

Public Consultation - Variations of East Devon District Council Public Spaces Protection Order for Exmouth. Anti-Social Behaviour Crime and Policing Act 2014

In May 2020 we extended the Public Spaces Protection Order (PSPo) for Exmouth and Sidmouth which restricts certain activities linked to Anti-Social behaviour (ASB). The order covers the following behaviours:

1. Possessing intoxicating substance including alcohol
2. Urination and defecation within a street or public place
3. Aggressive requests for money
4. Intimidation, harassment, alarm or distress

The current order will remain in place until May 2023, at which time it will be extended if still appropriate. The existing order that has been in place since May 2020 in Exmouth already covers:

- The Strand and surrounding area
- The Magnolia Centre and surrounding area
- Station car park and surrounding area
- The Manor Gardens
- The Plantation and surrounding area

We are proposing to extend it onto Exmouth beach to the mean low tide mark as well as some surrounding area. This is because these areas have seen recent alcohol fuelled anti-social behaviour. These proposals have been developed as part of multi-agency meetings along with Local Police and Environmental Health.

[Have a look at the proposals in full](#), and send any comments on this proposal to extend it to Exmouth beach to the mean low tide mark as well as some surrounding areas: before 5pm Sunday 20 June 2021:

- by email to pspoconsultation@eastdevon.gov.uk

- by post to Environmental Health, East Devon District Council, Blackdown House, Border Road, Heathpark Industrial Estate, Honiton, EX14 1EJ.

Anyone who needs a copy of the consultation sent by post or in large print or any other format should email pspoconsultation@eastdevon.gov.uk or call 01395 517457.

This timescale will allow for the variance, if agreed, to be in place for Summer 2021.

Data Protection

Any personal information which you provide will be held and used by East Devon District Council for the purpose of this consultation, including to send you feedback on the consultation results. Your information may be shared within East Devon District Council for the purposes of carrying out our lawful functions. Otherwise your personal information will not be disclosed to anybody outside East Devon District Council without your permission, unless there is a lawful reason to do so, for example disclosure is necessary for crime prevention or detection purposes. Your information will be held securely and will not be retained for any longer than is necessary. There are a number of rights available to you in relation to our use of your personal information, depending on the reason for processing.

Further detail about our use of your personal information can be found in the our privacy notice which can be accessed online: <https://eastdevon.gov.uk/media/3051229/engagement-consultation-and-surveys.pdf>

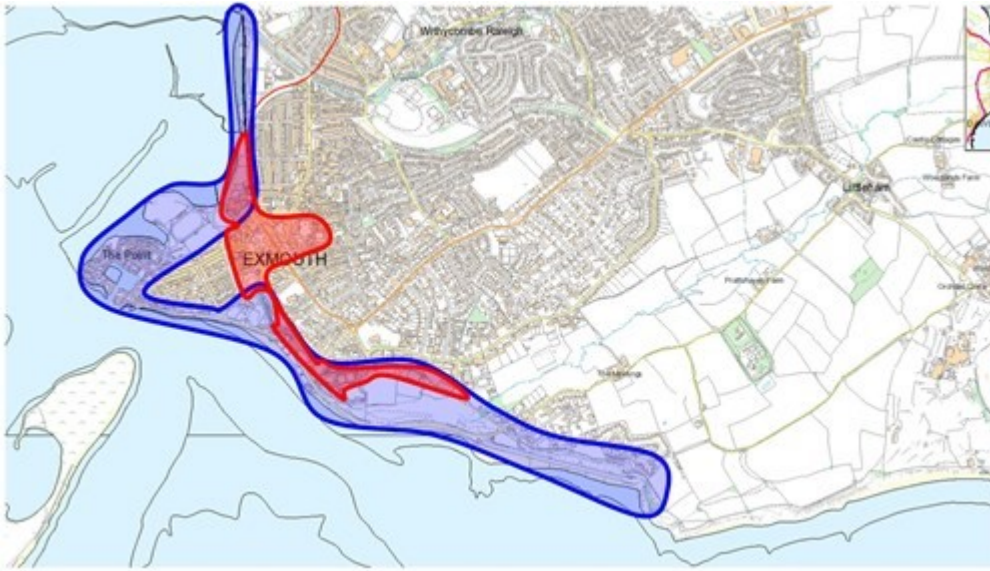
By filling in this questionnaire and sending your responses to us you are giving your consent for us to process your data in the ways described.

