

Report to Highway Regulation Committee

Objections and Matters relating to Public Spaces Protection Orders

Portfolio Holder:

Cllr Peter Dean

Officer Contact: Neil Consterdine – Director of Communities

Report Author: Lorraine Kenny – Head of Community Safety Services

18th July 2024

Reason for Decision

The purpose of this report is to consider the objections or matters related to three gated schemes following a consultation exercise to renew and/or re-introduce a number of Public Spaces Protection Orders across the borough.

Recommendations

It is recommended that:

- 1) Scheme 12/20 relating to Hampton Road and Roman Road is not included within the South District Public Spaces Protection Order due to access being required for residents with disabilities and the gates currently in place be removed.
- 2) Scheme 51/20 relating to Retford Street and Waterloo Street is included in the Central District Public Spaces Protection Order with amendment to relocate the gates from original scheme to increase the safety and security of the location.
- 3) Scheme 75/20 relating to Lynton Avenue and Chapel Road is included in the South District Public Spaces Protection Order with amendment to re-locate one gate.
- 4) 5 District Public Space Protection Orders be made for all the remaining schemes which received no objections.

Objections and Matters relating to Public Spaces Protection Orders

1 Background

- 1.1 Public Spaces Protection Orders (PSPOs) were introduced through the Anti-Social Behaviour, Crime and Policing Act 2014. In 2017 all existing Gating Orders across the borough automatically transitioned to become PSPOs. Since 2017 the existing Orders, along with newly introduced ones, have offered protection to over 8000 properties and businesses, through the use of gates.
- 1.2 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced a provision that PSPOs could only be made for a maximum 3-year period, with a requirement to carry out a statutory consultation exercise before either extending or amending the terms of an Order. The statutory consultation exercise involves contacting any occupiers of premises adjacent to or adjoining the highway, and any other persons in the locality who are likely to be affected by the proposed order.

2 Current Position

- 2.1 In 2024, the statutory consultation exercise was undertaken. The Council used this exercise as an opportunity to move the existing 200+ PSPOs which restricted access over the highway, into 5 overarching place PSPOs, which contain all of the individual schemes relevant to the respective place area.
- 2.2 During the consultation exercise, objections were raised in relation to two schemes. The Council also became aware of another scheme which needed a review due to a change in use of one of the buildings.

2.3 Schemes

2.3.1 Scheme 12/20

Figure 1



- 2.3.2 This scheme in the South District offers protection to four residential properties (77 & 84 Hampton Road and 80-82 Roman Road). During the statutory consultation exercise, an objection was received which related to a resident having accessibility issues due to the disability of a family member that lives in one of the properties that they support and care for. A copy of the objection is listed in Appendix A to this document.
- 2.3.3 Following further consultation, a second resident from a different household was also identified as having difficulties using the gate due to a disability. In addition, it was identified that the gates were frequently left open during the day as the area is used as a thoroughfare by the local community. The gates were opened in the morning and locked in the evening by the Council's First Response Team, through an informal arrangement which was not part of the existing PSPO.
- 2.3.4 There was a concern raised regarding dog-fouling in the area, even with the gates in situ.
- 2.3.5 Removal of this scheme from the South District PSPO, which would involve removal of the gates, would ensure the Council is compliant with its duties under the Equality Act 2010. It would also allow the local community to continue to use the highway as a thoroughfare; and would negate the need for the First Response Team to visit the location daily to lock and unlock the gates, as this cannot be sustained long-term.
- 2.3.6 Scheme 51/20

