

PROPOSED PUBLIC SPACE PROTECTION ORDER - HEATHROW AREA PRIVATE HIRE VEHICLE / TAXI CONTROLS

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Papers with report	Appendix 1 – Draft Public Space Protection Order Heathrow Area PHV/Taxi Controls Appendix 2 – Relevant Area Map Appendix 3 – Equalities Impact Assessment Appendix 4 – Consultation Questions Appendix 5 – Consultation responses from HAL & HATF Appendix 6 – Key Issues and Consultation response summary

HEADLINES

Summary	Following Cabinet’s approval of the draft Public Spaces Protection Order (PSPO) for public consultation on 12 September 2024, this report presents the results of the public consultation. The findings from the consultation were strongly in support of the proposals. The report, therefore, makes recommendations for new prohibitions to restrict Taxi/Chauffer/Private Hire Vehicles from waiting in residential streets, to prevent nuisance and to reduce the detriment to the quality of life of local residents.
Putting our Residents First Delivering on the Council Strategy 2022-2026	This report supports our ambition for residents / the Council of: Be / feel safe from harm This report supports our commitments to residents of: Safe and Strong Communities
Financial Cost	Enforcement of the PSPO will be covered by the existing on-street enforcement contract arrangements. Existing resources will be redeployed to the affected areas and signage and publicity of the new PSPO will be met from existing resources. Resulting FPN’s will off-set the costs of enforcement. There will be no further cost to the Council in terms of enforcing the PSPO.
Select Committee	Residents’ Services
Ward(s)	Heathrow Villages / West Drayton / Pinkwell

RECOMMENDATIONS

That the Cabinet:

- 1) Considers the public consultation responses and summary information on the draft Public Spaces Protection Order;**
- 2) Has regard to the contents of the Equalities Impact Assessment and;**
- 3) Approves the finalised Public Spaces Protection Order in Appendix 1 for publication and implementation on 1st February 2025.**

Reasons for recommendation(s)

The Council deploys considerable resources to enforce the parking management schemes and anti-social behaviour controls near Heathrow Airport. Despite this, and the work undertaken with partners to deter and provide alternatives to drivers from waiting at the roadside, the Council continues to receive reports which evidence that residents living in the area are continuing to be negatively affected by the behaviours of private hire vehicle (PHV) and taxi drivers who choose to wait at the roadside before collecting passengers at the Airport.

Legal options to provide more effective controls on problematic PHV and taxi driver behaviour in the area have been assessed. Introducing a Public Spaces Protection Order which prohibits taxi and private hire vehicle drivers waiting in the area would provide the Council with new enforcement options which may better deter PHV and taxi drivers from waiting at the roadside near the Airport.

Public consultation on the proposals took place between 20th September and 1st November 2024. A total of 356 responses were received from residents, businesses and students in the affected areas. Official responses were received from Heathrow Airport Ltd and the Heathrow Area Transport Forum. Of those that took part in the survey, 303 responders agreed with or did not object to the view that new prohibitions would help to reduce nuisance, littering and parking problems in the area.

Therefore, it is recommended that the Council approves the introduction of new PSPO Prohibitions in the wards; Pinkwell, West Drayton and Heathrow Villages to take effect from 1st February 2025.

The draft Order is attached as Appendix 1.

The relevant area map is attached as Appendix 2.

Alternative options considered / risk management

Alternative options considered are:

- 1) Do nothing/ continue with the current arrangements.
Given the evidence of continued community impacts arising from PHV and taxi drivers waiting at the roadside near the airport, this option is not recommended.
- 2) Further engage with the PHV and taxi trade to encourage drivers not to park/wait in residential roads which impact on local communities.
It is considered that it is unlikely that the Council could make a significant positive impact on this problem through further engagement with the trade.
- 3) Introduce further legal restrictions on all vehicles waiting in streets near the airport.
There is limited evidence that non-PHV or taxi drivers waiting in local roads is having negative impacts on local residents. Therefore, a restriction on all vehicles entering or waiting in local streets other than when approved is not justified by the evidence and any benefits are outweighed by the negative impacts on local residents.

Democratic compliance / previous authority

Cabinet authority is required to approve public spaces protection orders, noting there are also requirements for statutory consultation on them. Cabinet approved the draft PSPO for public consultation on 12th September 2024.

Select Committee comments

None at this stage.

