

Public Space Protection Orders: Yeovil

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Purpose of the Report

1. For members to agree to the approval of two Public Space Protection Orders; one to address street drinking and one to address begging. Both PSPOs are in relation to defined areas of Yeovil town centre.

Forward Plan

2. This report appeared on the District Executive Forward Plan with an anticipated Committee date of 5th September 2019.

Public Interest

3. Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. PSPOs are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
4. Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.
5. Data collected in 2017 and 2018 indicates that anti-social behaviour associated with street drinking is causing problems in the centre of Yeovil. It is therefore proposed that South Somerset District Council make a Public Space Protection Order to deal with this issue.
6. A separate PSPO also addresses the issue of begging in the town centre. It is therefore proposed that South Somerset District Council make a Public Space Protection Order to tackle this issue.

Recommendations

7. It is recommended that:
 - i. the Council make a Public Space Protection Order to restrict street drinking in the town centre of Yeovil;
 - ii. the Council make a Public Space Protection Order to restrict begging in the town centre of Yeovil.

Background

8. Local councils are responsible for making Public Spaces Protection Orders: district councils should take the lead in England.
9. The legal tests focus on the impact that anti-social behaviour is having on victims and communities. A Public Spaces Protection Order can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:
 - has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
10. The council can make a Public Spaces Protection Order on any public space within its own area. The definition of public space is wide and includes 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, for example a shopping centre.
11. Before making a Public Spaces Protection Order, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner, but details could be agreed by working level leads. This is an opportunity for the police and council to share information about the area and the problems being caused as well as discussing the practicalities of enforcement. In this case officers have worked closely with the local police in Yeovil, not only to gather the data relating to anti-social incidents but also to agree an enforcement protocol so that the Council and the Police will work together to address any issues which occur after the PSPOs have been declared.
12. The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. In order to comply with this recommendation the Council undertook a public consultation between 28th May 2019 and the 7th July 2019. The results of this consultation can be found in the background paper "PSPO Consultation Result".
13. Consultation has also taken place with other key partners including Yeovil Town Council, Yeovil Chamber of Commerce, Somerset County Council, Somerset Drug and Alcohol Service (SDAS), Pathways, Yarlinton Housing Group, Yeovil Refresh and the Yeovil One team.
14. Given that the effect of Public Spaces Protection Orders is to restrict the behaviour of everyone using the public space, the direct involvement of elected members will help ensure that openness and accountability is achieved. National guidance recommends that the decision to adopt a PSPO is put to the Cabinet or full Council.

Street Drinking PSPO

Evidence Base

15. Anecdotal evidence from members of the public, officers, partner organisations and businesses in Yeovil have suggested that anti-social behavior associated with street drinking has occurred in the town centre of Yeovil.
16. Working with Avon and Somerset Police council officers examined the police data on reported incidents where police officers attended the incident. The advantage of this approach is that the quality and reliability of the evidence is high. The disadvantage is that this approach is likely to under-report the scope and scale of the problem. However given that any PSPO could be subject to a legal challenge in the form of an appeal it is the judgement of officers that the council should be wary using anecdotal evidence to justify the imposition of a PSPO.
17. Nevertheless the approach used identified 47 alcohol related incidents in 2017 and 49 in 2018. These incidents are graphically represented in figure 1 and figure 2. Based on this data the proposed restricted area was drawn up and is presented in figure 3.

