

AGENDA ITEM 14

GENERAL EXCEPTION ITEM

Consultation on Public Space Protection Order in Relation to Alcohol Control

Key Decision No. NH R33

CABINET MEETING DATE (2020/21)

17th March 2021

CLASSIFICATION:

Open

If exempt, the reason will be listed in the main body of this report.

WARD(S) AFFECTED

All wards

CABINET MEMBER

Cllr Susan Fajana -Thomas, Community Safety

KEY DECISION

Yes

REASON: Affects more than two Wards

GROUP DIRECTOR

Ajman Ali, Neighbourhoods and Housing

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Public Space Protection Orders (PSPOs) are intended to deal with nuisance or problems in a particular area that are detrimental to the local community's quality of life, by imposing conditions on the use of the area, which apply to everyone.
- 1.2 PSPOs ensure that Community Safety and Enforcement Officers and Police Officers have powers to deal with anti-social behaviour (ASB) associated with the consumption of alcohol in a public place.
- 1.3 As the Cabinet Member for Community Safety, I am supportive of the proposals contained in this report for Officers to undertake a formal consultation in relation to ASB associated with the consumption of alcohol in public places in Hackney and a prohibition of the consumption of alcohol in London Fields Park (and in this location only, without the need for this to be accompanied by ASB).
- 1.5 I commend this report to the Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 Historically alcohol related ASB was regulated by the Council's Designated Public Places Order (DPPO). When PSPOs were created, the power to create further DPPOs was repealed and existing orders were allowed to last for a three-year period until October 2017. After October 2017, existing DPPOs could be enforced as though they were PSPOs and they expired in October 2020, these were "transitioned" PSPOs.
- 2.2 The Council believes that introducing a Public Space Protection Order (PSPO), will help with controlling ASB associated with alcohol consumption in a public place. It will also enable Community Safety and Enforcement Officers and Police Officers to issue warnings and fixed penalty notices to those not complying with the requirements of the proposed PSPO.
- 2.3 The Council undertook a consultation exercise in September and October 2020 to gauge support on having a PSPO in place, it asked whether residents were concerned about ASB associated with street drinking, whether they had witnessed and how often they witnessed this behaviour and the type of behaviour witnessed that had occurred. The Council also asked if the current (transitioned) PSPO had a negative impact on people and the effectiveness of the PSPO. The consultation lasted for six weeks from 15th September 2020 to 30th October 2020.

2.4 In addition, an engagement exercise (the ‘London Fields Conversation’) was carried out from 29th September to 14th November 2020. The focus of the hyper-local engagement exercise was:

- Understanding the ASB issues that local residents and businesses in the London Fields area faced in Spring / Summer 2020, and how it impacted on them; and
- Crowdsourcing ideas and suggestions from local people on potential solutions to the ASB issues they had been facing.

3. RECOMMENDATION

3.1 That Cabinet approves undertaking consultation in relation to the making of a borough wide Public Spaces Protection Order which would place controls on alcohol related ASB and which would include a ban prohibiting the consumption of alcohol in London Fields Park. The order would be made under Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 and would last for a period of three years. A copy of the proposed Order is attached to this report as Appendix 1.

4. REASONS FOR DECISION

4.1 A PSPO is a tool to ensure the law abiding majority can use and enjoy public spaces safe from activities which have a detrimental effect on the quality of their life in that area. The proposed PSPO should ensure that Hackney has an effective response to ASB associated with the consumption of alcohol in any public place in the Borough of Hackney, together with a ban on the consumption of alcohol in London Fields. The ban on consumption in London Fields is proposed because it is believed that many of the activities which have been identified as anti-social or otherwise having a detrimental impact on the quality of life of those in the locality are connected to the consumption of alcohol; there appears to be a particular problem with this in the London Fields area.

4.2 PSPOs are intended to be used to deal with a particular nuisance or problem in an area that is detrimental to the local community’s quality of life by putting in place conditions on the use of that area that apply to everyone. They are designed to ensure people can use and enjoy public spaces safe from activities which have the requisite detrimental impact.

4.3 Councils can make a PSPO after consultation with the Police and other relevant bodies and communities. The legislation sets out a two-pronged test of which a Local Authority has to be satisfied on reasonable grounds before a PSPO can be made. These conditions are as follows:

(1) That the activities carried out in a public place have had a detrimental effect on the quality of life of those in the locality; or that it is likely that they will have such an effect.

