CONSULTATION ON THE PUBLIC SPACES PROTECTION ORDER IN SOUTHALL

Introduction

Ealing Council’s Safer Communities Team is consulting on the enforcement of a Public Spaces Protection Order (PSPO) in the area of Southall to tackle anti-social behaviour.

Ealing Council’s Safer Communities Team is proposing two PSPOs within the Southall area; one specifically concerning the Southall Town Centre and the other concerning six selected parks within Southall (Southall Park, Spikes Bridge Park, Wolf fields, Southall Recreation Ground and Manor House Ground/Havelock Cemetery).

The accompanying surveys have been designed to gauge your opinion as someone who works, visits or lives in Southall area about local ASB issues, and whether you support the introduction of additional enforcement powers under a PSPO to tackle these ASB issues.

A PSPO is a new measure under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. It is a power available to Councils for tackling behaviour which is harming the “quality of life” in a certain area. The Order prohibits the problematic behaviour in the area it applies to. It is enforced by police officers and officers designated by the Council. Not complying with the Order after being asked to do so by an enforcing officer is a criminal offence, and results in a fine or a summary conviction.

A PSPO ultimately acts as a tool with additional powers the local police and council officers are able to call upon when needed to tackle ASB within the area.

The consultation will be open from the 16th of October 2017 to the 11th December 2017.

You can complete the consultation survey to give your opinion on the proposed PSPO for Southall’s Town Centre via this link; https://www.surveymonkey.co.uk/r/X6MLH5G

You can complete the consultation survey to give your opinion on the proposed PSPO for selected parks within Southall’s via this link; https://www.surveymonkey.co.uk/r/XWP8BLL
Context and Background

Why is Ealing thinking of introducing a PSPO?
Following both the Safer Southall Conversation event, and the accompanying survey it is clear residents, business owners and visitors to the Southall area have some serious concerns about ASB.

Through the local community’s feedback, crime data we have assessed, consultation with our partner agencies and further interdepartmental research we have identified both Southall Town Centre, and the five selected parks within Southall as being areas particularly suffering with ASB related issues that are drastically affecting the quality of life to all those who live, work and visit the area.

On the basis of this research, we have drafted a series of requirements and prohibitions that will inform the content of the proposed PSPO. We have been careful to ensure that these requirements and prohibitions seek to target specific behaviours that have been shown to cause nuisance, harassment, alarm and distress to the public.

How will the PSPO be enforced?
The Order will be enforced by police officers, police community safety officers, and officers designated by Ealing Council. They will notify those breaking the Order and if they refuse to stop the offending behaviour, they will issue fines and dispersal orders.

The penalty for breaking a PSPO is a Fixed Penalty Notice (fine) of £100. If the fine is not paid, court proceedings may be started, which will increase the fine to up to £1,000.

If an individual breaches a PSPO on numerous occasions a Community Protection Notice can be issued, which would further restrict the individual’s behaviour both in and out of the PSPO area. It is a criminal offence to breach a CPN and can thus result in criminal prosecution.

How will I know about the PSPO?
The Order will be advertised in the local press, the Ealing Council website and on various social media accounts. Signs will also be erected in the proposed PSPO area informing people of the PSPO, leaflets will also be produced and information sessions will be held in partnership with community groups within the Southall area during the public consultation period.

When will it come into force?
The consultation will run for 8 weeks, from the 16 October 2017 till 11 December 2017. If the public consultation is a success the PSPO will come into force approximately in early 2018 and will run until early 2021, but
the Council has the option to vary or discontinue the Order if the behaviours stop or change.

Can I protest a PSPO?
Yes, if you are “an interested person” who is someone who lives, works in or regularly visits the area where the PSPO will be affected. That means only people who are directly affected by the PSPO can challenge it. The appeal must be made through an application to the High Court within 6 weeks of the order being made.

PSPO Texts
The full texts of the PSPOs can be found on the subsequent pages for Area A (Town Centre), and Area B (Parks).
AREA A - Town Centre

PUBLIC SPACES PROTECTION ORDER
Made under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014
The London Borough of Ealing, in accordance with S 59(7)(a) of the 2014 Act, identifies the following activities in the public spaces in the area for which the Order is proposed as having a detrimental effect on the quality of life of those in the locality:
- street drinking;
- loitering in groups which are engaging in anti-social behaviour;
- urinating and or defecting in public or communal spaces;
- intoxicated adults using the children’s playground;
- littering of bottles, cans, and drug paraphernalia;
- using illegal drugs and psychoactive substances (formerly known as “legal highs”) in public spaces;
- spitting;
- obstructing access to business premises during opening hours.

