

CABINET Agenda

- Date Monday 16 September 2019
- Time 6.00 pm
- Venue Crompton Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL
- Notes
1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Sian Walter-Browne in advance of the meeting.
 2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email sian.walter-browne@oldham.gov.uk
 3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Wednesday, 11 September 2019.
 4. FILMING – This meeting will be recorded for live and/or subsequent broadcast on the Council's website. The whole of the meeting will be recorded, except where there are confidential or exempt items and the footage will be on our website. This activity promotes democratic engagement in accordance with section 100A(9) of the Local Government Act 1972. The cameras will focus on the proceedings of the meeting. As far as possible, this will avoid areas specifically designated for members of the public who prefer not to be filmed. Disruptive and anti social behaviour will always be filmed.

Any member of the public who attends a meeting and objects to being filmed for the Council's broadcast should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

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Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE CABINET IS AS FOLLOWS:

Councillors Chadderton, Chauhan, Fielding (Chair), Jabbar, Mushtaq, Roberts, Shah and Ur-Rehman



Oldham
Council

Item No

2 Urgent Business (Pages 1 - 34)

Urgent business, if any, introduced by the Chair



Report to CABINET

Proposed Public Spaces Protection Order - Moorland and Public Open Spaces in Saddleworth

Portfolio Holder:

Cllr Arooj Shah, Deputy Leader and Portfolio Lead for Social Justice and Communities

Officer Contact: Carol Brown, Environmental Management

Report Author: Lorraine Kenny, Community Safety Manager
Ext. 1582

16th September 2019

Reason for Decision

Following a significant amount of fires upon the moorlands in Saddleworth and Tameside over the last two years, both Councils have undertaken statutory consultation exercises as the first stage of the legal process to consider of the making of Public Spaces Protection Orders (PSPO) pursuant to s59 of the Anti-Social Behaviour Crime and Policing Act 2014.

Such Orders will enable the introduction of behaviour controls upon the moorlands (FIRE RELATED ACTIVITIES) and prevent the significant impact of wildfires upon the community and services. Under the legislation each local authority must make its own PSPO, however should the Orders be made, it is intended that they will come into force on the same date and contain identical terms to avoid confusion along the contiguous geographical border.

The Cabinet is asked to approve the making of the Public Spaces Protection Order relevant to Oldham pursuant to s59 of the Anti-Social Behaviour Crime and Policing Act 2014.

Executive Summary

The Anti-Social Behaviour Crime and Policing Act 2014 gives local authorities the power to make Public Spaces Protection Orders (PSPOs) to control behaviours on land to which the public have access, which have caused or may cause a detrimental effect on the quality of life of those in the locality and are likely to be on a continuing or persistent nature and are therefore unreasonable.

In the last two years there have been a significant number of wildfires reported and responded to on moorland across Oldham and Tameside.

Between June 2018 and May 2019 Greater Manchester Police received 27 reports of moorland fires across various areas on Saddleworth Moor in Oldham. Some of the reports related to fires which were already being attended to by the emergency services and military personnel, but which had spread, or fires which had previously been extinguished but had re-ignited. During the same period 10 reports were made to police of people having barbecues on the moorland.

The fires have caused major loss to the land, the death of wildlife and damage to property. Without any further fires occurring, it is estimated that the land will take at least five years to recover and approximately ten years for the wildlife to return.

Oldham Council and Tameside Council are working together with the Greater Manchester Fire and Rescue Service, Greater Manchester Police and United Utilities, who own a significant portion of the moorland, to develop a response which would prevent and disrupt high risk activities, including lighting of fires, possession and use of barbecues, fireworks, Chinese lanterns and other open flame heat sources upon the moorland.

The potential implementation of Public Spaces Protection Orders, which are enforceable by means of fixed penalty notices or prosecution, has been identified as the most appropriate course of action to respond to the issues and reduce the likelihood of further moorland fires.

Under the provisions of the legislation, prior to the making of a PSPO, a statutory consultation exercise must be undertaken. The consultation exercise ended on the 5th August 2019.

Should the Orders be made both Orders will be identical in order to avoid confusion along the contiguous land border.

Recommendations

To approve the making of the Public Spaces Protection Order pursuant to s59 of the Anti-Social Behaviour Crime and Policing Act 2014.

Proposed Public Spaces Protection Order – Moorland and Public Open Spaces in Saddleworth**1 Background**

