

Consultation on Public Spaces Protection Order

Problem behaviour relating to the consumption etc. of alcohol in a public place.

Introduction

Epsom & Ewell Borough Council (the "Council") is consulting on a proposal to renew a Public Spaces Protection Order ("PSPO") with the aim of continuing to prohibit the consumption of alcohol in the designated area.

Prior to renewing the PSPO there will be a consultation period of at least 8 weeks. The consultation period of will end on 6 September 2021.

What is a PSPO?

Introduced by the Anti-social Behaviour Crime and Policing Act 2014, PSPOs are intended to tackle identified problem behaviour in a specific location rather than individuals or properties. Local authorities can implement PSPOs to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities, within a defined public area.

An activity amounts to problem behaviour where it is detrimental to the local community's quality of life. The PSPO works by imposing conditions on the use of the identified area which apply to everyone. It is designed to ensure that the law-abiding majority can use and enjoy public spaces, safe from activities that amount to problem behaviour.

It is an offence for a person, without reasonable excuse, to do anything that they are prohibited from doing by a PSPO or for them to fail to comply with a requirement to which they are subject to under the PSPO.

What problem behaviour will be covered by the PSPO?

The Council is proposing to renew the existing Public Spaces Protection Order (Epsom & Ewell Borough Council) 2018 No.1, which will naturally expire at midnight on 23 December 2021. The provisions of the new PSPO are proposed to be identical to those in currently in place – to restrict the consumption of alcohol in the designated area and to provide the police with the authority to require surrender of any alcohol which is, or which is reasonably believed will be, consumed in breach of the order. The provisions will not apply to alcohol consumed within premises licensed under the Licensing Act 2003 or

s115E of the Highways Act 1980 – in other words within an area under the control of a licensed premises.

How does a PSPO reduce the detrimental effect of this activity?

PSPOs help the Council and police deal with problem behaviour affecting the local community's quality of life.

Where a PSPO is in place, authorised officers will have the power to require surrender of alcohol if they believe it will be consumed in the public space forming the restricted area.

A breach of the PSPO is also a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) of up to £100 or prosecution. If prosecuted, an individual could be liable to a fine up to £1,000.

Who must be consulted?

The Council must formally consult with the Police through the Chief Officer of Police and the Police and Crime Commissioner, but this can be led by officers at the working level.

In addition, all owners or occupiers of the land within the area to be restricted by the PSPO must be consulted. The Council will also consult relevant community representatives along with the wider general public to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all.

What is the test for making a PSPO?

The threshold for making a PSPO is set out in s.59 Anti-social Behaviour Crime and Policing Act 2014 which permits local authorities to make a PSPO if satisfied, on reasonable grounds, that the following conditions are met as defined by the Act:

- (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
- (c) the activities is, or is likely to be, of a persistent or continuing nature,
- (d) is, or is likely to be, such as to make the activities unreasonable, and
- (e) justifies the restrictions imposed by the PSPO

The Council must be satisfied that the above test is met and in reaching that conclusion it will need to consider the following questions.

- Is the Council satisfied that activities related to the consumption of alcohol in a public space amounts to problem behaviour that should be restricted under a PSPO?
- Is the Council satisfied that this problem behaviour has occurred in the restricted area (as shown in Schedule 1 to the Draft PSPO), and has had a detrimental effect on the quality of life of those in the locality?

[OR]

Is the Council satisfied that this problem behaviour is likely to occur in the restricted area and will have a detrimental effect on the quality of life of those in the locality?

For example the problem behaviour would have a detrimental effect where the consumption of alcohol, leads to anti-social behaviour, leads to behaviour likely to cause harassment, alarm, distress, nuisance or annoyance.

- Is the Council satisfied that this problem behaviour is or is likely to continue in the restricted area?

[OR]

Is the Council satisfied that the problem behaviour is, or is likely to be, of a persistent nature?

