

LONDON BOROUGH OF CROYDON

REPORT:	CABINET	
DATE OF DECISION	24th May 2023	
REPORT TITLE:	A Public Space Protection Order (PSPO) in Croydon Thornton Heath	
CORPORATE DIRECTOR / DIRECTOR:	Nick Hibberd Corporate Director of Sustainable Communities, Regeneration & Economic Recovery Kristian Aspinall Interim Director Culture & Community Safety	
LEAD OFFICER:	Christopher Rowney Head of the Violence Reduction Network christopher.rowney@croydon.gov.uk	
LEAD MEMBER:	Councillor Ola Kolade Cabinet Member for Community Safety	
KEY DECISION?	Yes	Decision number = 3523EM - Significantly impacts on communities living or working in an area comprising two or more wards
CONTAINS EXEMPT INFORMATION?	NO	Public
WARDS AFFECTED:	Bensham Manor, Thornton Heath, Selhurst, South Norwood <i>West Thornton</i>	

1. SUMMARY OF REPORT

- 1.1 Progression of a Public Space Protection Order (PSPO) in Thornton Heath and surrounding areas which will support the delivery of the Mayor's business plan priority for Croydon to be a cleaner, safer and healthier place, a borough we're proud to call home, 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 authorise consultation with members of the public and partners on implementing a PSPO in the Thornton Heath and surrounding area.

3. REASONS FOR RECOMMENDATIONS

- 3.1** As part of the Mayor's business plan, outcome four centres around Croydon being a cleaner, safer and healthier place, a borough we're proud to call home. A key priority is to tackle 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 and one theme highlighted was to "*Focus on high priority neighbourhoods*", this theme was based on the findings of the Strategic Assessment of 2021.
- 3.3** Thornton Heath has been highlighted as an area for further investigation as explained in the report.

4. BACKGROUND AND DETAILS

- 4.1** In 2014, the Anti-Social Behaviour Crime and Policing Act 2014 ("the Act") came into force. This Act introduced several tools and powers for use by councils and the police to address anti-social behaviour (ASB) in their local areas. These tools, which replaced and streamlined a number of previous measures, were brought in as part of a Government commitment to put victims at the centre of approaches to tackling ASB, focussing on the impact behaviour can have on both communities and individuals, particularly on the most vulnerable. This act introduced the powers available to the police and local authorities to deal with anti-social behaviour. One of these measures is the use of Public Space Protection Orders (PSPO).
- 4.2** In July 2022, Cabinet were asked to consider a report on the progression of a Public Space Protection Order (PSPO) in Croydon Town Centre. As a result, it was agreed that public consultation would take place in relation to the Town Centre and further evidence would be collected regarding other hotspot areas in the borough.
- 4.3** In November 2022, Cabinet received a report on the outcome of the consultation with members of the public and partners on implementing a PSPO in Croydon Town Centre, the process for making a PSPO, the proposed area which the PSPO would cover, and the activities which it is proposed the PSPO should restrict, and to seek approval for the making of a PSPO in Croydon Town Centre, this was agreed.
- 4.4** An original PSPO in Thornton Heath lapsed in 2020. This was due to a perceived reduction in ASB and a lack of recorded evidence that it was being used at the time.
- 4.5** As part of the Mayor's commitment to working with the Police to tackle Crime and Disorder across the borough, we are proposing to consult on making a new PSPO across a wider area than before. This will provide another tool for Police and Council Officers to make our public spaces free from anti-social behaviour and stop ongoing harassment and disorder. We will work with the Police to ensure use of the power is recorded throughout the lifespan of the PSPO should it be implemented.
- 4.6** This proposal is based on our recent Community Safety Strategy 2022 as well as the Strategic Assessment 2022 which highlights Thornton Heath as one of our major hotspots for ASB and crime and disorder.

4.7 This PSPO is one part of our wider plan to make Croydon safer and more welcoming as part of the Mayor's commitment to tackling crime and disorder across the borough and supporting the Police in their work in the area. It is a priority for all the statutory partners in the borough to reduce ASB and disorder in key areas, including Thornton Heath.

5. PUBLIC SPACE PROTECTION ORDERS

5.1 PSPOs are intended to deal with a particular nuisance or problem in a particular area where the behaviour is detrimental to the local community's quality of life, by imposing conditions on the use of that area. These can apply to everyone who uses that area or can be specifically structured to apply only to certain groups or categories of person, at different times or in specified circumstances. The Council is responsible for making a PSPO although the Police also have enforcement powers.

5.2 The Council can make a PSPO if satisfied, on reasonable grounds that the following conditions are met in relation to the activities sought to be regulated:

- That they are or are likely to be carried out in a public place within the borough;
- That they have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
- The effect, or likely effect of the activities is likely to be persistent or continuing in nature;
- Is or is likely to be such as to make the activities unreasonable; and
- Justifies the restrictions sought to be imposed by the order.

5.3 In addition to the specific statutory consultation requirements, the Council has to adhere to the publication requirements which form part of the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 ("The regulations"). These specify both advertising requirements and the need for notification to be placed on land affected.