Figure 1: Alcohol related ASB incidents in 2017

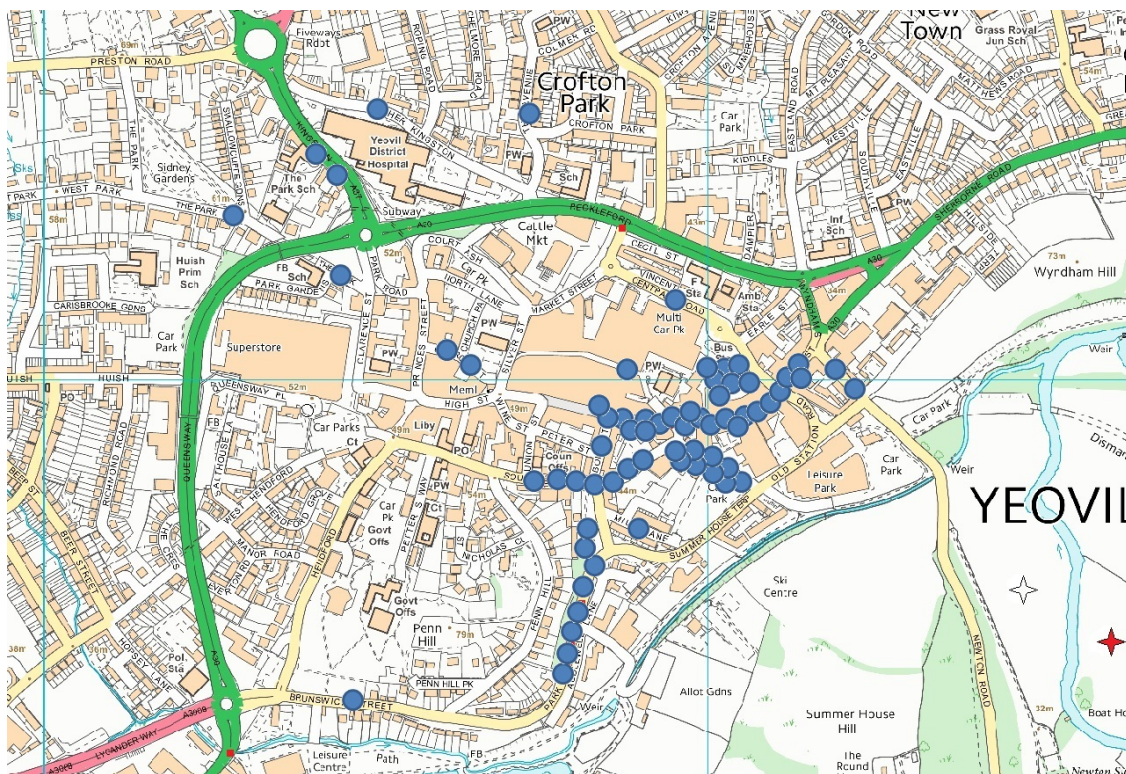


Figure 2: Alcohol related ASB incidents in 2018

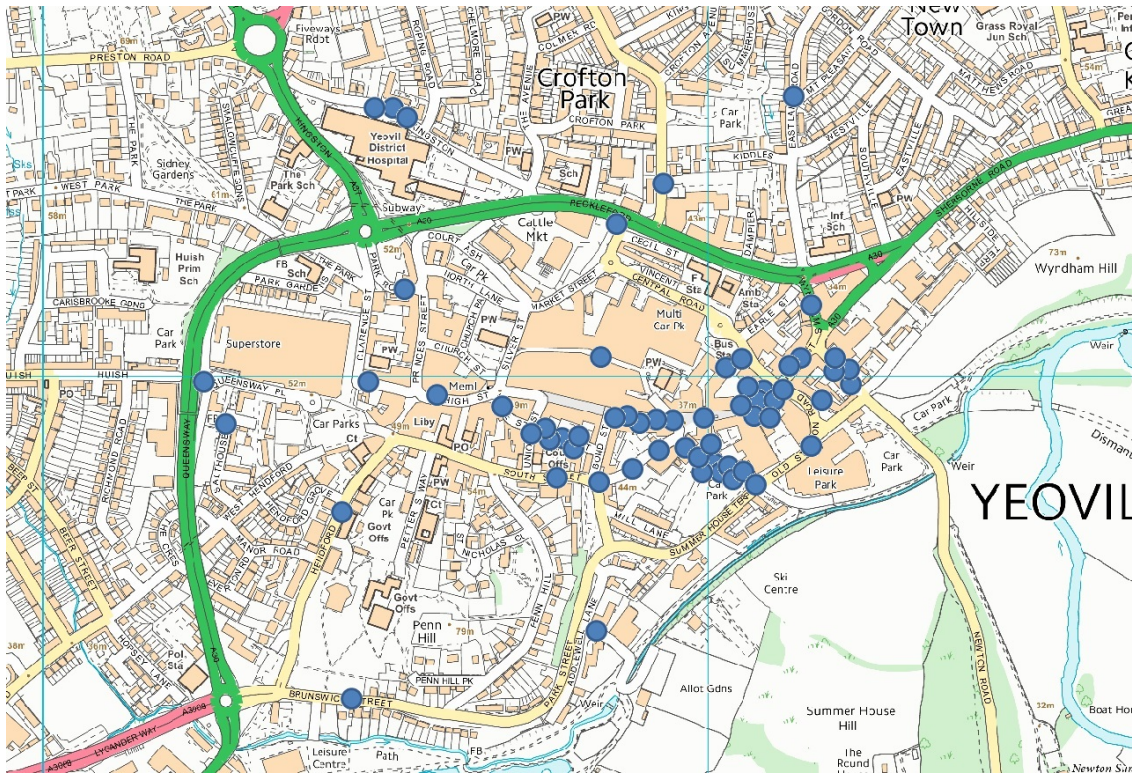
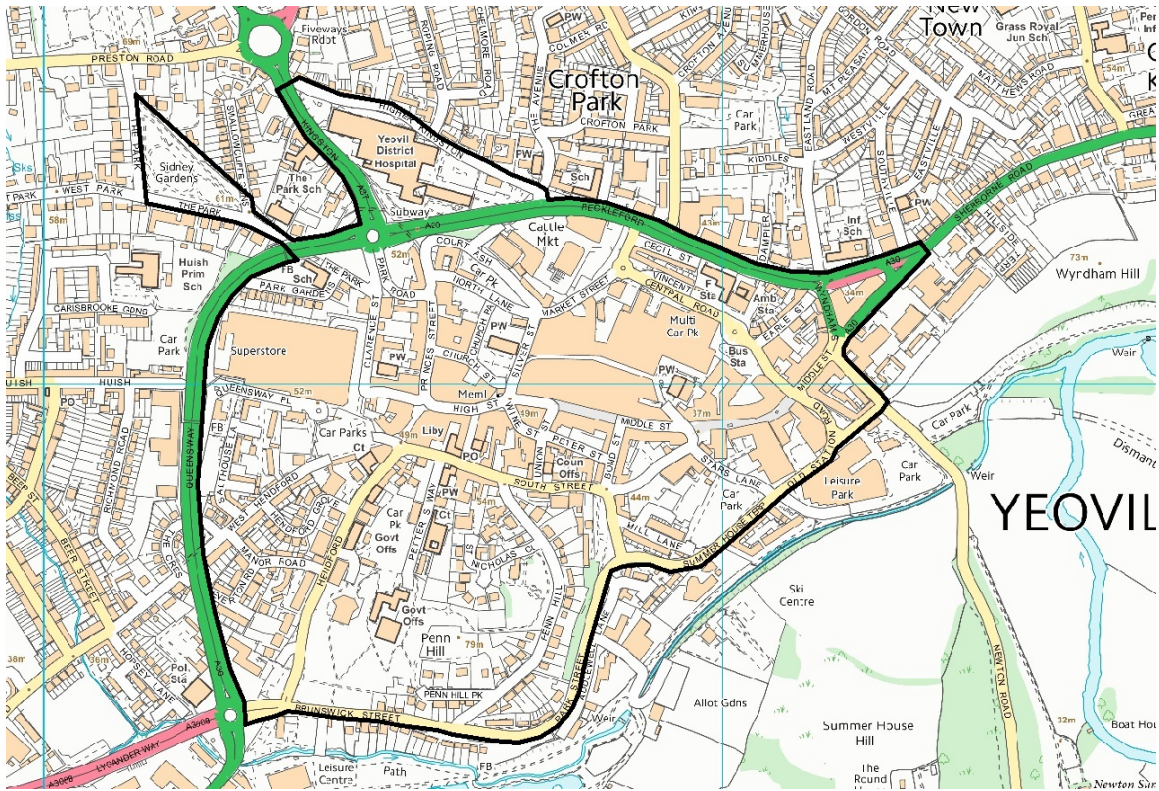


