



HILLINGDON
LONDON



Petition Hearing - Cabinet Member for Residents' Services

Cabinet Member hearing the petition(s):

Councillor Eddie Lavery, Cabinet Member for Residents' Services

How the hearing works:

The petition organiser (or his/her nominee) can address the Cabinet Member for a short time and in turn the Cabinet Member may also ask questions.

Local ward councillors are invited to these hearings and may also be in attendance.

After hearing all the views expressed, the Cabinet Member will make a formal decision. This decision will be published and sent to the petition organisers shortly after the meeting confirming the action to be taken by the Council.

Published: Thursday 16 June 2022

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Date: WEDNESDAY, 22 JUNE
2022

Time: 6.00 PM

Venue: COMMITTEE ROOM 6 -
CIVIC CENTRE, HIGH
STREET, UXBRIDGE

**Meeting
Details:** Members of the Public and
Media are welcome to attend.
This meeting may also be
broadcast live.

You can view the agenda
at www.hillingdon.gov.uk or
use a smart phone camera
and scan the code below:



Putting our residents first

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
Phase II, Civic Centre, High Street, Uxbridge, UB8 1UW

Useful information for petitioners attending

Travel and parking

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Please enter via main reception and visit the security desk to sign-in and collect a visitor's pass. You will then be directed to the Committee Room.

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Agenda

- 4 Petition Requesting Amendment to Public Spaces Protection Order in Respect of Driving Instructors Issued Fixed Penalty Notices in Council Owned Car Parks **1 - 14**

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PETITION REQUESTING AMENDMENT TO PUBLIC SPACES PROTECTION ORDER IN RESPECT OF DRIVING INSTRUCTORS ISSUED FIXED PENALTY NOTICES IN COUNCIL OWNED CAR PARKS

Cabinet Member(s)	Councillor Eddie Lavery
Cabinet Portfolio(s)	Cabinet Member for Residents' Services
Officer Contact(s)	Joanne Howells – Place Directorate Stephanie Waterford – Place Directorate
Papers with report	Appendix A – Location Plan of the area covered by PSPO 2020 Appendix B – Equality and Human Rights Impact Assessment

HEADLINES

Summary	To inform the Cabinet Member that a petition has been submitted by residents of Wood End requesting the current PSPO 2020 is amended to remove the condition restricting persons from using parking spaces within a Council owned designated public spaces car park for the purpose of instructing learner drivers in any manoeuvres and to cease issuing Fixed penalty notices for any such breach.
Putting our Residents First	This report supports the Council objective of <i>Our People</i> .
Financial Cost	None.
Relevant Select Committee	Residents' Services Select Committee
Relevant Ward(s)	All Wards

RECOMMENDATIONS

That the Cabinet Member for Residents' Services:

- 1) Meets with petitioners and listens to their request for an amendment to the current Public Spaces Protection Order (PSPO) 2020 with regard to the prohibition of the use of public car park spaces for the purpose of instructing learner drivers; and**

- 2) Subject to the outcome of the above, asks officers to review this specific condition of the PSPO as part of the public consultation process on the new PSPO 2023.

Reasons for recommendations

The Petition Hearing will provide a valuable opportunity to hear directly from the petitioners of their concerns and suggestions.

Alternative options considered / risk management

None at this stage

Select Committee comments

None at this stage.

SUPPORTING INFORMATION

1. A petition with 199 signatures was submitted to the Council from residents of Wood End under the following heading:

“Stop issuing Fixed Penalty Notices to Driving Instructors and learner drivers for practising manoeuvres in Council Car Parks.

Hillingdon residents that are learning to drive need to be able to practise Bay Parking in Car Parks. Most alternatives to the Council car parks are on privately owned land and although a small minority allow practice most do not.

It is essential for learner drivers to be able to practise. Once they have passed their driving it is very likely they will be parking in Council Car Parks and if they haven't had sufficient practice there is a serious risk of collisions with other vehicles.”

