1. **Purpose of Presenting the Report and Decisions Required**

1.1 The Heathway is the second largest shopping area in the Borough and this area is the subject of complaints relating to ‘antisocial behaviour’. The behaviour complained about includes street drinking, begging, spitting and urination and intimidating behaviour.

1.2 Public Spaces Protection Orders are made under the Antisocial Behaviour Crime and Policing Act 2014 and can prohibit a wide range of behaviours.

1.3 It is proposed that the Council implements a Public Spaces Protection Order. This would provide the police and Council Civil Enforcement Officers with a wider range of powers to deal with the issues reported more robustly and is part of a wider plan to make the Heathway a more welcoming place to live and visit.

2. **Recommendation(s)**

2.1 It is recommended that the Community Safety Partnership Board:

- Consider the proposal regarding the implementation of a Public Spaces Protection Order to tackle specific types of antisocial behaviour in Heathway.

- Consider the geographical area of the proposed order, considering the consultation responses and the views of Members.

- Make comments to the relevant Director to assist them in deciding whether to grant this Order.
3. **Public Spaces Protection Orders - The Legislation**

3.1 The Antisocial Behaviour Crime and Policing Act 2014 set out several fundamental changes to the legislation related to antisocial behaviour.

3.2 In summary, the act aimed to simplify the legislation related to addressing antisocial behaviour, since the introduction of the Crime and Disorder Act 1998, by reducing the numbers of powers to just six:

- Civil Injunctions
- Criminal Behaviour Orders
- Community Protection Notices
- Closure Orders
- Public Space Protection Orders
- Dispersal Powers

3.3 A local authority can make a Public Spaces Protection Order if it is satisfied that two conditions are met:

- **First condition** – Activities carried out on a public place within the local authority’s area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and they will have such an effect.

- **Second condition** – That the effect of the specified activities is or is likely to be of a persistent or continuing nature, is or is likely to be unreasonable and justifies the restrictions imposed by the notice.

3.4 The order identifies the area that the restriction applies and prohibits specific things from being done, and/or requires specific things to be done by persons carrying out specified acts in that area. For example, a Public Space Protection order can include such activities as:

- Drinking alcohol in a specified public place
- Control of dogs in a specified public place
- Playing loud music in a specified public place
- Parking inconsiderately near a school
- Persistent disturbance from motor vehicles driving inconsiderately to the detriment of local people

3.5 The breach of the order is an offence, discharged by the local authority through a fine. These will be issued through the Council’s Enforcement Service and can also be issued by Police and Police Community Support Officers.

3.6 The order is for a period of no more than 3 years. However, there is provision to extend the order, both in terms of the time and the area that it covers.

3.7 Local Authorities across England and Wales have been introducing Public Spaces Protection Orders. One of the key challenges has come from human rights campaigners who argue that these types of controls impacts disproportionately on protected rights. These include Article 8, the right to a private and family life, Article 10 the right to freedom of expression and Article 11 the Freedom of assembly and association.
4. A Council Wide Framework

4.1 Barking and Dagenham is seeing significant changes socially, economically, and demographically. These changes both increase opportunity for our current and future residents and business, but also increase behaviour that can have a detrimental effect on the quality of live in our town centres and residential areas.

4.2 Public Space Protection Orders provide a valuable tool by placing a framework in an area which controls behaviour which has been evidenced as a significant nuisance to local people. As such, Public Space Protection Orders are a key part of our enforcement activity, as set out in our Enforcement Policy. They support our aim to change behaviour, increase civic pride, alongside an ability to deal with matters quickly.

4.3 Public Spaces Protection Orders are a useful tool that provide the Council with the ability to control activities that cause persistent antisocial behaviour to local communities.

4.4 Several council departments have been looking at the possibility of introducing these orders for a range of different issues, across different areas of the borough.

4.5 A formalised council approach for the introduction of Public Spaces Protection Orders was agreed by Cabinet on the 15 November 2016.

4.6 To ensure that Barking and Dagenham has a robust and responsive process that minimises delay, the following principles in relation to the Introduction of a Public Spaces Protection Order were agreed:

- Principle 1 – for an application for a Public Spaces Protection Order, there needs to be a clear evidence base that the nuisance is a persistent nuisance in the defined area. Evidence will need to be gathered through statistical data and/or resident’s survey feedback to demonstrate this.

