

**FORM 1**

**NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER**

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, Helen Dyke, as Strong Leader, give delegated authority to the Chief Executive, in consultation with the Cabinet Member for Culture, Leisure and Community Protection, for the making of the Public Spaces Protection Order (PSPO), under Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014, taking into consideration the results of the statutory consultation.

Cabinet Member for Culture, Leisure and Community Protection

Dated: 13<sup>th</sup> August 2021



Signed: .....

Leader of the Council

## FORM 2

### NOTICE OF DECISION OF CABINET MEMBER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to me by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Review of the Public Space Protection Order for Kidderminster Town Centre restricting alcohol consumption	Making of the Public Spaces Protection Order (PSPO), under Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014, taking into consideration the results of the statutory consultation.	The Anti Social Behaviour, Crime and Policing Act 2014 requires that PSPOs are reviewed every three years (or earlier) to enable them to be extended or varied, providing the order remains necessary in order to prevent:  - further activities identified in the order from taking place or - the frequency of seriousness of those activities increasing after that time.	August 2021

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: 13<sup>th</sup> August 2021

Signed:



Councillor: Graham Ballinger  
Cabinet Member

To: Leader

From: Chief Executive

5 August 2021

**Review of the Public Spaces Protection Order for Kidderminster Town Centre  
restricting alcohol consumption**

**1. PURPOSE**

- 1.1 To seek approval for the making of the Public Spaces Protection Order (PSPO), under Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014, taking into consideration the results of the statutory consultation.

**2. RECOMMENDATION**

That the Leader is asked to DECIDE:

- 2.1 To approve the continuation of the Public Spaces Protection Order (PSPO) for Kidderminster Town Centre restricting alcohol consumption to take effect from 28 August 2021.
- 2.2 That enforcement of the PSPO will continue to be a shared responsibility between Wyre Forest District Council and West Mercia Police.
- 2.3 To approve the retention of the £100 penalty to be paid within 21 days of issue in the form of a Fixed Penalty Notice (FPN) for failure to comply with a PSPO.

**3. BACKGROUND**

- 3.1 A Strong Leader report, on 2 July 2021, approved the undertaking of a review of the PSPO restricting alcohol consumption in Kidderminster and, subject to the findings to commence consultation.

**4. STAKEHOLDER CONSULTATION**

- 4.1 Having reviewed the evidence the Chief Executive approved the launch of a consultation process for the PSPO. The formal consultation process was launched on 7 July 2021 and closed on 4 August 2021. The Anti Social Behaviour, Crime and Policing Act 2014 does not specify what constitutes appropriate consultation; however, the local authority must consult with:

- Police and Crime Commissioner
- Chief Officer of Police for the local area
- Any Community representatives the Council feels appropriate
- Owner or occupier of land within the restricted area, such as local businesses.

4.2 The following restrictions and conditions were consulted upon:

- To provide the power for authorised officers of the Council, Police Officer or Police Community Support Officer to require a person drinking alcohol in public to surrender their alcohol (or anything which is reasonably believed to be alcohol).
- Failure to comply with the requirements of the PSPO by drinking alcohol in a public place will be an offence and people may result in receiving a £100 fixed penalty notice.

4.3 Letters were sent to a wide range of stakeholders and a survey was made available on the Council's website. Press releases and social media messages were issued during the period to solicit further responses. Following a recommendation by the July 2021 Overview and Scrutiny Committee, a public facing session was held on 27 July 2021 outside Kidderminster Town Hall.

4.4 The summary of the results is at Appendix One. In total 212 responses to the survey were received. The public consultation has demonstrated clear support for the PSPO and that the restrictions and boundaries should remain the same as the current Order.

4.5 Correspondence was received from Kidderminster Business Improvement District, Kidderminster Town Council, Public Health Worcestershire and West Mercia Police. In principle, they all support the proposals to extend the PSPO for a further two-year period and to retain the current restrictions and boundary.

4.6 The detailed feedback received about where people have experienced anti-social behaviour connected with alcohol consumption and other issues that have been highlighted will be shared with relevant council officers and partner agencies in targeting future patrols, enforcement activity and any other appropriate actions.

## **5. LEGAL CONDITIONS**

5.1 Local authorities have the power to make a PSPO if satisfied on reasonable grounds that two conditions are met.

The first condition is that –

- a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities –

- a) is or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and
- c) Justifies the restrictions imposed by the notice.

5.2 In order to make the PSPO, the Local Authority needs to be satisfied that the legal conditions, laid out above, have been met.