Considering the volume of reports of these activities to the Council, it is likely that these activities will continue in the public area of the Map (see below) and that they will continue having a detrimental impact on the quality of life of those in the locality.

In the Order:
‘Authorised officer’ refers to: police officer, police community support officer, or any other person designated to enforce the Order by Ealing Council. You can require any designated officers to produce authorisation before enforcing the Order.
‘Psychoactive substances’ refers to s2(1) and s2(2) of the Psychoactive Substances Act 2016:
“any substance which-
  (a) is capable of producing a psychoactive effect in a person who consumes it, and
  
  (b) is not an exempted substance.

A substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state”.
Laughing gas (nitrous oxide or balloons), khat, spice, and mephedrone (drone) are examples of psychoactive substances.
Exceptions to the above prohibition are alcohol, caffeine, tobacco and tobacco products, foodstuffs regulated by food health and safety legislation, and drugs required for a valid medical reason. If you are asked to give up psychoactive substances which you require for valid medical reasons, you should inform the enforcing officer and show them your prescription.
‘Anti-social behaviour’ refers to s 59 (2) (a)-(b) of the Anti-Social Behaviour, Crime and Policing Act 2014 and means: activities carried out in a public space which have a harmful effect on the quality of life of those in the locality, and which are likely to be carried out in the public spaces of an area and are likely to have a harmful effect on the quality of life of the local residents. For examples, see the list of activities above.
It also means behaviour likely to cause harassment, alarm or distress to one or more other person (Crime and Disorder Act 1998).

‘Public Space’ means any space to which the public or a part of the public has access (s 74(1) of the Anti-Social Behaviour, Crime and Policing Act 2014). This can be with payment, or with express or implied permission. This includes businesses and communal areas of housing blocks, but excludes residential premises.

The London Borough of Ealing, being thereby satisfied that the conditions in Section 59 of the Act have been met, hereby makes the following Order:

In all public spaces in the area of the Map (see below), you are required to:

1) **Alcohol**
   a) Stop drinking alcohol if asked to do so by an authorised officer because you have been engaging in anti-social behaviour.

2) **Loitering in groups**
   a) Disperse from the area and not return for 24 hours if asked to do so by an authorised officer because you have been loitering in a group of 3 or more people, where one or more people have been engaging in anti-social behaviour and at least one member of that group is within the area of the PSPO.

3) **Surrender your drink**
   a) If you have been asked to stop drinking by an authorised officer and did not, without reasonable excuse, comply with their request, you must surrender any cans, bottles, or other containers of alcohol or what can reasonably be believed to be alcohol.

4) **Surrender your psychoactive substances**
   a) Surrender any psychoactive substances you possess or associated paraphernalia you possess or any items reasonably believed to be such by an authorised officer.

5) **Provide your name and address**
   a) Give your name and address to an authorised officer if asked to do so to deal with any of the activities identified above (street drinking, loitering in groups and engaging in behaviour likely to cause harassment, alarm or distress to one or more other person; urinating or defecating in a public or communal space; littering of drink and drug paraphernalia; using drugs and/or psychoactive substances).

6) **Obstructing access to business premises**
   a) Disperse from the area if asked to do so by an authorised officer because you have been obstructing the entrance of a commercial business during the course of its opening hours.

In all public spaces in the area of the Map (see below), you are prohibited from:

7) **Urinating in public**
   a) Urinate and/or defecate in a public and/or communal space.

8) **Spitting**
   a) Depositing saliva, mucus or any other product from the mouth or nose without reasonable excuse or attempt to collect or eradicate the saliva or product.