- Principle 2 – There needs to be a period of consultation of no less than one month prior to the creation of an Order. Consultation must include council and partnership services as well as specific interested bodies and ward councillors. This will take place through a range of communication sources, including the council’s Community and Voluntary Sector portal, Safer Neighbourhood Ward Panels and Public Notices.

- Principle 3 – The Public Spaces Protection Order must be supported by the Police. In addition, the Public Spaces Protection Order must be endorsed by the LBBD Community Safety Partnership (CSP) Board. The membership includes the relevant Cabinet Member and senior representatives from the 6 co-operating authorities: The Local Authority, Police Service, NHS, National Probation Service, Fire Authority and Transport for London. The CSP Board meetings are open to the public,
enabling public participation. The CSP Board would also be responsible for review applications.

- Principle 4 – The final report seeking formal adoption of a Public Spaces Protection Order must be signed off by the relevant Strategic Director and the Director of Law and Governance, or their authorised nominees. That final report must include consideration of the Human Rights convention in adoption and be accompanied by an Equality Impact Assessment.

- Principle 5 – Once adopted there must be signage around the area defined by the Public Spaces Protection Order, clearly identifying the order and the relevant restrictions.

5. **The Evidence for a Public Spaces Protection Order in the Heathway**

5.1 The area effected by antisocial behaviour is shown on the map marked as appendix 1. This area is a ‘public place’ as defined by the Act. It is an area to which the public have access, although the area includes shop forecourts which are owned by individuals as well as alleyways and other private land.

5.2 Analysis of ‘antisocial behaviour’ complaints in this area shows complaints are about street drinking, begging, spitting and urination and noise by groups. There are also complaints about drug use and supply, littering and criminal acts (like robbery). Criminal matters like drug use and supply are not appropriate to deal with by way of a PSPO as they are criminal offences and should be dealt with as such. Civil enforcement officers have substantial powers to deal with issues of littering and fly-tipping and therefore it is not suggested that these issues are included in the proposed PSPO.

5.3 Consultation with residents who live in the area and the public more widely was undertaken between 26 February 2018 and 8 April 2018. 3007 homes and businesses were written to directing them to the consultation as well as promotion of the consultation through social media. 338 people responded to the consultation which is 11% of the homes and businesses written to.

5.4 In summary there were 338 responses to the consultation with 317 respondents (93.79%) agreeing with the proposal to put in place a Public Spaces Protection Order. In terms of the issues which the public felt should be covered by the PSPO:

- 88.31% (559 people) felt drinking alcohol in public places should be prohibited
- 49.61% (314 people) felt urination in the street should be prohibited
- 86.10% (549 people) felt spitting in the street should be prohibited
- 87.20% (552 people) felt that begging should be prohibited
- 86.73% (549 people) felt littering should be prohibited
- 61.14% (387 people) felt intimidation from groups and individuals was an issue in the area.

5.5 94 people also reported other issues, not covered by the above. These issues were:
• Violence
• Drugs
• Issues connected to mopeds and other vehicles
• Theft
• Misogyny/sexual harassment
• Cycling on footpath
• Massage stickers and cards on street furniture

It is not appropriate to include criminal matters or those covered by existing civil enforcement powers in a PSPO. The only issues which are not covered by existing legislation are misogyny/sexual harassment and cycling on a footpath.

5.6 Misogyny/sexual harassment was an issue raised by 2 respondents. This behaviour would be covered by a prohibition around behaviour which causes or is likely to cause harassment, alarm or distress which is already proposed.

5.7 Cycling on a footpath was raised by 1 respondent. There are proposals for a cycle lane in this area and it is accepted that some people are cycling on the footpath in some parts of the Heathway currently due to safety. It is therefore not proposed that this issue is included as there are changes to the environment which may reduce this issue.

6. **Proposal and Issues**

6.1 The issues being proposed as being covered by the proposed Public Spaces Protection Order are:

• Consuming alcohol in the street
• Spitting
• Begging
• Intimidating and threatening behaviour

6.2 It is not proposed that littering should be included as there are substantial civil enforcement powers already in place to address this issue.

6.3 It is not proposed that urination is included in the order as less than half of respondents felt this was an issue in the area.

