

Crawley Borough Council

Report to Overview and Scrutiny Commission 29 January 2024

Report to Cabinet 31 January 2024

Public Spaces Protection Order – Council owned multi-storey car parks

Report of the Head of Community Services, **HCS/072**

1. Purpose

- 1.1 To consider a proposal for the making of a Public Spaces Protection Order (PSPO) to prohibit activities that are having a detrimental effect on the amenity, residents and visitors to the town centre that use the Council's town centre multi-storey car parks.

2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

That the Commission consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

The Cabinet is recommended to:

- a) Request that Full Council make a PSPO in the form set out in Appendix A with the restricted area being Orchard Street multi-storey car park, Town Hall multi-storey car park and Kingsgate multi-storey car park which should come into force on 26th February 2024 for a period of three years
- b) Resolve that the level for Fixed Penalty Notices which may be issued for a breach of the PSPO (in the event that Full Council makes the PSPO in the form of the draft at Appendix A of this Report, HCS/072NOo) be set at £100.

3. Reasons for the Recommendations

- 3.1 There have been complaints about anti-social behaviour the Council's town centre multi-storey car parks. The anti-social behaviour is mainly caused by congregating/sleeping in access areas such as stairwells and lift lobbies, drug taking and access for the purpose of criminal activity.
- 3.2 As a publicly accessible space there are limited powers to prevent individuals accessing the car parks for non-parking related activities.

- 3.3 The anti-social behaviour can be managed by introducing a Public Spaces Protection Order restricting activity that is not connected to the parking of a vehicle or bicycle, without preventing the lawful use of the car park for all members of the public.

4. Background

- 4.1 PSPOs were introduced under the Anti-social Behaviour Crime and Policing Act 2014 and are designed to address unreasonable and persistent behaviour that affects the quality of life of a local authority's residents. PSPOs last for up to three years unless extended before they expire or discharged (revoked). PSPOs can only be made where the Council is satisfied on reasonable grounds (i.e. there is evidence demonstrating) the following two conditions:
- (1) that there has been (or it is likely to be) activities carried on in a public place which have had (or are likely to have) a detrimental effect on the quality of life of those in the locality,
 - (2) 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.
 - justifies the restrictions imposed.
- 4.2 Breach of a PSPO is a criminal offence and can be dealt with by way of a fixed penalty notice (FPN) (currently set at £100) or a fine up to level 3 (£1000) on prosecution. Authorised officers are able to issue a FPN immediately upon witnessing a breach of PSPO.
- 4.3 Over the last 18 months there has been a considerable increase in anti-social behaviour within Orchard Street multi-storey car park, Town Hall multi-storey car park and Kingsgate multi-storey car park. Parking Services staff and the cleaning contractor have had to deal with both individuals loitering or sleeping in the car park and the litter and waste left behind and groups of individuals inside the carpark who are suspected of carrying out criminal activities.
- 4.4 Between July 2022 and June 2023, there were 206 reports regarding misuse of the council's multi-storey car parks from Parking Services staff and the cleaning contractor. The majority of these (173 reports) related to Orchard Street multi-storey car park. There were fewer reports for Kingsgate multi-storey car park (27 reports) and the Town Hall multi-storey car park (6 reports).
- 4.5 The main issues relating to Orchard Street multi-storey car park were rough sleeping, discarded bedding/belongings, human waste, individuals or groups loitering/being asked to leave, drug paraphernalia and smell of drugs.
- 4.6 For Kingsgate multi-storey car park the reports related to stickering, evidence of gatherings (cans, takeaway litter etc), human waste, rough sleeper and/or bedding, youths and smoking/smell of drugs in the car park. For the Town Hall multi-storey car park reports related to bedding being found or evidence of drinking and smoking.
- 4.7 Residents and local businesses whose staff regularly use these car parks have raised concerns regarding safety and anti-social behaviour listed in 4.5 within the car parks and have requested that the council takes action to address this as the impact of these issues is detrimental to their quality of life.
- 4.8 A security company was contracted August 2022 for a period of four weeks to provide two visits per day between 17:00 – 19:00 and 00:00 – 02:00 to disrupt any activity taking place in Orchard Street multi-storey car park. This was repeated in September 2022 for four

weeks and November 2022 for three months until February 2023. The patrols had some success in reducing the incidents of anti-social behaviour. In September 2023 the twice daily patrols were reinstated following an increase anti-social activity in the car park.

- 4.9 It is proposed the PSPO, if made, would be enforced by Council's Civil Enforcement Officers and Community Protection Team under Section 67 of the Anti-social Behaviour, and Policing Act 2014; the power to give a lawful instruction, however only the Community Protection Team and the police will have the power to issue Fixed Penalty Notices under Section 68 of the Anti-Social Behaviour, Crime and Policing Act 2014.

