

Communities and Environment Scrutiny Select Committee

16 July 2025

Part 1 - Public

Matters for Cabinet - Non-key Decision



Cabinet Member	Cllr Des Keers, Cabinet Member for Community Services
Responsible Officer	Adrian Stanfield, Director of Central Services and Deputy Chief Executive
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Renewal of the Public Space Protection Notice

1 Summary and Purpose of Report

- 1.1 The Anti-social Behaviour, Crime and Policing Act 2014 places a duty on the Council to tackle Anti-social Behaviour (ASB), working co-operatively with the Police, social landlords and other agencies. Public Spaces Protection Orders (PSPOs) are one of a number of new tools contained within the Act and are intended to deal with a particular nuisance or problem in a particular 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. They are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 1.2 A PSPO has been in place in the borough since April 2017 and was reviewed in 2020 and 2023. The current PSPO is due to end in April 2026, and we can extend this for a further three years.
- 1.3 This report therefore gives details about the proposed PSPO for 2026 and details of the consultation that must take place as part of the PSPO renewal process.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Having a PSPO in place helps to reduce anti-social behaviour, therefore making the borough a safer place for residents.

3 Recommendations

- 3.1 That Members agree to the proposed amendments to the Public Space Protection Order.

- 3.2 That Members agree to go out for public consultation for a six-week period.

4 Introduction and Background

- 4.1 The council can make a PSPO on any public space in its own area. The definition of a public space is wide and includes 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 express or implied permission, for example a shopping centre. It does not just apply to land owned by the Borough Council but to any open space anywhere in the borough (even land owned by Parish Councils or Kent County Council).
- 4.2 The test for a PSPO is designed to be broad and focus on the impact anti-social behaviour is having on victims and communities. A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality; and
 - the effect or likely affect of the activities:
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely such to make the activities unreasonable; and
 - justifies the restrictions imposed.
- 4.3 The Statutory Guidance for frontline professionals on the Anti-social Behaviour, Crime and Policing Act 2014 advises that:
- 4.4 *‘the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others’ quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.’*
- 4.5 In relation to groups hanging around/ standing in groups/ playing games, the guidance advises as follows:
- 4.6 *‘It is important that councils do not inadvertently restrict everyday sociability in public spaces. The Public Spaces Protection Order should target specifically the problem behaviour that is having a detrimental effect on the community’s quality of life, rather than everyday sociability, such as standing in groups which is not in itself a problem behaviour.’*

- 4.7 *Where young people are concerned, councils should think carefully about restricting activities that they are most likely to engage in. Restrictions that are too broad or general in nature may force the young people into out-of-the-way spaces and put them at risk. In such circumstances, councils should consider whether there are alternative spaces that they can use.*
- 4.8 *People living in temporary accommodation may not be able to stay in their accommodation during the day and so may find themselves spending extended times in public spaces or seeking shelter in bad weather. It is important that public spaces are available for the use and enjoyment of a broad spectrum of the public, and that people of all ages are free to gather, talk and play games.'*
- 4.9 A single PSPO can include multiple restrictions and requirements in one order. It can prohibit certain activities, such as the drinking of alcohol, as well as placing requirements on individuals carrying out certain activities, for instance making sure that people walking their dogs keep them on a lead.
- 4.10 The maximum duration of a PSPO is three years but they can last for shorter periods where appropriate. At any point before expiry the council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or reoccurring. If a new issue arises in an area where a PSPO is in force the council can vary the terms of the order at any time. This can change the size of the restricted area or the specific requirements or restrictions. As well as varying the PSPO, a council can also seek to discharge it at any time.

5 Proposal

- 5.1 After consultation with Borough Council officers, we are proposing to proceed with a PSPO containing multiple restrictions. Some of these restrictions are the same as were included previously, as we have been able to provide evidence to show that the issues are continuing. In addition, we are also proposing one new restriction to prevent camping in the Memorial Gardens, Tonbridge. Annex 1 sets out the current PSPO restrictions and the new/proposed restriction. We are also proposing amending the wording in the restriction relating to the use of drones. The wording will be amended from 'No person may operate a drone from or in any open space owned by the Borough Council without first obtaining authorisation from the Borough Council' to 'No person may *launch or land* a drone from any open space owned by the Borough Council without first obtaining authorisation from the Borough Council'.
- 5.2 As found in the previous PSPO, some of the restrictions are borough wide (e.g. deterring dog fouling, dogs on leads by direction) and some are specific to geographical locations depending on particular issues (for example to prevent the use of unauthorised BBQs within Leybourne Lakes Country Park). We believe that each of the proposed restrictions passes the PSPO 'Test' (see paragraph 2 above) and that they will all help to prevent ASB in the borough.

- 5.3 Discussions were held with TMBC Officers to look at what evidence we had to show the need to continue with our current PSPOs and also to look at any additional restrictions we wanted to include. Annex 2 lists the evidence that was gathered to show that there is a need for each of those restrictions proposed.
- 5.4 Officers have used evidence and professional judgement to develop this proposed PSPO and have considered all issues/areas against the stated test process. It is not possible, or appropriate, to include every area within the borough with an anti-social behaviour issue (or perceived issue). The majority of ASB can be dealt with through other measures without the need for a Public Spaces Protection Order.
- 5.5 We also considered the enforcement of any restrictions included with the PSPO. Any restriction needs to be enforceable and Fixed Penalty Notices (FPNs) for breaches of the PSPO can be issued by authorised Borough Council staff and the ASB Enforcement Team (when in post). We did not want to include any restrictions within the PSPO which are not going to be enforceable, for example preventing people from riding bicycles on the pavement. We do not have the staff/resources to be able to enforce this and to include it as a PSPO would raise expectations that the Borough Council will deal with this issue.
- 5.6 Once the PSPO is approved by Members, we plan to go out for consultation for a six-week period, likely to be from the start of September 2025. The consultation will be online, although hard copies will also be available. During this time, we will also consult with the Police and Crime Commissioner and Kent Police.
- 5.7 A report will then be brought back to a future Board meeting to give details of the consultation response and allow for a final PSPO to be confirmed.

6 Other Options

- 6.1 Members may wish to discuss if there are any additional restrictions that they would like to see included in the PSPO. This needs to bear in mind the threshold test and also consider how the restriction will be enforced.

7 Financial and Value for Money Considerations

- 7.1 The Director of Central Services and Deputy Chief Executive confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

8 Risk Assessment

- 8.1 All appropriate risk assessments will be undertaken as required.

9 Legal Implications

- 9.1 The power to make a PSPO is subject to a number of conditions as set out in the Anti-Social Behaviour, Crime and Policing Act 2014 (see paragraph 4.2 of this

report). We will continue to review the proposed terms of the PSPO against the conditions set out in the Act to ensure that the order is lawful.

- 9.2 Once the final PSPO measures are agreed the PSPO will need to be published in accordance with the regulations made by the Secretary of State

10 Consultation and Communications

- 10.1 Once the PSPO restrictions are approved then public consultation will need to take place. This will be a six-week consultation which will be available to the public, parish council's and relevant partners via an online form, as well as paper copies.

11 Implementation

- 11.1 Once all the restrictions are agreed then a copy of the Order would need to be published by April 2026 in accordance with regulations made by the Secretary of State.

12 Cross Cutting Issues

- 12.1 Climate Change and Biodiversity

- 12.1.1 Limited or low impact on emissions and environment.

- 12.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

- 12.2 Equalities and Diversity

- 12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

- 12.3 Other If Relevant

- None

Background Papers	None
Annex 1 Annex 2	Proposed Public Space Protection Order 2026 Evidence for PSPO restrictions