- Is the Council satisfied that the problem behaviour is, or is likely to be unreasonable such that the Council can justify the restrictions imposed by the order ?
- Is the Council satisfied that the prohibitions imposed by the PSPO are reasonable and necessary to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence?
- In making the PSPO has the Council had 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 and Equality Act 2010?
- In all the circumstances, is it appropriate to make the PSPO?

How long can a PSPO last?

Any PSPO introduced can only be valid for a maximum of three years or shorter and must thereafter be extended if still required. Such extension is subject to the Council being satisfied that it is reasonable and necessary to do so and is subject to the same publication requirements as the introduction of a PSPO. The extension period is also restricted to a maximum of three years.

What locations are covered?

The Council can make a PSPO on any public space within its local authority area. The definition of 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.

The Council proposes to renew the PSPO over public spaces on the following land which will be referred to as the “Restricted Area”. This area has previously been identified as being at risk from the activity the PSPO seeks to control.

Epsom

- **Albert Road, Alexandra Recreation Ground, Alexandra Road, Andrews Close, Ashley Avenue and Ashley Road**
- **Bridle End, Bridle Road and Burgh Heath Road**
- **Cedar Close, Chase Road, Church Road, Church Street, Clayton Road, College Road (from Church Road to Alexandra Road), Copse Edge Avenue and Court Recreation Ground**
- **Delaporte Close, Depot Road, Derby Square (also known as Epsom Square) and Downs Road**
- **East Street, Eastway and Elizabeth Welchman Gardens**
- **Farriers Close, Farriers Road, footpath between Chase Road/Temple Road junction and the footpath at 61 Waterloo Road, footpath between East Street and Waterloo Road, footpath between Hook Road and Temple Road, footpath between Pound Lane and Waterloo Road**
- **Gosfield Road, Grove Avenue and Grove Road**
- **Hawthorne Place, Hazon Way, High Street, Hook Road (from East Street to Pound Lane), Horsley Close (from Hazon Way to Waterloo Road) and Horton Footpath**
- **Leith Road, Linden Place, Lintons Lane and Lower Court Road**
- **Maidenshaw Road, Manor Green Road (from Lower Court Road to Upper Court Road) Middle Close, Middle Lane and Mounthill Gardens**
- **Pikes Hill, Pitt Place, Pitt Road, Portland Place, Pound Lane and Prospect Place**
- **Randolph Road, Rosebery Avenue and Rosebery Park**
- **South Street, Station Approach, Stevens Close, St Martin’s Close and Stones Road**
- **Temple Road, The Croft, The Oaks Square, The Parade, Tintagel Close and Treemount Court**
- **Upper Court Road, Upper High Street**
- **Victoria Place**

- **Waterloo Road, West Street (from Station Approach to South Street), Wimborne Close, Winter Close (including the children's play area), Worple Road (from The Parade to Church Street), Wyeths Road and Wyeths Mews**

Ewell

- **Bourne Hall Gardens**
- **Chessington Road (from Spring Street to Kingston Road)**
- **Gibraltar Recreation Ground**
- **High Street**
- **Kingston Road (from High Street to Ewell By-Pass)**
- **Spring Street**
- **The Grove**
- **West Street**

Langley Vale

Langley Vale including the following roads and all footpaths and areas in between:

- **Beaconsfield Road**
- **Grosvenor Road**
- **Harding Road**
- **Langley Close**
- **Mannamead, Mannamead Close and Millers Copse**
- **Rosebery Road**
- **Saddlers Way, Spencer Close, Stable Close and Strand Close**
- **The Hayes and The Warren**
- **Vale Close**
- **Warren Recreation Ground**

The Restricted Area can be seen on the maps attached at Schedule 1 to the Draft PSPO.

What are the draft terms of the PSPO?

Before the PSPO is made, the Council must publish the draft version of the PSPO in accordance with regulations published by the Secretary of State and ensure that the draft PSPO is available on its website.