- 1.1 On 24 June 2018, a fire broke out on Saddleworth Moor. Within 2 days, the fire covered an area of approximately 2000 acres & a major incident was declared. The fire continued to grow and became the most disruptive & widespread moorland fire in living memory. The fire eventually destroyed approximately 4500 acres of moorland, resulted in approximately 150 residents being evacuated from their homes in Carrbrook, Tameside.
- 1.2 Firefighters from 15 Fire & Rescue Services, together with over 100 army personnel from the Royal Regiment of Scotland, and many other partner agencies were involved in fighting the fire.
- 1.3 The fire resulted in destruction of wildlife, farm animals and vegetation over a large area. The air quality across the entire North West of England was impacted upon due to the smoke caused by the fire. Colleagues from Tameside have advised that at its height, smoke from the fire was visible from space and could clearly be seen to affect the area between Saddleworth Moor, Wirral and Morecambe Bay.
- 1.4 Moorland fires are not uncommon. The 2018 fire was exceptional in its size and impact on local communities, but wildfires on moorland areas occur every year, and each fire runs the risk of developing into a disruptive and damaging incident which, like the 2018 fire, could cost many millions of pounds to deal with. It is often difficult to identify the causes of such fires – by the nature of these incidents, vital evidence is often destroyed. Arson can never be ruled out, but alongside blatant deliberate acts, there is strong evidence to suggest that many moorland wildfires are caused by careless and/or inconsiderate behaviour, such as the lighting of camp fires and bonfires, the use of charcoal and disposable barbecues, fireworks and “Chinese lanterns”.
- 1.5 Between June 2018 and May 2019 Greater Manchester Police received 27 reports of moorland fires across various areas on Saddleworth Moor in Oldham. Some of the reports related to fires which were already being attended to by the emergency services and military personnel, but which had spread, or fires which had previously been extinguished but had re-ignited. During the same period 10 reports were made to police of people having barbecues on the moorland.
- 1.6 There have already been a number of significant wildfires across the GM conurbation this year which has resulted in the destruction of land, loss of wildlife, damage to property and displacement of communities through emergency evacuations. A document detailing the analysis of moorland wildfires in Oldham is appended to this report (Appendix A)
- 1.7 The recovery phase for moorland fires is for a period of no less than 5 years. A recent estimate for the full recovery of wildlife has been given as 10 years. In addition to the impact of such fires on land and local communities, there is significant concern relating to the demand which further fires will place upon services. It is also recognized that in the event of further fires demand is likely to be placed on neighbouring authorities as part of mutual aid arrangements. This by its very nature reduces the resources available locally to respond to need.
- 1.8 The Anti-Social Behaviour, Crime & Policing Act 2014 introduced a number of measures which are available to the police & local authorities in dealing with a wide range of matters which have a negative impact on local communities. One of the options available to local authorities is the introduction of Public Spaces Protection Orders (PSPOs) which can be

used to prohibit certain activities within a 'Restricted Area' which have had a detrimental effect on the quality of life of those in the locality.

- 1.9 Oldham Council is working in partnership with Tameside Council and United Utilities, which is a major landowner of some of the moorland area, to develop a response which will reduce the likelihood of further fires.
- 1.10 In addition, Oldham Council is also working with Pennine Prospects, including South Pennine Moorwatch and South Pennine Fire Operation Group. The Peak District Authority was included within the statutory consultation exercise as an adjacent landowner.
- 1.11 Tameside Council have undertaken their own statutory consultation exercise, and should it be determined that a Public Spaces Protection order is appropriate, then both Oldham Council and Tameside Council intend to make identical Orders. This will reduce the possibility of confusion of the terms of any Orders along the contiguous land border.
- 1.12 The fires have a devastating impact upon communities, including businesses and we are committed to working with our communities and partners to keep people and property safe from harm. The implementation of the Public Spaces Protection Order would support the Council's values, behaviours and corporate priorities.
- 1.13 There is a statutory requirement to publish the details of any Public Spaces Protection Order. Should the order be made then signage will be placed at access points to the moorland. A maximum budget of £10,000.00 has been allocated for the signage to be produced. United Utilities have confirmed that they will contribute towards the cost of the signage.
- 1.14 The local authority may issue a Fixed Penalty Notice for breach of a Public Spaces Protection Order as an alternative to prosecution. The local authority has the discretion to set the Fixed Penalty Fine value to the maximum allowed within the legislative framework. The maximum value currently allowed is £100.00.

2 Current Position

- 2.1 At the current time there are no formal behavior controls in place upon the moorlands. A communications plan has been developed and is being implemented through the corporate communications team. The plan includes the dissemination of key messages on fire prevention in order to informally dissuade individuals from engaging in behaviours which may increase the risk of wildfires occurring. The District Team and volunteer networks are also sharing the key messages around the access points to the moorlands.
- 2.2 The consultation exercise commenced on Monday the 8th July 2019 and ended on Monday the 5th August 2019.

3 Options/Alternatives

- 3.1 To approve the making of the Public Spaces Protection Order pursuant to s59 of the Anti-Social Behaviour Crime and Policing Act 2014.
- 3.2 To reject the making of a Public Spaces Protection Order (not recommended). The seriousness of the situation is such that the Council and its partners should look to utilise all available tools to prevent and/or reduce the likelihood of further wildfires.

4 Preferred Option

- 4.1 To approve the making of the Public Spaces Protection Order pursuant to s59 of the Anti-Social Behaviour Crime and Policing Act 2014.

4.2 The decision is within the budget/policy framework.

5 **Consultation**

5.1 The consultation exercise commenced on Monday the 8th July and ended on Monday the 5th August.

5.2 A list of consultees and responses received is attached to this report as Appendix A. The proposed Order was also published through social media and on the Council's website. Printed consultation documents were available to review in the Saddleworth District and the District Team distributed the documentation to the Saddleworth and Lees E-Network.

5.3 Overall those who responded to the consultation exercise support the making of the Order. During the consultation period a number of landowners responded and expressed concerns about the restrictions which would affect them upon their own privately owned land.

5.4 The Community Safety Manager has met with nominated representatives of the landowners and explained that it was not possible to identify all the landowners within the Restricted Area prior to the consultation exercise commencing.

5.5. Assurances have been provided to landowners that the intention of the Council is not to impact upon lawful business activity or private family life.

5.6 Through the discussions with the nominated representatives, it has been possible to identify land which can be excluded completely from the map of the Restricted Area and a revised map has been produced.

5.7 In addition, confirmation has been provided that the Order will not apply to behaviours upon land which is privately owned and where the land does not meet the 'public spaces' definition. It has been agreed that this will be confirmed in writing to the identified landowners should the Order be made.

5.8 In circumstances where there is public space within private land, for example a public footpath or right of way, the relevant identified landowners will receive confirmation in writing that the terms of the Order will not apply to behaviours upon their land which are undertaken with their consent. Inclusion of the consent clause will ensure that any members of the public who pass over their land through the use of a right of way for example, will remain subject to the terms of the Order.