SUPPORTING INFORMATION

Legislative Background

1. The Anti-Social Behaviour Crime and Policing Act 2014 provides the legal framework to implement PSPO's. Orders may be introduced in a specific administrative area where the Council is satisfied that certain conditions have been met. These conditions focus on the behaviours which the Council is seeking to address which:
 - a. Have a detrimental effect or are likely to have a detrimental effect on the quality of life in a locality.
 - b. The effect or likely effect of such behaviours is or is likely to be persistent or continuing or is likely to be unreasonable.
 - c. And, justifies the restrictions being imposed through the enactment of a PSPO.
2. The Home Office published statutory guidance in July 2014 to support the effective use of new powers to tackle anti-social behaviour, introduced through the Anti-Social Behaviour, Crime and Policing Act 2014. The powers introduced by the 2014 Act were deliberately local in nature.

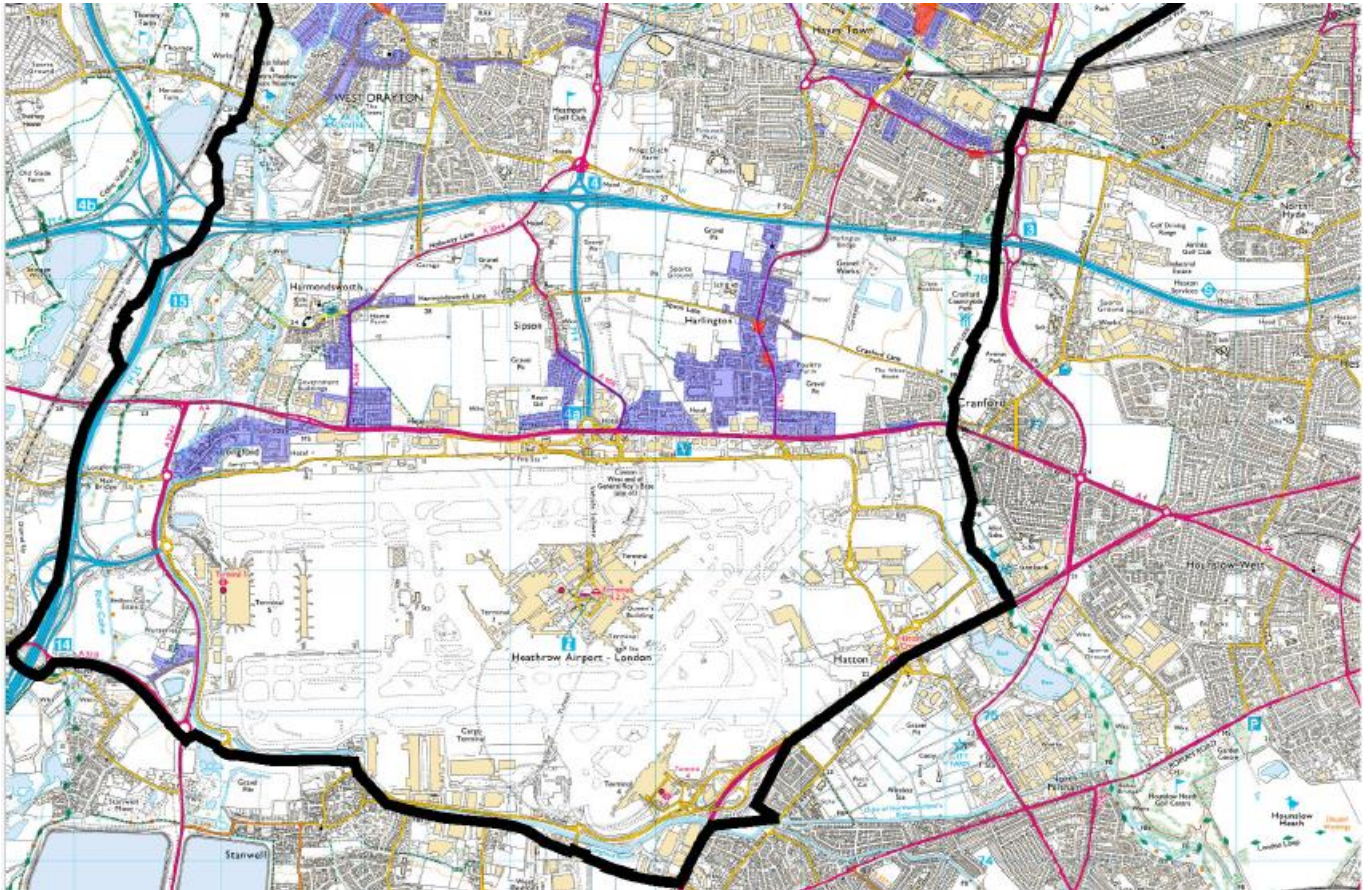
3. As a public authority, the Council needs to ensure that all its strategies, policies, services and functions, both current and proposed, have given proper consideration to human rights, equality, diversity, cohesion and integration. An Equality and Human Rights Impact Assessment (EHRIA) before the introduction of a PSPO can help to inform how best to balance the interest of different parts of the community and provides evidence as to whether or not the restrictions being proposed are justified, as required by section 59 of the 2014 Act. The EHRIA for this proposed new PSPO is attached at Appendix 3.

