

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