

## LONDON BOROUGH OF CROYDON

<b>REPORT:</b>	<b>CABINET</b>	
<b>DATE OF DECISION</b>	<b>27th September 2023</b>	
<b>REPORT TITLE:</b>	A Public Spaces Protection Order (PSPO) in Croydon Thornton Heath	
<b>CORPORATE DIRECTOR / DIRECTOR:</b>	<b>Nick Hibberd</b> Corporate Director of Sustainable Communities, Regeneration & Economic Recovery  <b>Kristian Aspinall</b> Director Culture & Community Safety	
<b>LEAD OFFICER:</b>	<b>Christopher Rowney</b> Head of the Violence Reduction Network christopher.rowney@croydon.gov.uk	
<b>LEAD MEMBER:</b>	<b>Councillor Ola Kolade</b> Cabinet Member for Community Safety	
<b>KEY DECISION?</b>	<b>Yes</b>	<b>Decision number = 3523EM</b> - Significantly impacts on communities living or working in an area comprising two or more wards
<b>CONTAINS EXEMPT INFORMATION?</b>	<b>NO</b>	Public
<b>WARDS AFFECTED:</b>	Bensham Manor, Thornton Heath, Selhurst, South Norwood <i>West Thornton</i>	

### 1. SUMMARY OF REPORT

- 1.1 Implementation of a Public Spaces Protection Order (PSPO) in Thornton Heath and surrounding areas. This will support the delivery of the Executive Mayor's business plan priority for Croydon to be a cleaner, safer and healthier place by providing the Police with additional powers to address the behaviour being exhibited.

### 2. RECOMMENDATIONS

For the reasons set out in the report, the Executive Mayor in Cabinet is recommended:

- 2.1 to consider the outcome of the statutory consultation on the proposed Public Spaces Protection Order (PSPO) in and around the geographical area of Thornton Heath;
- 2.2 to note the strong support for the proposal with over 78% of respondents agreeing with the need for a PSPO in and around the geographical area of Thornton Heath;

- 2.3 having due regard to the outcome of the statutory consultation and in the light of the consideration of the equalities matters and the public sector equality duty detailed in this report to approve the making of the PSPO covering the geographical area in and around Thornton Heath for a term of three years and in accordance with the draft Order set out in Appendix D;
- 2.4 to approve the process for the implementation of the PSPO in and around the geographical area of Thornton Heath.

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 Outcome four of the Executive Mayor's business plan centres on Croydon being a cleaner, safer and healthier place, "a borough we're proud to call home". A key priority is tackling anti-social behaviour, knife crime and violence against women and girls so that Croydon feels safer. Introducing a PSPO will help to crack down on an ASB hotspot by providing the Police with additional powers to address the behaviour being exhibited.
- 3.2 In January 2022, the Safer Croydon Partnership produced their Community Safety Strategy. One theme identified in the strategy was to "*Focus on high priority neighbourhoods*" and was based on the findings of the Strategic Assessment of 2021.
- 3.3 As explained in the report, Thornton Heath has been highlighted as an area for further investigation.
- 3.4 The Council has a duty to do all that it reasonably can to prevent crime and disorder in its area and to work towards delivering the objectives of the Safer Croydon Partnership Plan. The implementation of any PSPO assists the Council in meeting this duty by providing the Council and Police with additional powers to tackle the issues identified.

### **4. PSPO proposals**

- 4.1 The original PSPO that was implemented in 2017 covered a very small area in the centre of Thornton Heath. It lapsed in 2020. Due to the small area covered, it did not effectively tackle the anti-social behaviour in the area.
- 4.2 The new PSPO proposal was based on the available police data at the time as per the legal requirements for new PSPOs. Any proposed PSPO must follow the data available to be legally justifiable. Following the removal of access to police systems for local authority officers across London as a whole, we had to work off the available ward-based data at the time. The proposed area was significantly larger than the previous lapsed PSPO and was drawn as large as could be legally justified through the data we had access to.
- 4.3 Given the restrictions and limitations of the data available at the time, we specifically ensured that the consultation process would allow us to capture more data and evidence to ensure the area covered was appropriate. Following consultation, we committed to changing the area covered if this was justified through the consultation process. We are proposing further changes to the areas covered, and this is outlined in 4.16 onwards.