Figure 2



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- 2.3.7 This scheme in the Central District was originally introduced with five gates to offer protection to 20-30 Retford Street, 301-317 Waterloo Street and to the rear of a building which now operates as a school. These are marked as A, B, C, D and E on Figure 2 below. One of the gates (A) was due to be sited between 30 Retford Street and 301 Waterloo Road; however, this, and another of the gates (C) were never installed due to objections from the householders when the contractors arrived. This has resulted in the area not being fully protected as intended, particularly the rear of the building which is now a school.
- 2.3.8 One objection has been received with regards to this scheme, with a request made to remove all of the gates. The person making the objection has also made significant comments regarding concerns about the school and has made subsequent representations about the safety of students on the highway, as there are businesses which operate in the locality and there is no secure outdoor space for them to gather and play. The full objection can be found at appendix B to this document.
- 2.3.9 Whilst all of the gates which were originally planned were not installed; those which were do offer a visual deterrent to persons who wish to engage in crime and disorder at the location. Removal of all the gates would likely result in an increase crime and disorder.
- 2.3.10 There remains a space at the location where fly- tipping occurs. This is marked as G on Figure 2.
- 2.3.11 The site was visited and it was noted that the space at the rear of the school is overgrown and a bench was in situ. No residents or businesses have gates or doors which open onto this space; however, there is an access gate just outside of the gate at location E.
- 2.3.12 Vehicles used by residents and businesses have sufficient alternative routes without reliance upon access to the highway at the rear of the school building.
- 2.3.13 It is proposed to re-site the gate currently at position E to position G to allow increased accessibility; and to site the gate which should originally have been at location C to location F. This would allow vehicles to turn into the area at the rear of Retford Street if required and would create a sterile area within the scheme which would prevent fly-tipping and provide a safe space for the students to gather. The area included in the scheme will be the passageway between 40 Retford Street and 317 Waterloo Street
- 2.3.14 The cost of re-siting gate E and installing the gate at location F will be met from external grant funding. The ongoing maintenance and repair cost for gate F will be minimal and will be offset by savings in the repairs and maintenance of gates removed from scheme 12/20.
- 2.3.15 Scheme 75/20

Figure 3



- 2.3.16 This scheme in the South District includes 3 gates which were introduced to offer protection to 1-27 Lynton Avenue, 706-710 Hollins Road and 171-207 Chapel Road.
- 2.3.17 The property at 710 Hollins Road is now divided into two premises. 710b Hollins Road has a single access and egress point which is within the gated area.
- 2.3.18 s64(5) of the Anti-Social Behaviour, Crime and Policing Act 2014 states:
“A public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.”
- 2.3.19 The Council must ensure compliance with the legislation, and therefore the gate marked A on the map cannot remain in its current position.
- 2.3.20 Movement of the gate at position A to position B (between 203 and 205 Chapel Road) will result in 207, 207a and 205 Hollins Road losing the protection of the gates to the rear of their properties and being removed from the scheme; however, it will ensure that the remaining properties in the scheme can continue to be protected.
- 2.3.21 The cost of re-siting the gate will be met from external grant funding.

3 Options/Alternatives

3.1 Scheme 12/20

Option 1: Removal of the scheme from the South District Public Spaces Protection Order.

Option 2: Retain the scheme. This is not recommended as this would have a detrimental impact up on persons with protected characteristics and would mean the Council is not compliant with the provisions of the Equality Act 2010.

3.2 Scheme 51/20

Option 1: Retain the scheme within the Central District Public Spaces Protection Order with reduced boundaries and relocate gates from original scheme to increase safety and security of location.

Option 2: Remove the entire scheme. This option is not recommended as the gates act as a visual deterrent and removal of all of the gates will likely result in an increase in crime and disorder.

3.3 Scheme 75/20

Option 1: Removal of 710 Hollins Road and 205, 207 and 207a Chapel Road from the scheme, with relocation of the gate currently sited between 207 Chapel Road and 710 Hollins Road to the area between 203 and 205 Chapel Road and retain the remainder of the scheme within the South District Public Spaces Protection Order.

Option 2: Removal of the gate currently sited between 207 Chapel Road and 710 Hollins Road without relocation. This is not recommended as this would likely result in an increase of crime and disorder.

4 **Preferred Options**

4.1 Scheme 12/20

Option 1: Removal of the scheme from the South District Public Spaces Protection Order.

4.2 Scheme 51/20

Option 1 Retain the scheme within the Central District Public Spaces Protection Order with reduced boundaries and relocate gates from original scheme to increase safety and security of location.

4.3 Scheme 75/20

Option 1: Removal of 710 Hollins Road and 205, 207 and 207a Chapel Road from the scheme, with relocation of the gate currently sited between 207 Chapel Road and 710 Hollins Road to the area between 203 and 205 Chapel Road and retain the remainder of the scheme within the South District Public Spaces Protection Order.

