crime Commissioner, appropriate community representatives and the owner or occupier of the land to which the order will apply and Member of Parliament. The Home Office Guidance states that it is good practice to consult with the county council as Highways Authority.
- 1.31 The regulations also stipulate stringent publication requirements for the PSPO which include that;  
*“The local authority must cause to be erected on or adjacent to the public space to which the order relates such notice (notices) as it considers sufficient to draw the attention of any member of the public using that place.....”*
- 1.32 There is no specific timescale requirement over which the consultation should take place. Six weeks is considered to be the minimum period required to allow for an open and transparent process, which seeks the views of members of the public. Public consultation is advisable if the PSPO is to be implemented in a way that mitigates the possibility of legal challenge. There is no duty to advertise in a local newspaper, but the council should advertise on the Website. When implementing a PSPO in Barnet, residents, ward Councillors and multi-agency partners will be consulted.
- 1.33 It should be noted that even if the council follows the relevant steps to bring a PSPO into force, a PSPO, may still be challenged by way of judicial review by anyone subject to it, within 6 weeks of implementing a PSPO. If the PSPO is subject to a judicial review the Court can suspend the operation of the PSPO while the matter is considered.
- 1.34 The PSPO can be applied for a maximum of three years, upon which a process of reviews and consultation must be repeated to ascertain if the issues are still occurring and that the order is having the required effect. Thereafter it can be extended for a further three years. It can be extended more than once for further period of three years.

### **Freedom of expression and lawful protest**

- 1.35 The council must also be aware of any proposals that could restrict rights protected under the Human Rights Act. The legislation states that agencies and frontline professionals must have regard to Articles 10 and 11 of the European Convention on Human Rights which provides the right for lawful freedom of expression and freedom of assembly, ensuring that the dispersal power, the issuing of a community protection notice or the making of a public spaces protection order is not used to stop reasonable activities where no anti-social behaviour is being committed.

- 1.36 There have been concerns raised by pressure groups, such as Liberty argues that the introduction of PSPOs will fast-track vulnerable people into the criminal justice system – rather than divert them away from it. *‘If somebody is forced to beg or spend the night in a public toilet, that’s not a lifestyle choice or anti-social behaviour – that’s extreme poverty’*. Liberty argue that local authorities should focus on finding ways to help the most vulnerable – not criminalise them and issue fines they can’t possibly pay.
- 1.37 The Manifesto Club (which campaigns against over-regulation) and has previously described the Act as including “a swathe of unprecedentedly open-ended powers, which significantly undermine rights in public spaces”.
- 1.38 Homeless charities have also warned that using new antisocial behaviour powers to crack down on rough sleeping could force those in need away from vital services.
- 1.39 Local Authorities have started implementing PSPOs to address various ASB problem spots. The media seized the opportunity to highlight Hackney’s use of the PSPO order in a negative light. Hackney council bowed to public pressure after a petition against the inclusion of rough sleepers under the PSPO attracted more than 80,000 signatures. Hackney council amended the order, following a campaign by homelessness groups and local people who said it risked criminalising vulnerable people.
- 1.40 Hackney council responded to the criticism of the rough sleeping provision in the PSPO. The leader of the council stated that the PSPO is designed to tackle a handful of entrenched rough sleepers who repeatedly and over a long period resisted all attempts to house them and help them, and who are causing serious problems for other residents with anti-social behaviour including drug use, drunkenness, public urination and defecation, and threatening behaviour. These are people who often have serious addiction and mental health problems but have repeatedly failed to engage with the services which could help them. In some of these very difficult cases, the threat of legal action has been the push that has persuaded them to seek the help that they so desperately need.
- 1.41 There are also a number of risks and challenges to be taken into consideration with a citywide approach to street drinking, particularly with regards to human rights implications. However, through clear and targeted publicity, outreach work with problem street-drinkers, and careful monitoring and management of enforcement, the authority should be able to mitigate these risks and avoid Barnet being in a similar situation to Hackney Council.