## **5. PSPO CONSULTATION**

5.1 The PSPO Cabinet report approved by Cabinet in May 2023, stated that the Council would conduct a formal 6-week consultation to enable Croydon's residents and visitors to feedback on a PSPO covering a geographical area in and around Thornton Heath.

5.2 All available Council communication channels were used to promote the consultation. This included a link on the Council's webpage ([Proposal to introduce a Public Space Protection Order \(PSPO\) in Thornton Heath | Get Involved Croydon](#)) which received over 2,100 visits. Emails were sent to statutory consultees as well as emails and reminder emails to our community group distribution list. A press release and news story on news.croydon.gov.uk had 543 views, and social media posts were as follows:

Twitter – 7 posts received a total of 20,857 impressions

Facebook – 8 posts received a total of 6,164 impressions

Instagram – 4 posts received a total of 4,026 impressions

5.3 The consultation was included in two editions of the Council's weekly "Your Croydon" bulletin that went out to over 80,000 email addresses. There was an article on the staff intranet and included in the staff "Our Croydon" bulletin. It was also published in four editions of the council's business bulletin that was circulated to over 7,098 businesses.

5.4 As part of the consultation, the Director of Culture and Community Safety met with local Ward Councillors in the wards affected to discuss the PSPO and its implications.

### **MAIN FINDINGS FROM THE PSPO CONSULTATION**

5.5 There were a total of 551 respondents to the consultation.

5.5 78% strongly agreed with the need for a PSPO in Thornton Heath and its surrounding area. Only 11% strongly disagreed.

5.6 76% of respondents had experienced people harassing or intimidating residents, businesses, or members of the public. 20% had not experienced this.

5.7 80% of respondents had experienced people using threatening or intimidating behavior including verbal abuse. 17% had not.

5.8 90% of respondents had experienced people street drinking. Only 10% had not.

5.9 83% of respondents had experienced people acting in an antisocial manner that causes harassment, alarm, or distress. 15% had not.

5.10 78% of respondents had experienced two or more people acting in a manner likely to cause harassment, alarm, or distress. 18% had not.

5.11 75% of respondents had experienced people urinating in a public place. 24% had not.

5.12 63% strongly agreed with the proposed area for the PSPO. 14% strongly disagreed.

- 5.13 In summary, a large majority of respondents agreed there is an antisocial behavior problem in Thornton Heath and support implementing a PSPO. The most experienced issues were public drinking, verbal abuse/harassment, and urinating in public.
- 5.14 Please refer to Appendix A for a summary of the Public Spaces Protection Order Consultation Results.

### **KEY ISSUES RAISED**

- 5.15 Throughout the consultation there were several key themes that emerged.
- 5.16 The main issue raised was increasing the PSPO to cover Thornton Heath Pond. The legislation states that the Police are a statutory partner that must be consulted to implement a PSPO. The Local Policing Team stated, "*The extension of the PSPO has the full support from the teams due to the fluidity of movement of the individuals who the PSPO is designed to displace from Bensham Manor and Thornton Heath. By excluding The Ponds we will simply be relocating to an area which they already use... A PSPO will enable officers and ASB council teams to move individuals who are drinking before antisocial behaviour takes place and address the issues that local residents are reporting.*" Please refer to Appendix B for the Police feedback that was provided.
- 5.17 During the consultation, many respondents also stated that that the PSPO should cover the area of Thornton Heath Pond stating that there is "*daily ASB at the Pond*".
- 5.18 It was also stated that Grangewood Park was only half covered in the proposed PSPO map, with feedback including that "the whole of Grangewood park needs to be included".
- 5.19 As a result of the feedback provided by the Local Policing team, residents, and feedback from the consultation, further consultation was sought from the statutory partners in relation to the additional areas. Section 72 states that consultation should take place with the chief officer of police, and the local policing body, for the police area that includes the restricted area as well as the owner or occupier of land within the restricted area.
- 5.20 We are therefore proposing that the PSPO should be increased to include Thornton Heath Pond and the entirety of Grangewood park.
- 5.21 The Local Policing team have now provided the relevant information to satisfy the requirements to include Thornton Heath Pond in the PSPO. The Police believe it is proportionate for the area to be covered because the behaviour taking place is having a detrimental effect on the quality of life for those in the locality and that it is likely that activities will continue. Please refer to Appendix B.
- 5.22 In relation to the park, the Local Policing team would find it difficult to enforce only half of the park and to differentiate between areas within or outside of the PSPO boundary as originally drawn up. If only half of the park was included there is a risk that the boundary could be misunderstood. Increasing the coverage to the entirety of the park assists in removing misunderstanding for residents as well as the Police.