5.9 Following the assurances which have been given that they will not be negatively affected, the landowners who responded to the consultation have confirmed that they support the making of the Order.

5.10 A formal objection has been received from the Open Spaces Society. The objection which is included with Appendix A includes three main elements;

- 1) The impact upon private landowners and businesses
- 2) The description of the land within the Restricted Area
- 3) The possession of items within the Restricted Area which have been purchased for use outside of the Restricted Area.

5.11 The first element of the objection has been fully addressed during the consultation period.

5.12 The second element has been addressed with a revised description of the land.

5.13 The third element has been addressed with revised text in the draft Order. It should be noted that consideration has been given to ensuring the revised text does not provide an automatic defence to breach of the Order.

6 Financial Implications

6.1 The cost of PSPO signage is estimated to be approximately £10,000. As United Utilities own a significant portion of the land within the area, they have indicated that they will contribute to a collaborative budget for the signage.

6.2 Negotiations with United Utilities are at an early stage and therefore no funding confirmation has been agreed at this time, however, should a contribution be made then this will be allocated against the costs incurred within Community Safety.

6.3 No additional staffing resource is proposed by this report, as the enforcement of the PSPO. will be undertaken from within existing resources. The full costs of signage will be met by the directorate's existing budget within the Community Safety area.

6.4 Income of £100 per PSPO fine would be received for each successful prosecution. All income received would be set against enforcement costs within Environmental Services. It is not possible to quantify what this additional income could be; however, it is estimated to be low. (Carl Holdaway/Nicola Harrop)

7 Legal Services Comments

7.1 Before making a Public Spaces Protection Order, the Council must be satisfied on reasonable grounds that two conditions are met.

The first condition is that-

- a) activities carried on in a public place within the authority'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 the 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 Order.

7.2 Before making a Public Spaces Protection Order the Council must consult the Police, appropriate community representatives and the owners or occupiers of land within the area covered by the order. However, the requirement to consult owners or occupiers of land applies only to the extent that it is reasonably practicable to do so.

7.3 It is an offence under section 67 of the Anti-Social Behaviour, Crime and Policing Act 2014 for any person without reasonable excuse to do anything that the person is prohibited from doing by a public spaces protection order or to fail to comply with a requirement to which the person is subject under a public spaces protection order. A person guilty of an offence under section 67 is liable on summary conviction to a fine not exceeding £1000.

7.4 The Council owes a general duty of care to the public to ensure that Public Spaces Protection Orders are complied with but provided the Council acts reasonably and in good faith, that general duty of care does not amount to a private law duty of care to individuals.

The allocation of resources to enforce Public Spaces Protection Orders is a matter for the Council and the Police. (A. Evans)

8. Co-operative Agenda

8.1 The extension of the Public Space Protection Order is fully aligned with the Council's Co-operative agenda in creating safe neighbourhoods.

9 Human Resources Comments

9.1 N/A

10 Risk Assessments

10.1 The corporate communications team, District Team and Community Safety Services will be promoting the Council's efforts in working with partners and communities to develop a response to reduce the risk of further fires. If a Public Spaces Protection Order is implemented then this will reduce the risk of harm to life, land and property through fire.

10.2 If a Public Spaces Protection Order is not implemented, and there is no clear rationale for this e.g. no significant objections received, and further wildfires occur which result in loss of life or property, this may impact negatively upon the Council and the wider Community Safety Partnership, where there is public knowledge of the Council's ability to take action. (M. Stenson)

11 IT Implications

11.1 There are no IT implications.

12 Property Implications

12.1 There are no property implications

13 Procurement Implications

13.1 There are no procurement implications.

14 Environmental and Health & Safety Implications

14.1 There are significant environmental implications of further wildfires as detailed in part 1 of this report and there is a serious risk to the health and safety of personnel who attend to extinguish such fires. Residents and other individuals in the locality of such fires are also at risk from both the fires themselves and from the effects of poor air quality.

15 Equality, community cohesion and crime implications

15.1 The making of the Public Spaces Protection Order will not negatively impact upon any persons with protected characteristics as defined within the Equality Act 2010.

15.2 Many communities have been affected by the wildfires and it is expected that communities in the locality of the moors will fully support the making of the Order. It is anticipated that this will bring the communities closer together and promote social responsibility upon the moorland amongst residents, businesses and visitors.

15.3 Whilst fires may not be set deliberately, any fires which occur are likely to fall within the provisions of the Criminal Damage Act 1971, under reckless behaviours. The making of the Public Spaces Protection Order is likely to reduce the number of crimes which occur

upon the moorland. It is hoped that the Order and visibility of volunteers and services will also deter persons from setting malicious fires.

16 **Equality Impact Assessment Completed?**

16.1 No. A specific EIA has not been completed. During the consultation period, analysis of all the available information will be included and there will be exploration and full consideration of the impact upon persons with protected characteristics as defined within the Equality Act 2010.

17 **Key Decision**

17.1 Yes

18 **Key Decision Reference**

18.1 NEI-12-19

19 **Background Papers**

19.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref : CSS/CR/19/01

Name of File : Anti-Social Behaviour, Crime and Police Act 2014

Records held in Community Safety Services Department, Oldham Civic Centre

Officer Name : Lorraine Kenny

Contact No : 0161 770 1582

20 **Appendices**

20.1 Appendix A - Consultees and Consultation Responses
Appendix B - Proposed Restricted Area Map
Appendix B - Proposed Public Spaces Protection Order

CONSULTEES AND CONSULTATION RESPONSES

Direct Consultees

Statutory Consultees

Chief Constable

GM Deputy Mayor (Police and Crime Commissioner function)

