

Background

An application for a Public Spaces Protection Order (PSPO) to control alcohol-related crime, disorder and nuisance in an area of Llanelli Town Centre (as noted in Appendix 3b) was approved by the Executive Board on 7 September 2020 and the PSPO was introduced on 1 October 2020. This followed extensive consideration by the Police, the Council's Community Safety Manager and Dyfed Drug and Alcohol service (DDAS), of the specific issues identified causing a problem in the area and of the evidential base including crime and disorder statistics.

PSPOs deal with a particular issue or issues in an identified area which is having a detrimental impact on the local community's quality of life. Conditions are imposed, within the Order, to restrict specific behaviour which is evidenced and must be proportionate to the detrimental effect that the behaviour is causing or can cause and are necessary to prevent it from continuing, occurring or recurring. Alternative tools and powers at the disposal of local partners to respond to anti-social behaviour (ASB) concerns must be considered to determine whether a PSPO is necessary. A PSPO must be an element which is carefully considered as part of a balanced anti-social behaviour strategy to address issues.

The three year PSPO ended on 30 September 2023.

Following detailed review and dialogue with Police colleagues and DDAS, all parties are in agreement that a new PSPO should be made. The powers and area covered by the Order have been reviewed in line with the evidence. The new Order will apply to a larger area than the previous Order.

Public Spaces Protection Orders

A PSPO is an order which imposes conditions or restrictions on the use of public land. They can apply to everyone using the land, or to specific categories of user. They enable local authorities to deal with a nuisance or problem in a particular area that is detrimental to the local community's quality of life.

A PSPO can be made by the Council if we are satisfied on reasonable grounds that two conditions are met.

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.

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.

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order:

- a) To prevent the detrimental effect from continuing, occurring or recurring, or
- b) To reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

Therefore, a PSPO needs to be evidence based, and the prohibitions or requirements in the order must be a proportionate response to the problems which are occurring or are likely to occur within the area where it applies.

Proportionality is often described as ensuring that we are not using a “sledgehammer to crack a nut”. We need to consider whether the detrimental effect of the activities justifies the restrictions proposed by the PSPO. Justification includes, a consideration of the nature and extent of the problem, how it might be controlled, the extent to which existing measures are effective, whether there are less restrictive methods of achieving the same effect. The response to an issue must be in proportion to the issue itself.

Process

A number of stages have been completed which have informed the drafting of the Order and these are outlined below to assist Cabinet’s decision regarding the introduction of the proposed PSPO:

1. Consideration of the impact of the PSPO to date and whether a PSPO is still needed in the area

Initial discussions were held with the Police and DDAS to evaluate the PSPO which has been in place for three years. Consideration was given to the impact of the Order, issues arising since its introduction in terms of how it had been responded to by the community and its enforcement. Alcohol has been confiscated on 312 occasions since the introduction of the Order. There was strong support for an Order to continue as a proportionate response to local crime and disorder concerns. Although the Order is being enforced and alcohol still being confiscated with joint working taking place between the Police and DDAS to encourage individuals into treatment services, anti-social drinking continues to take place.

Concerns were also raised around the need to address the drug-related anti-social behaviour (ASB) seen in the area and reported by the community and the need to be able to move people on to another area who were causing an issue or likely to do so.

2. Analysis of data

Analysis was undertaken of alcohol and drug related crime and ASB reported to the police during 2021 and 2022 in the locality in order to inform discussion on the area to be covered by the Order. The police have indicated that there were at least 1074 drug and alcohol related incidents in Llanelli in the year during the two year period, although the true figure is thought to be higher than this. These incidents include crime, ASB and public safety incidents. This information was mapped (Appendix 8)

and location data provided (Appendices 9 and 10). Feedback from the informal consultation (see point 5 below) resulted in further analysis being undertaken on some additional areas put forward. A number of the suggested areas were not able to be covered by the Order as there was insufficient evidence to support their inclusion.

Based on the evidence provided, a revised boundary for the proposed designated area was considered and agreed (Appendix 3).