- 5.23 A large number of residents have stated in their consultation feedback that they have experienced anti-social behaviour, but they do not identify the specific areas within the park where they experience it. The Council's Parks team has provided the following comments, *"I strongly support the idea of extending the PSPO to cover the entire park. Over the last couple of months there has been a remarkable increase of antisocial behaviour at Grangewood Park, I received reports of park furniture being damaged (e.g. two benches set alight in the last 2 weeks), parks features being vandalised, alcohol related activities taking place in the newly refurbished playground and uncontrolled dogs roaming the park. Covering half of the park will only create confusion and undermine the intention of the proposed PSPO making really difficult for the police to assist the council with any problem arising in the future."* A copy can be found in Appendix E.
- 5.24 The Local Policing team has provided further comment in relation to Grangewood Park at Appendix F.
- 5.25 The PSPO map has been amended to include the areas highlighted during the consultation such as Grangewood Park and Thornton Heath Pond. Please refer to Appendix C for the proposed PSPO map.
- 5.26 A PSPO order may be challenged if the required consultation had not been complied with and that is why further information was sought from the required statutory consultation partners in relation to areas that were identified by residents, partners, and consultation results.
- 5.27 The feedback we received related to increasing the PSPO area to incorporate surrounding areas. Should the PSPO be implemented with the boundaries adjusted as proposed, a review of the area will take place to ensure that displacement is not occurring. The order can be amended to increase the area covered by the PSPO should direct displacement occur. The Partnership will continue to monitor the areas identified as hotspots for crime and anti-social behaviour. Ongoing issues in ASB and Crime hotspots are discussed at the monthly Joint Agency Group (JAG) meeting. The JAG is the medium-term operational arm of the Safer Croydon Partnership (SCP). It is a multi-agency intelligence-led local partnership focused on anti-social behaviour and related crime and disorder. It deals with the threat, risk and harm to local communities and local people, identifying and tackling crime and anti-social behaviour through collaborative problem-solving.
- 5.28 Previously, services have visited the areas to identify individuals and signpost them to relevant services. The Local Policing team, Housing Providers and Youth Engagement Service, as well as the Substance and Alcohol Misuse team, have all conducted visits to some of the areas identified.
- 5.29 Consultation feedback highlighted that drug dealing and drug use is a concern to residents and businesses. The Police will continue to deal with criminal offences such as drug dealing. The PSPO would not replace their powers but provide the Police with additional measures.

## **PARTNERSHIP**

- 5.30 As part of the consultation, various community organisations were invited to respond to the consultation in their own name, on behalf of their members.

## NEXT STEPS

5.31 Given the results of the consultation, it is proposed to proceed with the making of a PSPO. The proposed PSPO is set out in Appendix D. It is considered that the prohibitions and requirements proposed in the PSPO are reasonable and proportionate and are targeted at the specific activities and behaviours which are causing nuisance and harm. It is considered that these are the minimum measures necessary to prevent or reduce the detrimental effect the anti-social behaviours are having on the quality of life of those living or working in or visiting the area.