(2) That the effect or the likely effect of the activities:

- *Is (or is likely to be) persistent or continuous.*
- *Is (or is likely to be) unreasonable.*
- *Justifies the restriction imposed by the notice.*

4.4 A PSPO must identify the public place in question and can:

- (a) prohibit specified things being done in that public place
- (b) require specified things to be done by persons carrying on specified activities in that place; or
- (c) do both of those things.

4.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.

4.6 Prohibitions may apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.

4.7 The PSPO may specify the times at which it applies and the circumstances in which it applies or does not apply.

4.8 Unless extended the PSPO may not have effect for more than 3 years.

4.9 Breach of a PSPO without reasonable excuse is a criminal offence. The Police or a person authorised by the Council can issue fixed penalty notices, the amount of which may not be more than £100. A person can also be prosecuted for breach of a PSPO and on conviction the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).

4.10 In deciding to make a PSPO the Council must have particular regard to Article 10 (Right of Freedom of Expression) and Article 11 (Right of Freedom of Assembly) of the European Convention on Human Rights ('ECHR').

4.11 The Council must also carry out the necessary prior consultation, notification and publicity as prescribed by s.72 of the 2014 Act.

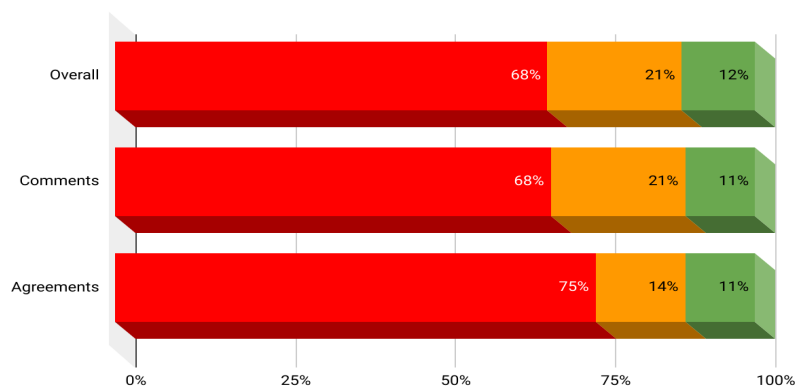
4.12 In preparing this report Officers have had regard to the statutory guidance issued by the Home Office and the Guidance on PSPOs issued by the Local Government Association.

4.13 Between July – October 2020 an injunction was in place to prohibit drinking (and various other activities) in the London Fields area. There is a very real concern that once the weather improves, the problems occurring on London Fields will recur as demonstrated by the London Fields conversation. The Council’s interactive [online engagement platform Commonplace](#) was used to gather insight from local residents and interested stakeholders. Those without online access were given the opportunity to provide their feedback offline through paper versions of the information provided online. The engagement also included:

- **13,450 leaflets** signposting the community conversation was sent to residents and businesses within a 500 metres radius of the Park;
- **Next Door**, a neighbourhood hub which enables hyper local engagement was used to encourage local London Fields residents to take part;
- Signposted the conversation via Council social media channels and relevant e-newsletters, including through targeted, area-based social media ads;
- Engagement with local TRAs and Resident Associations encouraging them to signpost it through their channels; and
- Ward councillors to cascade the information through their surgeries and networks.