Purpose

4. Public Spaces Protection Orders (PSPOs) are intended to deal with nuisance or problems that are detrimental to the local community's quality of life and work by imposing conditions on the use of the area; enabling residents and visitors to use and enjoy public spaces, safe from anti-social behaviour. The PSPO provides local authorities with the necessary powers to introduce such restrictions and prohibitions within the designated area, where evidential tests are satisfied.
5. The implementation of the PSPO is to be applied to everyone within the designated area, however, it may have an increased negative impact on particular groups depending on the nature of the prohibitions.
6. Whilst designed to prohibit certain activities, the PSPO is also intended to enable people to feel Hillingdon is a safe and welcoming place for all.
7. A council can implement a PSPO on any public space within its own area. The definition of a public space is wide and may include any place to which the public has access as of right or by permission.
8. Police, council officers and officers authorised by the Council can enforce the conditions of PSPOs and may issue fixed penalty notices for non-compliance. Failure to comply with a PSPO is an offence which could result in a fine of up to £1,000 in a magistrates' court.
9. PSPOs are regularly reviewed in terms of reported breaches and enforcement undertaken and can be discharged/lapse or the conditions can be varied. Discharging a PSPO must be undertaken when the PSPO becomes unnecessary due to the issue that justified the PSPO having ceased.

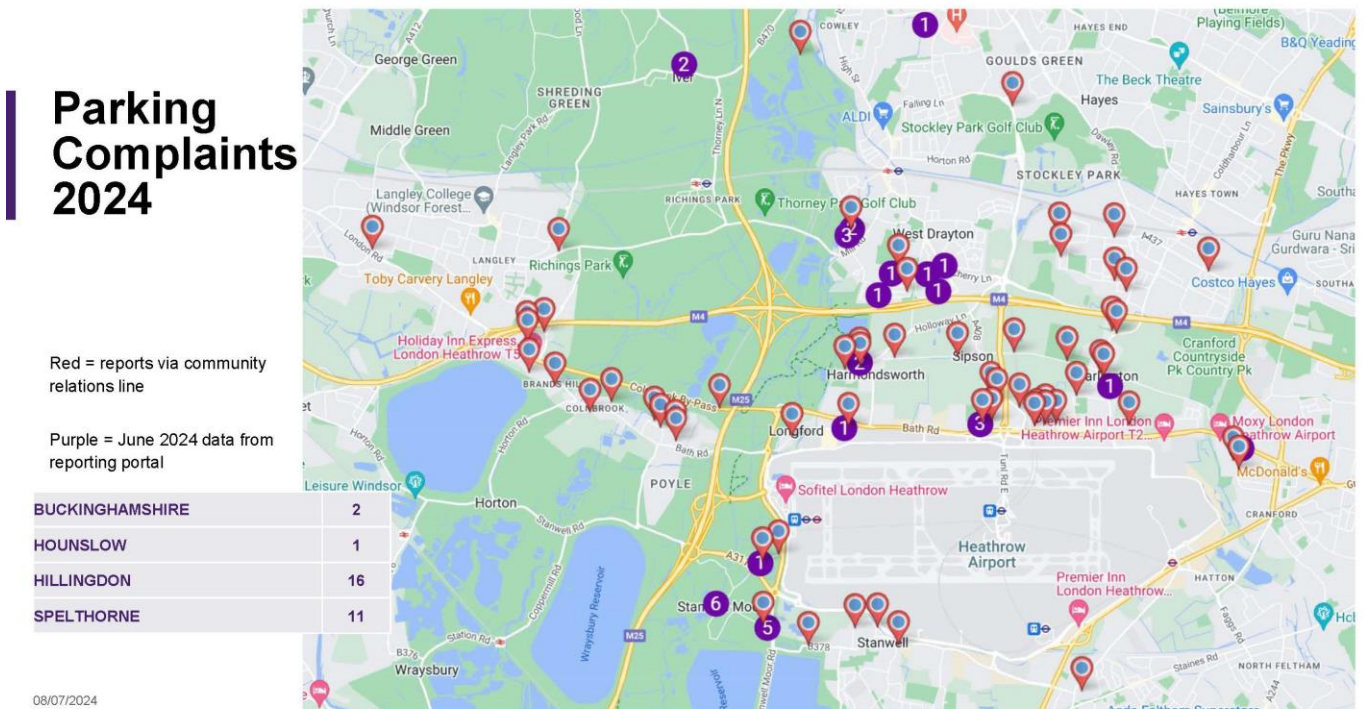
Ongoing concerns which have prompted the proposal for PSPO prohibitions