Figure 3: Proposed Restricted Area



Proposed Restrictions

18. In establishing which restrictions or requirements should be included, the council should be satisfied on reasonable grounds that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring.
19. As with all the anti-social behavior powers, the council should give due regard to issues of proportionality: i.e. is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behavior or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life.
20. A Public Spaces Protection Order can be used to restrict the consumption of alcohol in a public space where the relevant legal tests are met. However, such an Order cannot be used to restrict the consumption of alcohol where the premises or its curtilage (a beer garden or pavement seating area) is licensed for the supply of alcohol (other than council operated licensed premises). There are also limitations where a temporary event notice has been given under Part 5 of the Licensing Act 2003, or where the sale or consumption of alcohol is permitted by virtue of permission granted under section 115E of the Highways Act 1980. This is because the licensing system already includes safeguards against premises becoming centres for anti-social behavior. It would create confusion and duplication if Public Spaces Protection Orders were introduced here.
21. A total prohibition on the consumption of alcohol was considered within the restricted area. However looking at the experience of other councils and in consultation with the police, it was decided that the proposed restrictions below are more appropriate. Not only do these restrictions link the behavior directly to anti-social impacts, but it gives the person subject to the restrictions an opportunity to comply with the restrictions without the need for further formal enforcement action. This complies with the principles of proportionality, directly addresses the behavior causing the problem and is reasonable. The requirements are shown below:

The Requirements

1. *No person shall fail to stop consuming alcohol when required to do so by a Police Officer, Police Community Support Officer or an authorised officer from the Council.*
2. *No person shall fail to surrender anything in their possession which a Police Officer, Police Community Support Officer or authorised officer from the Council reasonably believes to be alcohol or a container for alcohol when required to do so.*

Begging PSPO

Evidence Base

22. Again anecdotal evidence from members of the public, officers, partner organisations and businesses in Yeovil have suggested that anti-social behavior associated with begging has occurred in the town centre of Yeovil.
23. Working with Avon and Somerset Police council officers examined the police data on reported incidents where police officers attended the incident. The advantage of this approach is that the quality and reliability of the evidence is high. However anecdotal evidence suggests that the scope and scale of the issue is heavily unreported. Attempts have been made to quantify and verify the anecdotal evidence, unfortunately it has not been possible to do this to a reliable standard.
24. Nevertheless the approach used identified 32 begging related incidents in 2017 and 14 in 2018. These incidents are graphically represented in figure 4 and figure 5. Based on this data the proposed restricted area was drawn up and is presented in figure 6.

