

TITLE	Public Spaces Protection Order
FOR CONSIDERATION BY	The Executive on Tuesday, 22 March 2022
WARD	None specific;
LEAD OFFICER	Director, Place and Growth - Steve Moore
LEAD MEMBER	Executive Member for Neighbourhood and Communities - Bill Soane

PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)

A key decision is required to commence a public consultation about a proposed Public Spaces Protection Order (PSPO), and consider the results of the consultation, with a view to implementing a PSPO to reduce the harm caused by anti-social vehicle use in car parks and other public open spaces in the borough.

RECOMMENDATION

That the Executive agrees to authorise the Director for Place and Growth to:

- 1) commence a public consultation about a proposed Public Spaces Protection Order, and
- 2) consider the results of the consultation, and
- 3) bring forward to the Executive a further report if it is considered appropriate, in the light of consultation, to proceed with the implementation of the Public Spaces Protection Order.

EXECUTIVE SUMMARY

A large number of complaints have been made to the Council about anti-social vehicle use in Council owned car parks, and also on privately owned land, such as supermarket car parks. The activity features engine revving, wheel spinning, aggressive driving, noise from horns and music equipment.

The number and regularity of incidents is sufficient to meet the statutory test that anti-social vehicle use in the borough has had a detrimental effect on the quality of life of those in the locality, is persistent, is unreasonable and justifies the restrictions being imposed. Many incidents have occurred in the evenings or at night resulting in loss of sleep, and incidents regardless of time of day have resulted in alarm and distress to residents and visitors to the area.

The PSPO would be an additional power available to authorised local authority officers to use in appropriate circumstances, and a deterrent to the activity occurring.

BACKGROUND

1. The activities proposed to be prohibited in the PSPO are in Appendix 1.
2. The Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) provides the legal framework within which PSPOs can be implemented. Orders can be introduced in a specific public area where the local authority is satisfied on reasonable grounds that the following conditions have been met:
 - The activity to be restricted has had a detrimental effect on the quality of life of those in the locality, or it is likely that the activity will take place and will have a detrimental effect
 - The effect or likely effect of the activity is, or is likely to be, persistent or continuing in nature and is unreasonable and justifies the restrictions being imposed.
3. The Home Office statutory guidance issued in January 2021 states that proposed restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.
4. As a minimum, a PSPO must set out
 - what the detrimental activities are
 - what is being prohibited and/or required, including any exemptions
 - the area covered
 - the consequences for breach
 - the period for which it has effect.
5. The activity restricted by an Order must be carried out in a public place, which is defined in the legislation as ‘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’.
6. Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Parish and town councils that are in the proposed area covered by the PSPO must be notified.
7. “Community representatives” are defined broadly in the Act as “any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area”. Those who will be directly affected by the Order, or groups representing their interests, should be directly approached.
8. A PSPO can last for up to three years, after which it must be reviewed and may be extended if an extension is necessary to prevent activity recurring, or there has been an increase in frequency or seriousness of the activity. Extensions can be repeated, with each lasting for a maximum of three years. Effective evaluation of a PSPO will be important when determining whether any extensions or variations would be appropriate.
9. PSPOs can be challenged on the grounds that the local authority did not have the power either to make it or include particular prohibitions or requirements, or that proper

processes had not been followed as prescribed by the legislation. Challenges must be made to the High Court within six weeks of the Order being made, and by an individual who lives in, regularly works in or visits the restricted area.

10. It is an offence under section 67 of the Act to fail to comply with a PSPO without a reasonable excuse.

11. Should it be alleged that such an offence has been committed, then prosecution can follow, and upon conviction, the maximum penalty is a fine, not exceeding level 3 (currently £1000).

12. Authorised officers have the power, pursuant to section 68 of the Act to issue fixed penalty notices (FPNs) of up to £100 to anyone they reasonably believe to have failed to comply. This is a direct alternative to prosecution.

13. The reasonable excuse defence would cater for any situation in which the behaviour prohibited or required in a PSPO would be regarded by an average person as legitimate.

14. Regulations set out additional requirements regarding the publication of PSPOs that have been made, varied or extended, stipulating that these must be:

- published on the local authority's website
- erected on or adjacent to the place the Order relates to, and is sufficient to draw attention to it, setting out the effect of the Order and whether it has been made, varied or extended.

BUSINESS CASE

15. The Borough has suffered significant nuisance from vehicles and people engaged in car cruising activities within the last two years, predominantly in relation to the Carnival Pool Car Park, Wellington Street, MereOak Park and Ride and Thames Valley Business Park and the surrounding area. The activities included drag racing on the highway, drifting around the roundabouts and car parks. This is accompanied by the playing of loud music from the vehicles as they gathered to watch the activities. The attendance and activities described have resulted in several numbers of complaints from residents affected by the noise of car exhausts, tyres screeching and loud music.