3. Consideration of powers needed

The new Order will continue to give the police additional powers where they believe that a person is, or has been, consuming alcohol in the designated area or intends to consume alcohol in this area and it is likely to have a detrimental effect on the quality of life of those in the locality (or it is likely that activities will take place and have such an effect). Whilst it is not an offence to drink alcohol in the designated area, the Order enables the police to prohibit the consumption of alcohol on the land on which it applies if they believe that the consumption of alcohol will lead to having a detrimental effect on the quality of life of those in the locality. However, it is an offence to fail to comply with a request made by the police to cease drinking or surrender alcohol, without reasonable excuse. Failure to comply with such requests will amount to a breach of the Order and individuals could be arrested which can result in a fine of up to £500.

This power would not apply to places where the sale and consumption of alcohol is authorised under other legislation, for example in clubs and licensed premises.

Consideration has been given to making certain Council officers 'authorised officers' who would be able to have the power relating to the confiscation of alcohol. It has been decided that this is not to be progressed at this time, but this can be undertaken at any time after the Order is established.

The Police requested additional powers:

- (i) A power to require individuals to surrender drug paraphernalia, when ordered to do so by a police officer. This applies to items which have been used or are likely to be used to consume controlled drugs and other intoxicating substances such as legal highs.
- (ii) A power to require individuals to move to another area and not return for up to 12 hours, when ordered to do so by a police officer. The power would only apply if the police officer reasonably believes that the person is loitering on land to which the Order applies whilst under the influence of alcohol or an intoxicating substance and has caused or is likely to cause harassment, alarm or distress to others.

In relation to (i), the discarding of drug paraphernalia, such as used needles, there is evidence that this occurs in a number of places across the area. Neighbourhood policing officers and DDAS staff have on a number of occasions attended to clean up

and safely dispose of needles in response to public concern. This new power will allow the confiscation of items relating to drug use that are known to be irresponsibly littered and pose a serious risk to prevent harm to members of the public.

The power is closely defined with the specific intention to remove used needles which may be later discarded as litter. Confiscation of such items will be at the discretion of officers following Force guidance and considering the circumstances of each case. Signposting to clean new equipment will form part of this guidance and the wording of the Order safeguards against items incorrectly being confiscated. It is anticipated that the power will reduce the likelihood of illegal drug taking in the area.

The importance of drug users using clean, new needles and the health risks associated with sharing needles is recognised. Requiring drug users to surrender new, packaged needles could result in an increase in needle sharing. To prevent this, the requirement in the Order will not apply to needles, syringes or other items which are in their original packaging, provided that the packaging is still sealed and has not been opened.

Given the serious public health risks associated with discarded needles, a power which helps to prevent unpackaged needles from being littered is desirable. The PSPO allows this. In the circumstances, officers feel that provisions in the proposed PSPO are necessary to prevent crime and protect the health and safety of the public and are a proportionate response to the problem.

In relation to (ii), the Police already have dispersal powers under Part IV of the Anti-Social Behaviour, Crime and Policing Act 2014. These powers are subject to a number of procedural safeguards. At present, following seeking independent legal advice it is unclear whether local authorities can give the police additional dispersal powers within a PSPO. There is an ongoing case where this issue is being considered by the courts. Therefore, it has been decided not to include a dispersal power in the proposed Order at this stage but this will be reviewed once the outcome of the court case is known. The process of collating evidence to inform the advice sought on the proposed Order, then awaiting that advice and agreeing adjustments to the Order and supporting documentation based on the advice received has unfortunately resulted in a delay in introducing the new Order. This has resulted in a period from 30 September 2023 when no Order has been in place.

A comprehensive review of existing police powers was undertaken to determine if these additional powers were required. It was agreed that the power relating to surrendering drug paraphernalia is necessary as existing powers were not sufficient to address this identified problem. There is no power in place for the police to tackle this drug paraphernalia littering issue.

While it was similarly considered that a dispersal power was necessary, as outlined above, it has since been decided not to pursue this at this time.