5. Information & Analysis Supporting Recommendation

- 5.1 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
- 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—

- 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.

- 5.2. Prior to public consultation, data was collected across Crawley Town Centre to evidence that the above conditions had been met. This included data collected by the Council and Sussex Police through reports, complaints and observations made by Officers patrolling within the Town Centre which are contained in Appendix C.

- 5.3 Before making or renewing a PSPO the Council must publicise the text of the proposed order and:
- consult with the chief police officer and the local policing body.
 - consult with such community representatives as the Council thinks appropriate.
 - consult (as reasonably practicable) the owners or occupiers of land in the area of the proposed order.
 - notify West Sussex County Council.
 - consider any representations made.

- 5.4 Letters were sent via email to Sussex Police, via the local District Commander, the Police and Crime Commissioner and WSCC.

WSCC and Sussex Police and Crime Commissioner raised no objections regarding the proposed PSPO. Sussex Police fully support the proposed PSPO.

- 5.4 Crawley & Gatwick Business Watch, Crawley Town Centre Business Improvement District and Crawley Open House were all made aware of the consultation.

- 5.5 When deciding whether to make a PSPO, the Council must have regard to the Human Rights Act, with particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.

When enforcing this PSPO, authorised officers will have regard for these rights in that should an individual(s) be exercising these rights safely within the area to which the order applies, Officers will not restrict these rights.

5.6 Public Consultation

- Consultation took place from 1st November to 30th November 2023. A copy of the consultation questions is included in Appendix B. The consultation was made available online. A copy of the draft order including maps of the restricted areas was made available on the Council's website.
- The consultation was promoted via press release and online through the Council's website and social media channels. In addition, posters were displayed with all three Council multi-storey car parks and in neighbourhood noticeboards.
- In addition, the managing agent of Sussex House multi-storey car park, located in the town centre and local businesses who were permit holders in the Council's multi-storey car parks were also sent letters via email regarding the consultation.
- A total of 62 respondents completed the questionnaire. 90% of respondents were Crawley residents, 7% were visitors to Crawley, 2% completed on behalf of a business and 2% other.

5.7 A written response was received from the managing agent for Sussex House Car Park. The response outlined the anti-social behaviour and criminal activity that they have experienced over the last 8 years which included, thefts, drugs, drug dealing, prostitution, graffiti, criminal damage, nuisance, car-racers and skateboarders. The response stated that the council safeguarding their own car parks with a PSPO would 'shift and intensify the issues onto private car parks'. The response requested the inclusion of all town centre multi-storey car parks within the PSPO and stated that without extending the PSPO they would strongly oppose its implementation.

5.8 The primary responsibility of tackling anti-social behaviour on private land is that of the landowner. Inclusion of this site for the PSPO was not considered due to a lack of reports to suggest that anti-social behaviour in this location meets the legal test required. Prior to the public consultation, the Council approached the managing agent of Sussex House to request data. The information provided was anecdotal in nature and was considered to be inadequate evidence to meet the legal test.

5.9 Should the landowner report issues directly to us or to the police when anti-social behaviour takes place, and this can be evidenced, the PSPO could be varied to include additional sites to support the work the landowner is expected to do to address the behaviour.

5.10 Analysis of the Consultation responses:

Question: Overall, do you support the introduction of this PSPO?

There were 62 responses to this question, with the majority in support.

- 76% (47) of respondents supported the introduction of a PSPO.
- 16% (10) of respondents were undecided.
- 8% (5) of respondents did not support the introduction of a PSPO.

Comments from those in support of the PSPO included:

- *The behaviour has to be dealt with. We need to feel safe in our own town.*
- *No reason to be in a car park unless you're parked there.*
- *the car parks should be a safe place for the elderly, the disabled and single females*
- *I think it would give the public comfort knowing that there is more protection against*

anti social behaviour.

- *If implemented will help towards making me feel safer*
- *Anything which makes Crawley safer and more pleasant is a plus*
- *To many people think they can do what ever they wish, so this helps to stop that attitude.*
- *The Orchard Street car park has become so unsafe and concerning that two of my female staff no longer to wish to have permits in the car park and have moved to parking in Asda. I am continually concerned about damage to my vehicle.*
- *I use this carpark as it's well situated, good value and I feel my car is safe with the gates. I feel unsafe especially in the dark using the carpark and having a PSPO would be a great way of keeping people safe and happier to use the carpark any time of the day and night.*
- *Car parks should be safe for all people. Antisocial behaviour makes people fearful, especially women.*

Those responding as not in support made the following comments.