6.4 The Community Safety Partnership are asked to consider the geographical area of the proposed area. The Police asked for Chequers Parade to be included in this order as there were some complaints about people drinking alcohol in the street in this area. The CSP are asked to consider:

- There have not been consistent complaints in this area to the Council and those to the Police are historic
- Inclusion of this area makes the total area of the proposed order very large and necessitates the inclusion of several roads where there are no complaints of antisocial behaviour
- The inclusion of these areas may dilute the enforcement of the order and detract from the key area were complaints are being made which is the shopping area of the Heathway
Ward Members considered these issues and were in agreement that they wanted the area of the proposed PSPO to remain as the full area as shown in the map at appendix 1.

7. Options Appraisal

7.1 Other work to tackle the issues of antisocial behaviour have been taken. This work includes:

- Identification of those causing issues and these individuals the subject of specific action involving both support and enforcement
- Environmental measures including making changes to improve the general appearance of the area, cleaning and removing the evidence of antisocial behaviour
- Work with retailers
- Licensing visits and action against licensed premises

7.2 While the police and the Council can continue to use existing powers to deal with the issues being reported, the implementation of a Public Spaces Protection Order would allow the setting of a standard of behaviours for everyone in the area. It would also provide more robust powers for dealing with the consumption of alcohol (a fine rather than just seizure) as well as providing a mechanism for dealing with spitting and begging.

7.3 The public have an expectation that the Council and the police will use all the powers available to them to respond to concerns.

8. Consultation

8.1 Public consultation was undertaken via the Council’s consultation portal. As explained in 3.3-3.5 this consultation shows public support for a PSPO. A full breakdown of the consultation responses can be found at appendix 1.

8.2 Meetings with Ward Members for all the impacted wards have been held prior to the public consultation and following this to review the results of the consultation.

8.3 Ward Members felt very strongly that a Public Spaces Protection Order was necessary to tackle the issues of antisocial behaviour on the Heathway. Members were concerned that visible enforcement was necessary for any order to be effective.

8.4 Discussion took place with Members regarding the geographical area of the proposed order, as discussed in 4.3. Members expressed a wish to include the whole area as shown in the map in appendix 1.

9. Financial Issues

9.1 The making of a Public Spaces Protection Order in this area would require the Council to erect signage to publicise the order. This work would have a cost less than £4,000.
10. **Legal Issues**

10.1 Details of the legislation under which Public Spaces Protection Orders are made are found in Section 1 of this report and the governance framework that the Council has adopted is found in Section 2.

11. **Other Issues**

**Risk Management**

11.1 The proposed Public Spaces Protection Order is to provide greater powers to deal with antisocial vehicle use and therefore limit this activity and the associated risks. The making of the order carries the risk of an individual or group taking the Council to judicial review, however this risk has been mitigated by the consultation on this proposal.

11.2 The risk of not putting in place a Public Spaces Protection Order to deal with this issue is that the activity continues, with the associated risks to public safety, of public nuisance and a loss of confidence from the community that we effectively deal with antisocial behaviour.

**Contractual Issues**

11.3 No contractual issues.

**Staffing Issues**

11.4 No staffing issues.

**Corporate Policy and Customer Impact**

11.5 The Council has a clear vision of ‘One borough; one community; London’s growth opportunity’. Dealing effectively with antisocial behaviour is important part of creating a cohesive community. Therefore, the proposal of providing greater powers to deal with antisocial fits with the Council’s vision and expectations of our communities.

**Safeguarding Children**

11.6 Safeguarding children is a priority throughout work to tackle crime and antisocial behaviour and has been considered throughout these proposals. Antisocial vehicle use is predominately an activity which is engaged in by adults although children and young people are attracted to this which carries significant risks. Therefore, the proposals to provide additional powers to deal with this behaviour and keep roads safe is one which would positively impact on our safeguarding duties in respect of children.

**Health Issues**

11.7 The antisocial behaviour is reported by complainants to have a negative impact on them in terms of their health and wellbeing. This would be positively impacted on by the proposals.

**Crime and Disorder Issues**

11.8 The Community Safety Partnership (CSP) is the local partnership Board with responsibility for addressing crime and disorder issues in the borough and its
comments are considered by the officer/s with delegated authority to make Public Spaces Protection Orders.

11.9 The wider crime and disorder issues in relation to this issue are contained in the body of this report.

Property / Asset Issues

11.10 No property/asset issues

12. List of appendices:

Appendix 1- Map of area
Appendix 2- Consultation report
Appendix 3- Draft PSPO