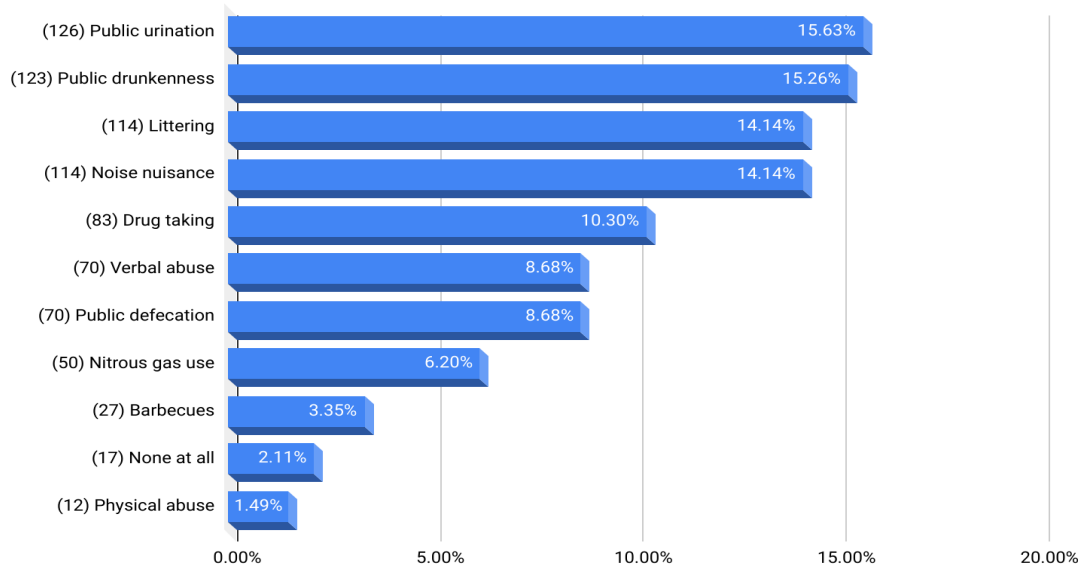
4.14 Summary of Feedback

Respondents were asked to indicate how concerned they were about ASB in and around London Fields. As the graph below shows the majority of responses received were negative (very concerned/concerned about ASB), with an overall of 68% across the platform being of a negative sentiment.



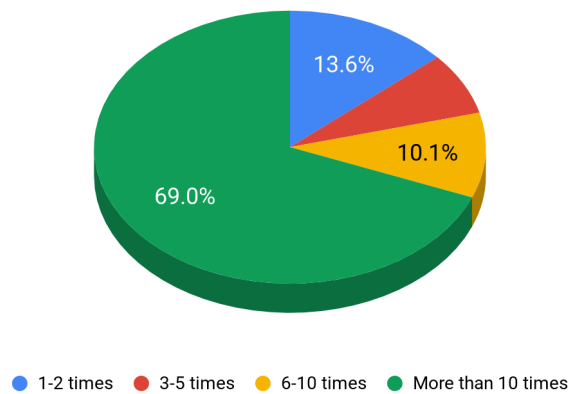
4.15 What types of ASB have you experienced? (Base 806)

As the graph below shows, the highest response to what type of ASB respondents have experienced is “**public urination**” (16% - 126), closely followed by “**public drunkenness**” (15% - 123), “**littering**” and “**noise nuisance**” (14% - 114)

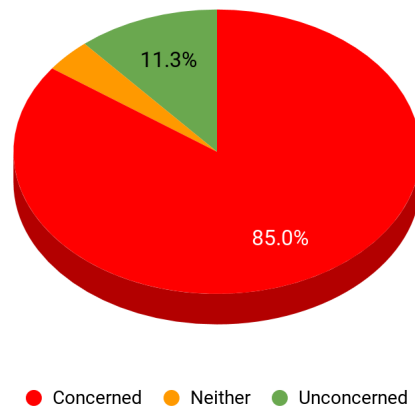


4.16 When asked to comment on their experiences, **“Theft – Bikes/Cars/Phones”** and **“Cyclists – reckless/lack of awareness/dangerous riding”** accounted for the highest number of key themes (15 mentions each).

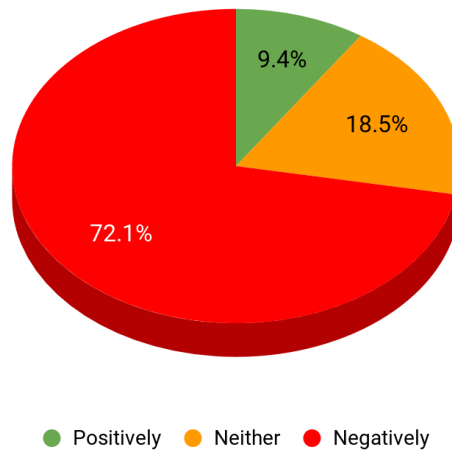
4.17 As the graph below shows, the majority of respondents stated that they have experienced instances of ASB **“more than 10 times”** in the last 6 months (**69% - 123**), base (258).



4.18 The majority of respondents stated that they are **“concerned”** about ASB in and around London Fields (**85% - 162**), base (266).



4.19 The majority of respondents have a **negative** view of London Fields as a result of the ASB they have experienced (**72% - 139**).