2. Public Spaces Protection Orders (PSPO's) were introduced as part of the Anti-Social Behaviour, Crime and Policing Act 2014, as a broad range of powers for Councils to introduce reasonable prohibitions and/or requirements to address certain behaviours within specific local areas. The purpose is to put victims and those considered vulnerable at the centre and to focus on the impact such behaviour has on communities and individuals. Their purpose is aimed at ensuring public places can be enjoyed and, when used appropriately and proportionately, can provide an effective response to anti-social behaviour. Conditions focus on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause.
3. The Anti-Social Behaviour Crime and Policing Act 2014 and Home Office statutory guidance (2017) identifies the types of land which can be subject to a PSPO. It is defined 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 expressed or implied permission and includes all land in the open air (including any park, open space, street or highway) owned maintained or managed by the Council and

“**Park**” means all Parks and open spaces that are managed, owned or under the control of the London Borough of Hillingdon. A location plan of the area is attached as Appendix A.

4. The local authority must be satisfied, on reasonable grounds, that certain conditions are met:
 - The effect or likely effect of these activities, is or is likely to be persistent or continuing in nature and
 - have a detrimental effect on the quality of life of those in the locality
5. Before introducing, extending, varying, or discharging a PSPO, there are requirements under the Act regarding consultation, publicity and notification. 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. A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. There is no limit on the number of times an Order may be reviewed and renewed.
6. 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 several 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. It is not a specific requirement of the legislation, however an Equality Impact Assessment (EIA) was undertaken and is attached at Appendix B.
7. PSPO's can be challenged under the Anti-social Behaviour, Crime and Policing Act 2014 under specific grounds and must be made to the High Court within six weeks of the Order being made.
8. In 2019 several reports were received from residents, Councillors and the Green Spaces team highlighting problems associated with learner drivers/Instructors using public spaces car parks, such as Lake Farm Drive for instruction thereby occupying parking spaces and preventing everyday visitors from using the park.
9. Concerns were raised about the safety aspect particularly related to children and vulnerable people using the car park area. As a result, advisory signs were installed related to this specific behaviour but unfortunately were ignored. Residents then began to confront Driving Instructors directly and claimed that they were met with a barrage of abusive language and aggressive behaviour, which prompted the issue of formal advisory letters. Despite these actions, the behaviour continued.
10. A local order 'The London Borough of Hillingdon (off street parking places) Order 1985 provided restrictions on the use of some car parks within the Borough but not all. Part 3 of the order dealt with 'Misuse of Parking place', paragraph 13

states.

"No person shall, except with the permission of a person' authorised by the council in that behalf, drive or permit to be driven any vehicle in a parking place for any purpose other than the purpose of leaving that vehicle in the parking place in accordance with the provisions of this Order or for the purpose of departing from the parking place."

Any investigation under this order would have to prove the offence beyond reasonable doubt and cover any available defences. There is no fixed penalty for the offence and the matter would be heard in a magistrate's court. This method of enforcement is protracted and resource intensive, without immediate resolution.

11. Hillingdon Council's Legal Team were consulted in June 2019 on how to address this issue and they advised that the land can be subjected to a PSPO.
12. Following a public consultation in August 2020, Hillingdon Council's Cabinet approved the renewal of the Council's boroughwide public spaces protection order (PSPO) to tackle anti-social behaviour and nuisance issues and to protect residents' quality of life. The PSPO includes conditions prohibiting spitting in a public place, using a drone, leaving the engine of a stationary or parked vehicle running, graffitiing, illegal street trading and harassment. Three new conditions were also approved by Hillingdon Council, one of which included 'to prohibit the use of public car park spaces for the purpose of instructing learner drivers.'
13. The introduction of this PSPO was published on Hillingdon Council website and an article produced for the Hillingdon People as follows:

"Council powers renewed to protect residents' quality of life

To ensure that Hillingdon remains a safe and welcoming place to live, the Council has powers to introduce restrictions and prohibitions within designated areas so that the law-abiding majority can enjoy public spaces.

The then Cabinet Member for Community, Commerce and Regeneration, said: "The Council is committed to maintaining a safe environment in Hillingdon by addressing environmental issues and anti-social activity, and keeping public spaces clean. The majority of those living in or visiting the Borough do keep the area clean and safe, but we will not hesitate to use the relevant legislation to fine those who break the rules and make life unpleasant for others."

Non-compliance can result in police or Council officers issuing a fine of £80. Further non-compliance can result in fines of up to £1,000 being issued in a magistrates' court.

For more information and a full list of PSPO conditions in Hillingdon, visit www.hillingdon.gov.uk/pspo' "

14. It is not proposed to amend the current PSPO, as its implementation has had a positive effect offering residents and users of the parks the opportunity to enjoy the public area freely. However, as the current PSPO expires in October 2023 we can review this condition as part of the public consultation process and, subject to Cabinet approval, consider any amendments at this time. It is worth noting that only 27 Fixed penalty notices were issued related to this specific condition in a 20-month period. Each fine issued was for £80, totalling £2160.