## **2 REASONS FOR RECOMMENDATIONS**

- 2.1 The council now has the power under the ASB Act 2014 to implement a PSPO in areas where there have been reports and incidents of persistent ASB where the PSPO can prohibit broader behaviours that are causing nuisance and harassment to the local community; this can also cover street drinking. Officers who are able to enforce the PSPO also include council officers as well as police officers, whereas the DPPO enables a police constable to enforce.
- 2.2 The DPPO will naturally expire on 19<sup>th</sup> October 2017 – however in the meantime the council can also utilise the powers of the PSPO in specific areas – the DPPO is borough wide and therefore should the council wish to implement a PSPO areas could be subject to both the PSPO and the DPPO – for example areas where a PSPO could be considered include Silk Stream, Golders Way, Watling Park where there are reports of persistent ASB, street drinking and rough sleeping.
- 2.3 Although the DPPO relies on the presence of a police constable to witness and confiscate alcohol from an individual drinking and causing ASB – the power is available to the police as and when needed it provides them with an additional power to tackle low level ASB should they need to use it. In the absence of the DPPO the police would be unable to ask an individual to stop drinking and/or confiscate the alcohol. Leaving the DPPO in place will enable the partnership to consider the priority areas for a PSPO and between now and October 2017 introduce the PSPO in those areas that require it.
- 2.4 Residents have reported street drinking in areas such as Golders Way, Watling Park and Silk Stream. Complaints have also been received about rough sleepers and associated issues including urination and defecating in public spaces, littering, fly tipping, dog fouling. These specific behaviours cause harassment, alarm and distress to members of the public, and can be challenging to deal with through other legal channels. A combination of using the DPPO for alcohol related ASB and utilising the PSPO for broader ASB issues may provide a flexible option of interventions for the Police and Council.
- 2.5 Although a PSPO can be implemented in a targeted area, responding specifically to local ASB issues for a period of up to 3 years – shorter periods can be considered for example 3-6 months – as part of a package of multi-agency interventions to address the ASB. Application of the PSPO would be proportionate to the problem.
- 2.6 In considering these options, there is a risk of displacing the problem to the surrounding neighbourhood and residential areas. This could equally be the

same affect where our neighbouring boroughs have implemented PSPO's for example Brent, Camden, and Enfield. However, the PSPO can be varied, should there be evidence of displacement. (e.g. area extended or additional prohibitions) by the Council within its three year life span, provided that conditions in s59(2), (3) and (5) of the Act are met; and according to publication regulations set out by the Secretary of State. Further consultation is not required, but the variation could be open to legal challenge if not conducted within the parameters of the legislative framework.

- 2.7 A PSPO is used to address ongoing, and sometimes urgent, anti-social behaviour and crime matters, and delegation of authorising a PSPO to the Commissioning Director, Environment, in line with the officer's scheme of delegation will allow a timely process for suitable PSPOs to be created and implemented, where appropriate to do so.

### **3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Barnet Council could consider the option not to revoke the DPPO and to allow it to revert to what would be a borough wide PSPO in October 2017. If this option were to be chosen, the PSPO Order would need to be reviewed. Agreeing borough wide prohibitions would be challenging and potentially disproportionate.
- 3.2 If the DPPO was to revert to a borough wide PSPO, signage, both in terms of wording and the number of signs required would need to be considered as well how the impact of the PSPO will be monitored. There are currently approximately 150 DPPO signs throughout the borough of Barnet; each DPPO signs currently cost £94.00. The new Regulations contain more onerous obligations as to signage. The strict signage requirements would require a considerable investment of time and money to increase the number of signs across the Borough.
- 3.3 Create a borough wide PSPO to mitigate against displacement. This option has the potential to create a negative effect on the perception of crime. Although the Home Office guidance does not mention a borough wide PSPO the consultation and publication requirements when considered together with the Home Office Guidance in 2009 suggest that the PSPO is not best suited or is not intended as borough wide (or large geographic area) usage. It is evidence that the majority of London Boroughs have opted not to enforce a borough wide PSPO. Again agreeing borough wide prohibitions would be challenging and potentially disproportionate.