4.20 When asked to tell us more about how the ASB they have experienced has affected them and how they use the Park, the **top 4 themes** were:

- **“Urination/Defecation in park areas and surrounding streets/estate grounds”** (47 mentions);
- **“Drinking/Drunkenness”** (44 mentions);
- **“Drugs – dealing and use of drugs”** (35 mentions); and
- **“Littering”** (33 mentions).

4.21 When asked to give any suggestions on the measures the Council should adopt to deal with the instances of ASB in London Fields and the surrounding area, the **top 3 themes** were:

- **“More Police/community officer patrols in and around the Park”** (50 mentions);
- **“Alcohol + drinking – bans/restrictions/limit licences/less noise after closing – help to reduce the amount of street drinking”** (30 mentions); and
- **“Open toilets/extra facilities/24/7 access to avoid urination and defecation in and around the Park land”** (23 mentions).

Respondent Profile

4.22 The engagement exercise resulted in:

1,504	Total visitors to the engagement platform	An individual person who visited a Commonplace website: https://londonfieldsconversationasb.commonplace.is If a person used multiple devices, they may be counted as several visitors
605	Total contributions	The total number of comments and agreements by respondents to express their opinion.
299	Respondents	A person who contributed to a Commonplace website by either adding a comment or an agreement.
276	Web comments	The total number of comments by respondents to express their opinion
329	Agreements	The total number of agreements by respondents to express their opinion

Postcode Analysis

- The top 3 postcode areas were **“E8 3”**, **“E8 4”** and **“E8 1”**, accounting for **47%** of all respondents; and
- The majority of respondents stated that their connection to London Fields is that they **live in the area (66% - 215)**.

About You

- The “**35-44**” age group accounts for the highest percentage of respondents (**40% - 78**);
- The highest percentage of respondents stated that they have lived in the London Fields area for “**1-4 years**” (**25% - 53**); and
- The highest percentage of respondents stated that their home is “**being bought on a mortgage**” (**33% - 67**).

Further Information

4.23 For further information, refer to the [detailed consultation & engagement report](#).

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 Not having a PSPO in place means that Community Safety and Enforcement Officers/Police Officers will be required to attempt to address the ASB associated with the consumption of alcohol across the borough through other means.
- 5.2 An options analysis will be undertaken before any decision to implement a PSPO. Cabinet will need to decide whether or not to implement a PSPO once the outcomes of the consultation are known and have been analysed.

6. BACKGROUND

6.1 Policy Context

- 6.1.1 PSPOs are made under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014. The Borough wide Designated Public Place Order (DPPO) was introduced on 24th May 2010. Originally it was implemented under section 13 of the Criminal Justice and Police Act 2001 which was superseded on 20th October 2014 by the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 6.1.2 The purpose of the DPPO was to ensure that the consumption of alcohol in a public place did not cause disorder, nuisance or annoyance to members of the public, or a section of the public within the London Borough of Hackney.
- 6.1.3 After three years they are treated as transitioned PSPOs for the purposes of enforcement by virtue of s.75(3) of the 2014 Act. Once that a further three years expired (in October 2020), the orders came to an end because a PSPO may not have effect for a period of more than three years (s.60(1)).

6.1.4 Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific 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 intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from ASB.

6.1.5 Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

6.2 Equality Impact Assessment

6.2.1 An Equality Impact Assessment (EIA) has been undertaken to assess the potential of an adverse positive or negative impact of the proposed PSPO on protected groups. A copy of the EIA is attached as Appendix 2 of this report. In completing the EIA the Council has taken the requirements of the Public Sector Equality Duty into account which was created by the Equality Act 2010.

6.2.2 The equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

6.2.3 The proposed PSPO sets out a range of powers available to the Council and how these will be legally applied. The PSPO reflects national legislation and the various powers would have been assessed for their impact on equality as part of the consultation and development process before the legislation was enacted. Its use will be determined by the behaviour occurring rather than any protected group.

6.3 Sustainability

6.3.1 A PSPO will expire after a period of three years unless it is varied or extended.

6.4 Consultations

6.4.1 This report is requesting approval to undertake appropriate consultation in accordance with statutory guidelines and detailed under section 72 of the Act. This will include Metropolitan Police, appropriate community groups, owners and occupiers of land.

6.4.2 The consultation summary explaining the purpose of the consultation and online questionnaire will be included on the Council's online consultation platform, Citizen Space: <https://consultation.hackney.gov.uk/>

- Consultees will be able to request paper copies of the consultation pack (summary, questionnaire) by calling the switchboard and a member of the Enforcement team will post a copy of the consultation pack to them.
- The consultation pack will also be made available at public access points across the borough that will be open to the public when the consultation is launched.
- The consultation will also be promoted via the Council's publications: Hackney Today and Hackney Life.