10. The Council has a range of controls in place which are intended to minimise the impact on local residents from people travelling to the airport. The main measures are Parking Management Schemes and Public Spaces Protection Orders (PSPO's).
11. The Parking Management Schemes (PMS) enable the Council to restrict parking in designated areas to people who are eligible for, and have obtained, the appropriate permit. The PMS close to the airport are shown in purple on the map below (the red areas indicate limited 'stop and shop' permissions apply).



12. Parking controls allow the Council to issue Penalty Charge Notices (PCNs) for parking violations, including parking in a PMS without the appropriate permit. However, for the Council to issue a PCN for contravention of a PMS restriction, by law the contravention must first be observed by a designated Civil Enforcement Officer (CEO) for a minimum of 2 minutes before a PCN can be issued. A PCN cannot be issued when the evidence of the contravention has been obtained by a local resident or a camera. As a result, a driver can choose to wait in vehicle within a PMS until a CEO arrives and then drive away before the PCN has been issued. Consequently, these existing parking restrictions are not proving to be effective in deterring drivers from parking and waiting in the restricted areas before collecting passengers at the airport.
13. Prior to any restrictions being considered, Officers collected data from Parking Services and the Environmental Enforcement Team to establish the severity of the concerns. Data was also sourced from the Heathrow Airport - Ltd Community Engagement Team.
14. The Parking Services data included observations made by Parking CEO's recording instances where PHV/Taxi/Chauffer vehicles were contravening local parking restrictions. Over a period of 7 months, CEO's recorded over 9,600 instances of vehicles contravening parking restrictions, the large majority of which were private hire vehicles. PCN's could not be issued in the majority of these cases since the driver moved away before the observation period had expired. Further evidence of individual resident complaints was also shared.

15. The Environmental Enforcement data showed that over 900 fixed penalty notices had been issued to drivers of PHV's for other PSPO breaches and offences during the same period. These offences included vehicle idling, littering, urination, spitting etc.
16. The Heathrow Airport Community Engagement Team provided a heatmap showing the locations of parking complaints submitted by residents to their community relations line and portal. The data shows complaints submitted throughout June 2024 with the most complaints being received in the Hillingdon area, closely followed by Spelthorne.



15. As Spelthorne have already implemented prohibitions through their PSPO, it is possible that migration into other areas will take place once drivers gain more awareness of the restrictions. Therefore, Hillingdon needs to consider the same prohibitions in its own area so that drivers are treated consistently when collecting passengers from Heathrow.
16. A Public Spaces Protection Order (PSPO) is in force across the whole borough and restricts specified behaviours that negatively impact on local communities or the environment. In addition, the Environmental Protection Act 1990 makes it a criminal offence to throw down, drop or otherwise deposit any litter in a public place which is open to the air. The Council can issue Fixed Penalty Notices for breaches of the PSPO or for littering. Evidence for these contraventions is normally obtained by the Council's contracted Environmental Enforcement Officers who are deployed to the area daily but this evidence can also be obtained from cameras or be provided to the Council by the public. Over the last 12 months, the Council has issued 475 FPN's to PHV drivers in the Heathrow area.

17. The number of FPNs issued each month for littering or contraventions of the PSPO has remained at similar levels despite the high numbers of FPNs issued. As such, the borough-wide PSPO is not effective in preventing anti-social behaviour that is impacting on the community.
18. Therefore, whilst the Council does have controls in place to deal with parking and PSPO contraventions and littering, the data from the CEOs, complaints from local residents and information from Heathrow Airport show that these controls are not preventing residents from being impacted by PHVs and taxis parking and waiting in the area. These reported impacts include the loss of parking amenity to those with permits and anti-social behaviour including littering, noise and public urination and defecation by drivers.