5.32 If the PSPO is approved, the timeline for implementation is as follows:

October & November – Police training

October – Sign design

November – Sign production

December – Installation of signs

December – PSPO go live-date

## 6 ALTERNATIVE OPTIONS CONSIDERED

6.1 Not approving the PSPO may have reputational impact for the community safety partners who have requested assistance in tackling the behaviour exhibited. Failure to introduce the new PSPO may continue to inhibit the Council's ability to make use of new powers to tackle anti-social behaviour in the area. The Police team and Council will continue to issue Community Protection Notice Warnings (CPNW) to try and prevent the behaviour from taking place.

## 7 CONTRIBUTION TO COUNCIL PRIORITIES

7.1 Croydon's Executive Mayor Business Plan sets a new direction, building on the hopes and aspirations of our residents and businesses. The PSPO will contribute directly to outcome four: Croydon is a cleaner, safer and healthier place, a borough we're proud to call home.

## 8 IMPLICATIONS

### 8.1 FINANCIAL IMPLICATIONS

#### Revenue and Capital consequences of report recommendation

	Current Year	Medium Term Financial Strategy – 3 year forecast		
	2023/24	2024/25	2025/26	2026/27 (*)
	£'000	£'000 (*)	£'000 (*)	

<b>Revenue Budget Available</b>				
Expenditure Income	6	0	0	0
<b>Effect of decision from report</b>				
Expenditure Income	6	0	0	0
<b>Remaining Budget</b>	0	0	0	0
<b>Capital Budget available</b>				
Expenditure Income	0	0	0	0
<b>Effect of decision from report</b>				
Expenditure Income	0	0	0	0
<b>Remaining Budget</b>	0	0	0	0

- 8.1.1 There are limited capital or revenue implications associated with this report. There are no significant financial impacts from the Policy identified and no additional funding is being requested.
- 8.1.2 The primary cost to proceed with a PSPO would be installing new signage through the proposed PSPO zone and would be met from existing budgetary provision. This will cost approximately £6000.
- 8.1.3 Sustainable Communities, Regeneration & Economic Recovery Department. Comments approved by Darrell Jones Acting Head of Finance on behalf of the Director of Finance 9<sup>th</sup> August 2023

## **8.2 LEGAL IMPLICATIONS**

- 8.2.1 Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 provides that a local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met. The first condition is that 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 that it is likely that activities will be carried on in such a place and that they will have such an effect. The second condition is that the effect, or likely effect of the activities is, or is likely to be of a persistent or continuing nature, is, or is likely to be such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.
- 8.2.2 In addition, the only prohibitions or requirements that may be imposed are ones that are reasonable to impose to prevent such detrimental effect from continuing, occurring or recurring, or to reduce such detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 8.2.3 Section 72 of the 2014 Act requires a local authority to carry out the "necessary consultation, and the necessary publicity and the necessary notification (if any)" before making a PSPO. The necessary consultation means consulting with the relevant Chief Officer of Police and the local policing body, and whatever community representatives the local authority thinks it's appropriate to consult, and the owner or occupier of land within the restricted area. Details of the consultation which has been carried out, and the outcome of that consultation are set out in this report.
- 8.2.4 The "necessary publicity" means in the case of a proposed order, publishing the text of it. The text of the proposed order will be published in the event of a positive decision by the Executive Mayor in Cabinet. The draft order can be seen in Appendix D.
- 8.2.5 The "necessary notification" means notifying certain authorities of the proposed order.
- 8.2.6 Section 72 of the 2014 Act requires a local authority, in deciding whether to make a PSPO and if so, what it should include, to have particular regard to the rights of freedom of expression and freedom of assembly as set out in articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In addition, under Section 6 of the Human Rights Act 1998 it is unlawful for the Council, as a public authority, to act in a way which is incompatible with a Convention right. Given that the proposed PSPO restricts only a limited number of activities within a limited area, and given also the results of the consultation which revealed a high incidence of people witnessing or experiencing anti-social behaviour in the proposed restricted area, it is considered that it is proportionate to make the proposed PSPO as this will fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law-abiding majority, and that the restrictions which will be placed on the rights and freedoms mentioned above are lawful, necessary and proportionate.
- 8.2.7 It is important to ensure that the scope and the process for making a PSPO is in accordance with the powers and requirements of the 2014 Act. Any challenge to a PSPO would have to be made by an 'interested person' by way of an application in the High Court for permission to seek a Judicial Review. That application must be made within six weeks of the PSPO being made. A person who receives an Fixed Penalty Notice due to a breach of PSPO can also challenge the validity of the order. This means that only those who are directly affected by the restrictions have the power to challenge.