Organisational Consultees

Greater Manchester Fire and Rescue Services

Saddleworth Parish Council

Shaw and Crompton Parish Council

United Utilities

Peak District Authority

Kirklees Council

Tameside Council

National Trust

Wildlife Trust

Open Spaces Society

Auto Cycle Union

Ramblers Association

British Driving Society

Peak and Norther Footpaths Society

Byways and Bridleways Trust

British Horse Society

Cyclists Touring Club

Saddleworth E-Network

All Saddleworth and Lees District Ward Councillors

Parish councillors

Among Friends Friendship Group

Delph Community Association

Diggle Community Association
Denshaw Community Association

Dobcross Village Community
Grotton & District Residents Association
Grotton Wildlife Watch
Greenfield & Grasscroft Community Association
Greenfield & Grasscroft Street Scene
Love Lydgate
Lees Community
Saddleworth Community Associations Forum
Scouthead & Austerlands Community Group
Springhead Community Centre
Satellite Sports, Youth & Community Centre
Uppermill Community Association
Uppermill Community Action Group
Cancer Warriors

Homewatch
Grotton & Lees Homewatch
Lydgate Homewatch

Churches
Saddleworth Churches Together
Uppermill Methodist Church
Zion Methodist Church
Friezland Christ Church
St Chads Parish
St Johns Baptist Church

Housing and Care 21 Schemes in the district
Chew Vale

Wood Square
Lees House
Holland House
Lido House
Old Mill House
Springlees Court

Misc / individuals / Charitable orgs

Dementia Friends
Huddersfield Canal & River Trust
After Breast Cancer Diagnosis (ABCD)
Lydgate Beavers/Cubs
Dobcross Diary
Saddleworth Medical Practice Patient Participation Group
Saddleworth Festival of Arts
Uppermill Whit Friday Committee
Cairo Angling Club
Classic Car Show
Emmaus Mossley
Saddleworth Museum
RSPB
Uppermill Street Pastors

Businesses

Caremark Homecare, Lees
Home Instead Senior Care, Uppermill
In Saddleworth
Milan Bar & Restaurant, Lees
Whittaker Design, Lees
Plan4Life
Lees Park – Athene Environmental
Little Owl Farm, Grains Bar

Sue Napier - Pilates

Saddleworth Independent

Saddleworth Roundtable

The Old Bell Delph

The Weavers Factory Uppermill

Libraries

Greenfield

Lees

Uppermill

Delph

SOCIAL MEDIA RESPONSES

1	And Oldham Edge as well my pets would really appreciate it.
2	Maybe monitored/Designated BBQ areas should be considered.
3	That sounds sensible. (thread response to no.2)
4	Should have done it far sooner. Summer is nearly over. It's not like it has only just become a problem.
5	Never mind a consultation. Just ban them now before there's any more damage done and worst still, loss of life. Human or animal.
6	Good something needs doing. I don't know what is wrong with people nothing beats the old fashioned picnic but take your rubbish home with you.
7	Hope you manage it. But don't know how you are going to police the moors to make sure.
8	Good riddance
9	Be nice if they could ban fireworks as well.
10	How are you realistically going to enforce this? Too many people just don't give a toss that is unfortunately the world.
11	So they should ban bbq and fires I agree.
12	Yes for once something good from the council.
13	A consultation shouldn't be needed for common sense! Waste of time and money get on with it.

WRITTEN RESPONSE FROM PRIVATE LANDOWNER NOMINATED REPRESENTATIVE.

I can absolutely confirm that all of the people who have signed the petition will be delighted at the outcome, and all of them support in principal the General exclusion order. All of the people contacted were happy to leave the negotiations with us. To the best of our knowledge there will be no further objections to the PSPO. For all of that thank you very much.

From: [Phelan, Lucy](#)
To: [Lorraine Kenny](#)
Cc: [Byrne, Dave](#)
Subject: FW: Proposed PSPO - Saddleworth Moor
Date: 30 July 2019 11:26:53
Attachments: [image001.png](#)

Hi Lorraine,

The Chief Constable has confirmed that he is happy with the below PSPO. Please see comments from a local officer for your information.

Thanks,

From: John Haywood
Sent: 25 July 2019 23:39
To: Bekki Secker
Cc: Colette Rose
Subject: RE: Proposed PSPO - Saddleworth Moor

Hi Becki,

The below is a response from Sgt Neil Barker who is the local Neighbourhood Sgt for Saddleworth.

I would add to this that I am supportive of this. In the last couple of years we have experienced significant fires on the Saddleworth Moors which has impacted upon Oldham, Tameside and West Yorkshire. The impacted of these events has impacted upon emergency services. Mostly the GMFRS but also GMP.

I believe the PSPO will serve mostly as a preventative measure which is positive. However, it allow provides powers which are currently absent. From a local Police Perspective this is supported & welcomed and will support other work which both statutory partners 3rd Sector are working towards to help prevent crime & ASB in and around Saddleworth Moors protecting this space for use by those who respect it.

Regards
John
John Haywood
Chief Inspector
Oldham Division

From: Neil Barker
Sent: 24 July 2019 15:53
To: John Haywood
Cc: Karen Taylor
Subject: RE: Proposed PSPO - Saddleworth Moor

Sir

I am aware of the joint applications which are being sought by Oldham and Tameside Councils. I have seen the proposals and have discussed the proposals with Lisa McDonald who is the District Co-ordination for Saddleworth and Lees.

I was not able to attend the initial meeting to discuss the proposal as I was away on leave.

What is fantastic is that if granted the order will have some powers to deal with issues which have attracted much interest locally within the community and the local press but are currently not covered by any enforceable legislation.

To my knowledge the proposed PSPO is well supported within the Saddleworth community.