Neighbouring Boroughs and TFL

19. In response to the problem of PHVs and taxis parking and waiting south of the airport in the Stanwell Moor area, Spelthorne Council introduced a PSPO which prohibits PHVs and taxis waiting in that area. This PSPO took effect in late May 2024. Whilst it will take some time to establish how effective this PSPO will be in deterring PHV and taxi drivers from parking in the designated area this could displace the problematic parking in that area to other adjacent areas. One local resident has already reported an increase in PHVs and taxis waiting in their road since the Spelthorne area PSPO was introduced.
20. There has also been a recent increase in reports of Transport for London licensed 'black cabs' waiting in local residential streets. This may be due to the introduction of new booking apps which black cabs can use. Previously, black cab drivers who wished to collect from the airport were required to use a designated queuing area to access the official taxi rank. New apps which enable people to effectively book a taxi for a very short time ahead allow taxis to wait locally for a booking before collecting in the short-term car park.
21. Both these developments are likely to exacerbate the existing problems for residents in Hillingdon if the Council does not consider further controls of its own.

Alternative options for PHV, Taxi and Chauffeur drivers collecting passengers from the airport

22. Heathrow Airport have established an 'Authorised Vehicle Area' specifically for PHV drivers. The area provides parking, refreshment, toilet and prayer facilities and is currently charged at £1 per hour. This provides PHV drivers with an option to wait to collect a passenger at a cost far lower than the opportunities available to private individuals (short-stay parking). This facility has been widely promoted amongst the PHV trade. Licensed Hackney Carriage 'Taxi's' wishing to use Heathrow Taxi Ranks must wait in the Taxi feeder park which provides parking, refreshments, toilets and prayer facilities and is currently charged at £3 and provides access to Heathrow's taxi ranks to pick up passengers at no further cost. Taxi drivers using apps, i.e. Uber, Bolt etc. are more likely to be licensed PHV drivers and therefore could wait in the Authorised Vehicle Area before travelling to the terminal short stay car park pick up zone to collect their passenger(s).

Heathrow Area Transport Forum Special Interest Group (HATFSIG)

23. The HATFSIG is a partnership between organisations established to improve accessibility and increased public transport use to and from the airport. Representatives include community representatives, Heathrow Airport Ltd and, public bodies including local authorities, transport authorities and Police representatives.
24. Through regular meetings with this group, the wider impact of PHV, Chauffer and Taxi travel to and from the airport has been communicated between all parties. Members of this group have been widely supportive of the proposal to introduce restrictions as it is intended to promote the use of the Authorised Vehicle Area (AVA) and encourage responsible behaviour by drivers. Spelthorne BC have already implemented similar controls and other neighbouring boroughs have expressed interest in taking proposals forward through their own channels.

Financial Implications

Implementation of the recommendations in the report, introducing a Public Spaces Protection Order prohibiting Private Hire Vehicles and taxis waiting near Heathrow airport should result in a revenue neutral impact. The cost of the Council's enforcement contractors continues to be funded from income generated via the issue of Fixed Penalty Notices. The income from additional fines from PSPO work in the Heathrow area should offset any additional cost of enforcement.

If the PSPO is effective, it will assist in changing the behaviours of PHV/Taxi drivers. Whilst we currently don't have sight of the impact it will have; it is likely that the number of FPNs being issued in the Heathrow Airport area under the borough-wide PSPO will be driven down because their presence will be prohibited.

The Council currently issues large quantities of FPNs for idling and littering, but if those vehicles are elsewhere (e.g. in the AVA), we will not be able to issue. It may take several months for this to be noticeable in income figures. However, if the EET are no longer using their full capacity around Heathrow Airport, they would be re-tasked to other FPN hot-spots in the Borough (e.g. town centres) where issue rates are higher and yet could still be improved upon.

The anticipated total cost of Environment Enforcement Officers (EEOs) in 2024/25 is £452k, whilst current run rates for forecast income in 2024/25 estimates around £470k will be received this financial year. Any impact on costs and income generated via the issue of fines will be reported as part of the budget monitoring cycle and subsequently considered via the next refresh of the Council's MTFP planning process.