9) **Littering**
a) Leave rubbish in any public spaces in the Order area (see Map), including but not limited to bottles, cans, rolling papers, needles, laughing gas canisters, foil, chewing gum and cigarette butts

10) Psychoactive substances
a) Possess and/or smoke, inject, inhale or otherwise consume any psychoactive substances

Map

The Public Space Protection Order affects all public spaces in the following area, denoted with a dotted red line:

Penalty

If you do not stop any of the above behaviours when asked to do so by a police officer, a police community support officer, or a person designated to enforce the Order by Ealing Council, and you have no reasonable excuse for continuing your behaviour, you are committing an offence. You may be:

- Issued with a Fixed Penalty Notice (fine) of £100.
• If you do not pay your Fixed Penalty Notice, you may be prosecuted and convicted. The maximum penalty is a fine not exceeding level 3 on the standard scale (£1000) or level 2 on the standard scale (£500) if you do not stop drinking when asked or do not surrender your alcohol/psychoactive substances when asked to do so.

Duration
The Order comes into effect on (date to be agreed) and will be in effect for a period of three years, until (date to be agreed). This decision will be formally reviewed after six months and after twelve months of operation, at which point a decision shall be taken as to whether or not to revoke the Order or for it to remain. If there is need to do so, the Council may shorten, extend or vary the order at any time in the three years. If the Council wants to extend or vary the Order, they must consult appropriate community representatives, the police and owners of the affected land on the variation.

Appeal
If any 'interested person' (a person living in, working in, or regularly visiting the affected area) wishes to appeal this Order, they must do so on one of two grounds (s 66 of the Anti-Social Behaviour, Crime and Policing Act 2014):

(1) The Council did not have the legal power to make the Order.

(2) The Council did not follow all the requirements listed in Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.

The interested person(s) must appeal the Order with an application to the High Court within six weeks of the Order being made.
PUBLIC SPACES PROTECTION ORDER
Made under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

The London Borough of Ealing, in accordance with S 59(7)(a) of the 2014 Act, identifies the following activities in the public spaces in the area for which the Order is proposed as having a detrimental effect on the quality of life of those in the locality:

- street drinking;
- loitering in groups which are engaging in anti-social behaviour;
- urinating and or defecating in public or communal spaces;
- intoxicated adults using the children’s playground;
- littering of bottles, cans, and drug paraphernalia;
- using illegal drugs and psychoactive substances (formerly known as “legal highs”) in public spaces;
- lewd, lascivious or sexually explicit behaviour which is likely to cause harassment, alarm or distress;
- dog fouling;
- having more than six dogs under the control of one person;
- dogs causing annoyance to any person or animal, or damage to any Council structure, equipment, tree, plant or turf is prohibited.

Considering the volume of reports of these activities to the Council, it is likely that these activities will continue in the public area of the Map (see below) and that they will continue having a detrimental impact on the quality of life of those in the locality.

In the Order:
‘Authorised officer’ refers to: police officer, police community support officer, or any other person designated to enforce the Order by Ealing Council. You can require any designated officers to produce authorisation before enforcing the Order.

‘Psychoactive substances’ refers to s2(1) and s2(2) of the Psychoactive Substances Act 2016:
“any substance which—
(a) is capable of producing a psychoactive effect in a person who consumes it, and
(b) is not an exempted substance.

A substance produces a psychoactive effect in a person if, by stimulating or depressing the person’s central nervous system, it affects the person’s mental functioning or emotional state”.
Laughing gas (nitrous oxide or balloons), khat, spice, and mephedrone (drone) are examples of psychoactive substances.
Exceptions to the above prohibition are alcohol, caffeine, tobacco and tobacco products, foodstuffs regulated by food health and safety legislation, and drugs required for a valid medical reason. If you are asked to give up psychoactive substances which you require for valid medical reasons, you should inform the enforcing officer and show him your prescription.

‘Anti-social behaviour’ refers to s 59 (2) (a)-(b) of the Anti-Social Behaviour, Crime
and Policing Act 2014 and means: activities carried out in a public space which have a harmful effect on the quality of life of those in the locality, and which are likely to be carried out in the public spaces of an area and are likely to have a harmful effect on the quality of life of the local residents. For examples, see the list of activities above. It also means behaviour likely to cause harassment, alarm or distress to one or more other person (Crime and Disorder Act 1998).

‘Public Space’ means any space to which the public or a part of the public has access (s 74(1) of the Anti-Social Behaviour, Crime and Policing Act 2014). This can be with payment, or with express or implied permission. This includes businesses and communal areas of housing blocks, but excludes residential premises.