Neil

PS 1107 Neil Barker

Saddleworth Police Station

From: [Gill, Peter](#)
To: [Lorraine Kenny](#)
Subject: RE: Proposed Public Spaces Protection Order relating to Saddleworth Moor, Oldham
Date: 30 July 2019 17:08:49
Attachments: [image001.png](#)

Hi Lorraine,

Thanks for sight of the formal documents.

I am very happy with the aims and extent of the Orders.

Kind regards

Peter

Peter Gill
Estates Manager
Property Services
United Utilities
T: 01925 731263 [REDACTED]
[REDACTED]
unitedutilities.com

From: Lorraine Kenny [mailto:lorraine.kenny@oldham.gov.uk]
Sent: 30 July 2019 13:09
To: Gill, Peter [REDACTED]
Subject: Proposed Public Spaces Protection Order relating to Saddleworth Moor, Oldham

Hi Peter,

I appreciate you have been part of the planning around the proposed PSPO but just wanted to make sure you had actually seen the formal consultation documentation.

Our report will reflect that UU have been part of the whole process and fully support the making of the Order, but please let me know if you have any specific comments which you wish us to reflect in the consultation responses.

Many thanks,

Kind regards,

Lorraine

Lorraine Kenny
Community Safety Manager
Oldham Community Safety Services
Level 9
Civic Centre
West Street

Oldham
OL1 1UT
Tel: 0161 770 1582



[email: lorraine.kenny@oldham.gov.uk](mailto:lorraine.kenny@oldham.gov.uk)

Please note: For satellite navigation purposes, the postcode is OL1 1NL.
Visiting the Civic Centre by Metrolink? The nearest stop is Oldham King Street (2-3 mins walk)



ENVILLE AND STALYBRIDGE ESTATES

Estates Office, Enville, Near Stourbridge, West Midlands DY7 5HD

Telephone (01384) 872635 ~ Facsimile (01384) 877748

Our Reference: JSW/LJ/09189/C402

Date: 30 July 2019

Director of Legal Services
FAO Mr Paul Entwistle
Civic Centre
West Street
Oldham
OL1 1UL

Dear Mr Entwistle

Public Spaces Protection Order – Saddleworth Moor

We write following notification of the proposed Public Spaces Protection Order, covering part of Saddleworth Moor.

We wish to make representations to Oldham Borough Council, and will also do so to Tameside Metropolitan Borough Council, to confirm our support for the proposed order to be made under Section 59 of Antisocial Behaviour, Crime and Policing Act 2014, in light of the devastating effect of the moorland wildfire which took place last summer, and the ongoing incidences of fires being started on the moorland maliciously and following the use of disposable barbeques.

On behalf of Mrs A D Williams and her gamekeeper, we would ask for clarity as to how the regulations will be enforced, to prove an effective deterrent.

In making our representation I would also like to advise that, as the management tool to control the fuel load of the moorland vegetation, where heather is dominant, cool conservation burns take place during the permitted burning season, being 1 October to 15 April inclusive, at which time the Heather and Grass Burning Code, as published by Defra, is followed along with the detailed management prescriptions as agreed with Natural England as part of the Estates Higher Level Stewardship and Moorland Management Agreement.

The Estate continues to work with Natural England and in partnership with Moors for the Future, looking to accelerate the recovery of the moorland post the wildfire, working alongside United Utilities with a joint Fire Mitigation Plan, which the Public Spaces Protection Order will enhance.

P B Williams ~ Resident Solicitor
Mrs Nina Ward ~ Land Agent
Mrs Nicola Hill ~ Accountant

Accordingly, we look forward to hearing from you further following the consultation period to confirm the provisions of the order along with acknowledging the Estate will continue to light fires as a management tool as detailed above, and at which time the local fire brigade is notified.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J S Ward', written in a cursive style.

J S Ward (Mrs) BS.c MRICS
Land Agent

P B Williams ~ Resident Solicitor
Mrs Nina Ward ~ Land Agent
Mrs Nicola Hill ~ Accountant

The Director of Legal Services
Oldham Borough Council
Civic Centre
West Street
Oldham
OL1 1UL

31 July 2019

Dear Sir

**Proposed public spaces protection order
Saddleworth Moor, Oldham**

Thank you for consulting us about the proposed public spaces protection order (PSPO) for Saddleworth Moor and surrounding area.

We object to this order for the following reasons.

Section 59(4) of the Anti-social Behaviour, Crime and Policing Act 2014 provides that a public spaces protection order must identify the public place (designated the 'restricted area') to which the order relates. Section 74(1) provides that "public place" means 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'. It is of course essential that there is clarity about the extent of the restricted area, because severe penalties apply to those who breach the terms of the order.

The draft order provides, in article 1, that: 'This Order applies to the public places described in the Schedule to this Order and shown coloured pink on the plan annexed to this Order ("the Restricted Areas")'. The schedule states that the restricted areas are: 'Those parts of Saddleworth Moor which lie within the Borough of Oldham up to the contiguous local authority boundaries with Tameside, Rochdale and Kirklees Councils and adjacent to the Borough ward boundaries of Shaw and St James.'

That purported definition of the restricted areas (there appears, incidentally, to be only one restricted area, and not multiple areas) immediately leaves the reader in a quandary, because the schedule is inconsistent with the plan. The most obvious meaning of Saddleworth Moor is the upland, unenclosed moorland on the east side of the Oldham conurbation. The use, in the schedule to the order, of an uppercase 'M' in the expression 'Saddleworth Moor' supports this meaning—it is not simply any moor in the vicinity, but that particular moor known as Saddleworth Moor. It might then be reasonable to adopt a plan to show the precise extent of Saddleworth Moor.

continued

But that is not what the plan shows. Instead, the plan colours pink a vast swathe of land, including land to the west of Delph and Denshaw, much of which is ordinary farmland, woodland, horse grazing and residential land. None of this land could possibly be consistent with the expression 'Saddleworth Moor'. The draft order therefore leaves uncertain whether, in ascertaining the definition of the restricted area, one is to prefer the words of the schedule, or the plan identified by article 1.