Figure 4: *Begging related ASB incidents in 2017*

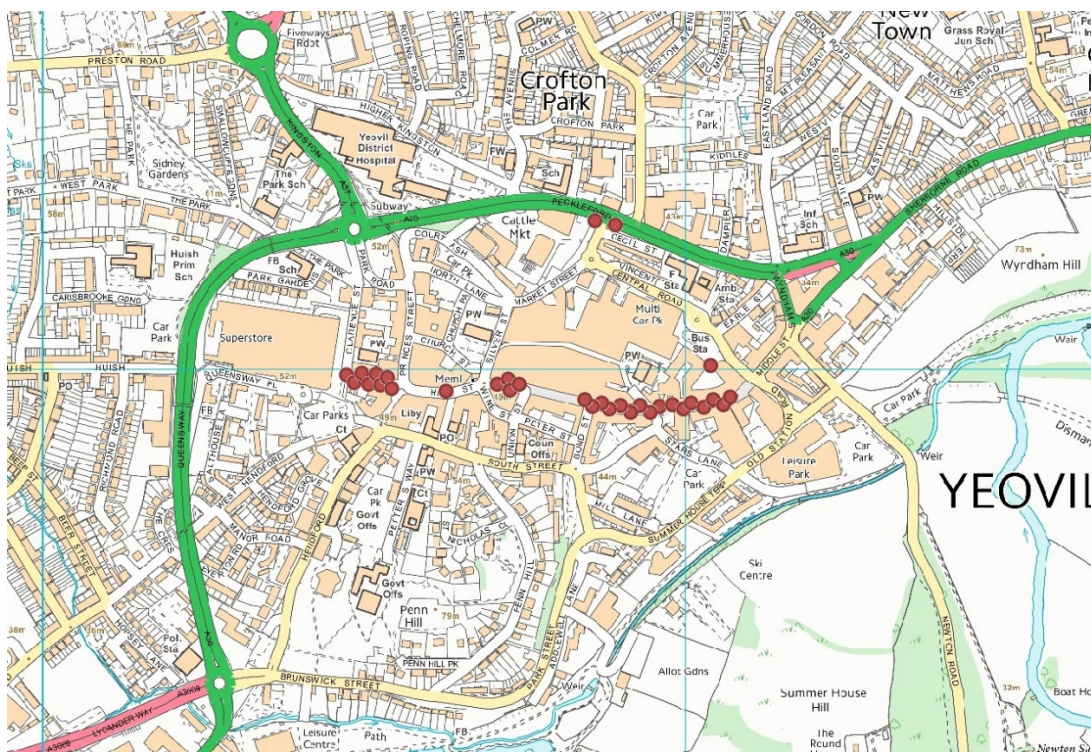


Figure 5: Begging related ASB incidents in 2018

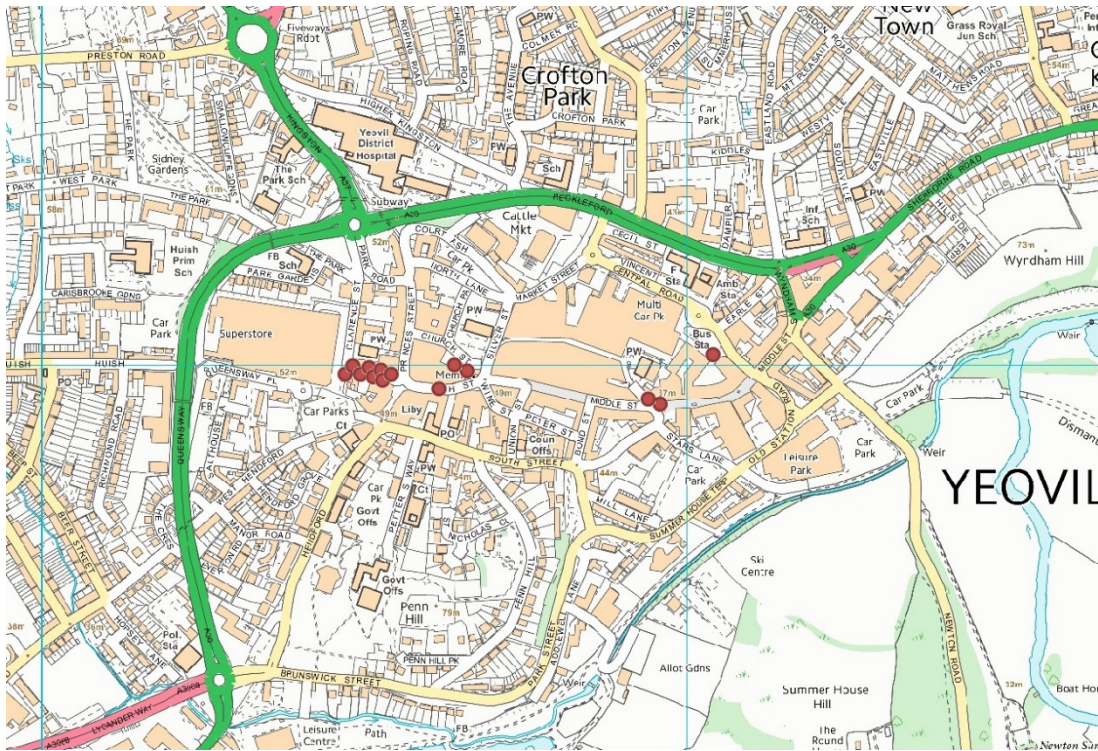
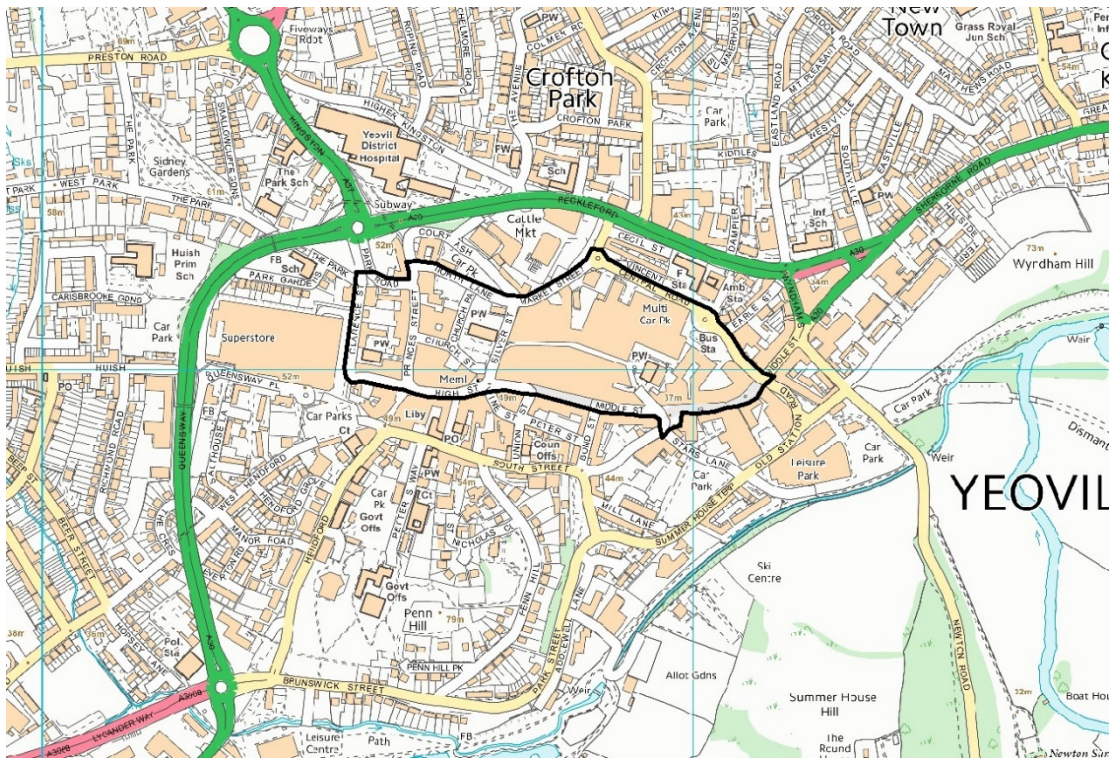


Figure 6: Proposed Restricted Area



Proposed Restrictions

25. As with the alcohol restrictions, the council should be satisfied on reasonable grounds that the measures are necessary to prevent the detrimental effect on those in the locality or reduce the likelihood of the detrimental effect continuing, occurring or recurring. The council should also give due regard to issues of proportionality and reasonableness.
26. It was felt important to target the wording of the restrictions in such a manner that it does not capture people in need such as the homeless or those with other vulnerabilities.
27. The intention is to target the restrictions at those individuals who are begging for profit, have other known incomes and have accommodation options open to them.
28. The activities which are prohibited or required by this PSPO are;
 - a. *All persons are prohibited from approaching another person, either in person, verbally or through action in a misleading manner in a public place in order to solicit monies from the other person.*
 - b. *All persons are prohibited from sitting or loitering in a public place between the hours of 08:00 to 20:00 hrs, being in possession of a receptacle used to obtain monies in a misleading manner. This includes the use of signage, children or animals to solicit monies from members of the public.*

Enforcement

29. The activities set out in this PSPO are prohibited or required only where an authorised person requires a person to stop the activity or requires that person to do something as set out in this Order.
30. An authorised person means a constable, a police community support officer or a person authorised in writing by the Council.
31. It is an offence for a person without reasonable excuse—
 - a. *to do anything that the person is prohibited from doing by a public spaces protection order, or*
 - b. *to fail to comply with a requirement to which the person is subject under a public spaces protection order.*
32. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
33. The council has agreed an enforcement protocol with Avon and Somerset Police. This is required because while a constable and police community support officer can enforce the PSPOs, only the council can issue the fixed penalty notice or undertake any follow-up formal enforcement action.
34. The council will make enforcement decisions based on the evidence provided in line with the council enforcement policy. Generally this will mean that the minimum enforcement stance will be taken in order to achieve compliance. This initially will typically take the form of warning letters. Repeated breaches of the PSPO restrictions by the same individuals will likely result

in escalated enforcement in the form of fixed penalty notices (FPNs) and where these are not paid, possible prosecution.