The view of Officers is that the legal conditions have been met to enable the PSPO to be implemented. This is based on:

- Evidence gathered by the Council itself and from other partners and associated agencies including the West Mercia Partnership Analyst at West Mercia Police, who provided a report 'Review of Public Spaces Protection Orders'
- Results from the consultation process.

## **6. ENFORCEMENT**

- 6.1 Enforcement of the PSPO will continue to be a shared responsibility between Wyre Forest District Council and West Mercia Police, with commitment given from both organisations.

## **7. DURATION OF ORDER**

- 7.1 While the PSPO can be extended by up to three years, the recommendation is to extend it to 30 September 2023, in line with the draft order that was published as part of the consultation. This expiry date ensures that the PSPO is aligned with the Bewdley and Stourport-on-Severn PSPOs which also restrict the consumption of alcohol and all three will be reviewed together in 2023.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 The recommendation to continue the PSPO, until 30 September 2023, will not result in additional financial requirements. If changes were made to the PSPO this would result in additional one-off costs from removing or replacing the existing signage.
- 8.2 All revenue generated through Fixed Penalty Notices will be retained by the Council. Certain legal costs are likely to be incurred if an individual fails to pay a Fixed Penalty Notice Fine.
- 8.3 If the PSPO is discharged or amended there will be costs to remove the signage in areas where the PSPO is not in force or replacement signage to reflect the amended powers.

## **9. LEGAL AND POLICY IMPLICATIONS**

- 9.1 Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue on the grounds that the council did not have the power either to make the order or to include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the Act.
- 9.2 When making a PSPO, the Council must have particular regard to the Human Rights Act 1998 and must not act in a way which is incompatible with a Convention right. Human rights are enforced through existing rights of review

and may therefore be taken as points in any challenge to the validity of any Order made by the Authority.

9.3 The Council must also have regard to the public sector equality duty at Section 149 of the Equality Act 2010,

9.4 The Council must also have regard to Section 17 of the Crime and Disorder Act 1998 and consider the impact of their decisions and actions on crime and disorder in the local area.

## **10. CONCLUSION**

10.1 It is evident from the range of stakeholder and community consultation that there is broad support for the continuation of the PSPO. Continuing with the current PSPO enables the Council and the Police to deal with alcohol related ASB within Kidderminster Town Centre and the potential to deliver a significant positive community impact and contribute to a safer town centre for visitors, businesses and residents of the area.

## **11. RISK MANAGEMENT**

11.1 The main risk associated with continuing the PSPO is the management of expectations and the ability to enforce the conditions effectively.

## **12. EQUALITY IMPACT NEEDS ASSESSMENT**

12.1 An Equality Impact Needs Assessment has been undertaken and there are no adverse effects on any of the protected characteristics.

## **13. CONSULTEES**

13.1 Corporate Leadership Team

13.2 Principal Solicitor

13.3 Head of Community and Environment Services

13.4 Senior Community and Environmental Protection Officer

## **14. BACKGROUND PAPERS**

14.1 West Mercia Police Partnership Analyst Report - A Review of PSPOs: Key Findings

14.2 Strong Leader Report 2 July 2021

## **15. APPENDICES**

Appendix One: Summary of Consultation Responses

## Appendix 1

### Alcohol restriction Kidderminster Town Centre Public Spaces Protection Order Summary of Consultation Responses August 2021

#### Summary

Wyre Forest District Council consulted on the extension of the Kidderminster alcohol restriction Public Space Protection Order between 7 July 2021 and 4 August 2021.

The consultation proposed to continue the following restrictions and conditions until 30 September 2023:

- A Police Officer, Police Community Support Officer and or any other Authorised Person can order people drinking in the area to stop, hand over any alcohol or dispose of the alcohol.
- Failure without reasonable excuse to comply with a request, from a Police Officer, Police Community Support Officer and or any other Authorised Person can result in a fine of up to £100, or up to £1,000 if the case goes to court.

The survey received 212 responses from a range of stakeholders including individuals, local organisations, town and parish councils and representative bodies. The public consultation has demonstrated clear support for the PSPO and that the restrictions and boundaries should remain the same as the current Order.

Correspondence was received from Kidderminster Business Improvement District, Kidderminster Town Council, Public Health Worcestershire and West Mercia Police. In principle, they support the proposal to extend the PSPO until September 2023 and to retain the current restrictions and boundary.