The London Borough of Ealing, being thereby satisfied that the conditions in Section 59 of the Act have been met, hereby makes the following Order:

In all open spaces listed below you are required to:

2) Alcohol
   a) Stop drinking alcohol if asked to do so by an authorised officer because you have been engaging in anti-social behaviour.

3) Loitering in groups
   a) Disperse from the area and not return for 24 hours if you have been loitering in a group of 3 or more people, where one or more people have been engaging in anti-social behaviour and at least one member of that group is within the area of the PSPO.

4) Surrender your drink
   a) If you have been asked to stop drinking by an authorised officer and did not, without reasonable excuse, comply with their request, you must surrender any cans, bottles, or other containers of alcohol or what can reasonably be believed to be alcohol

5) Surrender your psychoactive substances
   a) Surrender any psychoactive substances or associated paraphernalia or any items reasonably believed by an authorised officer to be such.

6) Provide your name and address
   a) Give your name and address to an authorised officer if asked to do so to deal with any of the activities identified above (street drinking, loitering in groups and engaging in behaviour likely to cause harassment, alarm or distress to one or more other person; urinating or defecating in a public or communal space; littering of drink and drug paraphernalia; using drugs and/or psychoactive substances)

In all public spaces in the area of the Map (see below), you are prohibited from:

7) Urinating in public
   a) Urinate and/or defecate in a public and/or communal space

8) Spitting
   a) Depositing saliva, mucus or any other product from the mouth or nose

9) Littering
a) Leave rubbish in any public spaces in the Order area (see Map), including but not limited to bottles, cans, rolling papers, needles, laughing gas canisters, foil, chewing gum and cigarette buds

10) Psychoactive substances
   a) Possess and/or smoke, inject, inhale or otherwise consume any psychoactive substances

11) Adults using children’s playground
   a) Being present in the children’s playground area unless accompanying a child of 14 or under

12) Dog Fouling
   a) If a dog defecates at any time on any land detailed, a person who is in charge of the dog at that time must remove the faeces from the land forthwith, unless –
      (ii) he has a reasonable excuse for failing to do so; or
      (iii) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

   b) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land.
   c) Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.

13) Dogs causing annoyance to any person or animal, or damage to any Council structure, equipment, tree, plant or turf.
   a) A person in charge of a dog in any open space covered by the public space protection order must not cause or permit the dog to –
      (ii) cause annoyance to any other person or animal; or
      (iii) cause damage to any Council structure, equipment, tree, shrub, plant, turf or other such Council property.

Map
The Public Spaces Protection Order affects the following open spaces and cemeteries:
Southall Park
Spikes Bridge Park
Wolf Fields
Southall Recreation Ground
Manor House Grounds and Havelock Cemetery
Penalty
If you do not stop any of the above behaviours when asked to do so by a police officer, a police community support officer, or a person designated to enforce the Order by Ealing Council, and you have no reasonable excuse for continuing your behaviour, you are committing an offence. You may be:
- Issued with a Fixed Penalty Notice (fine) of £100.
- If you do not pay your Fixed Penalty Notice, you may be prosecuted and convicted. The maximum penalty is a fine not exceeding level 3 on the standard scale (£1000) or level 2 on the standard scale (£500) if you do not stop drinking when asked or do not surrender your alcohol/psychoactive substances when asked to do so.

Duration
The Order comes into effect on (date to be agreed) and will be in effect for a period of three years, until (date to be agreed). This decision will be formally reviewed after six months and after twelve months of operation, at which point a decision shall be taken as to whether or not to revoke the Order or for it to remain.

If there is need to do so, the Council may shorten, extend or vary the order at any time in the three years. If the Council wants to extend or vary the Order, they must consult appropriate community representatives, the police and owners of the affected land on the variation.

Appeal
If any ‘interested person’ (a person living in, working in, or regularly visiting the affected area) wishes to appeal this Order, they must do so on one of two grounds (s 66 of the Anti-Social Behaviour, Crime and Policing Act 2014):

(1) The Council did not have the legal power to make the Order.

(2) The Council did not follow all the requirements listed in Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.

The interested person(s) must appeal the Order with an application to the High Court within six weeks of the Order being made.