RESIDENT BENEFIT & CONSULTATION

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

The introduction of a PSPO which is effective in reducing problematic behaviour of PHV and taxi drivers would have significant benefits for residents living near Heathrow Airport. It would reduce the anti-social behaviour that is evidenced by the reports made to us by residents, leading to cleaner streets. It would also release parking spaces for use by local residents which are currently often occupied by PHVs and taxis waiting to collect passengers from the Airport.

Consultation & Engagement carried out (or required)

The legislation requires local authorities to consult with the public and statutory bodies prior to implementing a new PSPO. Consultation on the draft PSPO took place between 20th September and 1st November 2024.

The purpose of the consultation was to explain why it is considered necessary to introduce a PSPO when the existing area is subject to residents parking restrictions and the current borough-wide PSPO covers anti-social behaviour and to seek views on the proposed further restriction. The Council needs to show that additional powers are needed to deal with the problems caused by the drivers.

The consultation asked a series of questions to establish:

- a) How the presence of PHV drivers affects the quality of life in the area: For example do they take up all the parking spaces, create litter, etc.
- b) Are the activities time sensitive or seasonal? Is there any time of the day when their presence is more disruptive - i.e. vehicles waiting late at night / early morning for a fare?
- c) The areas that are used by drivers and whether there has been an increased presence following the recent PSPO by Spelthorne Council.

A full copy of the consultation questions is attached as APPENDIX 4.

Statutory Consultees

Statutory consultees include the Chief Police Officer for the area and the Police & Crime Commissioner for the area. A response was received from the Hillingdon Superintendent to express neutrality on the proposal and to state that the Police had received no direct complaints on the concerns from residents. No response was received from the Police & Crime Commissioner.

Neighbouring boroughs

The following Councils were notified of the consultation:

- Spelthorne BC
- Surrey CC
- Slough
- Buckinghamshire
- LB Hounslow

Spelthorne BC submitted a response via the online survey. The other neighbouring boroughs did not respond in an official capacity however support of the proposal was indicated by their representatives through the Heathrow Area Transport Forum Special Interest Group.

Heathrow

Responses were invited from Heathrow Airport Ltd (HAL), Heathrow Area Transport Forum (HATF) and Council for the Independent Scrutiny of Heathrow Airport (CISHA). Full responses were received from HAL and HATF supporting the proposal.

Comment from HAL –

‘We strongly agree with London Borough of Hillingdon’s proposal for a zone in Heathrow Villages, Pinkwell and West Drayton within which no taxi, PHV or other vehicles not carrying paying passengers will be allowed to park or wait. The introduction of a PSPO aligns with the work of the HATF Parking Special Interest Group and our Taxi and PHV Strategy to reduce impacts of PHVs on local communities. Heathrow supports the proposal in its implementation and remains ready to help including the enforcement to ensure the rollout is of benefit to local residents and the community.’

Comment from HATF –

‘We believe one key output arising from the work of this group has been a new impetus to innovate and increase resources from all stakeholders in order to tackle this issue. As an example, you will be aware that Spelthorne Borough Council has recently introduced a PSPO that has also banned waiting mini- cabs and taxis in neighbourhoods to the south. This came into effect on 28 May 2024 and has already resulted in the issuing of 1052 written warnings and 177 Fixed Penalty Notices. The numbers of taxis and mini-cabs now being found on neighbourhood roads are starting to fall rapidly, suggesting that the introduction of this new prohibition in Hillingdon would indeed help to control this anti-social behaviour.’

The full responses from both organisations are contained in APPENDIX 5.

Trade Bodies and Representatives

The new prohibition will impact PHV, Taxi and Chauffeur drivers. The National Private Hire and Taxi Association (NPHTA) and the British Parking Association were consulted.

Public Consultation Survey

The full survey appeared on the Councils website throughout the consultation period. The survey was promoted through Council social media channels.

