

TITLE	Public Spaces Protection Order
FOR CONSIDERATION BY	The Executive on Thursday, 29 September 2022
WARD	None Specific;
LEAD OFFICER	Director, Place and Growth - Steve Moore
LEAD MEMBER	Executive Member for Environment, Sport and Leisure - Ian Shenton

PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)

A key decision is required to implement 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:

- 1) authorises the Corporate Director for Place and Growth to proceed with the implementation of the PSPO as detailed in Appendix 1 and delegate authorised officers to enforce the conditions of the PSPO including issuing Fixed Penalty Notices for breaches of these in appropriate cases; and
- 2) authorises the head of legal services to commence prosecution proceedings in relation to breaches of conditions in the PSPO in appropriate cases.

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 Council officers to use in appropriate circumstances, and a deterrent to the activity occurring.

BACKGROUND

On 22nd March 2022, Executive resolved that the Director for Place and Growth be authorised to commence a public consultation about a proposed Public Spaces Protection Order, and consider the results of the consultation, and 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.

The proposed activities to be prohibited in the PSPO are in Appendix 1.

Public consultation took place from 7 June 2022 to 19 July 2022 and responses are summarised in Appendix 2. 75% of respondents were in favour of the proposed PSPO and 84% in favour with modifications. The level of support for the proposed PSPO in the consultation is considered to significantly outweigh the responses which were not in favour. It is therefore proposed to implement a PSPO to reduce the harm caused by anti-social vehicle use in car parks and other public open spaces in the borough

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.

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.

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.

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’.

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.

“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.

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.

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.

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

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 £1,000).

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 is in breach. This is a direct alternative to prosecution.

The Statutory maximum of £100 has been recommended as it will provide the best deterrent effect and send the necessary message that this is taken extremely seriously. Were a lower amount to be chosen it may weaken that message.

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.

Regulations set out requirements regarding the publication of PSPOs, stipulating that information 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, setting out the effect of the Order.

BUSINESS CASE

The Borough has suffered significant nuisance from vehicles and people engaged in car cruising activities within the last two years, for example 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.

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

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.

Consideration has been given to limiting the PSPO to locations where incidents have occurred. However, the locations identified were not limited to a few specific locations, and it is assessed that such limitation would be likely to have the effect of displacing the same activity to different locations. 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. The PSPO provision would not absolve private land owners of their duty to take preventative measures of their own accord.

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.

ANALYSIS OF ISSUES

The 16% not in favour cite reasons for not supporting the PSPO which fall under the following general headings. The Council has considered these reasons carefully, and decides that the majority view in support of the PSPO should prevail. The Council's response to the reasons given against the PSPO are as follows.

The activity is not causing a problem and the powers are not necessary

Council response: The Council has a duty to do all it reasonably can to prevent or reduce anti-social behaviour in its area. Whilst it is likely that substantial numbers of residents may not have experienced this type of nuisance, a significant number who live near to where these events take place are disturbed by it and have complained to the council and the police about it. The Council believes that the effect of the behaviour on those residents is sufficiently detrimental to justify the implementation of the PSPO.

The powers are not fair

Council response: The Council is aware that the PSPO should be enforced proportionately and reasonably. The proposed conditions specifically prohibit aggressive driving and behaviour which goes beyond the behaviour expected at a peaceful meeting of car enthusiasts. Event organisation or spectating only becomes a breach of the PSPO if the prohibited activities occur there. In all cases, the defence of "reasonable excuse" applies – any person who can show a reasonable excuse for behaviour which appears to be breach of the conditions, would not commit an offence.

There are enough powers already

Council response: Whilst there are Road Traffic Act and other statutory powers available to the police, the PSPO would be an additional power available to authorised Council officers and PCSOs to use in appropriate circumstances, and a deterrent to the activity occurring, in addition to police officers. It also provides an additional power for police officers to use in appropriate circumstances, such as issuing a fixed penalty notice as an alternative to prosecution in court. The Council therefore believes the PCSO powers are useful to deter the prohibited activities and deal with breaches in a proportionate and effective manner.