If you change your mind and want to withdraw your consent, please contact our Data Protection Officer at dataprotection@eastdevon.gov.uk

The Proposals

2. The proposals

Proposal report for public consultation



PSPOs are tools under the Anti-Social Behaviour Crime and Policing Act 2014 which are intended to deal with particular nuisances or problems affecting a specified area that are detrimental to the local community's way of life. They can be used for a wide range of problems. The area may be as small as a play park or as large as the district of the local authority as a whole.

A PSPO can be made by the council if it is satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

1.

1. Have had, or are likely to have, a detrimental effect on the quality of life of those in the locality and that the effect or likely effect of the activities:
2. Is or is likely to be persistent or continuing in nature;
3. Is or is likely to be unreasonable and
4. Justifies the restrictions imposed

PSPOs are used to control a range of activities where there is evidence of detriment. The following controls were included in the

2017 orders and have been retained in the 2020 orders. Control of anti-social behaviour and the consumption of intoxicating substances in Exmouth and Sidmouth – this order relates to a number of designated streets in Exmouth and Sidmouth where certain controls are needed at the request of Devon and Cornwall Police in order to enable them to manage behaviours. The streets included are those where there have been particular problems in past years. Although only low numbers of fixed penalty notices have been served under this order since its introduction, the ability to use the power to move individuals on and remove containers of alcohol is implemented weekly by the police.

Over the last 3 years the Environmental Protection team have publicised the order on several occasions, they have talked to town and parish councils, community groups, residents, businesses and visitors. They have also arranged for all the areas covered by specific orders to be appropriately signed and the orders themselves are on the council's website.

A person observed not to be complying with the PSPO is liable to receive a fixed penalty notice of £80. The alternative is to take enforcement action in the Magistrates Court. Some council officers and police officers are authorised to enforce the requirements of the orders.

There is a requirement in the legislation for interested parties to be consulted about the proposals of a variation. The last formal review of the PSPO was conducted by the Environmental Protection Team where Town and Parish councils were consulted in November 2019 and a public consultation process was undertaken between 23rd January and 20th March 2020. Council members and town and parish councils were also advised of this. Consultees also included Devon and Cornwall Police and the Police and Crime Commissioner. There was a press release drawing attention to the web based consultation, and paper copies were made available on request. The consultation responses were supportive.

In June 2020 on Exmouth Beach we saw a significant disturbance observed over a weekend exiting from lockdown, these issues continued sporadically over that summer with a significant increase in ASB and littering linked to the alcohol fuelled ASB. It was felt at the time this was likely to be an isolated occasion/period of time. This however reoccurred over the Easter bank holiday weekend 1 April to 5 April 2021 when the ability for groups to meet was released. Again alcohol fuelled ASB was seen on Exmouth beach with littering, Urination and Defecation occurring where the use of toilets has been restricted.

It is considered that during this summer and the new demand of the “Staycation” we are likely to see an increased level of alcohol fuelled ASB linked to the beach area. Holiday periods still to come are the half term break 31st May 2021 which includes a bank holiday Monday. End of summer term 27th July 2021, bank holiday weekend 30th August and the University Fresher’s weeks in September.

The Police have the power to invoke Section 35 of the Anti-Social Behaviour, Crime and Policing Act 2014 which when authorised by an Inspector allows them to move people on from identified locations for a period of 48 hours if they believe that crime and disorder is taking place or individuals are being subjected to Harassment alarm or distress. This has limited impact but is a very useful tool for the police which can be used alongside the PSPO. The ASB PSPO gives the police the power to issue Fixed Penalty Notices (FPNs) to deal with the issues at hand as well as seize containers of alcohol / intoxicating substances. This allows Police to effectively deal with the problems as well as retaining resources at the location of an incident.

The PSPO is already in existence in a number of central streets in Exmouth and allows authorised officers to deal with individuals by way of fixed penalty notices for:

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1. Possessing intoxicating substance including alcohol

2. Urination and defecation within a street or public place
3. Aggressive requests for money
4. Intimidation, harassment, alarm or distress

The beach area and the area's considered as area of displacement are likely to see behaviours of 1, 2 and 4 but section 3 is not currently identified as part of the beach area problem, but a smaller wider problem that is still seen in Exmouth. It was considered practical for this section to remain for the whole area to ensure understanding and management of the order were kept simple.

The proposal would be for a variation by extending the coverage to additional areas for inclusion in the existing order. The current locations for the PSPO work from the central Strand area towards the beach and further round towards the Estuary. The areas of the most recent problems have centred around the beach from Orcombe point up towards Queens Drive, The displacement considerations stretch East round on to Sandy Bay beach and up onto Fox holes via the Zigzag path and around to The Geoneedle as well as West round to The Half-moon field.