A detailed options assessment has been undertaken (Appendix 7), to consider the options available to address the ongoing problem, the advantages and disadvantages of the various options. Officers from the County Council (community safety team and legal) and Police contributed to the appraisal.

The proposed PSPO is considered to be the most proportionate response to the specific issue being caused and officers are satisfied that its introduction is supported by the review of the evidence from the analysis supplied by the Police and fully considered with them.

Enforcement of the Order remains a discretionary power and will continue to be used to target the identified anti-social behaviour.

The Order would remain in place for three years and be regularly reviewed.

The Order was drafted by the Council's Legal Services Department and approved by the Police's Head of Legal Services.

In drafting the Order, consideration was given to legislation relating to Human Rights and Equalities as outlined in Appendix 6.

The Order has been carefully worded and contains safeguards and exceptions to ensure that the powers are proportionate in their scope and can only be used where it is appropriate to do so.

Failure to comply with a requirement imposed under the Order is a criminal offence and individuals can be prosecuted and fined. The maximum fine is £500 where a person fails to stop drinking or to surrender alcohol, or £1,000 where a person fails to surrender drug paraphernalia.

4. Equality Impact Assessment (EIA)

An EIA was completed (Appendix 4). Consideration has been given to the new signs which will need to be installed to indicate the amended boundary and powers.

Engagement will take place with the community in order to raise awareness of the PSPO and how it has changed from the previous Order.

5. Informal Consultation

It was considered a valuable exercise to engage with a number of key stakeholders at an early stage to be informed of views on the existing Order and whether it should continue. Discussions were held with County Councillors, Llanelli Town Council, Llanelli Task Force, the County Council officer responsible for the Town Hall and the Safer Communities Action Group, Tyisha Crime and Disorder Steering Group, the Chair of Llanelli Community Partnership and Multi-cultural Network representative as part of this engagement.

At the time of these initial discussions, the focus was on the existing Order and alcohol-related concerns although concerns over drug taking were also raised. There was unilateral support for a PSPO to continue to be in place and suggestions were made for additional areas to be covered within the boundary which were then included within the data analysis, as noted previously in the report.

6. Formal Consultation

Certain stakeholders are required to be consulted on a proposed Order as statutory consultees – the Police and Crime Commissioner, Chief Constable and appropriate community representatives. Community councils in the proposed area covered by the Order must be notified of the Order. Due to the proposed changes in terms of the powers to be awarded and the geographic area covered, it was decided to undertake a public consultation. The statutory consultees, community councils and other groups previously involved in the informal consultation were invited to participate. This consultation exercise took place between 19 April and 31 May 2023. The survey asked for views on the impact of the existing PSPO, whether alcohol and drug-related behaviour and loitering under the influence of alcohol or drugs were issues in the identified area and if the Order was a proportionate response to the level and impact of such issues.

Twenty four responses to the survey were received and a letter of support from the Llanelli Task Force. A summary of survey responses is attached at Appendix 5. Key points to note are:

- Two thirds of respondents thought that the current PSPO has had an impact and that the proposal to introduce a PSPO was in proportion with the level of impact of alcohol and drug-related behaviour in the area.
- The majority of respondents saw the anti-social behaviour issues identified as a problem in the proposed exclusion zone – alcohol-related (79%), drug-related (92%) and loitering under the influence of alcohol (83%) and drugs (92%).
- 83% of respondents agreed with the boundary of the proposed exclusion zone.
- 67% agreed that the Order should be in place for the maximum of three years.

7. Community engagement

It is important to raise awareness of the Order, the area it covers, the powers and the implications of breaching the PSPO. An initial discussion has been held with the Llanelli Multi-cultural Network and further engagement will take place to agree appropriate engagement to raise awareness. Engagement will also be arranged with the wider community including licensees.

The new Order will be published on the Council's website and new signs will be installed in multiple locations across the designated area to make people aware of the Order. Further promotion of the Order will take place with local residents.