6.4.3 Given the proposal includes a ban on the consumption of alcohol in London Fields, all occupants of residential properties in the Ward will be notified of the proposed PSPO as will all licensed premises in the Ward.

6.4.4 A further report will be submitted to Cabinet for a final decision on whether or not to approve the proposed PSPO, including a ban on the consumption of alcohol in London Fields.

6.5 Risk Assessment

6.5.1 In relation to the previous consultation undertaken in 2020, a total of 53 comments were made to this question, with the following key themes:

Key Theme	Count
Better preventative/enforcement measures	12
Large groups - verbal abuse/noisy/urination/defecation/threatening/intimidation/loitering	11
More security/enforcement patrols	7
Positive comments	7
Council should do more overall	7
Licensing laws to be changed/enforced	3
Homeless - Excessive drinking/verbal abuse/aggressive	2
Ban large gatherings	2
Class prejudice	2
Constant noise	2
Close off spaces at night	1

6.5.2 The purpose of stakeholder engagement was to clarify that there was not a ban on drinking alcohol in a public place or within the boundary of a licensed premises. However, if a person was to drink beyond the legal boundary of a

licensed premises and cause ASB and did not stop drinking if asked to do so by an authorised Officer, they would be subject to enforcement action.

6.5.3 The purpose of the proposed PSPO, with the exception of the proposal to ban the consumption of alcohol in London Fields and subject to certain restrictions, is to provide a better understanding of the balanced approach to managing freedoms for all with the need to control inappropriate behaviour that infringes the freedoms of the community more widely.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

7.1 The cost of undertaking the consultation of the proposed PSPO is met from the Community Safety and Enforcement approved budgets.

8. VAT Implications on Land & Property Transactions

8.1 Not applicable.

9. COMMENTS OF THE DIRECTOR, LEGAL AND GOVERNANCE SERVICES

9.1 The recommendation set out in paragraph 3 of this report is for Cabinet to approve the undertaking of a consultation for the making of a Borough wide Public Spaces Protection Order in relation to alcohol control in public places, including a ban prohibiting the consumption of alcohol in London Fields Park.

9.2 s.72 of the Anti Social Behaviour Crime and Policing Act 2014 states that:

‘(3)A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before—

(a)making a public spaces protection order,

(b)extending the period for which a public spaces protection order has effect, or

(c)varying or discharging a public spaces protection order.

(4)In subsection (3)—

“the necessary consultation” means consulting with—

(a)the chief officer of police, and the local policing body, for the police area that includes the restricted area;

(b)whatever community representatives the local authority thinks it appropriate to consult;

(c)the owner or occupier of land within the restricted area;’

9.3 A PSPO may be considered to be an appropriate response where Local Authorities have identified a particular local issue. A single PSPO can be used to target a range of different ASB issues. These orders allow Local Authorities to introduce reasonable prohibitions and/or requirements regarding certain behaviours within the specified public area. They may also include prescribed exemptions. Orders can be introduced for a maximum of 3 years, and may be extended beyond this for further three-year period(s) in circumstances where certain criteria are met.

9.4 There are some limitations set out in legislation regarding behaviours that can be restricted by PSPOs. As a public sector body, the Council must have regard to the freedoms permitted under articles 10 and 11 of the Human Rights Act 1998 when drafting, which cover freedom of expression, freedom of assembly and association.

APPENDICES

Appendix 1 - Proposed PSPO Alcohol Control
 Appendix 2 - Equality Impact Assessment

EXEMPT

Not applicable

CONFIDENTIAL

No

BACKGROUND PAPERS

None

<p>Report Author</p>	<p>Gerry McCarthy, Head of Community Safety, Enforcement and Business Regulation gerry.mccarthy@hackney.gov.uk ☐ 020 8356 7087</p>
<p>Comments for and on behalf of the Group Director of Finance and Resources</p>	<p>Deirdre Worrell, Director of Finance, Neighbourhoods and Housing deirdre.worrell@hackney.gov.uk Tel:020 8356 7350</p>

Comments for and on behalf of the Director of Legal & Governance	Jo Sterakides, Senior Lawyer josephine.sterakides@hackney.gov.uk 020 8356 2775
---	---