Financial Implications

There are no financial implications associated with the recommendations to this report.

RESIDENT BENEFIT & CONSULTATION

The benefit or impact upon Hillingdon residents, service users and communities?

To allow the Cabinet Member to consider the petitioners request.

Consultation carried out or required

None at this stage.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed this report and concurs that there are no direct financial implications associated with this report.

Legal Services

The Borough Solicitor confirms that the legal implications are included in the body of the report.

BACKGROUND PAPERS

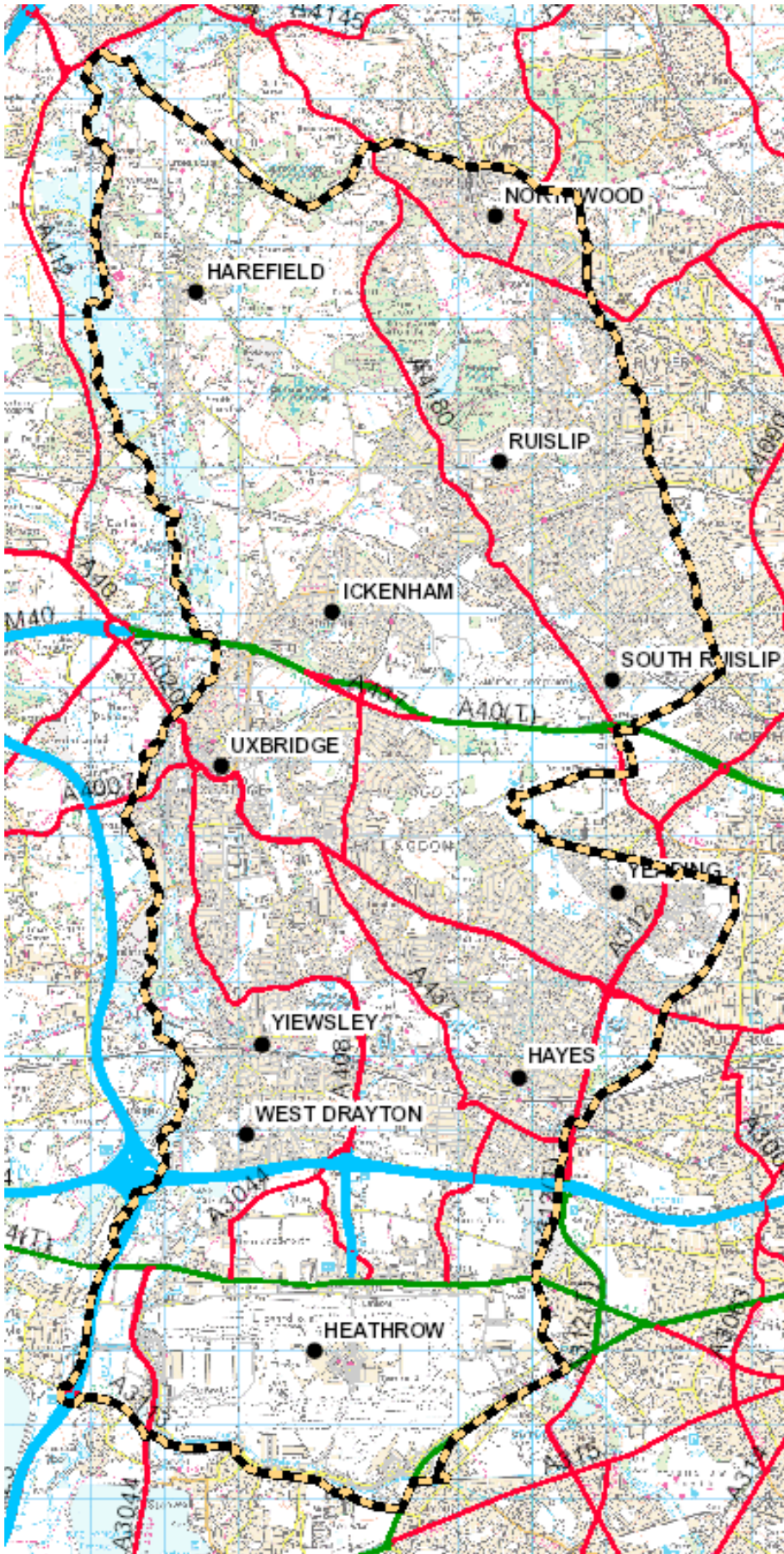
Petition received.