If the plan is to be preferred, the vast majority of the land coloured pink on the plan is not a public place: there is no public access save along roads and public paths. The draft order thereby abrogates the duty in s.59(4) to '*identify* the public place...to which the order relates'. In effect, it delegates that obligation to the public and to the police: it says—you decide what is a public place within this area, where the obligations of the order arise, we can't be bothered. The draft order is therefore *ultra vires* in this respect.

The draft order is also undesirable in its effect. It criminalises activities, such as having a barbecue or lighting a firework, throughout the restricted areas (or at least, so far as those areas are public places: see above), unless done with the consent of the council. But, regardless of whether the restricted areas are identified according to the plan or the schedule, the position will be that no owner of land within the restricted areas may do any of the prohibited things on land to which the public has access (and in relation to the plan, this includes a garden or domestic paddock with a public footpath passing through it, or the broad verges of a minor road in a hamlet) without the consent of the council. There is no provision in the draft order for the owner to dispense with the prohibitions unless the council agrees. It would, for example, prevent the owner of moorland conducting controlled burning which could reduce the risk of unplanned fires, unless the council consents. It will even criminalise a person who buys fireworks in town, and goes home (by whatever mode of transport) along any road or path in the area coloured pink, in preparation for a firework display at home. This is such an unwarranted intrusion into private life, contrary to article 8 of the European Convention on Human Rights, that a court would surely prefer the schedule as defining the extent of the restricted areas—but that would leave uncertain what exactly is meant by 'Saddleworth Moor'. And it would still interfere with the use and management of that land by owners and graziers, because of the requirement for council consent.

Article 7 of the draft order is faulty: this provides that the prohibitions 'shall not apply to any land or premises within the Restricted Areas where there is no implied public access or public right of way over the land or premises'. But, first, per section 59(4), the restricted areas can *only* be a public place, therefore article 7 ought to be redundant (that it is not redundant is an admission that the order fails the requirement in section 59(4)). And secondly, much of the true moorland is subject to statutory rights of access either under section 193 of the Law of Property Act 1925, or part I of the Countryside and Rights of Way Act 2000. Such access is neither 'implied public access' nor 'a public right of way'. Does the order therefore exclude its operation in relation to such land?

We therefore submit that this order is shoddily drafted and does not conform with the requirements of the Anti-social Behaviour, Crime and Policing Act 2014. It is unacceptable because it creates criminal offences which are ill-defined and capable of more than one interpretation and thus would not be supported by the court. While we understand that your council is endeavouring to reduce the risk of fire on the moorland, and the society supports appropriate measures to achieve that risk reduction, we consider that the order, as drafted, is the wrong mechanism by which to address the problem.

continued

We trust that your council will abandon this proposed order, or consult on a radically redrafted order. We are considering whether to publicise this example of poor practice.

Yours faithfully

A handwritten signature in black ink that reads "Kate Ashbrook". The signature is written in a cursive, slightly slanted style.

Kate Ashbrook
General secretary
hq@oss.org.uk

From: [Kate Ashbrook](#)
To: [Lorraine Kenny](#)
Subject: RE: Proposed Public Spaces Protection Order - Saddleworth Oldham
Date: 03 September 2019 13:09:55
Attachments: [image004.png](#)

Dear Lorraine

Thank you for sending us the revised draft order.

The order is better than it was, but we still have concerns.

The definition of 'access land' is acceptable, although there are some uncertainties because it is a combination of mapped open country and registered common land less excepted land, and defining excepted land can be uncertain

There is a risk that committing an offence may depend on a definition of 'land covered by semi-natural upland vegetation' — does your council want to have to prove the quality of vegetation every time it prosecutes? What if the breach occurs in a car park?

But the order seems only marginally better in terms of offences. It is still only the council which can dispense with the restrictions — not the landowner or tenant. So a farmer needs the council's consent to heather or grass burning. It's still an offence to travel with a firework — even on a road across access land.

Yours sincerely

Kate Ashbrook
General Secretary
The Open Spaces Society
25a Bell Street
Henley-on-Thames RG9 2BA
tel 01491 573535, mob 07771 655694
email: hq@oss.org.uk
website www.oss.org.uk

The Open Spaces Society is a registered charity (no 1144840) and a company limited by guarantee, registered in England & Wales (no 7846516).

**Please [support our campaign](#) now to ensure
highways across commons are not deregistered.**



Read my blog at <http://campaignerkate.wordpress.com/>

The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.



Lancashire,
Manchester &
N Merseyside

Director of Legal Services
Oldham Council
Civic Centre
West Street
Oldham OL1 1UL

29th July 2019

Dear Sir or Madam

Re: Public consultation on PUBLIC SPACES PROTECTION ORDER (SPO), SADDLEWORTH MOOR, OLDHAM; Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

The Wildlife Trust for Lancashire, Manchester & North Merseyside welcomes this proposed SPO, insofar as its implementation would afford additional protection to the blanket bog and associated flora and fauna of parts of the Dark Peak and South Pennine Moors – both within and, potentially, beyond Oldham Borough's boundaries.

These areas are already identified as Local Wildlife Sites ("Sites of Biological Importance") and/or statutory Sites of Special Scientific Interest (SSSI) and/or statutory Special Protection Areas (SPA) and/or Special Areas of Conservation (SAC) of city-regional and/or national and/or international importance for nature conservation: Greater Manchester Ecology Unit and Natural England will be able to advise you further on the implications of those individual designations.