- 3.4 Revoke the current DPPO prior to October 2017 but no borough wide PSPO is implemented. This option was also considered, however there are particular areas in Barnet subject to persistent ASB including alcohol related ASB where an order providing officers powers as afforded by the DPPO and the PSPO would enable the partnership to intervene and prevent and/or stop anti-social behaviour occurring. These orders also provide a deterrence, community reassurance and encourage the local community to report incidents of ASB and street drinking, knowing that there is something in place that can be enforced. Implementation of a PSPO requires the gathering of evidence, community and member consultation prior to it being authorised – this can also take time. Therefore this option has not been considered as it will leave current areas affected by alcohol related ASB unprotected and remove the power that the police currently have to intervene in those areas.
- 3.5 Community Leadership Committee retain full authority for all proposed PSPOs. The issue with this approach is that implementing a PSPO would take longer and in some situations quick action to implement a PSPO may be required to address issues and provide protection to the local community. Additionally, some proposed PSPO's would be for very localised issues and exercising delegated authority in such circumstances would be more appropriate.
- 3.6 Community Leadership Committee delegate full authority for all proposed PSPOs. This is not considered appropriate as some proposed PSPOs may be more appropriate for the Community Leadership Committee to determine .
- 3.7 Community Leadership Committee retain approval for those PSPOs that would impact more than 3 bordering wards, or 2 or more separate wards, due to the wider impact and to ensure a consistent approach Borough wide. Approval of PSPOs for matters that are localised to affecting up to three bordering wards are delegated to the Commissioning Director of Environment to ensure speedy and timely approach to community needs.

This is the preferred option.

- 3.8 Do nothing. This would mean that all proposed PSPOs would need Community Leadership approval. This would impact on the ability of the council to respond effectively to persistent ASB issues resulting in the residents losing confidence in the council to respond to their concerns.

Table 3: PSPO's implemented by other boroughs.

<b>BOROUGH</b>	<b>PUBLIC SPACE PROTECTION ORDER</b>	<b>BOROUGH WIDE</b>
Lambeth	PSPO banning the consumption and supply of legal highs in public spaces. This came into effect on the 17 <sup>th</sup> August 2015	Yes
Hackney	Begging, street drinking, rough sleeping, urination and causing ASB, loitering and causing ASB, Misusing public toilets and defecating in a public place, having a dog off a lead causing a nuisance	No
Barking and Dagenham	A PSPO to prohibit the use of nitrous oxide and other new psychoactive substances	No
Brent	PSPOs implemented in September 2015. This prohibited businesses and residents from picking up casual laborers in specified areas, and from coaches dropping off large numbers of people.	No
Hammersmith & Fulham Council	PSPO prohibiting any person from urinating or defecating in a public place across Shepherds Bush Green ward	No
Redbridge	6 wards with DPPO- Street Drinking to replace with PSPO	No
Dover District Council	PSPO implement on the 27 July 2015 in relation to dog control to deal with issues such as dog fouling, keeping dogs on leads and excluding dogs from specified areas.	No
Kensington and Chelsea,	Consultation is on-going on an order that would make driving loud cars an offence	No

## **4 POST DECISION IMPLEMENTATION**

- 4.1 If the Committee proposes that the current DPPO is revoked prior to October 2017, plans will need to be put in place to take down the DPPO notices across the borough.
- 4.2 Barnet Community Safety Team will be producing a partnership procedure setting out the local process of agreeing a PSPO. This will be presented to the Safer Communities Partnership Board for approval.
- 4.3 If the Committee proposes that the DPPO remains in place until October 2017 the Safer Communities Partnership will continue to monitor the usage of the DPPO, the DPPO can come to an end but no borough wide PSPO is implemented. (Recommended option). The DPPO signs will need to be taken down post October 2017.
- 4.4 If the Committee proposes implementing a borough wide PSPO (not the preferred option) further legal advice would need to be taken to ensure the risk of judicial review and/or negative impact is mitigated.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 Barnet's 2020 vision set out in the Corporate Plan 2015-2020 is for Barnet to be amongst the safest places in London, with high levels of community cohesion, and residents feeling safe. The work of the Safer Communities Partnership and Community Leadership Committee deliver on this corporate commitment.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 Resources to enforce the PSPO when implemented will be that of officers across the partnership who have the power to enforce to be present when ASB occurs – this can be achieved by more frequent and regular patrols to the area. However this is offset by the potential to reduce demands on services to respond to persistent complaints of ASB.
- 5.2.2 Resources will be required in October 2017 to remove all the DPPO signs across the borough – this can be quantified nearer the time.

### **5.3 Legal and Constitutional References**

- 5.3.1 Under s.17 of the Crime and Disorder Act 1998, it is also a duty of the Council (and other partner agencies, including police, fire & rescue, GLA, TFL) when exercising its functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and



disorder (including anti-social behaviour), misuse of drugs, alcohol and other substances and re-offending.