Alternatives should be considered and organised events should be encouraged

Council response: Whilst several of the alternatives suggested by respondents have merit, for the police and Council to allocate resources to policing and organising these unauthorised events which are privately arranged would not be a justifiable use of public resources. The Council is not in a position to organise car cruising events at public expense on behalf of private individuals or clubs.

Responsible event organisers who wish to arrange a private event would obtain permission from landowners and approach the council's licensing service to agree an event management plan. These car cruising events are not organised with the knowledge of the council and the police, and as such are unregulated and unauthorised.

The powers might displace the activity

Council response: 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.

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)	£2,000	Yes	
Next Financial Year (Year 2)	Nil	Yes	
Following Financial Year (Year 3)	Nil	Yes	

Other Financial Information

The costs of consultation, signage and publicity, and enforcement by authorised officers can be met by using part of central government grant to the Community Safety Partnership, with any excess cost met from existing budgets within the Place and Growth Service.

Stakeholder Considerations and Consultation

Public consultation took place from 7 June 2022 to 19 July 2022 and responses are summarised in Appendix 2. 75% of respondents were in favour of the proposed PSPO and 84% in favour with modifications. The modifications suggested do not really affect the PSPO itself – they made suggestions of such things as more speed cameras and more enforcement against dangerous driving. The 16% not in favour cite a variety of reasons, but generally fall into such categories as - sufficient powers already exist; car enthusiasts are not causing any harm and need somewhere to meet; innocent people shouldn't be fined; events should be better organised and existing laws enforced.

The Thames Valley Police Borough Commander for Wokingham and the Police and Crime Commissioner have expressed support for the PSPO provided an enforcement capability is delegated to council officers so that the burden of enforcement does not fall entirely on police.

A sample of owners of relevant land within the affected area (ie supermarkets) have been contacted as far as is reasonably practicable (see appendix 3). Their response was it would be a positive measure if it deters people coming to the area for the purposes of car cruising, so they would support the implementation of the PSPO if we believe it will help.

Parish and town councils have been consulted.

Public Sector Equality Duty

Due regard to the Public Sector Equality Duty will be taken and an equalities impact assessment has been completed because it is important for councils to consider carefully the potential impact of a PSPO on different sections of communities. Proposals for a PSPO have been 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 no identifiable impact on the Council's carbon neutral objective.

List of Background Papers

[Report to Executive on 22nd March 2022](#)

[Anti-social Behaviour, Crime and Policing Act 2014 Statutory guidance for frontline professionals June 2022](#)

Full list of consultation responses (available on the Council's website – link to be added)

Contact Ed Shaylor	Service Place
Telephone 07871 735927	Email ed.shaylor@wokingham.gov.uk

Appendix 1 The proposed activities to be prohibited in the PSPO

Conditions in the Order which are prohibitions:

In the restricted areas (see schedule 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.

Schedule of 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.

Appendix 2 Summary of results of public consultation

Total responses: 791

Partially completed: 309

Fully completed: 482

Do you think the council should introduce a car cruising PSPO?	Percentage	Number
Yes	75.3%	363
Yes but with modifications	8.3%	40
No	16.4%	79
Total	100%	482

Are you responding as:		
Wokingham Borough resident	96.7%	466
Borough councillor	0.8%	4
Parish or Town councillor	0.6%	3
Representative of an organisation or individual	1%	5
Other	0.8%	4
Total		482

Have you been affected by noise or nuisance from vehicle related anti-social behaviour? This may include dangerous driving, racing, aggressive acceleration and braking, sounding horns, playing loud music, foul language and threatening behaviour.

 Add chart

Answer Choices	Responses		
Yes		66.60%	321
No		33.40%	161

How often does this happen?

 Add chart

Answer Choices	Responses		
Only once or twice		8.07%	26
Less than once a month		13.04%	42
About once a month		18.94%	61
A couple of times a month		24.84%	80
Once a week		11.80%	38
More than once a week		23.29%	75

Where have these taken place?

