

Rother District Council

Report to:	Cabinet
Date:	6 September 2021
Title:	Public Spaces Protection Order – Anti-Social Behaviour
Report of:	Richard Parker-Harding – Head of Environmental Services, Licensing and Community Safety
Cabinet Member:	Councillor Field
Ward(s):	All
Purpose of Report:	To seek approval to carry out public consultation on a proposed Public Spaces Protection Order to control anti-social behaviour.
Decision Type:	Key
Officer Recommendation(s):	It be RESOLVED: That public consultation be carried out about making a Public Spaces Protection Order and the outcome of the consultation and approval to proceed with a new Order be reported back to Cabinet in December 2021.
Reasons for Recommendations:	The existing Public Spaces Protection Order expires in November 2021. A Public Spaces Protection Order is used to control anti-social behaviour.

Introduction

1. The Council has made a Public Spaces Protection Order (PSPO) for the control of antisocial behaviour. This Order expires in November 2021-see [THE PUBLIC SPACES PROTECTION ORDER \(NO. 2\) \(rother.gov.uk\)](https://rother.gov.uk/the-public-spaces-protection-order-no-2). Consultation has taken place with Parish and Town Councils. Their responses (if received) are set out in the table below.

Parish	Control on alcohol consumption in public	Aggressive Begging	Sleeping in public place	Response-supports new PSPO?
Ashburnham and Penhurst			Applies	No
Battle			Applies	Yes
Beckley			Applies	Not required
Bexhill	Applies	Applies	Applies	
Bodiam			Applies	Yes
Brede			Applies	Yes
Brightling			Applies	No
Burwash			Applies	

Camber	Requested		Applies	Yes
Catsfield			Applies	
Crowhurst			Applies	
Dallington			Applies	Yes
East Guldeford			Applies	
Etchingam			Applies	Yes
Ewhurst			Applies	Yes
Fairlight			Applies	Yes
Guestling			Applies	Yes
Hurst Green			Applies	
Icklesham			Applies	Yes
Iden			Applies	Yes
Mountfield			Applies	Yes
Northiam			Applies	
Peasmarsh			Applies	Yes
Pett			Applies	Yes
Playden			Applies	Yes
Rye		Applies	Applies	Yes
Rye Foreign			Applies	
Salehurst and Roberstbridge			Applies	Yes
Sedlescombe			Applies	Yes
Ticehurst			Applies	
Udimore			Applies	
Westfield			Applies	Yes
Whatlington			Applies	Yes

2. To justify including controls within the PSPO, evidence that a problem exists or is likely to occur is required. In addition, consultation with interested parties, including the Police and Parish and Town Councils is required. The results of the consultation may provide evidence that the control is necessary. Bexhill Town Council Environment Committee will be considering this matter on 8 September and their comments and recommendations will be considered as part of the public consultation.

Public Spaces Protection Order

3. PSPOs can be used to control anti-social behaviour in a particular area. Such as alcohol bans, bans on the playing of amplified music, busking, swearing etc.
4. PSPOs are intended to deal with a 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 enjoy public spaces, safe from anti-social behaviour.
5. A PSPO can be made by the Council if they are satisfied on reasonable grounds that the activity/activities carried out, or are 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;

- is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
6. The restrictions specified in a PSPO can be set by the Council; these can be blanket restrictions or requirements or can be targeted against certain behaviours by certain groups at certain times. They can restrict access to public rights of way where that route is being used to carry out anti-social behaviour.
 7. Short-term PSPOs could be used where it is not certain that restrictions will have the desired effect, for instance, when closing a public right of way. 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 recurring.
 8. The breach of a PSPO is a criminal offence; enforcement officers can issue a Fixed Penalty Notice (FPN) of up to £100 if appropriate, but a fine of up to £1,000 can be made on prosecution.
 9. More than one restriction can be added to the same PSPO, meaning that a single PSPO can deal with a larger range of behaviours.

Enforcement

10. PSPOs can be enforced by council officers and police officers. Since the PSPO was made only one FPN has been issued, although numerous written warnings have been issued to persons aggressively begging and sleeping in vehicles overnight. The Police also use the power to control street drinkers.

Home Office Guidance

11. Home office guidance advises against making orders that discriminate against homeless or young people. The existing PSPO mitigates against such discrimination by requiring officers to provide housing assistance before issuing a FPN. The PSPO seeks to control behaviours, such as aggressive begging rather than targeting disadvantaged or vulnerable people. It should be recognised that people begging may have housing and are simply requesting financial income from the public, who may themselves be vulnerable.

Proposed Controls

12. It is proposed to consult the public about making a new PSPO replicating the existing controls with the addition of a control prohibiting wanton or dangerous cycling, hover boards, scooting, skating or skateboarding on the Bexhill Promenade. Appendix A sets other controls that could be included in the public consultation. Appendix B is Thanet District Council's Order, for your information. The results of the consultation will be reported back before formally consulting the Police etc.