35. The level of FPNs is intended to be sent at £100.
36. Should the restrictions in the PSPOs continue not to be complied with, the council, working with the police, will consider other enforcement options. For example the use of Civil Injunctions placing additional restrictions against specific individuals. The very fact that the restrictions imposed by the PSPOs have been repeatedly breached will help provide the evidence base for this option.

Consultation Responses

37. The consultation on the PSPOs ran from 28th May 2019 to the 7th July 2019. It took the form of a mainly online advertising campaign with support on the SSDC website. A pop up event was held in Yeovil town centre on the evening of the 14th June 2019 in order to engage with those who may be most directly affected by the proposed PSPOs.
38. The online survey had a total of 131 respondents. Some results of this survey include:
 - 85% of respondents agreed or strongly agreed that anti-social behavior affects how much they enjoy their visits to Yeovil town centre.
 - 75% of respondents disagreed or strongly disagreed that anti-social behaviour is well dealt with in Yeovil town centre.
 - 95% agreed or strongly agreed that people should be penalised if they do not stop, when required to do so, consuming intoxicating liquor.
 - 92% agreed or strongly agreed that people should be penalised if they do not handover, when required to do so, intoxicating liquor.
 - 86% agreed or strongly agreed that people should be penalised if they aggressively beg in Yeovil town centre.
 - 73% agreed or strongly agreed that people that people should be penalised if they passively beg in Yeovil town centre.

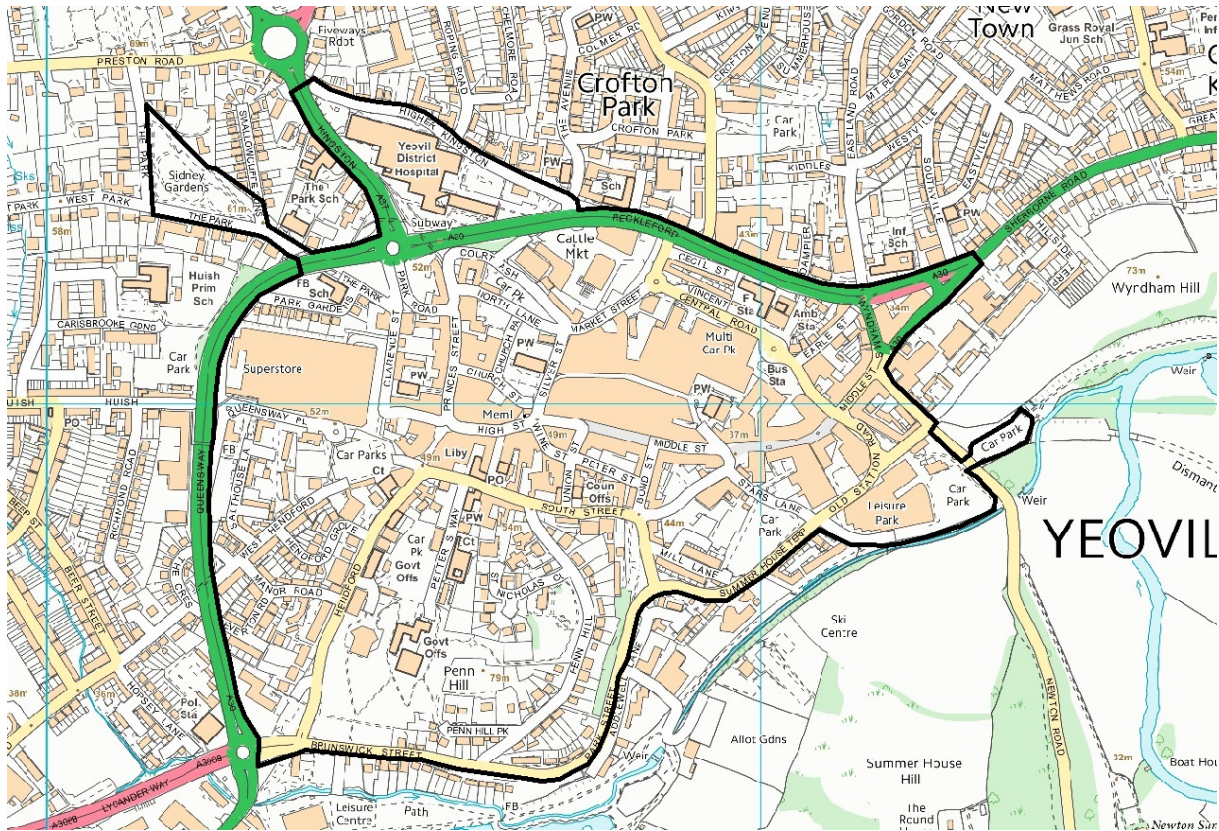
The full consultation report is included in the background papers.