'Interested persons' can challenge the validity of a PSPO on two grounds. They could argue that the council did not have power to make the order, or to include particular prohibitions or requirements. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with. When the application is made, the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court can uphold the PSPO, quash it, or vary it.

8.2.8 The arrangements set out in this report and in the report to the Executive Mayor at the May Cabinet seek to evidence support for the various requirements for making a PSPO under the 2014 Act.

8.2.9 The Secretary of State has also issued updated guidance Anti-social Behaviour Powers: Statutory Guidance for frontline professionals on 27 March 2023:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1146322/2023\\_Update\\_ASB\\_Statutory\\_Guidance\\_-\\_FINAL\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1146322/2023_Update_ASB_Statutory_Guidance_-_FINAL_1_.pdf)

under section 73 of the 2014 Act which the Council should have regard to.

Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Legal Services & Monitoring Officer Stephen Lawrence-Orumwense.

### **8.3 EQUALITIES IMPLICATIONS**

8.3.1 The Council has a statutory duty to comply with the provisions set out in the Equality Act 2010. In summary, the Council must in the exercise of all its functions, "have due regard to" the need to comply with the three aims or aims of the general equality duty. These are to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

8.3.2 Having due regard means to consider the three aims of the Equality Duty as part of the process of decision-making. This means that decision makers must be able to evidence that they have taken into account any impact of the proposals under consideration on people who share the protected characteristics before decisions are taken.

8.3.3 Any proposed PSPO is likely to have a positive impact on certain protected groups such as victims of hate (gender, sex, race, sexuality, religious or disability) related ASB, it will apply to the whole population and its use will be determined by the behaviour occurring rather than the protected group. The exception is young people who cannot be issued with a FPN if they are under 18 years of age.

- 8.3.4 The implementation of any PSPO should not preclude the ongoing of support and outreach services to individuals requiring assistance in the designated area. Support should also be provided to targets of domestic abuse.
- 8.3.5 Following the consultation, if the Council then considers whether to make the proposed PSPO, Section 72 of the Anti-Social Behaviour Crime and Policing Act 2014 will require the Executive Mayor in Cabinet as decision maker for this specific PSPO, to pay particular regard to rights of freedom of expression and freedom of assembly set out in articles 10 (the right to freedom of expression) and 11 (freedom of assembly and association) of the European Convention on Human Rights in considering the making any such order. It would also have to be concluded that the making of the proposed order was proportionate and would fulfil a legitimate aim of curbing anti-social behaviour in public places for the benefit of the law-abiding majority and hence would not infringe article 11 ECHR.

Approved by: Denise McCausland – Equality Programme Manager.

#### **8.4 CRIME AND DISORDER IMPLICATIONS**

The proposed PSPO will provide additional powers to Council and Police officers to take action against the prohibitions listed as part of the PSPO within the designated area. This would directly support the Council in discharging its statutory duty under Section 17 of the Crime and Disorder Act 1998 to exercise its various functions with due regard to the likely effect of the exercise of those functions, and the need to do all that it reasonably can to prevent crime and disorder in its area. The proposed PSPO would also support the Council and its partners in delivering the Safer Croydon Strategy, specifically the importance to focus on high priority neighbourhoods.

(Approved by: Director of Culture & Community Safety)

#### **9. APPENDICES**

- Appendix A: Report and summary results of the PSPO consultation.
- Appendix B/Bi: Feedback from the Met Police on the PSPO
- Appendix C: Proposed Map of the area.
- Appendix D: Draft PSPO Order
- Appendix E: Feedback from the Parks team
- Appendix F: Further feedback from the Met Police

#### **10. BACKGROUND DOCUMENTS**

- Public Space Protection Order Cabinet Report May 2023
- Equality Analysis Form