A total of 356 responses were received to the structured survey along with three separate responses. Of the 356 survey responses:

- 306 were from residents/on behalf of residents in the affected areas
- 3 from students in the affected areas
- 5 from local businesses in the affected areas
- 6 from community/voluntary representatives in the affected areas
- 22 from PHV/Taxi drivers
- 14 from ‘other’ (including two ‘nil’ responses to this question)

Key Issues Identified from the public consultation survey responses

1. **Parking Problems:**

- **Residential Parking:** Many residents reported that PHV drivers frequently occupy residential parking spaces, making it difficult for residents to find parking near their homes. This is particularly problematic in areas like Sipson Way, Blunts Avenue, and Mondial Way.
 - **Blocking Driveways:** There are numerous complaints about PHV drivers blocking driveways, which prevents residents from accessing their properties.
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- **Double Yellow Lines:** PHV drivers often park on double yellow lines, creating traffic hazards and obstructing the flow of traffic.
2. **Littering and Waste:**
- **General Littering:** PHV drivers are reported to leave behind food wrappers, drink containers, and other litter, contributing to the overall untidiness of the area.
 - **Urination and Defecation:** A significant number of respondents mentioned that PHV drivers urinate in bottles and leave them on the streets, or urinate and defecate in public areas, including residential gardens and parks.
3. **Noise and Air Pollution:**
- **Engine Idling:** Drivers often leave their engines running while waiting for fares, which contributes to noise and air pollution. This is particularly disturbing during the night and early morning hours.
 - **Loud Conversations:** Drivers talking loudly on their phones or to each other, often with their car windows open, is a common complaint.
4. **Aggressive and Intimidating Behaviour:**
- **Verbal Abuse:** Residents who ask drivers to move their vehicles or address their behaviour often face verbal abuse and aggressive responses.
 - **Intimidation:** The presence of drivers sitting in their cars for extended periods can be intimidating, especially for women and children.
5. **Public Health and Safety:**
- **Public Urination and Defecation:** This behaviour poses a significant public health risk and contributes to the degradation of the local environment.
 - **Obstructing Emergency Services:** Blocked driveways and congested streets can hinder the access of emergency vehicles.

Specific Areas Affected

- **Sipson Way and Blunts Avenue:** These areas are frequently mentioned as hotspots for parking issues, littering, and public urination.
- **Mondial Way:** Known for congestion and parking violations, particularly near the Novotel hotel and McDonald's.
- **Longford Village:** Experiences significant littering, parking issues, and public urination, especially near the Bath Road and McDonald's.
- **Harmondsworth Lane:** Reports of littering, urination, and parking problems, particularly near residential areas and schools.

Summary of consultation responses:

- 316 responders believe that the presence of drivers/vehicles affects the quality of life in the area.
- 237 responders stated that they had been personally affected by detrimental /negative behaviours of drivers.
- 330 responders provided information on the peak times and locations of issues.
- 303 responders agreed positively or in the neutral that the introduction of a new prohibition would help to control this behaviour. Overall, this indicates a strong consensus among the respondents in favour of the prohibition.

Space was provided in the survey for free text responses to enable responders to share their views.

Key resident comments are highlighted below:

- *I have suffered for 12 years having taxi drivers park outside my house, I have been physically and racially assaulted when I have approached them asking them to leave.*
- *They are aggressive when I ask them to move their car so I can park.*
- *Constantly dumping rubbish and leaving bottles of urination. Often rude when asked to move if parked in our own drive!*
- *When I return home I find taxi drivers parked in the permit holders bays and when I ask them I need to park as live here, their reply is I don't care and on many many occasions have become abusive.*
- *They cause disturbance, anti-social behaviour, urinating and throwing rubbish, won't give up space for residents, driving inconsiderate. Completely fed up with them.*
- *It's hard to find parking, they overcrowd and litter our areas, they urinate in public view.*

Some respondents, including PHV drivers themselves, offered a different perspective:

- **Economic Necessity:** PHV drivers are trying to earn a living, and the nature of their work requires them to wait for fares near busy areas like airports.
- **Lack of Facilities:** There is a lack of designated waiting areas and public facilities for drivers, which forces them to use residential streets.
- **Unfair Targeting:** Some drivers feel that they are being unfairly targeted and that not all drivers engage in the negative behaviours reported. They argue that the actions of a few should not lead to blanket restrictions on all PHV drivers.
- **Need for Better Solutions:** Instead of prohibitions, some suggest providing designated parking areas with facilities for drivers, which could alleviate the issues without impacting their ability to work.

Some driver/trade comments are highlighted below:

- *As a licensed London taxi driver who uses Heathrow regularly being tarred with the same brush as private hire is a tactic used by tfl to give us a bad name. This is 100% private hire issue but they have to add our name in for pc reasons.*
- *I often have to wait in the area when a flight has been delayed. I have never indulged in any of the practices described. Why should a section of the community be punished for the behaviour of a few idiots? Isn't collective punishment banned by The Hague Convention of 1899?*
- *Not at all. It doesn't make sense and bad for people who are trying to make a living for themselves and for their families.*

The key issues and consultation response summary report is contained in APPENDIX 6.