5.4 If made, details of the making of a PSPO will have to be made available on the Council's website and notification is required to be placed on the land affected in such a manner as to bring the order to the notice of persons using the restricted land. Any variation or discharge of the orders must be similarly publicised.

5.5 Should the PSPO be implemented the Council will work with the Police to ensure that front-line officers are aware of the power and how to use it, to maximise the impact of the PSPO.

5.6 A breach of the PSPO is a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) or prosecution. If prosecuted, an individual could be liable for a fine. Only those aged over 18 can be issued with an FPN.

5.7 Any PSPO introduced is only valid for three years 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.

6. PRIORITY NEIGHBOURHOODS

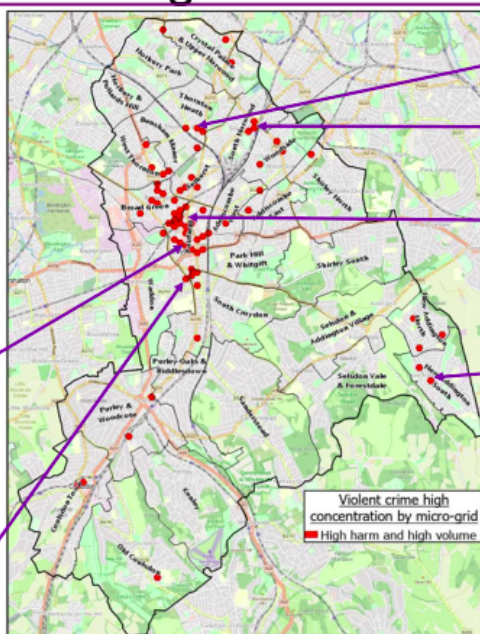
- 6.1 The Safer Croydon Partnership is the statutory partnership that brings together the Police, Council, Health, Probation and Fire Brigade to tackle crime and disorder in Croydon. The Partnership uses data and intelligence to identify the key issues facing the borough and then commits resources through a partnership plan and strategy to tackle those issues.
- 6.2 As part of the Mayor's ongoing commitment to work in partnership with the Police to tackle crime and disorder in the borough, the Safer Croydon Partnership have refocused their priorities to ensure they take into account the feedback from the community and local residents. The Strategic Assessment highlighted areas that require a holistic partnership-led approach, the areas identified can be seen on the map below.

The "high volume high harm" micro-areas to target

- There are specific micro-grids and clusters of micro-grids of high volume and high harm violent crime where further targeting can be implemented. This is because they contain relatively disproportionate levels of violence and other crimes of concern.

Croydon Town Centre, specifically High Street, Surrey Street and Church Street.

Croydon Town Centre, specifically South End.



- 6.3 The Strategic Assessment 2021 highlighted that Croydon Town Centre and Thornton Heath cover only 4% of the whole of Croydon but around a quarter of all crime offences (24%) and crime harm (28%) occur here. Analysis of street-based crime only (i.e. those crimes committed in the public domain) identifies that over a quarter of offences (28%) and over a third of harm (35%) occur in these areas. A PSPO has already been implemented in the other area identified.
- 6.4 The Strategic Assessment 2021 stated that in the Thornton Heath area, even though it is an area which only covers around 1% of the borough, 6% of offences and 7% of harm is committed here. This is almost a third of the proportion of crime and harm which is committed in the town centre, it is still high for an area of a relatively small size. Within this area, 58% of all offences and 49% of harm in the area is street-based.
- 6.5 Members of the Safer Croydon Partnership have also highlighted that street drinking is having an adverse effect on the public and several complaints have been received by

partners from local businesses, residents and visitors to the area. Residents have stated that they feel unsafe and intimidated by the anti-social behaviour they have witnessed.

- 6.6** A PSPO will enable the Council and Police to tackle the visible issues of street drinking and anti-social behaviour in the area, thereby reducing incidents of anti-social behaviour with the aim of improving public confidence and increasing the public perception of safety in a key economic and cultural centre for the borough for residents from the across the borough, as well visitors and commuters from outside of the borough.
- 6.7** Should the PSPO be implemented we will review the area covered after two months to ensure that displacement is not occurring. Should direct displacement be occurring in areas immediately outside the impacted area we will look to increase the area covered by the PSPO.
- 6.8** This is part of our ongoing partnership with the Police to reduce crime and disorder, tackle anti-social behaviour and make Croydon a welcoming destination for residents and visitors alike.
- 6.9** We will identify further opportunities to use PSPOs to tackle disorder in Croydon across the borough through our ongoing data and intelligence work. Those proposals will be brought back to the Mayor for discussion and agreement in the near future as soon as the evidence is available.
- 6.10** As part of the ongoing work to tackle anti-social behaviour in the area the Local Authority as well as the Local Policing team have issued Community Protection Notices, trespass letters and warning letters to individuals causing harassment, alarm and distress to others in the area. The Local Authority have also removed street furniture from the location to prevent the anti-social behaviour from being exhibited in parts of the High Street. The Partnership has also deployed security services to protect our vulnerable residents as well as contact landowners in the area to address the partnership's concerns regarding behaviour being exhibited on their land.
- 6.11** Residents have raised their concerns regarding the behaviour they have witnessed through the Community Trigger which has led to an increase in patrols in and around the Thornton Heath area by partners. Residents have also contacted the Housing Department to share their experiences.
- 6.12** The area has been discussed at the Safer Croydon Partnership tasking meetings to ensure a co-ordinate approach is adopted to tackling the ongoing anti-social and criminal behaviour being exhibited in the area.
- 6.13** Whilst the PSPO in the Town Centre has only been active for a short period of time, the Police have evidenced how they are using the powers to tackle anti-social behaviour and street drinking in the area by reporting dates and times of incidents as well as locations where they have challenged the behaviour. The Police will continue to tackle drug dealing and drug taking across the borough which is a priority for the partnership.