Existing Public Space Protection Order locations; (red outline on the map)

1. The Strand and surrounding area including: Manchester Street, Manchester Road, Elm Grove, Chapel Hill, Queen Street, Tower Street, High Street, Rolle Street.
2. The Magnolia centre and surrounding area including: Parade, Crudges Lane, Market Street, Magnolia Centre and Magnolia Walk, Chapel Street, Church Street, Margaret Street, London Inn car park and Lower Fore Street.
3. Station car park and surrounding area including: Commercial vehicle park, Bus station, Sports Centre grounds, Marine Way and Imperial Road.
4. The Manor Gardens

5. The Plantation and surrounding area: Bath Road, The Pavilion Grounds, Gunfield Gardens and Madeira Walk.

Additional locations we're proposing to add to the Public Space Protection Order; (blue outline on the map)

- Beach area from Sandy Bay (down to the mean low tide point) via Orcombe Point, the coastal slopes and donkey field up onto Fox Holes Hill, the zig zag path, the path and area round to The Geoneedle; past the RNLI station;
- past the coastguard look out station; past the Beach Gardens The Esplanade, The Maer, Queens Drive; Mamhead view; Pier Head; The Point; Past the Sailing Club;
- Past Camperdown Yard and Imperial Recreation Ground; Royal Parade; Across Shelley Bank; Along to the half-moon field.

Consideration for inclusion of other coastal area's for an ASB PSPO was discounted at an early stage, as there has been limited reporting of historic problems, to justify a further order.

Early indications from Local Police and Exmouth Town Council are they are supportive of the extension of the PSPO. The move to a public consultation process was agreed by East Devon District Councillors during its Cabinet meeting on Wednesday 12 May 2021.

The PSPO does not create a ban on alcohol at locations; but is a tool for the Police and authorised council staff to be able to remove alcohol when it contributes to the escalation of anti-social behaviour (ASB). Members of the public should not be concerned that they will have police turning up and routinely just seizing their picnic drinks. The Police will be proportionate and sensitive around its enforcement, where it is linked as a precursor to ASB occurring or as a result of ASB occurring and use their discretion when to engage, when to educate, when to encourage and when there is a need to enforce.

Not extending the time frame for the variance allows it to come up for consideration at the same time period when the others are up for renewal and for any variance to be checked it is still needed and current.

[Have your say on these proposals until 5pm 20th June 2021](#). The variance, if agreed, by way of extension of the Exmouth footprint, would be in place as early as possible for summer 2021.



DRAFT PROPOSAL EAST DEVON DISTRICT COUNCIL

The Anti-Social Behaviour, Crime and Policing Act 2014

Public Spaces Protection Order 2020

The Control of Anti-Social Behaviour and the Consumption of
Intoxicating Substances in Exmouth and Sidmouth

This Order is made by East Devon District Council ("The Council") under the Anti-Social Behaviour, Crime and Policing Act 2014 Section 59 ("the Act") and remains in force for a period of 3 years from the date of the Order.

1. The Order relates to the designated streets and public spaces described in
Schedule 1 below and defined by the line edged red on the plans attached to this Order ("the restricted areas"), being public spaces in the Council's administrative area to which the Act applies:
2. For the purposes of this Order,
"Intoxicating Substances" is given the following definition (which includes Alcohol and substances which are commonly referred to as 'legal highs'): "Substances with the capacity to stimulate or depress the human central nervous system".

Exemptions will apply in cases where the substances are used for a valid and demonstrable medicinal use, given to an animal as a medicinal remedy, are cigarettes or vaporisers (tobacco products), or are food stuffs regulated by food safety legislation, or where the use of the intoxicating substances falls within the curtilage of a

premises licenced for the sale and consumption of alcohol, and within the operating hours of such.

An authorised officer shall be a Police Constable, Police Community Support Officer or East Devon District Council Officer, who must be able to present their authority upon request.

The term 'street' includes any road or footway to which the public have access without payment. "Public Space" includes parks and retail car parks to which the public have access without payment.

Exemptions shall apply where a person urinating is making use of an authorised temporary public urinal/toilet that has been provided in accordance with any specification issued by East Devon District Council, and with its agreement.

For this purpose 'unauthorised' means without the express written consent of any owner of the land (or any person having control over or an interest in the land in question).