4.4 The preferred options above will be met through external grant funding and the existing Community Safety Maintenance budget. The cost of moving existing gates will be no more than £1,500.00. Future maintenance of the gates will be met through the ongoing Community Safety Alleygate maintenance budget.

5 **Consultation**

5.1 See Appendix A

5.2 Ward Members for each of the schemes have been consulted on the original PSPO proposals and the amended proposals following the consultations responses.

5.3 Details on the amended proposals have been provided to residents (and the school for scheme 51/20).

6 **Financial Implications**

6.1 The preferred option as detailed in paragraph 4.1 to 4.3 is to approve three gated schemes and to renew and/or re-introduce several Public Spaces Protection Orders across the borough.

6.2 The cost of the above proposals will be a maximum £1,500 and will be met from external grant funding which is already held within the community safety budgets.

6.3 The ongoing maintenance costs will be funded from the community safety existing revenue budgets.

6.4 The expected life cycle of each gate is 20 years. Therefore, annual maintenance costs should be minimal, and will be restricted to ad hoc expenditure for repairs and defects.

(Waheed Rehman – Accountant)

7 Legal Implications

7.1 Before making a PSPO, 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 In addition, as the proposed PSPOs restrict the public right of way over a highway, the Council must consider the likely effect of making the Orders on the occupiers of premises adjoining or adjacent to the highway, the likely effect of making the Orders on other persons in the locality and in cases where the highway constitutes a through route, the availability of a reasonably convenient alternative route.

7.3 The Council must also have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the European Convention on Human Rights when deciding to make, vary or extend a PSPO.

7.4 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 PSPO or to fail to comply with a requirement to which the person is subject under a PSPO. A person guilty of an offence under section 67 is liable on summary conviction to a fine not exceeding £1000. (A Evans)

8. Co-operative Implications

8.1 The statutory consultation exercise fully aligned with the Council's co-operative ethos. The consultation was undertaken in accordance with the Public Spaces Protection Order Policy which clearly defines the responsibilities of the Council and landowners, the contribution of Elected Member and communities and the expectation of partnership working to achieve solutions to prevent/reduce crime and disorder.

9 Human Resource Implications

9.1 None

10 Risk Assessment

10.1 Legal and financial comments are detailed separately in this report. The review of the Place Public Spaces Protection Orders (PSPOs) provides an opportunity for the Council to ensure that they are suitable for requirements. The review has ensured that PSPO'S are appropriate and help to increase safety and security these are published on the Council website to aid transparency and reduce reputational risks. The orders are in line with the Anti-Social Behaviour,

Crime and Policy Act 2014 and should continue to be reviewed periodically to ensure they are kept up to date.

Vicki Gallacher (Head of Insurance and Information Governance)

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 None

13 **Procurement Implications**

13.1 None

14 **Environmental and Health & Safety Implications**

14.1 There is nothing further to add to this report from an Environmental point of view as all aspects of the proposals are covered.

14.2 Oldham Council's Health and Safety Team have no objections to the content of this report providing the relevant risk assessments are carried out prior to any works commencing to ensure health and safety compliance during the construction as well as compliance with any regulations.

(Neil Crabtree – Head of Public Protection)

15 **Oldham Equality Impact Assessment, including implications for Children and Young People**

15.1 Through the consultation exercise, the impact on equality and diversity for each PSPO varied, extended or introduced is considered in detail. Where the introduction or continuation of a PSPO is deemed to negatively impact on equality or diversity, then the terms of any Order will be amended as necessary to reduce or negate the impact where possible, and if this cannot be achieved the Order will not be made.

There is a proposal for scheme 51/20 to relocate gates to ensure there is a safe space at the location for young people attending the school.

16 **Key Decision**

16.1 No

17 **Key Decision Reference**

17.1 N/A

19 **Background Papers**



19.1 None

20 **Appendices**

20.1 Appendix 1 – Consultation Objections.



Appendix 1 -
Consultation Object

 <p>Signed Cabinet Member (Cllr Peter Dean)</p>	<p>Dated: Wednesday 3rd July 2024</p>
 <p>Signed Emma Barton, Deputy Chief Executive (Place)</p>	<p>Dated: 4th July 2024</p>