7. CONSULTATION

7.1 There is a requirement on the Council to consult when implementing or varying a PSPO. The specific wording of the Act sets out that: Local Authorities are obliged to consult with:

- a) The chief officer of police, and the local policing body, for the police area that includes the restricted area (the Metropolitan Police have agreed that this should be the Police Borough Commander);
- b) Whatever community representatives the local authority thinks it appropriate to consult;
- c) The owner or occupier of land within the restricted area.

7.2 We will also be consulting directly with local Ward Councillors in the wards affected.

NEXT STEPS

7.3 The Council would like to conduct a formal 6-week consultation to allow residents to provide their comments and to provide feedback on a PSPO covering a geographical area, in and around the Thornton Heath High Street. A public consultation would be made available via our partners in the voluntary sector to engage with groups likely to be affected.

8 ALTERNATIVE OPTIONS CONSIDERED

8.1 Not approving the consultation of a new 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) in order to try and prevent the behaviour from taking place.

9. CONTRIBUTION TO COUNCIL PRIORITIES

9.1 Croydon's Mayoral 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.

10. IMPLICATIONS

10.1 FINANCIAL IMPLICATIONS

10.1.1 There are no direct financial implications associated with this report as it a decision to consult which will have minimal costs and any cost incurred would be contained within existing budgets.

10.1.2 Sustainable Communities, Regeneration & Economic Recovery Department. Comments approved by Darrell Jones Acting Head of Finance on behalf of the Director of Finance. 21st April 2023.

10.2 LEGAL IMPLICATIONS

10.2.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Legal Services and Monitoring Officer that:

10.2.2 Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 (the 2014 Act) 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. Evidence of the various types of anti-social behaviour occurring in the town centre and its detrimental effects, and of the persistent and unreasonable nature of this behaviour is contained in the preceding paragraphs of this report.

10.2.3 In addition, the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order 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. Therefore, the prohibitions and requirements which will be proposed will be reasonable and proportionate, will be targeted at the specific activities and behaviours which are causing nuisance and harm, and will be the minimum measures necessary to prevent or reduce the detrimental effect which these activities are having on the quality of life of those living or working in, or visiting Thornton Heath and the surrounding area.

10.2.4 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 is appropriate to consult, and the owner or occupier of land within the restricted area.

10.2.5 The "necessary publicity" means in the case of a proposed order, publishing the text of it.

10.2.6 The "necessary notification" means notifying certain authorities of the proposed order.

10.2.7 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. Therefore, at the point in time when the Council considers whether to make a PSPO and if so, what it should include, the Council will need to be satisfied that the proposed restrictions are proportionate and are the minimum

measures necessary to fulfil the legitimate aim of curbing anti-social behaviour in public places for the benefit of the law-abiding majority.

10.2.8 It is important to ensure that the scope of, 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 FPN due to a breach of a 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 its decision in part or in totality. The High Court can uphold the PSPO, quash it, or vary it.

10.2.9 Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Legal Services and Monitoring Officer

10.3 EQUALITIES IMPLICATIONS

10.3.1 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.

10.3.2 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 considered any impact of the proposals under consideration on people who share the protected characteristics before decisions are taken.

10.3.3 Any proposed PSPO is likely to have a positive impact on certain protected groups such as victims of hate (gender, 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.

10.3.4 An EQIA has been produced and identified a potential negative impact on the African and African Caribbean community who are over 2 x more likely to be stopped for stop and searched than their White or Asian counterparts. The service department is required to identify mitigation to address this and create an action plan.

- 10.3.5 The Equality Strategy 2020 -2024 states that all EQIAs need to be data driven. The department is required to include the borough data in the EQIA which will enable more effective decisions to be made. The EQIA is a live document and the service department are requested to update it when data is received following the consultation.
- 10.3.6 During the consultation and subsequent equality analysis data should be collated about the protected characteristics of both those consulted and affected by hate crime in order to ascertain if the impact of anti-social behaviour is greater in relation to one or more protected characteristic.
- 10.3.7 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.

Comments approved, by John Mukungunugwa, Equalities Officer on behalf of Denise McCausland the Equalities Programme Manager, on 04/05/2023

11. APPENDICES

Appendix A – Map of proposed area.

12. BACKGROUND DOCUMENTS

N/A

13. URGENCY

N/A