TITLE OF ANY APPENDICES

Appendix A - Location Plan of the area covered by PSPO 2020
Appendix B – Equality and Impact Assessment Form 2020

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APPENDIX A - LOCATION PLAN OF THE AREA COVERED BY PSPO 2020



Area as shown edged Black & Yellow on this plan ("the restricted areas") being land in the area of the Council is land to which the Anti-Social Behaviour Crime and Policing Act 2014 applies and will be protected by the making of this Order.

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Equality and Human Rights Impact Assessment

STEP A) Description of what is to be assessed and its relevance to equality

What is being assessed? Please tick

Review of a service Staff restructure Decommissioning a service

Changing a policy Tendering for a new service A strategy or plan

Borough wide Public Spaces Protection Order 2020

Who is accountable? E.g. Head of Service or Corporate Director

Date assessment completed and approved by accountable person

08/09/2020

Names and job titles of people carrying out the assessment

A.1) What are the main aims and intended benefits of what you are assessing?

Hillingdon Council is committed to maintaining a clean and safe environment and it is the Council's responsibility to keep our public spaces and local environment clear of litter and obstructions and deal with other local environmental quality issues including anti-social behaviour.

The proposal to adopt a borough-wide Public Spaces Protection Order (PSPO) for Council public spaces is in line with this priority. In particular, issues of enviro-crime and anti-social behaviour, which includes matters that cause harassment, annoyance and / or nuisance. The Council knows that the majority of those who live in, work in and visit the borough do keep the area clean and safe; however, it wants to ensure where this is not the case that it uses the relevant legislation and approaches to maintain a clean and safe environment.

The PSPO provides local authorities with the necessary powers to introduce restrictions upon activity and behaviours deemed to be anti-social and occurring in “public spaces”. It is designed to restrict and prohibit certain behaviours, within the designated area, where evidential tests are satisfied.

A.2) Who are the service users or staff affected by what you are assessing? What is their equality profile?

The implementation of the PSPO is to be applied to everyone within the designated area, however it may have a negative impact on particular groups including; Homeless People, people on a low income, the working age population and potentially younger people as well.

Whilst the PSPO is designed to prohibit certain activities it is also designed to enable people to feel that Hillingdon is a safe and welcoming place for all. The implementation of the PSPO could therefore potentially have a positive impact for some individuals.

A.3) Who are the stakeholders in this assessment and what is their interest in it?

Stakeholders	Interest
Sir Ray Puddifoot MBE – Leader of the Council Councillor Douglas Mills - Cabinet Member for Community, Commerce and Regeneration Deputy Chief Executive Jean Palmer, Director Perry Scott Head of Service Nathan Welch	Provide a safe and improved service for residents A transparent and fair enforcement process Value for money in service delivery

A.4) Which protected characteristics or community issues are relevant to the assessment? ✓ in the box.

Age	X	Sex	
Disability		Sexual Orientation	
Gender reassignment			
Marriage or civil partnership		Carers	
Pregnancy or maternity		Community Cohesion	

Race/Ethnicity	X	Community Safety	X
Religion or belief		Human Rights	X

STEP B) Consideration of information; data, research, consultation, engagement

B.1) Consideration of information and data -

If the PSPO is implemented it will be important for authorised officers to consider the needs of the individual and their personal circumstances in order to make an informed decision as to the appropriate action to take (i.e. recommendation for support, advice, fine, criminal justice approach etc). It will also be important for authorised officers to ensure that any action taken is proportionate to and balanced against any risks posed, either to the individual or the wider community. This includes the seriousness of the offence, past history, the consequences of non-compliance and the likely effectiveness of the various enforcement options. It has outlined the need for a consistent yet flexible approach to the application of the PSPO, which must be tailored to the individual's needs and circumstances. One of the concerns is that the PSPO could be used as a tool to unfairly target sections of the community. It will be important to evidence that the PSPO is therefore not used or is not perceived to be being used in this way. It is envisioned that some or all of the following factors will have a greater impact on individuals; the risk of further deprivation, destitution or homelessness, risk of criminalising behaviour, risk to health (for those physically dependant on substances)

Consultation

B.2) Did you carry out any consultation or engagement as part of this assessment?