5.3.2 The Council's Constitution sets out the Terms of Reference of the Community Leadership Committee which includes:

- To contribute to achieving better outcomes in the Safer Communities Strategy through CCTV, fighting crime and anti-social behaviour, combating graffiti fly tipping and other environmental crime, action against Domestic Violence and any other relevant Council activity.
- To work together with partners on the Barnet Safer Communities Partnership including Police, Fire and Criminal Justice Agencies to help make Barnet a safer place.

5.3.3 In accordance with the Antisocial Behaviour, Crime and Policing Act 2014. All DPPO's currently in place can remain in force for a three year period. Therefore Barnet's current borough wide DPPO can remain in place until October 2017.

5.3.4 Section 13 of the Criminal Justice and Police Act 2001 and section 26 of the Violent Crime Reduction Act 2006 provided the power to local authorities in England and Wales to introduce Designated Public Place Orders (DPPOs).

5.3.5 Sections 12–16 of the Criminal Justice and Police Act 2001 introduced the DPPO powers enabling local authorities to designate places where restrictions on public drinking apply.

5.3.6 Professionals must have regard to Articles 10 and 11 of the European Convention on Human Rights which provide for the right for lawful freedom of expression and freedom of assembly, ensuring that the dispersal power does not infringe on these rights.

## **5.4 Risk Management**

5.4.1 The key risk to of the recommendations that are proposed mostly relate to the potential legal challenge and the disproportionate use of the new PSPO power. The impact of this could result in either an impact on the fear of crime amongst local residents and/or reputational and financial damage to the council. In order to mitigate this risk Barnet Community Safety Team will work with partners especially the police to put in place a clear process for assessing and agreeing a PSPO ensuring there is legal input and sufficient evidence to support the PSPO prior to implementing.

## **5.5 Equalities and Diversity**

5.5.1 Section 149 of the Equality Act 2010 sets out the public sector equality duty to which the authority must have regard. The Council's public sector equality duty is set out in s149 of the Equality Act 2010:

- 5.5.2 A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited or under this Act;
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.5.3 The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- 5.5.4 A PSPOs primary aim is to address an area based problem and not to target specific communities based on the protected characteristics. The approach set out in recommendation 3 of this report is to ensure there is a package of multi-agency interventions to address the underlying causes contributing towards the behaviour of individuals for example alcohol or drug addiction. This approach will ensure the diverse needs of the individuals concerned are addressed by assessing need, providing them with advice, support and access to specialist services where appropriate. Implementing a balanced approach where prevention, intervention and enforcement are considered.

## **5.6 Consultation and Engagement**

- 5.6.1 Consultation would be required if the implementation of the PSPO is being considered.
- 5.6.2 If the Committee decide on revoking the current DPPO earlier than recommended consultation will be required with the police.

## 6. BACKGROUND PAPERS

[Consultation for creation of a Borough;](https://barnet.moderngov.co.uk/documents/s4063/1670%20-%20Consultation%20for%20creation%20of%20a%20Borough%20wide%20Designated%20Public%20Place%20Order.pdf)

<https://barnet.moderngov.co.uk/documents/s4063/1670%20-%20Consultation%20for%20creation%20of%20a%20Borough%20wide%20Designated%20Public%20Place%20Order.pdf>

[Community leadership committee work plan;](http://barnet.moderngov.co.uk/documents/s15691/Community%20Leadership%20Committee%20Work%20Programme.pdf)

<http://barnet.moderngov.co.uk/documents/s15691/Community%20Leadership%20Committee%20Work%20Programme.pdf>

[Business management OSC 11th March 2014 minutes](https://barnet.moderngov.co.uk/documents/g7470/Printed%20minutes%2011th-Mar-2014%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1)

[https://barnet.moderngov.co.uk/documents/g7470/Printed%20minutes%2011th-Mar-](https://barnet.moderngov.co.uk/documents/g7470/Printed%20minutes%2011th-Mar-2014%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1)

[2014%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1](https://barnet.moderngov.co.uk/documents/g7470/Printed%20minutes%2011th-Mar-2014%2019.00%20Business%20Management%20Overview%20and%20Scrutiny%20Committee.pdf?T=1)

The Anti-social Behaviour, Crime and Policing Act 2014 can be viewed here:

<http://www.legislation.gov.uk/ukpga/2014/12/contents>

The Regulations (2014 No. 2591 Environmental Protection, England and Wales the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulation 2014) can be viewed here:

<http://www.legislation.gov.uk/uksi/2014/2591/contents/made>.

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