Conclusion

13. It is recommended that public consultation is carried out on making a new PSPO to control anti-social behaviour.

Financial

14. Contained within existing estimates.

Legal

15. Contained within report.

Crime and Disorder

16. An effective PSPO supports controlling crime and disorder in the district.

Risk Management

17. The Council may be criticised for not exercising its discretion to have a relevant and comprehensive PSPO.

Human Rights

18. Article 2: Right to life – not applicable
Article 3: Freedom from torture etc. – not applicable
Article 4: Freedom from slavery and forced labour – not applicable
Article 5: Right to liberty and security – not applicable
Article 6: Right to a fair trial – complies
Article 7: No punishment without law – complies
Article 8: Respect for private and family life-not interfered with if recent encampment
Article 9: Freedom of thought, belief and religion – not affected
Article 10: Freedom of expression – not affected
Article 11: Freedom of assembly and association – not affected
Article 12: Right to marry – not affected
Article 14: Right to be free from discrimination – mitigated against

Other Implications	Applies?	Other Implications	Applies?
Human Rights	Yes	Equalities and Diversity	No
Crime and Disorder	Yes	External Consultation	Yes
Environmental	No	Access to Information	No
Risk Management	Yes	Exempt from publication	No

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Appendices:	Appendix A - Additional Controls that could be included in the public consultation. Appendix B- Thanet District Council's PSPO
Background Papers:	None

Reference Documents: <https://www.gov.uk/government/news/new-guidance-on-the-use-of-the-anti-social-behaviour-crime-and-policing-act-2014>

Additional Controls that could be included in the public consultation

1. Taking off into flight (with wings, canopies with or without a motor) and landing from flight in a manner that causes or likely to cause harassment, alarm or distress to any person.
2. The flying or preparation for flying of drones in a manner that causes or likely to cause harassment, alarm or distress to any person.
3. Swearing or shouting in a manner that causes or likely to cause harassment, alarm or distress to any person.
4. Producing or allowing the production of amplified sound on the beach, promenade or Town centre in a manner that causes or likely to cause harassment, alarm or distress to any person.
5. Cooking or having fires (including BBQs) on the beach or other public place in a manner that causes or likely to cause harassment, alarm or distress to any person during or after the fire or BBQ.
6. Depositing domestic waste in bags or commercial waste in a litter bin or beside a litter bin.

The Activities which are prohibited by this order are:

Obstruction of the promenade including vehicles/driving of vehicles -No motorised or electric vehicles may be parked or driven on the promenades or beaches as follows:

Cars, vans, lorries, trucks, motorcycles, scooters, segways, quad bicycles and any other motorised vehicles. With the exception of mobility scooters and electric bicycles. Unless permission has been granted by the Council and evidence of this can be produced. No deliveries to concessions after 10am.

No obstruction may be caused at any time to the promenade by vehicles or any other structure or object, which impedes access by emergency services or Council vehicles.

Bicycles – At any time of year between the hours of sunrise and sunset, and from 1 May to 30 September inclusive between the hours of 10.00am and 6.00pm, a person shall not ride any cycle on any of the promenades where localised signage requires you to dismount. You must adhere to the signs which vary around the coast. This is for the purposes of health and safety and the enjoyment of others in busy areas.

2.1 (A cycle means a bicycle, a tricycle or a cycle having four or more wheels, including one power-assisted by electrical (or other means not being in any case a motorcycle or motor vehicle.) Please refer to our safe cycling guide (that includes tips for where you will need to dismount regardless of signage ie beach huts mean dismount, and rules for electric powered bikes and scooters, disability scooters)

Bonfires, Barbecues and large gatherings –

i) Bonfires are not permitted on any of the Council's land at any time. BBQs are not permitted on any of the Council's land, however are permitted on beaches after 6pm.

ii) Large gatherings are not permitted on the Council's beaches without prior permission. Large organised groups of 20 or more need to seek permission from Thanet District Council.

Begging, Touting, Hawking, Selling – Begging, Touting, Hawking, Selling is not permitted anywhere on Thanet's beaches, promenades and coast. This includes;

i) Begging or soliciting for money*

ii) Advertising any article verbally or by the distribution of leaflets and flyers, circulars or advertisements of any kind

iii) Flyposting and other fixed notices on railings, posts or other street furniture without prior permission from the Beach and Coast Team, and a fee may be chargeable for this. Notices must be taken down within an agreed period.

iiii) Selling goods, products or services without prior permission of the Council.

(***Begging or soliciting for money.** The act of begging is deemed as either approaching people for money, or being stationary and asking for money, or positioned on the floor to invite the offer of money or goods.)

Horse/Donkey riding – Horse/Donkey riding is not permitted on beaches or promenades – between 1st May and 30th September, between the hours of 09:00 am and 19:00 pm; or at any time, all year round, within Pegwell Bay (Sandwich & Pegwell National Nature Reserve).

Encampments – Camping or the erection and occupation of any structure (this includes but is not exclusive to vehicles, tents, marquees, yurts and any other temporary building) being used to occupy land is not permitted on beaches, promenades, clifftops, nearby green spaces, car parks and surrounding areas of the public realm without prior consent of the Council with the exception of sun shades.

Preaching, lectures, music and entertainment, sporting events, other events – Lectures, speeches, sermons, busking, live music, use of generators and other types of entertainment performances/shows etc are not permitted, unless prior permission has been granted by the Council as per our events policy. In any case any activities of the kind, including filming and photo shoots, intended to be held on the beach/coast need prior permission from the Media Team and Beach/Coast Team.

Other actions which have a detrimental impact on the quality of life of others in the locality.

- i) Urination, defecation, spitting or littering are not permitted
- ii) Drinking alcohol in a public place, after being told not to: No person shall consume alcohol at any time or have an open alcohol container in any public place after request by an Authorised Officer or Police Constable to cease consumption or hand over the container. This provision does not apply to alcohol being consumed on licensed premises (Thanet District Council Alcohol PSPO).
- iii) Ingesting, inhaling, injecting, smoking or otherwise using drugs or substance reasonably believed to be psychoactive substances.
- iiii) Possessing or releasing any canister containing compressed gas

Beach recreational activities and water sports

To adhere to the set of Coastal and Beach 'Codes of Practice' set out by Thanet District Council. Within the code of practice, specific rules will apply for personal powered watercraft usage (including jet skis) and other areas of health, safety and anti social behaviour concern.

The use of water craft in a manner that poses a risk to the safety of people or wildlife

The use of craft in a manner that has the potential to cause harassment, alarm and distress to any other beach or coast users, or residents.