When in recovering or pristine condition, Oldham Borough's blanket bogs are also important carbon stores and moderators of downstream flooding; and an important paleo-ecological record.

Damage through drainage and/or previous burning of peat has released substantial stored carbon into the atmosphere and degraded the bog's ability to sequester carbon and moderate flooding by "slowing the flow". It also diminishes its characteristic floral and faunal communities. Further



substantial fires risk further degrading these “ecosystem services”, and releasing toxic heavy metal compounds, sequestered during the Industrial Revolution, into watercourses. They also risk setting back the significant blanket bog restoration work already undertaken by the RSPB and United Utilities plc in and around Dove Stone; and diminish the opportunities for enjoyment of wildlife and wild places in these uplands by residents and visitors alike.

Thanking you for your attention.

Yours sincerely



David Dunlop

Senior Conservation Officer (Policy & Advocacy); &

Living Seas Champion

Tel: 01772-317 238

Mob: NONE

E-mail: ddunlop@lancswt.org.uk

twitter: @LaWT_d @LivingSeasNW @Lancswildlife

Hash-tags: #WilderFuture #TheTimesNow #EnvironmentAct #OurIrishSea

The Wildlife Trust for Lancashire, Manchester & North Merseyside

(Blackburn with Darwen, Blackpool, Bolton, Burnley, Bury, Chorley, Fylde, Hyndburn, Knowsley, Lancaster,  Registered with **FIR** Manchester, Salford, Pendle, Preston, Ribble Valley, Rochdale, Rossendale, St Helens, Salford, Sefton, South Ribble, West Lancashire, Wigan, Wreay **REGULATOR**



P.S. Mr Martyn Walker, our Conservation Officer for Greater Manchester, is on extended leave so I am responding on his behalf.

HOLLOW OAK LIMITED

(Incorporated in the Isle of Man no 111007C)

c/o Environment House
6 Union Road
Nottingham
NG3 1FH

29th August, 2019.

Director of Legal Services
Civic Centre
West Street
Oldham
OL1 1UL

Dear Sirs,

Proposed Public Spaces Protection Order – Saddleworth Moor

I am writing as the Planning and Property Manager for Hollow Oak Limited, who are a major land owner in the Upper Chew Valley, including substantial tracts of land contained within the boundary of the proposed order.

Our land holding amounts to over 400 acres, some 40+ residential properties, the ex Robert Fletcher Factory site and Dovestones Holiday Park Lodges and Glamping Pods.

At no time have we had any notification about this proposed order or seen any public notice displayed. Indeed, I only heard about the proposal whilst attending a meeting with Andy Burham, Debbie Abrahams MP and Cllr Sean Fielding, held at Dovestone Sailing Club last Wednesday, 19th August.

Please note the meeting was to discuss the problem of fires on Saddleworth Moor, and was held **after** the suggested end of the consultation period for the order!

We take the matter of deliberate fire setting on our land very seriously so to have been omitted from any consultation is bizarre in the extreme.

However, as currently framed the order will have a seriously detrimental effect on the operation of our Holiday Lodge Park, off Bank Lane below Dovestones Reservoir, each of the Lodges and the reasonable behaviour of our tenants within the define of their own property.

We have no objection to the principles of the order – indeed it is welcome. However I would request an exemption is granted to:

- 1) All residents and tenants on land owned by Hollow Oak Limited, whilst within properties owned by Hollow Oak Limited
- 2) The BBQs provided adjacent to each Lodge provided by Dovestone. Each BBQ is in a purpose built confined masonry stand and the site is fully fenced and gated.

I look forward to hearing from you.

Yours faithfully,



JOHN TAYLOR
For Hollow Oak Limited

N.B. The residencies owned by Hollow Oak Limited within area of the Proposed Order

Hey Top
Hollins Hill Farm
New Barn
Greenfield Farm
Greenfield House
Nut Bottom
Robin Hey
Springside
Ley Butts
The Residency
Nook Sheer
The Social Club

From: [john](#)
To: [Lorraine Kenny](#)
Subject: Saddleworth Moor: Public Spaces
Date: 30 August 2019 12:08:19
Attachments: [letter to Legal Services, Oldham.docx](#)
[Hollowoak LTd Title Plan.pdf](#)

Dear Lorraine,

I refer to our telephone discussion yesterday and your helpful advice on how we can obtain an exemption from the ban on fires and BBQ's proposed under the Saddleworth Moor PSPO.

It remains a matter of amazement that no one in the Council thought of contacting us, the attached title plan shows just part of our land affected by the ban, being those parts of our ownership below the Dovestones Reservoir stretching down to the village. This plan shows all the residential property in the estate and the site of the Holiday Lodge Park, where Greenfield Farm buildings are shown.

The other parts of our title run up the Chew valley alongside Chew Brook and include the Chew Piece plantation used by Life for Life and moorland grazing leased to local farmers. Whilst we have no residential property on these lands this is where many of the recent fires have been started.

I also attach my letter to the Legal Services Division of the Council, this lists the residential properties where we would need an exemption and the Holiday Lodge and Pods Park.