The Council proposes to renew the PSPO that will continue to feature the following clauses.

All persons are prohibited from drinking alcohol within a public place. This provision does not apply to alcohol being consumed within premises licensed under the Licensing Act 2003 or s115E of the Highways Act 1980.

1. Where an authorised person reasonably believes that a person:
 - a) is or has been consuming alcohol in breach of this Order; or
 - b) intends to consume alcohol in circumstances which would be a breach of this Order

the authorised person can require the person:

- i) not to consume alcohol or anything which the authorised person reasonably believes is alcohol in breach of this Order; and
 - ii) to surrender anything in the person's possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.
2. An authorised person who imposes a requirement under paragraph 1(b)(i) or 1(b)(ii) must tell the person that failing without reasonable excuse to comply with the requirement is an offence.
3. A requirement imposed by an authorised person under paragraph 1(b)(i) or 1(b)(ii) is not valid if the authorised person:
 - (a) is asked by the person to show evidence of his or her authorisation, and
 - (b) fails to do so.
4. An authorised person may dispose of anything surrendered under paragraph 1(b)(ii) in whatever way he or she thinks appropriate.

The PSPO will be enforceable 24 hours a day, 7 days a week.

What happens after the closing date?

The consultation responses will be published together with the Council's recommendations and those recommendations will be taken to Council's Environment and Safe Communities Committee for a decision whether to make the PSPO or make a PSPO with different terms to those contained in the draft PSPO or in respect of a different area.

When will the PSPO come into effect?

If the Committee decides to make the PSPO or make a PSPO with different terms, it will come into effect at midnight on 23 December 2021 so as to take over from the existing PSPO. This allows the Council officers time to draft and approve guidance and other documents, comply with certain publication requirements and take other necessary steps before the PSPO comes into effect.

Where can I find more information about the PSPO?

You can find the draft PSPO on the Council's website.

Tell us what you think!

We would like to hear your views and you can get involved by completing an online survey with the link at www.epsom-ewell.gov.uk/council/consultations or by requesting an emailed copy from ehpublichealth@epsom-ewell.gov.uk. You may write to us at PSPO Consultation, Community Safety, Epsom & Ewell Borough Council, Town Hall, The Parade, Epsom, Surrey KT18 5BY or telephone on 01372 732000.

You can find out more by visiting www.epsom-ewell.gov.uk/council/consultations

EPSOM AND EWELL BOROUGH COUNCIL

DRAFT PUBLIC SPACES PROTECTION ORDER NO [X] OF 2021: ALCOHOL

PREAMBLE

The Preamble to the Order will refer to the Council's powers under the Anti-Social Behaviour Crime and Policing Act 2014 and confirm that the powers are exercised in accordance with that Act and other relevant legislation. In particular:

1. Are the requirements in sections 59 of the Anti-Social Behaviour Crime and Policing Act 2014 met?
 - (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.*
 - (2) 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.*
 - (3) 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.*
2. Is the Council satisfied that the prohibitions proposed below are reasonable and necessary to prevent the detrimental effect from continuing, occurring, or recurring or to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence
3. In making the Order has the Council had 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 and Equality Act 2010?
4. In all the circumstances, is it appropriate to make the Order?

DRAFT ORDER

IN ACCORDANCE WITH PART 3 OF THE COUNCIL'S CONSTITUTION THE HEAD OF HOUSING & COMMUNITY WILL RECOMMEND THAT THE ENVIRONMENT AND SAFE COMMUNITIES COMMITTEE THE COUNCIL MAKES THE FOLLOWING ORDER

In exercise of its powers under section 59 of the Anti-Social Behaviour Crime and Policing Act 2014.

1. This Order may be cited as Epsom and Ewell Borough Council (Alcohol) Public Spaces Protection Order No.[X] of 2021 ("the Order"). This Order takes effect on the [a date within 4 months of the Committee's decision] and continues to have effect for a period of [up to three years] thereafter until [date].
2. This Order applies to the land described Schedule 1 below ("Restricted Area") and which is shown edged red on the attached plan found in Schedule 2 ("the Order plan").