39. From this it is clear that support for the street drinking PSPOs is extremely firm, while support for the begging PSPO, while still in the majority of respondents is not as concrete.
40. A number of respondents commented that that poverty should not be criminalised and that individuals in need should be supported. The council agrees with this point and it should be emphasised that the PSPO is targeted at those who are begging for profit, have other known incomes and have accommodation options open to them.
41. A substantive response to the begging PSPO was received from Liberty, which strongly objected to the imposition of the begging PSPO. This letter is contained within the background papers. Officers took account of this and all other responses and as such the final wording of the begging PSPO was reviewed in order to reflect the stated aim above, that the PSPO should be aimed solely at those aiming to beg for profit in a misleading or fraudulent manner.
42. Another substantive response was received from Yeovil Town Council. The Town Council very much support these proposals; however they would like to see the Public Space Protection Order for street drinking extended to Yeovil Country Park and the Yeo Leisure Park.

Proposed Restrictive Areas

43. When defining the area restrictions should cover, consideration should be given as to whether prohibitions in one area will displace the problem behaviour elsewhere. It is worth noting here that the legislation allows for Orders to address activity that 'is likely to' occur in that public place. Local areas can therefore consider whether there are any legitimate concerns that introducing an Order in one area, and not another, could simply move issues somewhere else – and thus whether it would be appropriate to extend into a larger area or adjacent street. Councils will however need to ensure that a proportionate approach is taken overall, and that there is evidence to support using a broader approach.
44. During the consultation exercise a number of consultees expressed the view that the proposed areas should be extended to include Ninesprings Yeovil Country Park and the Yeo Leisure Park. These consultees included several members of the public and Yeovil Town Council.
45. The Councils countryside team were consulted early in the process of developing the proposed PSPOs. Their view was that there was no requirement to restrict public drinking within Yeovil Country Park because to their knowledge no significant issues concerning anti-social behaviour linked to public drinking existed within the Park. In addition it was felt that any perceived restriction on public drinking would be unwelcoming and difficult for the Rangers to effectively enforce.
46. There was also no evidence to suggest that begging ever occurred within the County Park.
47. The owners of Yeo Leisure Park have been approached directly for their views regarding whether the Yeo Leisure Park should be included within the PSPO. They responded by saying that it is clearly disappointing that such a family orientated area of the town should be excluded.
48. Given the character of the Yeo Leisure Park and the importance of this area to the night time economy and the continuous character of the area with the rest of the town centre, it was judged that the risk of displacement of alcohol related anti-social behaviour was high. It was therefore reasonable to vary the proposed area to include the Yeo Leisure Park.
49. In the event that the proposed PSPO has the effect that displacement occurs it can be dealt with in the short and medium term. In the short term the Police have additional powers to require individuals to leave the area. In the medium term additional PSPOs can be imposed if the evidence base exists to justify such action.
50. It was the officer judgement that at this time the risk of displacement into the Yeovil Country park was low but the situation should be kept under review if the event that the proposed PSPO be adopted.
51. It is therefore recommended that the Yeo Leisure Park should be included within the proposed area alcohol PSPO. The restricted area for the begging PSPO should remain as proposed. The situation will remain under review for the duration of the PSPOs. Should anti-social behaviour be displaced beyond the proposed area then additional PSPOs will be considered according to the need.

Figure 7: Adjusted Alcohol Restricted Area



Financial Implications

Signage

As a result of imposing a PSPO there is a statutory requirement to publicise the PSPO and designate the restricted area. Signage will therefore be required. It is estimated that to achieve this 30 signs will be required for the Yeovil PSPOs at the following costs

30 x PSPO signage	£450.00
Installation cost x 30	£400.00

These installation costs are not significant and will be met from existing budgets.

Enforcement Costs

Enforcement of the PSPOs will be incorporated into the existing role of the Compliance and Enforcement officer. Initially it is expected that the direct enforcement and evidence gathering will be undertaken by the Police in accordance with the proposed enforcement protocol. In due course it is the aspiration that additional direct enforcement and evidence gathering will be undertaken by Locality officers, but this is dependent on the provision of the appropriate training and equipment.

No additional officer time is expected.

Risk Matrix

The risk matrix shows risk relating to the Corporate Plan headings.

Reputation

In the consultation public survey, 85% of respondents felt that anti-social behaviour affected how much they enjoyed their visits to Yeovil. 75% of respondents also felt that anti-social behaviour was not well dealt with in Yeovil. Since South Somerset District Council and only SSDC has the power to designate PSPOs, if the Council fails to do so after a clear need has been established, the Councils' reputation could be impacted.

Judging from the consultation responses, there is a very high degree of public support for the street drinking PSPO. Support for the begging PSPO is also high, although there is some concern that this measure is in danger of criminalising those most at need. Officers have considered these views and amended the wording of the begging PSPO to ensure that the PSPO is accurately directed at those individuals who are begging in a misleading manner, those who have an income and those with accommodation or offers of accommodation. It is felt that these amendments will ensure that the Councils position is clear.