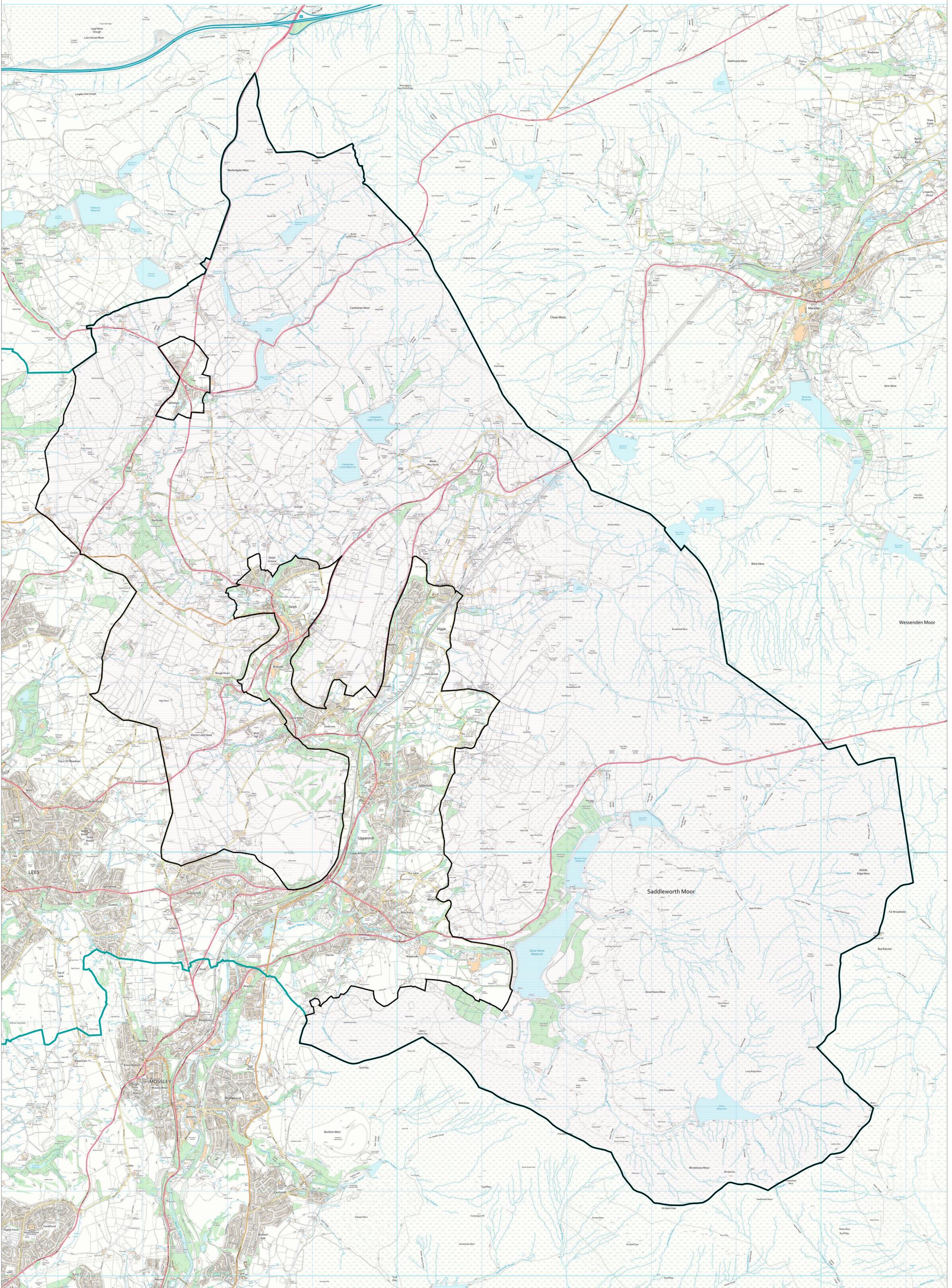
I look forward to hearing from you, please do not hesitate to contact me should you require any further information.

Regards,

For Hollowoak Ltd

John Taylor BSc (Hons), Dip Com Ed, MBA, FRGS
Purico Group Ltd: Property and Planning
Phone: Mobile [REDACTED]
DD 0115 901 3002

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Drawn by:	JR
Division:	
Drawing no:	
Date: 03.09.19	Scale: 1:14000

Oldham Council
Civic Centre
West Street
Oldham
OL1 1UT



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ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014**OLDHAM COUNCIL****OLDHAM MOORLANDS****PUBLIC SPACES PROTECTION ORDER 2019**

Oldham Council (“the Council”) in exercise of its power under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and of all other enabling powers being satisfied that the conditions set out in section 59 of the Act have been met hereby makes the following Order:-

1. The following definitions apply to this Order:

“access land” has the same meaning as contained in section 1 of the Countryside and Rights of Way Act 2000;

“firework” means a firework as defined in section 1 of the Fireworks Act 2003; and

“moorland” means land covered by semi-natural upland vegetation.
2. This Order applies to the public places described in the Schedule to this Order which lie within the area shown coloured pink on the plan annexed to this Order (“the Restricted Areas”).
3. A person shall be guilty of an offence if, without the prior written consent of the Council, they light a fire of any type or size in the Restricted Areas.
4. A person shall be guilty of an offence if, without the prior written consent of the Council, they are in possession of, or light, a barbecue in the Restricted Areas.
5. A person shall be guilty of an offence if, without the prior written consent of the Council, they are in possession of, or light a firework in the Restricted Areas.
6. A person shall be guilty of an offence if, without the prior written consent of the Council, they light a Chinese lantern or other open flame heat source lantern in the Restricted Areas.
7. The restrictions in Articles 3 to 6 to this Order shall not apply to any police, ambulance or fire service personnel acting in pursuance of statutory powers or duties.
8. Any person who, without reasonable excuse, fails to comply with the requirements of Articles 3 to 6 of this Order commits an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

9. This Order shall come into force on XXXXX for a period of three years.

SCHEDULE

Restricted Areas

Those areas of moorland which consist of access land and which which lie within the Borough of Oldham up to the contiguous local authority boundaries with High Peak, Tameside, Rochdale and Kirklees Councils and adjacent to the Borough ward boundaries of Shaw and St James.

THE COMMON SEAL of)
OLDHAM BOROUGH)
COUNCIL was hereunto)
affixed on)
in the presence of: -)