

## 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:** Philip Bonworth, Community Safety Operational Manager

**13<sup>th</sup> March 2025**

---

### Reason for Decision

The Purpose of this report is to consider objections or matters relating to gating scheme 012/20, which relates to Hampton Road, Failsworth

### Recommendations

It is recommended that:

No Public Spaces Protection Order be made in respect of Scheme 012/20 relating to the passage that runs between Hampton Road and Roman Road, due to a material objection that has been received from a resident, who has advised that they are unable to access the scheme due to disability and that their property has suffered damage due to illegitimate users attempting to access the scheme. The Community Safety Service have investigated several possible solutions; however, they have been unable to identify a solution which will overcome the objection raised by the resident with protected characteristics.

## Objections and Matters relating to Public Spaces Protection Orders

### 1 Background

- 1.1 Public Spaces Protection Orders (PSPO's) were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014. In 2017 all existing gating order across the borough automatically transitioned to become PSPO's. Since 2017, the existing Orders, along with newly introduced ones, have offered protection to over 8000 properties and businesses, within the borough, through the use of gates.
- 1.2 The Anti-Social Behaviour, Crime and Policing Act 2014, introduced a provision that PSPO's 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 a highway, and any other persons in the locality, who are likely to be affected by the proposed area.

### 2 Current Position

- 2.1 In 2024, the statutory consultation exercise was undertaken on all current PSPO's. The Council used the consultation as an opportunity to move the 200+ existing PSPO's, which restricted access over highways, into 5 overarching place PSPO's, which contain all the individual schemes relevant to the respective place area.
- 2.2 During the consultation exercise, objections were raised in relation to scheme 012/20, which relates to the highway between Hampton Road and Roman Road, Failsworth. This led to further consultation with residents adjoining the scheme, which resulted in a mixture of objections and support for the scheme.
- 2.3 Scheme 012/20 – Hampton Road/Roman Road



- 2.3.2 This scheme in the South District offers protection to four residential properties (77 and 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 who 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 The existing PSPO for Scheme 012/20 has now lapsed and the scheme was not included in the South District PSPO, pending a final decision from the Highway Regulation Committee. There are therefore currently no legal restrictions on the use of the highway between Hampton Road and Roman Road. A decision not to make a PSPO for this scheme would involve removal of the gates and 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.

### 3 Options/Alternatives

#### 3.1 Option 1:

Do not make the PSPO and remove the gating scheme. This would ensure that the Local Authority complies with its duties under the Equality Act 2010, by ensuring that the resident with protected characteristics is able to utilise the highway, without impediment. However, it would also pose a potential risk that anti-social behaviour and criminality, which has previously occurred at this location may reoccur. The removal of the gates will not exceed £1,000 and an external contractor who was appointed after an earlier procurement process will be utilised.

#### Option 2:

Make a PSPO and retain the scheme, with the gates closed on a 24/7 basis. This would ensure that residents adjoining the scheme remain protected from the anti-social behaviour and criminal behaviour that has occurred at this location previously. This is not recommended as this would have a detrimental impact upon persons with protected characteristics and would mean the Council is not compliant with the provisions of the Equality Act 2010. Furthermore, this would likely elicit objections from nearby residents who use the scheme as a valuable cut through as they would no longer be able to do so.

#### Option 3:

Make a PSPO and retain the scheme with set opening and closing times, with the opening and closing of the scheme being overseen by Community Volunteers. This would allow the scheme to be utilised as a cut through by residents during specified periods and would restrict the potential for ASB/Criminal behaviour at this location. This is not recommended as this would have a detrimental impact upon persons with protected characteristics and would mean the Council is not compliant with the provisions of the Equality Act 2010. This option was considered by the Committee in July 2024 as a compromise solution, but the residents did not subsequently agree to accept responsibility for opening and closing the

---

gates and therefore it is not possible to guarantee the gates would be opened or closed at the appropriate times.

#### **4 Preferred Option**

- 4.1 The preferred option is Option 1. The decision not to make a PSPO, and removal of the gating scheme is the only option which ensures that the Local Authority complies with its duties under the Equality Act 2010, by ensuring that the resident with protected characteristics is able to utilise the highway, without impediment. All other avenues have been explored with the residents and the Local Authority have been unable to identify a solution which overcomes their objections.

#### **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.

#### **6. Financial Implications**

- 6.1. This report seeks approval to discharge the PSPO and gating scheme 012/20 at Hampton Road/Roman Road.
- 6.2. The cost of removing the alley gates will not exceed £1,000 and will be met from the existing community safety revenue repair budget.
- 6.3. The external contractor awarded the initial contract to install the gates, will now be used carry out for the removal. The gates will be stored to be used on a future scheme, if suitable.
- 6.4. There are no further financial implications as a result of this request.

(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 PSPO restricts the public right of way over a highway, the Council must consider the likely effect of making the Order on the occupiers of premises adjoining or adjacent to the highway, the likely effect of making the Order on other persons in the locality and where the highway constitutes a through route (as at Hampton Road and Roman Road), 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 The Council has a duty under section 149 of the Equality Act 2010 in the exercise of its functions to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic and to take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it. One of the relevant protected characteristics is disability and the steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include in particular steps to take account of disabled persons' disabilities. (A Evans)
- 8 Oldham Equality Impact Assessment, including implications for Children and Young People**
- 8.1 Through the consultation exercise, the impact on equality and diversity for each PSPO varied, extended or introduced is considered in detail. In this instance allowing the PSPO to continue, would mean that the Local Authority would be non-compliant with the Equality Act 2010, which has determined that Option 1, discharging of the PSPO and removal of the gates is the only appropriate solution.
- 9. Co-operative Implications**
- 9.1 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.
- 10. Human Resources Implications**
- 10.1 None
- 11 Risk Assessment**
- 11.1 If the gates are removed, there is a potential risk that the Anti-Social and criminal behaviours previously experienced at this location may return and have a detrimental impact upon the quality of life of the residents whose properties are located to either side of the passageway and to other residents residing within the locality of the scheme.
- 12. IT Implications**
- 12.1 None
- 13. Property Implications**
- 13.1 None
-

---

14. **Procurement Implications**

14.1 None

15. **Environmental and Health and Safety Implications**

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

15.2 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 removal as well as compliance with any regulations.

Neil Crabtree (Assistant Director – Public Protection)

16. **Key Decision**

16.1 No

17. **Key Decision Reference**

17.1 N/A

18. **Background Papers**

18.1 None

19. **Appendices**

19.1 Appendix A – Consultation



Consultation -  
012-20.docx

Signed _____ Cabinet Member (specify whom)	Dated _____
Signed _____ Executive Director/Deputy Chief Executive	Dated _____

---

---