Corporate Plan Priorities

South Somerset District Council plans to regenerate the town centre of Yeovil through multiple projects as part of the adopted Yeovil Refresh strategy. The stated vision is that "Yeovil town centre will be a vibrant place to live, work, learn and visit. Revitalised public spaces will celebrate the town's civic life and heritage – and help to regenerate the town's retail heart. A broad range of quality housing will encourage a diverse and inclusive community."

Should anti-social behaviour be allowed to continue unchallenged within the town centre this will undermine the efforts to achieve the stated vision. Effective enforcement of the PSPOs is likely to improve the rates of compliance and reduce the incidents of anti-social behaviour.

Community Priorities

In the Council Plan themes and Areas of focus for 2019/20 under the banner of Healthy, Self-reliant Communities SSDC have stated that we will "Work with partners to keep our residents safe and help them to feel safe in their local area."

The PSPOs will give both our officers and the local police another tool to help tackle anti-social behaviour within Yeovil Town centre.

Capacity

The short term impacts on capacity are likely to be low. The on street enforcement is to be undertaken by the police, who will supply SSDC with the evidence should the PSPOs be breached. Such evidence will be followed up by the Compliance and Enforcement specialist as part of his normal duties.

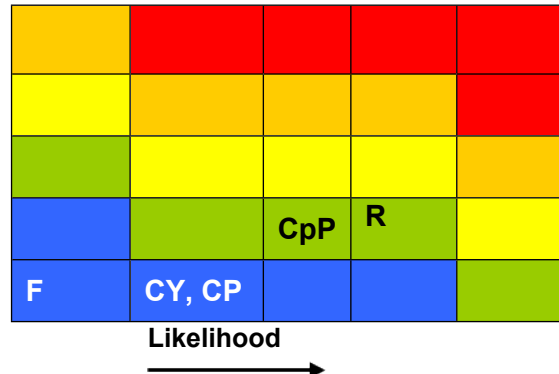
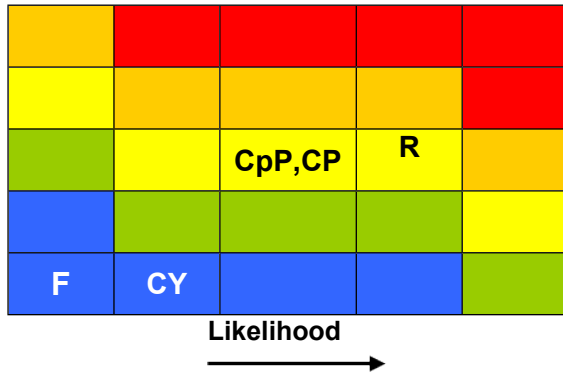
In the longer term, effective enforcement will improve the rates of compliance and thus reduce service demand for both the Council and the Police.

Financial

The direct financial risk is limited to the cost of signage. No other risk has been identified.

Risk Profile before officer recommendations

Risk Profile after officer recommendations



Key

Categories	Colours (for further detail please refer to Risk management strategy)
R - Reputation	High impact and high probability
CpP - Corporate Plan Priorities	Major impact and major probability
CP - Community Priorities	Moderate impact and moderate probability
CY - Capacity	Minor impact and minor probability
F - Financial	Insignificant impact and insignificant probability

Council Plan Implications

This measure links in with the theme of promoting Healthy, Self-reliant Communities. It involves working closely with our partners, in this case the police, social services and housing providers to keep our residents safe and help them to feel safe in their local area.

Carbon Emissions and Climate Change Implications

There are no carbon emission or climate change implications with regard to this recommendation.

Equality and Diversity Implications

It is important for councils to consider carefully the potential impact of a PSPO on different sections of their communities. In introducing an Order, councils must take care to ensure that they comply with the requirements of the public sector equality duty under the Equality Act 2010. The Equality Act requires public authorities to have due regard to a number of equality considerations when exercising their functions. Proposals for a PSPO should therefore be reviewed to determine how they might target or impact on certain groups.

Although it is not a specific requirement of the legislation, it is recommended that areas undertake an Equality Impact Assessment (EIA) to assess whether the proposed PSPO will have disparate impact on groups with protected characteristics.

This process will help councils to establish any potential negative impacts and consider how to mitigate against these. This exercise will also help to ensure transparency.

The Equality Duty covers:

- Age

- disability
- gender
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- Marriage and civil partnership

The full equality impact assessment is included within the background documents. It shows that there is a potential negative impact to those with disabilities, specifically mental health issues. The EIA details how this potential negative impact is to be mitigated against.

Data Protection Impact Assessment

Because personal and sensitive data can potentially be past to SSDC as part of the enforcement process of the PSPOs a full data protection impact assessment is required and had been completed. This is included in the background papers.

Background Papers

- Consultation Response
- Draft Enforcement Protocol between Avon and Somerset Police and South Somerset District Council
- Equalities Impact Assessment
- Data Protection Impact Assessment
- Draft Street Drinking Public Space Protection Order: Yeovil
- Draft Begging Public Space Protection Order: Yeovil