#### Council Officers' Response

The view of officers is that having analysed the consultation responses it remains appropriate that all existing restrictions and conditions should be continued until 30 September 2023.

While the PSPO can be extended by up to three years, the recommendation is to extend it to 30 September 2023, in line with the draft order that was published as part of the consultation. This expiry date ensures that the PSPO is aligned with the Bewdley and Stourport-on-Severn PSPOs which also restrict the consumption of alcohol. The three PSPOs will be reviewed together in 2023.

The proposed boundary of the PSPO is regarded as appropriate and is supported through the review of the evidence.

The detailed feedback received about where people have experienced anti-social behaviour connected with alcohol consumption and other issues that have been highlighted will be shared with relevant council officers and partner agencies in targeting future patrols, enforcement activity and any other appropriate actions.

#### Consultation Question 1

In the past three years have you been affected by alcohol related anti-social behaviour?

212 responses received

Yes	73 (34.43%)
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No	127 (59.91%)
Prefer not to say	12 (5.66%)

### Consultation Question 2

How many instances of alcohol related anti-social behaviour in Kidderminster did you experience from 2018 to 2019?

53 responses received

0	4
1	6
2	9
3	10
4	6
5	8
6	1
Other	9

### Consultation Question 3

How many instances of alcohol related anti-social behaviour in Kidderminster did you experience from 2020 to 2021?

53 responses received

0	15
1	8
2	8
3	7
4	2
5+	5
Other	8

### Consultation Question 4

Where did the anti-social behaviour take place? What year did it take place? How has it affected you?

47 responses were received

Recurring locations were the Town Centre but not specified where, outside shops, Exchange Place, Vicar Street, Worcester Street, Market Street, the Bull Ring and parks. Respondents said it made them feel cautious of visiting the town centre, they found drinking in public and the associated anti social behaviour to be intimidating and unpleasant.

### Consultation Question 5

If the order remains in place, what impact do you think it would have on the following?

168 responses received

	Negative Impact	Positive Impact	No Impact	Don't Know	Total
People living in	5 (2.99%)	146 (87.43%)	11 (6.59%)	5 (2.99%)	167

Kidderminster Town Centre					
People working in Kidderminster Town Centre	4 (2.38%)	149 (88.69%)	12 (7.14%)	3 (1.79%)	168
People visiting Kidderminster Town Centre	4 (2.40%)	149 (89.22%)	12 (7.19%)	2 (1.20%)	167
People socialising in Kidderminster Town Centre	6 (3.61%)	141 (85.28%)	13 (7.83%)	6 (3.61%)	166

### Consultation Question 6

Please let us know why you think the order will have a negative, positive or no impact.

111 responses received

The majority of comments were around how positive the Order would be, that it would help to reduce anti-social behaviour and make people feel safer.

### Consultation Question 7

To what extent do you agree that the boundary of the PSPO stays the same as the current order?

154 responses received

Strongly Agree	60 (38.96%)
Agree	57 (37.01%)
Neither agree or disagree	22 (14.29%)
Disagree	9 (5.84%)
Strongly Disagree	6 (3.90%)

### Consultation Question 8

Why do you think the boundary should change? What other areas would you include or remove?

15 responses received

Comments were made that the whole district should be included, to extend the boundary beyond the ring road, include public parks and residential areas including Spennells and Birchen Coppice. Three comments were made about there being no need for the PSPO due to existing ASB legislation and questioning why there is a boundary and why the Council is deciding it.

### Consultation Question 9

Please let us know if you have any further comments about the PSPO in Kidderminster Town Centre.

52 responses received

The majority of the comments were in support of the PSPO. Some asked for a complete ban on public drinking and commented that the PSPO should be beneficial to the town in making it a more attractive place to visit. Comments were made about enforcement needing to be effective and an increased understanding and promotion of what the PSPO is.

### Consultation Question 10

Are you responding to this consultation as...?

152 responses received

A local resident who lives in Kidderminster	103 (67.76%)
A person who works in Kidderminster	25 (16.45%)
Local Business owner/manager	17 (11.18%)
Visitor to Kidderminster (e.g. a shopper, on business, tourist)	24 (15.79%)
County, District, Town, or Parish Councillor	7 (4.61%)
Representative of a local community group	3 (1.97%)
Other (please specify): A Bewdley resident Live in Wyre Forest I am a police officer and work and socialise in the town Local Policing Team	4 (2.63%)

### Consultation Question 10

Do you live in Wyre Forest?

152 responses received

Yes	137 (90.13%)
No	15 (9.87%)