16. There were also safety issues as people were very close to speeding vehicles being driven in a dangerous manner.

17. A summary of incidents reported to the Council and / or police is attached in Appendix 2. The number and regularity of incidents is sufficient to meet the statutory test that anti-social vehicle use in the borough has had a detrimental effect on the quality of life of those in the locality, is persistent, is unreasonable and justifies the restrictions being imposed. Many incidents have occurred in the evenings or at night resulting in loss of sleep, and all incidents regardless of time of day have resulted in alarm and distress to residents and visitors to the area.

18. Consideration has been given to limiting the PSPO to locations where incidents have occurred. However, it is assessed that such limitation would be likely to have the effect of displacing the same activity to new locations, causing alarm and distress to a new

group of residents. To avoid this displacement effect, it is proposed to make the order applicable to all publicly accessible open spaces in the borough. This will include some privately owned land such as supermarket car parks, consequently the consultation will include those owners so that they can express their opinion whether they will such enforcement activity to occur on their land. The PSPO provision would not absolve private land owners of their duty to take preventative measures of their own accord.

19. The PSPO would not prevent enforcement action being taken against individual vehicle users or owners, such as road traffic laws and regulations enforced by the police, or noise abatement notices served by the Council. The PSPO would be an additional power available to authorised local authority officers to use in appropriate circumstances, and a deterrent to the activity occurring.

20. Subject to the results of consultation, it would be expected to implement the PSPO from September 2022.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe funding pressures, particularly in the face of the COVID-19 crisis. It is therefore imperative that Council resources are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	
Next Financial Year (Year 2)	£0	Yes	
Following Financial Year (Year 3)	£0	Yes	

Other Financial Information

The costs of consultation, signage and publicity, and enforcement by authorised officers can be met from existing budgets within the Place Service.

Stakeholder Considerations and Consultation

Consultation with the public will be carried out using an online consultation platform, and with specific stakeholders by email and personal contact.

Public Sector Equality Duty

Due regard to the Public Sector Equality Duty will be taken and an equalities impact assessment will be completed if it is decided to implement a PSPO. It is important for councils to consider carefully the potential impact of a PSPO on different sections of their communities. Proposals for a PSPO should therefore be reviewed to determine how they might target or impact on certain groups.

Climate Emergency – *This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030*

There would be limited impact on the Council's carbon neutral objective, except in as much as anti-social vehicle use may have a negative impact on air quality, so a reduction in such activity may have a beneficial environmental effect.

List of Background Papers

None

Contact Ed Shaylor	Service Place
Telephone	Email ed.shaylor@wokingham.gov.uk

The proposed activities to be prohibited in the PSPO

In the restricted areas (see below) a person commits an offence if without reasonable excuse he or she continues to carry out activities from which they are prohibited namely:

1. being the driver of or being carried in (or on) a motor vehicle in circumstances where the following activities (“the prohibited activities”) take place
 - a. causing danger or risk of injury to road users (including pedestrians)
 - b. causing damage or risk of damage to property
 - c. aggressive acceleration or braking or racing
 - d. carrying out manoeuvres such as (but not limited to) skidding, handbrake turns, drifting
 - e. creating noise through excessive engine revving, sounding horns or playing music
 - f. using foul or abusive language
 - g. using threatening or intimidating behaviour
 - h. causing obstruction (whether moving or stationary).
2. promoting, organising or publicising (including but not limited to via email, the internet, social media, or via any publication or broadcast medium) any event where the prohibited activities take place
3. attending an event as defined in clause 2 above either as a vehicle owner or spectator where the prohibited activities take place

A person who fails without reasonable excuse to comply with conditions above, commits an offence under section 67 of the Act and is liable on summary conviction to a fine not exceeding £1,000 or a fixed penalty notice of a maximum £100.

The restricted areas

All land owned, maintained or managed by the Council and any other place to which the public has access as of right or by virtue of express or implied permission.

General

An authorised officer means a local authority employee, a person designated by the local authority, a police officer or police community support officer.

A summary of incidents reported to the Council and / or police

In the period from January 2020 to January 2022 the following numbers of incidents have been reported at the following locations in the borough.

Carnival Pool Car Park	Thames Valley Business Park	Mereoak Park & Ride	Supermarket Car Parks	Other
35	3	18	22	4

The incidents referred to above, reported to the Council or police by members of the public and ward Councillors, involved some or all of the following behaviour - aggressive acceleration, braking or racing, skidding, handbrake turns, drifting and creating noise through excessive engine revving, sounding horns or playing music

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