3. This Order applies to all persons in 'public places' within the Restricted Area at all times of the day and night, save on where otherwise stated within the prohibitions.
4. For the purposes of this Order, 'public places' means 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.

PROHIBITIONS

All persons are prohibited from drinking alcohol within a public place. This provision does not apply to alcohol being consumed within premises licensed under the Licensing Act 2003 or s115E of the Highways Act 1980.

1. Where an authorised person reasonably believes that a person:
 - a) is or has been consuming alcohol in breach of this Order; or
 - b) intends to consume alcohol in circumstances which would be a breach of this Order

the authorised person can require the person:

- i) not to consume alcohol or anything which the authorised person reasonably believes is alcohol in breach of this Order; and
- ii) to surrender anything in the person's possession which is, or which the authorised person reasonably believes to be, alcohol or a container for alcohol.

2. An authorised person who imposes a requirement under paragraph 1(b)(i) or 1(b)(ii) must tell the person that failing without reasonable excuse to comply with the requirement is an offence.

3. A requirement imposed by an authorised person under paragraph 1(b)(i) or 1(b)(ii) is not valid if the authorised person:

- (a) is asked by the person to show evidence of his or her authorisation, and
- (b) fails to do so.

4. An authorised person may dispose of anything surrendered under paragraph 1(b)(ii) in whatever way he or she thinks appropriate.

DEFINITIONS

Alcohol has the meaning given by section 191 of the Licensing Act 2003.

An authorised person could be a police constable, Police Community Support Officer or authorised person designated by Epsom and Ewell Borough Council under a Grant of Authority (made on the template in Schedule 3) and must be able to present their authority upon request (an "Authorised Person").

Public place means 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.

OFFENCE AND PENALTY

- a. Any person who, without reasonable excuse, fails to comply with the prohibitions above commits an offence.
- b. Any person who is guilty of an offence under the prohibitions of the Order shall be liable to summary conviction to a fine not exceeding level 3 on the standard scale.

ENFORCEMENT

- a. This Order shall be enforced by Authorised Persons.
- b. Any Authorised Person may issue a fixed penalty notice (FPN) to anyone they believe has committed an offence.
- c. A person committing an offence to pay the fixed penalty of £100.00, reduced to £80.00 for early payment, failing which that person may be prosecuted. No further proceedings will be taken against a person before the expiration of 28 days following the date of the FPN.
- d. An Authorised Person may dispose of anything surrendered to that Authorised Person as a result of a requirement imposed by them in whatever way they think is appropriate.
- e. An Authorised Person may take other necessary and proportionate enforcement action in reference to the Borough's Enforcement Policy & Procedure. This may include referral to support services, low level enforcement or referral to court action.

APPEALS

The Order will make clear that under Section 66 of the Anti-Social Behaviour Crime and Policing Act 2014, any challenge to this order must be made in the High Court by any interested person within 6 weeks of it being made.