Please tick ✓ NO YES X

Under Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 (“the 2014 Act”), a Public Spaces Protection Order (PSPO) may be made by the Council after consultation with the Police, and any other relevant bodies, groups or individuals.

The PSPO places restrictions and/or requirements on people using the area defined by the PSPO. These can be blanket restrictions or targeted at particular groups (such as dog walkers); or apply at certain times. Breach of a PSPO is a criminal offence

and could lead to a fixed penalty notice of £100 or a maximum penalty of £1000 if prosecuted.

The proposed prohibitions were identified looking at the evidence base, complaints to members, and issues which have an adverse effect to safety of residents and the wider public.

There was a period of statutory consultation which was both accessible and aimed at all residents and agencies likely to be affected by the order (positively and negatively). The proposals were supported, and we will actively promote positive outcomes resulting from the PSPO's to evidence improvements in neighbourhoods.

B.3) Provide any other information to consider as part of the assessment

Legal context

The council has a public duty to pay due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations (Equality Act 2010)

Financial context - standard text

Since 2010, the Business Improvement Delivery (BID) Programme has driven transformation across the Council, reducing costs and improving efficiency to ensure that in an environment of on-going funding reductions we continue to deliver high quality services that put residents first. Over the past nine years, the Council has achieved £134m savings, with a further £6.6m due to be delivered during 2019/20.

Hillingdon's approach to maintaining sound financial management ensures that our finances are in a robust position, and therefore the Council is well placed to respond to the combined challenge of on-going funding reductions, emerging inflationary

C) Assessment

What did you find in B1? Who is affected? Is there, or likely to be, an impact on certain groups?

C.1) Describe any **NEGATIVE** impacts (actual or potential):

Equality Group	Impact on this group and actions you need to take
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Young People	Where appropriate, provide increased educational information on alcohol harm and drug use to young people. ACTION – we will work closely with schools, colleges and universities to ensure that there is a good understanding of the application of the order by their students, and support available where needed.
Disability	The PSPO will affect those with poor physical and mental health. Hillingdon Council regular meetings with the Police and with Community Safety Partners; including those who provide support and provisions for vulnerable people. Alleged offenders will be appropriately signposted to relevant support services. We will continue to refer and signposting individuals to commissioned support services
Poverty	There is some anecdotal information which suggests that some areas across the Borough have disproportionate street drinking; whereas some more affluent areas are subject to issues around the 'night economy'. ACTION – The PSPOs will challenge this behaviour in all public spaces. All Agencies should be mindful of displacement and should consider appropriate actions
Street Population Community	The PSPO will affect those with dependency issues, a known problems for the street population community and can be the reason that led to someone becoming homeless. ACTION - We will ensure that enforcement is justified/ fair, is sensitive to needs and signposts appropriately to support provisions.

C.2) Describe any **POSITIVE** impacts

Equality Group	Impact on this group and actions you need to take
Age Race/Ethnicity Community Safety Human Rights	<p>People will feel safer across the city</p> <p>Community cohesion will increase as people feel safer in their neighbourhoods</p> <p>Coordinated response to ASB</p> <p>Reduced complaints and dissatisfaction from the general public</p> <p>Access and signposting to support services more effective as pathways from ASB for vulnerable people are strengthened</p>

D) Conclusions

The creation of the Anti-Social Behaviour (ASB) legislation has given local authorities the opportunity to bring in proportionate measures for a maximum of 3 years and is being adopted by many local authorities in the UK. Section 70 of the Anti-Social Behaviour Crime and Policing Act 2014 allows for a PSPO to supersede any byelaw once in operation

The initiative will also support the delivery of the Council's borough plan. This will include supporting strategic themes around Putting residents first. The introduction of the PSPO will impact on the lives of people who live, work and visit the Borough. The proposed restrictions will impact positively on people whose protective characteristics are impacted upon by the anti-social behaviour the order is designed to address.

Young people in breach of the order will be referred through safeguarding arrangements when appropriate. Mental health considerations are assessed on a case by case basis and support and early intervention is used prior to more serious enforcement action.

The Environmental Enforcement Officers will police the order primarily. There will also be some assistance from relevant Safer Neighbourhood Teams and the Council's Police Partnership Tasking Team

Signed and dated:.....

Name and position:.....