 Add chart

Answer Choices	Responses		
Carnival Pool Car Park		41.72%	131
Thames Valley Business Park		5.41%	17
Mereoak Park & Ride		21.66%	68
Other (please specify): Show		59.24%	186

The other locations were too many and various to list them all, but there were several references to the A33 (18 mentions); Tesco car park (6); Elms Road car park and Elms Field (22); Woodley (6) and Wokingham town centres (19); Reading Road (6); Finchampstead Road (8); Arborfield (10); Norreys Avenue (2); Woosehill (4).

The locations identified were, therefore, not limited to a few specific locations.

Examples of reasons given in answer to:

Why should we adopt the PSPO?

The activity is causing danger

- Stupid, endangering life, unnecessary polluting
- Their use of public parking areas to race is dangerous

The activity is causing nuisance

- Residential areas are no place for car meets!
- To reduce noise pollution at ridiculous hours. I think it's fine to have this during the day but after 9pm or so it should be limited.
- Because the noisy racing affects quality of life of residents and is totally pointless.
- The actions of a few should not restrict, impact or inhibit the ability of the majority to live in peace. Car Cruising is a hobby that can be undertaken in a considerate and appropriate manner, but the behaviour that is currently occurring is obnoxious, disruptive and should not be permitted.

The activity is inconsiderate

- A few individuals should not be allowed to impact the many in a negative and harmful way.
- Why should residents lives be blighted by these unpleasant, rowdy, abusive events - whether it is just once or, for those unfortunate enough to live near one of the venues on a very regular basis
- Meeting and discussing / showing cars to like-minded people is great, it's a social group who have a passion. It just needs to be done without the lack of consideration for others

More powers are needed

- To stop antisocial behaviour, dangerous driving, noise nuisance late at night
- More needs to be done to clamp down on anti-social behaviour
- Will help enforce the need for these events to stop
- If people cannot behave in a decent a respectful way, and are a constant nuisance to many residents, then further action needs to be taken by the authorities to deter and/or prosecute them.
- It ensures this borough is kept free of antisocial behaviours and young people (mostly) are more respectful of wider community. Ok to have fun with friends but shouldn't become a nuisance to neighbours
- Because there seems to be more happening and more often
- To make the borough safer and to give the police powers to deal with the problem
- People should be able to be in their own homes without being the subject of anti-social behaviour. The number of people affected is huge from such a small number of people. It's a growing problem that needs a strong response. They clearly don't care about any current repercussions. It's anti-social to the extreme and as I've already said it has frightened my child on more than one occasion. Completely unacceptable and needs to stop.

The powers would be a deterrent

- I think it would be a legitimate deterrent

- Anything that will discourage these people must help. I thought the Police could confiscate their vehicles but if this is happening it doesn't seem to be discouraging them.
- For some repeat offenders it's the only way they learn. However it should be the last resort and restorative methods should be used first
- I don't think anyone should feel intimidated, anxious or frustrated by other people when in their own homes or communities. It is affecting a lot of people which is unfair. If there were things in place then I'd like to think it would make people at least think twice about it and consider their actions.
- Stronger deterrents are required to address this behaviour, which is regular - the culprits currently appear to act with impunity.

Examples of reasons given in answer to:

Why no to the PSPO?

The activity is not causing a problem

- Don't see the issue and think council time and money should be spent on other more critical services
- I have seen no evidence of the behaviour about which you complain.

The powers are not necessary

- I imagine in reality it affects a very small minority of people and seems like a sledgehammer to crack a nut.

The powers are not fair

- I don't think those not causing a nuisance should be punished as it could push them to cause nuisance
- This proposal so far too broad. It needs to be worded a lot better to target only these problem groups and make it much more restrictive in terms of where and when it would apply.
- A Car Cruising Public Spaces Protection Order is using a sledge hammer to crack a nut and could affect innocent drivers just meeting up in an open space socially and are no problem to anybody.
- I would not wish to inhibit the activities of car clubs who meet for conversation and joint trips to various places but do not behave in the manner you describe. I think that the Council has to be careful that they do not take on the role of a police state.
- Rather than ban the activity as a whole, ban the specific anti-social behaviours highlighted. Some of the offences appear vague and could be applied recklessly by police to target any driver. E.g. "causing risk of damage to property" could arguably be applied to anyone driving a vehicle on the road. Personally, I believe the police already have adequate powers to address the behaviours causing residents concern
- The scope is too wide and is open to interpretation by people with their own prejudices and most likely already with a dislike of car meets. It would potentially limit the opportunities for like minded people to gather and discuss cars, further isolating a mainly male group. There are plenty of car meets that occur in the area that generate income for local businesses and cause no trouble but all it takes is

someone to complain. Under the proposed rules two people in a pub car park showing their cars to each other could be found in breach of the rules.

Aggressive behaviour and bad language are very wrong but there is nothing wrong with people enjoying tuning and showing off their cars.

There are enough powers already

- Any extreme behaviour is already going to be illegal, being young (which I am not) and owning a car shouldn't be
- The police should be more active in enforcing existing laws and regulations, noise, dangerous driving, driving with undue care are already on the statute book. The real issue is enforcement or lack thereof rather than looking at new controls
- Speeding is my major concern, we have laws for that, just needs speed limits reduced and enforced
- Dangerous driving, racing, aggressive acceleration and braking, sounding horns, playing loud music is covered by the highway code and the police can already enforce this
- I am concerned that the government is gradually introducing regulations which restrict our personal freedoms
- The offences listed all appear to be existing actionable offences. The only new offences appear to be attending a car meet or organising & promoting a car meet. These simply punish the genuine car enthusiasts. The wording used also seems ripe for scope creep

Alternatives should be considered

- No need to stop it just needs a police present to make sure it doesn't get out of hand
- We need to find ways to improve the ratio of responsible attendees and dangerous idiots. Simply cracking down won't do that. Punish people who break the law and encourage those who don't. To paraphrase a very old skateboarding phrase: Car meets are not a crime
- I believe they should be allowed but policed and organised better. Not all car meets are the same
- There is no need for additional regulation; existing regulation suffices.
- Better to engage people with advice from PCSO and Police, that go down penalties route. Education first
- I suggest that the people who complain should be encouraged to record the behaviour on their mobile phones including number plates and then pass this information to the police to take action

Organised events should be encouraged

- They should be allowed to enjoy their cars. Where else can they meet up? How do you classify people driving particular types of cars. If anything you provide a place where they can meet and show their cars
- I think the council should allow car meets, authorised events where care enthusiasts can show their cars to friends and other members of the public. Rather than ban, you should facilitate events

- You have to provide outlets for the people who want to do this activity, trying to just completely restrict it would only cause it to go further underground and probably cause more problems and criminalise the people involved
- Work with them. It seems to me we as a society are too quick to resort to the law when common sense and reasonable conversation would produce a simpler cost effective solution. What it requires is for the council to put time and effort in rather than seeking an easy quick fix. Turn the problem on its head. Consider the youngsters as an asset to the area. Then look at the potential spin offs for the borough and local businesses. An enlightened approach could turn a problem in a country leading public asset - be imaginative
- In these extremely difficult times I feel the young people are only trying to have a little fun . What is needed is a fully controlled car meetings run by the local authorities . This in my opinion would then be when and where the meeting would be and rules could then be put in place. We all sometimes forget we use to be young and wanted to do things different

The powers might displace the activity

- There are existing laws that cover antisocial behaviour in public and the Council would be wise to encourage the police to enforce the existing laws and not waste time on orders that will only push the problem to another area and not solve the cause of the issues

Appendix 3

Supermarket's consulted
Aldi Wellington Rd, RG40 2EX
Tesco Finchampstead Rd, RG40 2NS
Sainsbury King Street Lane, Winnersh RG41 5AR
Morrisons Emmview Close,
Lidl Molly Millars Lane, RG41 2RU