IN WITNESS WHEREOF THE COMMON SEAL OF
THE MAYOR AND BURGESSES OF EPSOM AND EWELL

Schedule 1 – Restricted Area

Epsom

- **Albert Road, Alexandra Recreation Ground, Alexandra Road, Andrews Close, Ashley Avenue and Ashley Road**
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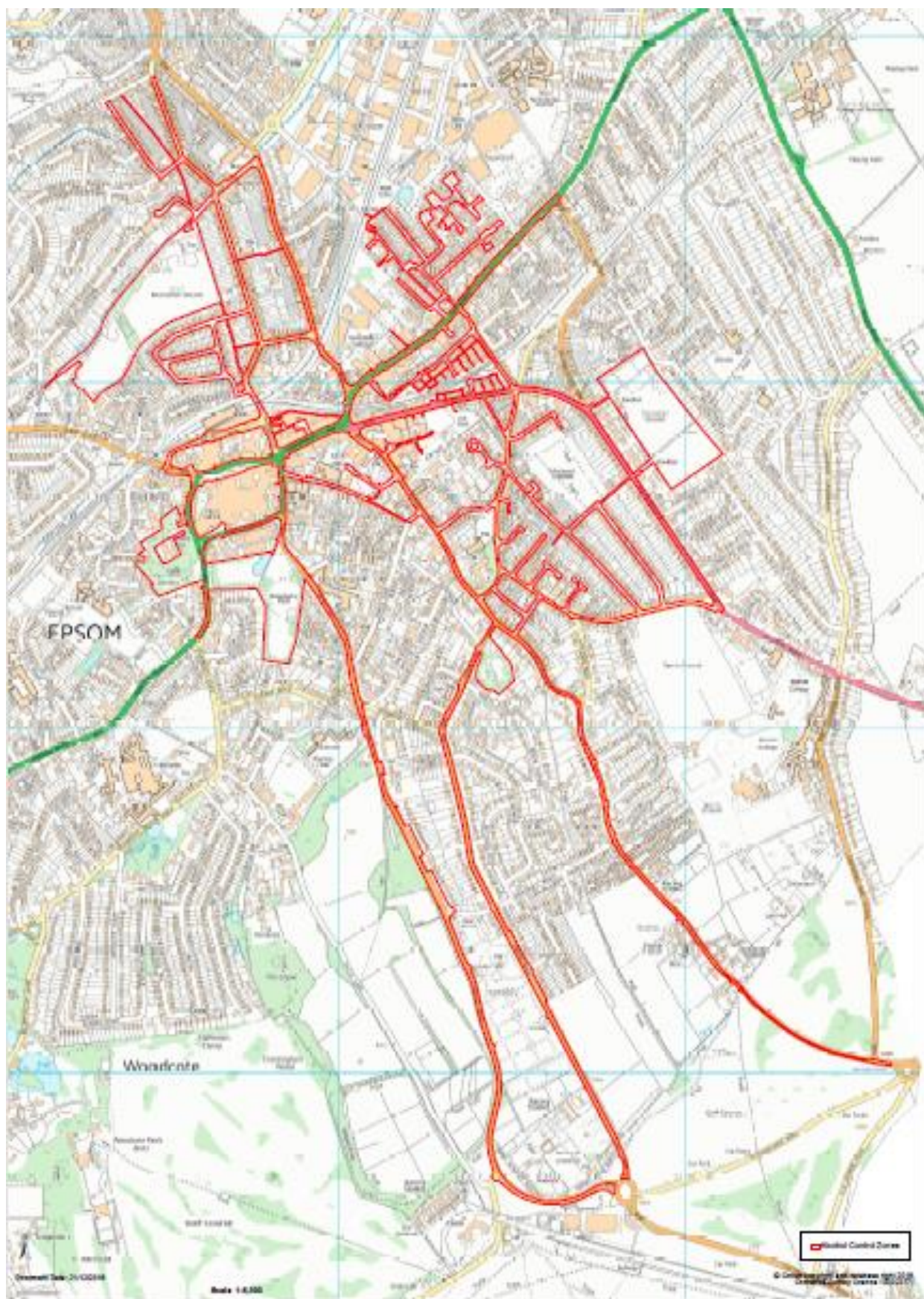
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Schedule 2 – Plans of Restricted Area Epsom



Ewell



Langley Vale



Schedule 3: Grant of Authority

EPSOM AND EWELL BOROUGH COUNCIL

Public Spaces Protection Orders. Anti-Social Behaviour Crime and Policing Act 2014.

OFFICER AUTHORITY

To: [OFFICER]

Date: [INSERT DATE] 2021

Subject matter: EEBC – PSPO for Alcohol Control

Authority: Chief Executive of Epsom and Ewell Borough Council

Signed: Name: Designation: