

## BASILDON BOROUGH COUNCIL

**Report to:** Enforcement and Public Order Committee  
21 February 2022

### **PUBLIC SPACES PROTECTION ORDER – TOWN CENTRES, PARKS AND OPEN SPACES**

**Report by:** Director of Housing and Property

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**Enclosures:** Enclosure No. 1 - Draft Order - Amended  
Enclosure No. 2 - Public Consultation Report  
Enclosure No. 3 - PSPO Evidence Base  
Enclosure No. 4 - Publication and Communication Strategy  
Enclosure No. 5 - Risk Management Implications  
Enclosure No. 6 - PSPO Service Impact Assessment

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#### **EXECUTIVE SUMMARY:**

The purpose of this report is for Members to consider the outcome of the public consultation in respect of the draft Order relating to the introduction of a Borough-wide Public Spaces Protection Order (PSPO) to protect town centres, parks and open spaces, to approve the draft Order, set out at **Enclosure No. 1**, including the schedules and maps, and for committee to recommend furtherance of the Order to Full Council for approval and implementation.

The proposed PSPO is intended to support the council and partner agencies to tackle behaviours associated with anti-social behaviour by introducing prohibitions in public spaces to effectively restrict behaviours which are having a detrimental effect on the quality of life of those in the locality. If Members approve the introduction of a PSPO it is intended for this to remain in place for a maximum of three years from 1 April 2022 to 31 March 2025.

The council is committed to ensuring its town centres, parks and open spaces are safe and that it has the necessary tools and powers in place to deal with anti-social behaviour that may be experienced in those spaces, and for adequate resources to be in place to do so.

The responses to the consultation have been used to inform and shape the decision-making on this matter resulting in the draft PSPO being revised to include The Wick Country Park within Schedule 3.

The PSPO will strengthen the powers contained within the current Byelaws, which still remain enforceable.

#### **CORPORATE PLAN AMBITIONS:**

- People
- Place

## **WARD(S):**

All Wards

## **RECOMMENDATION:**

**That the committee approve**

- 1) The terms of the draft Public Spaces Protection Order, schedules and maps appended at Enclosure No 1 (as amended following the public consultation).**
  - 2) The inclusion of The Wick Country Park within Schedule 3.**
  - 3) That the budget of £14,700 allocated for community safety activities is used to fund the initial implementation costs associated with the introduction of a Public Spaces Protection Order.**
  - 4) The furtherance of the draft Order to Full Council for approval and implementation for a three-year period.**
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## **BACKGROUND**

At its meeting on 8 December 2021 the Committee was informed that the council is seeking to introduce a Public Spaces Protection Order (PSPO) to protect its town centres, parks and open spaces by restricting behaviours associated with anti-social behaviour (ASB). Members considered the terms of the draft Public Spaces Protection Order and the schedules and maps contained therein and gave approval for a six-week public consultation to commence. The intention was that the outcome of the consultation and any resulting recommendation would be brought to a future meeting of the Committee.

The Committee proposed that the Wick Country Park be included in schedule 3 to the draft Order and for this to be kept under review and therefore added to the Work Programme.

Some of the prohibitions within the proposed PSPO are Borough-wide, others apply to certain defined areas only as outlined below:

### **The Public Spaces Protection Order (Anti-Social Behaviour) 2021**

#### **The draft Order**

##### **Schedule 1**

A Borough-wide PSPO to focus on specific behaviours to provide reassurances that behaviour having a persistent or continuing detrimental effect on the quality of life of those in the locality will not be tolerated. The council is satisfied that the prohibitions in the draft Order are reasonable to impose as they are targeted to the problematic activities which have been identified and because allowance has been made for the risk of the behaviour being displaced if the order were to be restricted to specific locations.

The activities prohibited by the order and contained in Schedule 1 are:

- 1) failing to comply with a direction not to consume, in breach of this order, alcohol, or anything which an authorised person reasonably believes to be alcohol where the authorised person reasonably believes that a person has engaged in anti-social behaviour.

- 2) failing to surrender a container of alcohol (whether open or not) when asked to do so by an authorised person.
- 3) urination or defecation in a public place within the Restricted Area unless such a place is a serviced public convenience.
- 4) use of illegal drugs or psychoactive substances.

## **Schedule 2**

The activities prohibited in Schedule 2 relate to the consuming, or having an open container for alcohol in the following locations:

Basildon Town Centre  
Pitsea Town Centre

## **Schedule 3**

The activities prohibited in Schedule 3 relate to the use of a motor vehicle in any public place within the locations identified below without reasonable excuse or the express permission of the council: ('Motor vehicle' includes cars, mopeds, quad bikes, motorbikes, scooters, privately owned E-scooters, and lorries (caravans and mobility scooters are exempted):

Barn Hall Recreation Ground  
Barstable Open Space  
Cranfield Park  
Eversley Park  
Gloucester Park  
Kingswood Open Space  
Lake Meadows  
Markhams Chase  
Mopsies Park  
Northlands Park  
Swan Mead Park  
Vange Hill Drive Open Space  
Victoria Park  
Wickford Memorial Park

Through the consultation process and concerns raised at the Enforcement and Public Order Committee about the close proximity of the Wick Country Park to the Cranfield Park such that there is a risk of displacement, the draft order has been amended to take account of this and it is deemed appropriate to extend the prohibition to include this park.

The use of electric scooters, commonly known as E-scooters, has increased in popularity and people can be seen riding them on public roads and in public spaces across the borough. E-scooters are classed as a 'powered transporter' and are subject to the same laws and regulations that apply to all motor vehicles under the Road Traffic Act 1988 (s.34 together with the Highways Act 1835 (s.72) which bans E-scooters from pavements, cycle paths and public footpaths.

It is legal to use an E-scooter on private land with the permission of the landowner, however, it is not currently possible to get appropriate insurance, meaning it is illegal to use them on the road or in public spaces.

Enforcement action can be taken against rider behaviour, whether riding a private or rental E-scooter, if they are ridden on footways, if using a mobile phone, riding through red lights, drink driving offences. E-scooters can be seized under S.59 of the Police Reform Act if they are being used in public in an anti-social manner.

The inclusion of this prohibition does not impact on the current rental E-scooter programme, which is active in Basildon, as the use of rented E-scooters is now legal within the terms of the national pilot scheme. It is considered that the controls applied to the hire of E-scooters within the pilot scheme are sufficient to significantly reduce the potential for there to be a detrimental impact such as rider vetting, GPS controls and enforcement, alongside the physical elements, speed restrictions, lights etc.

It is considered that the provision of this prohibition in the PSPO increases the ability of authorised persons to deal with the nuisance as and when it occurs, by asking riders to dismount and/or issuing Fixed Penalty Notices (FPNs).

#### **Schedule 4**

The activities prohibited in Schedule 4 relate to the use of a pony and trap in the following locations:

Cranfield Park, Wickford  
Barn Hall Recreation Ground  
Northlands Park

#### **Schedule 5**

The activities prohibited in Schedule 5 relate to car cruising in the following locations:

Pitsea Town Centre  
Festival Leisure Park/Mayflower Retail Park

#### **Generally**

PSPOs were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014, intended to deal with particular nuisance or problems that have a detrimental effect on the local community's quality of life by imposing conditions on the use of that area. Failure to comply with the conditions is a criminal offence.

Other agencies have a range of tools and powers available to address anti-social behaviour and whilst intending to introduce measures to restrict those people who cause nuisance, alarm or distress to others we remain cognisant of all members of the community when we are doing this, and so the prohibitions have been drafted in as least a restrictive way as possible whilst still being effective.

#### **Consultation**

An initial public consultation took place between 6 November 2020 and 8 January 2021 the findings from which were reported to the meeting on 8 December 2021 and were used to shape the draft Order.

Following Committee approval the second public consultation commenced on 9 December 2021 and ran until 21 January 2022, the findings from which are set out in full at **Enclosure No. 2**. The consultation yielded a total of 564 responses, 91.8% were from local residents, who responded to the prohibitions as follows:-

Schedule 1 – Of the Borough-wide prohibitions:

- 94% (531) of respondents strongly agree/agree with the failure to surrender a container of alcohol or direction not to consume alcohol being an offence;
- In relation to identifying locations where this behaviour had been witnessed:
  - Basildon Town Centre (102)
  - Pitsea Town Centre (71)
  - Parks and Open Spaces (100) mostly Northlands Park and Gloucester Park
- 96% of respondents strongly agree/agree with prohibiting the use of illegal drugs or psychoactive substances of which 31.56% have been detrimentally affected;
- 92% of respondents strongly agree/agree with prohibiting urination or defecation in a public place of which 29% have been detrimentally affected;

**Based on the outcome of the consultation it is intended for the prohibitions outlined in Schedule 1 to remain within the final Order.**

Schedule 2 – Consuming or having an open container of alcohol in Basildon Town Centre and Pitsea Town Centre

- 93% of respondents strongly agree/agree with this prohibition;
- 65.6% of respondent answered 'no' when asked if they had been detrimentally affected by anti-social behaviour relating to alcohol consumption in a public place;
- Of the 34.4% who answered 'yes' 19% experienced this very frequently, more than twice per week.

Whilst 65.6% of respondents have not been detrimentally affected, the evidence gathered identifies that it is satisfactory for this prohibition to remain within the final order. The council and police are very alive to the issues associated with drinking alcohol in Basildon Town Centre and have worked together, and with other agencies, to improve the situation over a number of years. South Essex College opened in September 2021 and since this time have raised concerns with regards to regular groups of individuals using the college plaza to drink, take drugs and generally hang around. Pitsea Town Centre also suffers from issues with ASB and street drinking which has begun to have a detrimental impact on businesses. This prohibition provides authorised persons with the necessary powers to issue fixed penalty notices to those who are persistently drinking and causing a nuisance in these locations.

**Based on the above it is intended for the prohibitions outlined in Schedule 2 to remain within the final Order.**

Schedule 3 – The use of a motor vehicle in any public place (without the prior consent of the council)

- 93% of respondents strongly agree/agree with this prohibition;
- 46% of respondents have been detrimentally affected by this prohibition of which 34% have been affected more than twice a week.

**Based on the outcome of the consultation and the evidence gathered, it is intended for the prohibitions contained within Schedule 3 to remain within the final Order and for these prohibitions to be extended to The Wick Country Park.**

#### Schedule 4 – Use of a Pony and Trap

- 86% of respondents strongly agree/agree with this prohibition;
- 82% of respondents answered ‘no’ when asked if they had been detrimentally affected by anti-social behaviour related to the use of a pony and trap;
- Of the 18% who responded ‘yes’ more than 19% experienced this frequently (once a fortnight).

Whilst the vast majority of respondents have not been detrimentally impacted by this prohibition, and the evidence suggests very few incidents have been reported to the council, those who are affected are experiencing this frequently and more than once a fortnight. The reports received into the council highlight the dangers being experienced by park users when this behaviour is occurring, identifying being intimidated, circled and threatened. The impact of the dangerous nature of these behaviours on other park users have been witnessed by Parks staff on the occasions this happens.

**Based on the above it is intended for the prohibitions outlined in Schedule 4 to remain within the final Order.**

#### Schedule 5 – Car Cruising

- 87% of respondents strongly agree/agree;
- 22% of respondents answered ‘yes’ to being detrimentally affected, 38% of whom are affected more than twice a week.

**Based on the outcome of the consultation it is intended for the prohibitions outlined in Schedule 5 to remain within the final Order.**

Full details of the evidence gathered to inform the decision-making process in preparing the draft Order and prohibitions contained therein are set out in full at **Enclosure No. 3** to this report.

#### Essex Police, Fire and Crime Commissioner and Essex Police Response

*“The PFCC is supportive of this PSPO. It should be noted that the deployment of Essex Police operational resources remains at the discretion of the Chief Constable, but we have consulted with the local Police District Commander who is also of the view that this proposal will be beneficial to Essex Police from an operational perspective. The PFCC works closely with Basildon CSP and is keen for activity to be driven by the Partnership. We note that the proposed PSPO would support the strategic priorities of the Partnership.*

*The PFCC recognises that one of the biggest benefits of having the PSPO is that it can be enforced by both Police and council workers, enabling stronger partnership working and more capacity to monitor and respond to the nuisance behaviour. The PSPO will allow quicker, proportionate enforcement to be taken by those who breach it.*

*The PSPO targets behaviour in line with the PFCC’s priorities as articulated in the Police and Crime Plan. This PSPO will help to prevent crime by targeting the hotspots where identified issues are more likely to occur, ensuring that the law-abiding majority can enjoy*

*local public spaces. This PSPO should help crack down on drug driven violence by explicitly prohibiting the use of drugs or psychoactive substances. Promoting safe driving behaviours and targeting those who cause the most harm on the roads will support the PFCC priority to improve safety on our roads.*

*With regards to car cruising, we would be interested to know whether any consideration has been given to placing time restrictions on the PSPO (e.g. after dark,) rather than a blanket ban? Has consideration been given to any knock-on effects, such as dispersing such activity to surrounding areas both within the district and beyond? This question could equally be applied to whether thought has been given to alternative options for street drinkers, such as routes into substance misuse support or other appropriate services, along with an enforcement approach.*

*Consideration of how to communicate and embed this PSPO should be given, recognising some of the challenges it may present for those individuals or communities affected.*

*Overall, we feel that the Order seems proportionate to the detrimental effect that the behaviour is causing, and appropriate to prevent it from continuing or occurring in the first place.”*

In response to the questions raised, whilst the majority of car cruising events take place during the evening and into the night, the council would be concerned about displacement as well as the uncertainty it would cause to place time restrictions on the car cruising prohibitions as to do so will minimise the effectiveness of the PSPO. Allowing car cruising to occur during certain periods of time will minimise the effectiveness of the PSPO, meaning the local community may still continue to be affected by this nuisance as those who participate in these types of events may be uncertain as to when they can occur and cause local disruption as they arrive and leave the prohibited locations.

The impact and effectiveness of the PSPO will be monitored within the Borough and remedial action will be taken where necessary and proportionate to do so. Consideration will also be given to varying the PSPO, which may include an additional reference to the times when certain activities are prohibited, should this be thought necessary. In regard to dispersing to neighbouring borough's, Thurrock implemented a PSPO restricting car cruising amongst other behaviours on 18 December 2021 effective for 36 months. Southend has PSPO's restricting various behaviours in place.

Safer Basildon works with other agencies, in particular Open Road and Phoenix Futures, to provide specialist support services to street drinkers and rough sleepers. The Horizons Project, commissioned by Essex County Council Public Health delivers on-the ground support to people with multiple disadvantages aiming to improve their outcomes. The Essex Violence Reduction Unit funded a street worker to support those affected by alcohol and at risk of being exploited.

Basildon Council has an In-reach Specialist Support Service provided by Peabody who engage with homeless people to assess their support and health needs. The specialist team works with a large number of private landlords to source suitable and affordable properties and have a rent deposit and rent start scheme to support with securing properties. Planning permission was recently granted for the provision of 16 self-contained units to support rough sleepers to re-engage their lives.

Parish Councils (in the proposed areas)

Great Burstead and South Green Village Council requested for the locations listed below to be included:

- *“The Village Green*
- *The retail area CM11 2RD (as with Pippys Hill Retail Park)*
- *Passingham Close Play Space CM11 2TH. This is an open area off Passingham Avenue which has several pieces of play equipment and a small football pitch area. There have been many reports of incidents of drug taking and anti-social behaviour occurring there.”*

In response to the above requests, The Village Green and Passingham Close Play Spaces are subject to the Borough-wide prohibitions contained in Schedule 1 which will address the behaviours identified by Great Burstead and South Green Village Council.

With regard to inclusion of the retail area, it is assumed this relates to the prohibitions contained in Schedule 5 car cruising, sufficient evidence is not available to include this site and it is not reasonable to suggest that this area will be affected by displacement.

#### Publication and Communication Strategy

It is important that an effective publication and communication strategy is implemented to raise awareness about the PSPO and this is set out at **Enclosure No. 4**. It is intended to use images such as the example shown to make it easier for members of the public to understand the restrictions that are place in specific locations.

The introduction of the PSPO will be publicised in the council’s ‘Our Borough’ magazine which is delivered to every household in the Borough, regardless of tenure and local businesses will be made aware through the use of the council’s business newsletter.

Use of these methods of promotion is considered to be more effective than publishing in a local newspaper as there are cost implications to doing this and this method is reliant on purchase and readership whereas the other publications are free and delivered to everyone.



Example:

**Public Spaces Protection Order**  
**A Public Space Protection Order is in place for Basildon Borough.**

**The following actions are prohibited in this area:**



**Consuming, or having a container of alcohol (whether open or not)**



**Urinating or defecating**



**Use of illegal drugs or psychoactive substances**

**Failure to comply with this order is an offence:  
Fixed Penalty: £100 Maximum Penalty: £1000**

**An authorised person is a police officer, police community support officer or Council officer who can instruct you to stop the above behaviours in this area and/or require you to leave the area**

**The Public Spaces Protection Order can be found on Basildon Borough Council's website.**

## **OPTIONS**

The council undertook an options assessment to consider possible alternatives that could be pursued which was considered by the Committee on 8 December 2021. The conclusion is that a PSPO is the most appropriate method of restricting and/or eliminating the problematic activities.

## **LEGISLATION/POLICY**

This section of the report sets out the statutory framework for the making of a Public Space Protection Order including the human rights and Equality Act 2010 considerations.

The following paragraphs of this report explain the legislative framework within which those decisions should be made.

### **Section 17 of the Crime and Disorder Act 1998**

5.5 The 1998 Act imposes a duty on the council to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all

that it reasonably can, to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment).

## **The Anti-Social Behaviour, Crime and Policing Act 2014**

Public Space Protection Orders were created by the Anti-Social Behaviour, Crime and Policing Act 2014, hereinafter called the '2014 Act'. They are designed to place controls on the use of public space and everyone within it. The orders have effect for up to three years and can be extended. Only local authorities can make Public Space Protection Orders. 'Public place' means any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

The council can make a Public Space Protection Order if satisfied on reasonable grounds that two conditions are met. These are found in section 59 of the 2014 Act:

The first condition is that:

- (a) activities carried on in a public place within the council'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.

A Public Space Protection Order 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.

Section 59(5) states that 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.

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

The Public Space Protection Order may specify the times at which it applies and the circumstances in which it applies or does not apply.

Unless extended the Public Space Protection Order may not have effect for more than 3 years and there is no statutory requirement to review a Public Space Protection Order once made.

Breach of a Public Space Protection Order 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 Public Space Protection Order and on conviction the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).

Section 61 of the 2014 Act deals with Public Space Protection Orders which are being varied. The council has to be satisfied that any prohibitions or requirements in the proposed varied Public Space Protection Order are ones that s.59(5) (referenced above) allows to be imposed.

In deciding to make a Public Space Protection Order 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'). Members are advised that for this proposed Public Space Protection Order it is also relevant to consider Article 8 (Right to Private and Family Life). These rights state that there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others. Following the consultation undertaken it is not believed that any of these Convention rights are contravened by the proposed Order in either area. In preparing this report Officers have had regard to the latest statutory guidance issued by the Home Office and the Guidance on Public Space Protection Orders issued by the Local Government Association.