3. The Council is satisfied that the 2 conditions below have been met, in that

- (a) Activities carried on in the restricted areas as described below, have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the street or public space and that they will have such an effect.

The said activities being

- the failure to surrender intoxicating substances in their possession when asked by an authorised officer,

- urination or defecation within a street or public open space,
- aggressive requests for money within a street or public open space,
- causing intimidation harassment alarm or distress,
- the failure to disperse away from a group when asked by an authorised officer.

(b) The effect, or likely effect, of the activities described above, is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order.

DRAFT PROPOSAL BY THIS ORDER

4. The effect of this Order is to impose the following prohibitions and/or requirements at all times:

(i) Intoxicating substances including alcohol

A person shall be guilty of an offence, if at any time in a street or public space, he does not surrender any intoxicating substance including alcohol in their possession when requested by an authorised officer if:

- a) They are found to be ingesting, inhaling, injecting, smoking or otherwise using intoxicating substances
- b) They are in possession of such intoxicating substances with the intent of using such intoxicating substances within this area, or
- c) The authorised person has reasonable grounds to believe that such person is using or intends to use the intoxicating substance within the said area.

(ii) Urination and defecation within a street or public open space

A person shall be guilty of an offence, if at any time in a street or public space, he urinates or defecates.

(iii) Aggressive Requests for money

A person shall be guilty of an offence if, at any time in a street or public open space, he makes unsolicited or unauthorised requests for money whether expressly requested or impliedly requested from persons not known to him.

(iv) Intimidation, harassment, alarm or distress.

A person shall be guilty of an offence if, at any time in a street or public space, he behaves individually or in a group in a manner which has resulted, or is likely to result, in a member of the public being intimidated, harassed, alarmed or distressed.

An authorised officer is permitted to ask people within a group to disperse immediately or by such time as may be specified. A person shall be guilty of an offence if they do not disperse away from that group of people.

5. The Order will remain in force for a period of three years from the date of this Order, unless extended by further Orders under the Council's statutory powers.
6. A person guilty of an offence under Section 4 is liable on summary conviction to a fine not exceeding level 3 on the standard scale or a fixed penalty notice of

Liability to conviction for the offence may be discharged by the payment of a fixed penalty notice issued by an authorised officer. The amount of the fixed penalty notice

shall be £80 and it shall be payable to East Devon District Council.

Where a fixed penalty notice is issued no proceedings will be taken for the offence before the end of the period of 14 days following the date of the notice. The person served may not be convicted of the offence if the fixed penalty notice is paid before the end of the 14 day period.

Schedule 1 DRAFT PROPOSAL

This order applies in the following designated areas:

Exmouth

The Strand and surrounding area including: Manchester Street, Manchester Road, Elm Grove, Chapel Hill, Queen Street, Tower Street, High Street, Rolle Street.

The Magnolia centre and surrounding area including: Parade, Crudges Lane, Market Street, Magnolia Centre and Magnolia Walk, Chapel Street, Church Street, Margaret Street, London Inn car park and Lower Fore Street.

Station car park and surrounding area including: Commercial vehicle park, Bus station, Sports Centre grounds, Marine Way and Imperial Road.

The Manor Gardens

The Plantation and surrounding area: Bath Road, The Pavilion Grounds, Gunfield Gardens and Madeira Walk.

DRAFT PROPOSAL The beach area at Exmouth including Sandy Bay down to the mean low water level and beach:

This includes the foreshore and all the beach, sands, rock and any seawall or bank adjoining the same within the area of Exmouth Town Council and extending from

the north end of the Royal Parade in the west to the east end of Sandy Bay in the east.

DRAFT PROPOSAL Orcombe point, Rodney steps and surrounding area The zigzag path leading up to Foxholes Hill, and the Donkey Field on Foxholes Hill. Foxholes car park:

DRAFT PROPOSAL The Maer and surrounding area: The Maer Road Car park:

DRAFT PROPOSAL Queens Drive and the surrounding area including Queens Drive Space: The Esplanade and surrounding area: Mamhead view:

DRAFT PROPOSAL The Royal Avenue: Along the Estuary cycle route past Lower Halsdon Farm to the “Half” Moon Field.

Sidmouth (Section 4(i) only)

The Esplanade, Sidmouth (from its junction with the Millenium Walkway in the west to its furthestmost point nearest The Ham in the east)

The Market Square , Dove Lane, Prospect Place, Kings Lane

By resolution of East Devon District Council

The Common Seal of the

East Devon District Council

Hereunto affixed this

in the presence of