Engagement Activity

The following engagement activity was carried out throughout the consultation period:

- Leaflets were produced to provide information on the proposals and contained a QR code with a direct link to the online survey. These were distributed to libraries and businesses in the affected areas.
- Council Officers from the Street Scene Enforcement Team and Parking Services carried out engagement with taxi and PHV drivers in hot spot locations to advise them of the consultation and encourage them to respond. Leaflets were provided.
- The Heathrow Airport Limited Community Engagement Team handed out leaflets and engaged with residents through a door-knocking exercise in the affected areas to encourage responses to the consultation.
- The Councils Environmental Enforcement Team engaged with taxi/PHV drivers regularly throughout their normal patrols in the area. Leaflets were provided.

Enforcement of the new PSPO

The enforcement of the new prohibition will include deployment of officers providing on-street enforcement via foot and vehicle patrols and will include enforcement via fixed, mobile or body-worn CCTV.

The Council has powers to demand details of the registered keeper of vehicles where it suspects offences have been committed so will use these powers to enforce the PSPO prohibition.

CORPORATE CONSIDERATIONS

Corporate Finance

Corporate Finance has reviewed this report and concurs with the Financial Implications set out above, noting that any additional fines resulting from the implementation of the Public Spaces Protection Order will offset the additional cost of enforcement.

Furthermore, it is noted that the impact of the additional costs and income generated will be monitored as part of the regular budget monitoring process and is part of the wider MTFF budget setting process.

Legal

There is no known legal impediment to the Council making the Private Hire Vehicle and Taxi Public Spaces Protection Order as proposed. Although it has been scrutinised to ensure that it is legally compliant it should be noted that this is a developing area of law. PSPOs can be challenged, and several have been successfully contested.

The Council's powers in relation making PSPOs are derived from section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act").

Under section 59 of the Act, the Council can make a PSPO if satisfied on reasonable grounds that two conditions are met. The first condition is that:

- a. activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality; or
- b. it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities:

- a. is, or is likely to be, of a persistent or continuing nature;
- b. is, or is likely to be, such as to make the activities unreasonable; and
- c. justifies the restrictions imposed by the PSPO

The Council can impose conditions only if they are reasonable to:

- a. prevent the detrimental effect from continuing, occurring or recurring; or
- b. reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

The Council must carry out the necessary consultation and the necessary publicity before making a PSPO.

Section 72 of the Act outlines the required consultation and publicity the Council must engage in when creating a PSPO.

Consultation

This includes consulting with:

- a. the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- b. whatever community representatives the Council thinks it appropriate to consult; and
- c. the owner or occupier of land within the restricted area.

The consultation must be fair, adequate and comply with the four Gunning principles:

- a. Consultations must occur while proposals are still at a formative stage.
- b. Sufficient information needs to be supplied for the public to give the consultation 'intelligent consideration'.
- c. There needs to be an adequate time for the consultees to consider the proposal and respond.
- d. Conscientious consideration must be given to the consultation responses before decisions are made.

Publicity

The necessary publicity for creating a new PSPO requires the Council to publicise its proposal. If the decision is made following consultation to make the PSPO, the Council must, in accordance

with regulations 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014:

- a. publish the order as made on its website; and
- b. cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to:
 - i. the fact that the order has been made; and
 - ii. the effect of that order being made.

The decision-maker must ensure, based on verifiable data such as reports, complaints, consultation responses, and other evidence, that the conditions for making a PSPO are met and the PSPO is justified and proportionate under the given circumstances.

The decision-maker must also have regard to the public sector equality duty under section 149 of the Equality Act 2010, and section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 which requires the Council to have particular regard to article 10 (right to freedom of expression) and article 11 (right to freedom of assembly) of the European Convention on Human Rights in deciding whether to make a PSPO.

BACKGROUND PAPERS

- The Antisocial Behaviour, Crime & Policing Act 2014 - [Anti-social Behaviour, Crime and Policing Act 2014 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2014/12)
- [Home Office Guidance for Frontline Professionals – Anti-Social Behaviour Powers June 2022](#)
- [Local Government Association PSPO Guidance for Councils](#)
- [Cabinet report/decision – 12 September 2024](#)