- *I cant see what your trying to suggest, the only thing i have experienced is the council making car parks less accessible to all by not allowing coins to be used and having to use telephone apps and using huge gates like prisons.*
- *I'll complete the questionnaire but am Interested to know the drivers behind the proposal. Rarely is an issue straightforward so are you joining up services to ensure appropriate and accessible alternatives are in place? If it's youth hanging out are there youth places to go at that time that they want to go to that they can access support? If it's the unhoused are you sure that the services are there - Open House is often full. If people there are in addiction are there services there that support them with housing with addiction? Are there sufficient places for those with addiction to get access to help at (say) night?*
- *Its a police matter not Council issue the council shouldnt put theyre staff at risk*
- *There are no resources to implement the fines. Who works nights to keep an eye on all of the multi storey car parks mentioned?*

Open House Outreach Team have access to all the multi storey car parks and regularly visit to engage with individuals that are homeless or part of the street community, encouraging engagement with Crawley Open House services and signposting to other support services as needed.

Audio Active (music project working with young people) have delivered outreach sessions in the Memorial Gardens to engage with young people congregating at Kingsgate car park, Memorial Gardens and the High Street.

Question: Do you use Orchard Street multi-storey car park?

22 respondents said yes and 36 respondents said no. The reasons for not using Orchard Street car park included its location not being convenient for the town centre (9 comments) and not safe/safety concerns (5 comments). One comment of note was 'I've never felt particularly safe as a lone woman using it'.

Question: Do you use Kingsgate multi-storey car park?

42 respondents said yes and 19 said no. The reasons given for not using the car park included use an alternative car park (3), don't feel safe (1), no cash pay facility/payment confusing (2) and no need to park in the town centre (3).

Question: Do you use the Town Hall multi-storey car park?

18 respondents said yes and 40 respondents said no. The reasons given for not using the car park included use an alternative car park (6), not convenient (4), area unsafe (1), spaces too narrow (2) and no need to park in the town centre (5).

Question: *How safe do you feel using this car park?*

	Orchard Street	Kingsgate	Town Hall
Very safe	0	4	2
Fairly safe	5	24	12
Neither safe nor unsafe	7	7	0
Fairy unsafe	7	4	3
Very unsafe	3	3	1

The majority of those using Kingsgate and the Town Hall car parks said they very safe or fairly safe, however for Orchard Street car park more said they felt very unsafe or fairly unsafe (10) compared to very safe or fairly safe (5).

The consultation asked if anti-social behaviour had been witnessed in the last 12 months in each car park, 19% (8) of those using Orchard Street car park responded yes, 19% (8) of those using Kingsgate car park said yes and 11% (2) of those using the Town Hall car park said yes.

The types of anti-social behaviour seen were drug use (12 comments), drinking alcohol (4 comments) groups hanging around (both adults and youths) (4 comments), drug dealing (2 comments), rough sleeping (2 comments), urination (2 comments) and youths on skateboards (1 comment).

Question: *Are there other multi-storey car parks, if any, within Crawley, that you would like to highlight to us in relation to anti-social behaviour?*

Sussex House (Morrisons) car park was mentioned by three respondents, one referenced groups of youth hanging around and also homeless people which made them feel vulnerable. This car park was also mentioned in the comments section for the 'Do you support the introduction of this PSPO?' question, the comment referenced children and adult skateboards, cars racing around the car park and homeless people.

6. Implications

Financial

- 6.1 There would be no additional resource implications to enforce the policy because this work will be absorbed within existing resources. In-house training will be provided to Parking Services staff in relation to giving a lawful instruction in relation to the PSPO.
- 6.2 Revenue – signage would be required to be displayed within the restricted areas at a cost of under £1,000 for initial installation and up to £200 per year for maintenance/replacement.
- 6.3 There would be legal costs associated with enforcement policy related prosecutions although full costs would be sought from the courts in the case of a successful prosecution.

Legal

- 6.4 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities the powers to make, vary or renew a PSPO. The procedure is set out in section 72 of the 2014 Act and in the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 made under that Act.
- 6.5 If Cabinet decides to recommend to Full Council to make a PSPO, a draft of it including a map of the restricted area will need to be published on the Council's website in advance of Full Council to comply with Section 72 of the Anti-social Behaviour Crime and Policing Act 2014.
- 6.6 Section 66 of the Act gives the right to any an individual who lives in the restricted area or who regularly works in or visits that area to challenge the validity of the PSPO in the High Court within six weeks of it being made. There are 2 grounds on which the validity of a PSPO can be challenged: (1) that the Council did not have the power to make the PSPO or to include particular prohibitions or requirements within it; or (2) that the Council did not comply with a legal requirement in making the PSPO.
- 6.7 There are no adverse equalities impacts as part of these proposals.

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