## **GENERAL INFORMATION**

### Corporate Plan Promises

The introduction of a PSPO will support residents to be healthy and active in their local communities, improving their quality of life by protecting their town centres and green spaces, promoting attractive, liveable and safe neighbourhoods.

### Financial Implications

There are financial implications associated with the implementation and enforcement of the PSPO should Full Council grant approval, and these relate to one-off costs such as legal counsel costs, the publication of the order in a local newspaper, the production of signage, the affixing of notices in specific locations and, where necessary, the erecting of posts, alongside the ongoing costs associated with the enforcement of the PSPO. The initial implementation costs, the majority of which are statutory, are estimated as follows:

### **Implementation Costs**

|   | Estimated £ |
|---|-------------|
| Legal Counsel                                       | £7,500      |
| Signage and Fittings (200 A4 aluminium)             | £3,140      |
| Road Signage for Major Roads/Junctions (approx. 20) | £2,450      |
| Installation costs                                  | £2,000      |
| Total (estimated)                                   | £15,090     |

At Housing and Communities Committee on 12 November 2019 (Min no. 2019/585) an update was provided on various investments previously made available in the budget for different community safety initiatives and as some of those specific initiatives were no longer required to be pursued it was resolved that the funding remaining would just be made available to go towards different community safety activities to be determined by committee, aligned with agreed priorities. £14,700 is remaining from that budget and Members' agreement is being sought to approve the utilisation of all of the remainder of this funding to contribute to the costs outlined above. It is expected for any remaining expenditure to be met from within existing service budgets within Community Safety should this be necessary.

## **Revenue Costs**

### Essex Police Special Services Agreement (SSA)

Since 1 November 2019 the Council has funded Special Police Services which involves Essex Police providing three additional police officers in the Borough in addition to the Borough's policing establishment. At a meeting of this Committee on 13 July 2021 Members endorsed the extension of the SSA to 30 June 2023 at an annual cost of £167,632 per annum.

The funded officers are deployed to assist in achieving the aims and objectives of the Safer Basildon Partnership, allowing for the creation of geographic Community Policing Teams (CPT) within the Borough, greater ownership and an enhanced understanding of local issues when dealing with repeat victims, repeat suspects and vulnerable locations.

### Community Safety Warden Scheme

The council is shortly due to complete a procurement exercise to award a 1-year contract for the provision of a Community Safety Warden Scheme. The supplier will be required to provide a range of duties, respond to reports of anti-social behaviour in high profile locations (including on estates) and undertake patrols in the town centres, parks and open spaces identified within the draft PSPO. It is intended for the scheme to provide the required enforcement of the PSPO should it be implemented.

A report on the awarding of the contract will be brought to the next meeting of the Enforcement and Public Order Committee, scheduled for 15 March 2022.

### Risk Management Implications

The risk management implications are set out at **Enclosure No. 5**.

### Diversity, Inclusion and Community Cohesion Implications

Members are reminded of the requirement, under The Public Sector Equality Duty found in s.149 of the Equality Act 2010 for the council to have due regard to the need to:

- a. Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act
- b. Advance equality of opportunity between persons who share a relevant protected characteristic and those that do not, and
- c. Foster good relations between persons who share a relevant protected characteristic and those that do not.

The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The implementation and policing of the PSPO has been and will be in accordance with the Equality Act 2010. There will be no discriminatory policing of this proposed in line with our Public Sector Equality Duty (PSED).

A Service Impact Assessment is set out at **Enclosure No. 6**, which gives consideration as to how the prohibitions and restrictions within the proposed PSPO might impact adversely on those persons with protected characteristics, it considers the PSED and the impact of the proposed order on human rights.

#### Other Relevant Considerations

PSPOs can be enforced by police officers or accredited local authority officers. It should be noted, whilst Essex Police are supportive of the PSPO and its implementation will provide additional enforcement opportunities, the council is required to demonstrate the intention to enforce the PSPO should it be adopted.

#### Background Papers

None.