

Subject:	Public Space Protection Orders Borough Wide (2021)	Status:	For Publication
Report to:	Council	Date:	15 th December 2021
Report of:	Public Protection Manager	Portfolio Holder:	Communities
Key Decision:	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	Yes	Attached: Yes
Biodiversity Impact Assessment	Required:	No	Attached: No
Contact Officer:	Phil Morton	Telephone:	01706 252442
Email:	philmorton@rossendalebc.gov.uk		

1.	RECOMMENDATION(S)
1.1	That following an 8 week period of public consultation and consideration of the same, the attached draft Public Space Protection Orders (PSPO's) are adopted by the Council

2. PURPOSE OF REPORT

- 2.1 To ask Members to adopt the attached PSPO's for the control of the consumption of alcohol in a public place, the consumption/possession of nitrous oxide canisters and the anti-social use of mechanically propelled motor vehicles in the borough of Rossendale, under Section 59 of the Anti-social Behaviour, Crime and Policing Act 2014.

3. BACKGROUND

- 3.1 The Anti-social Behaviour, Crime and Policing Act 2014 introduced a variety of powers for local authorities to deal with anti-social behaviour including Public Spaces Protection Orders.(PSPO's)
- 3.2 These are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. The order can be used to deal with likely future problems.
- 3.3 The areas to which PSPO's apply can be very localised or borough wide, dependant on the nature and extent of the identified issues.
- 3.4 PSPO's are designed to make public spaces more welcoming to the majority of law abiding people and communities
- 3.5 The continued regeneration and ongoing improvements currently taking place across the Boroughs town centres, parks and public spaces have been welcomed by both residents and visitors to the Borough.
- 3.6 Attractive town centres which encourage both commercial and recreational on street activities means that increased numbers of visitors are taking advantage of Rossendale's open spaces.
- 3.7 The increase in open-air hospitality venues, which have been encouraged during the Coronavirus pandemic are now an established part of our town centres and the prevalence of independent traders and businesses continue to attract visitors.

- 3.8 However, the improved public space facilities, as well as the borough's large areas of open spaces have also seen an increase of those who engage in anti-social behaviour, including on street drinking, the use of both controlled drugs and psychoactive substances and increasingly, the anti-social use of motor vehicles, both on and off road.
- 3.9 Not only does this behaviour have a detrimental effect on the appearance and commercial attractiveness of our towns and open spaces, it can also have a long-term effect on the local environment, including damage to farm and moorland, as well as the wildlife that inhabits these areas.
- 3.10 The introduction of the proposed PSPO will greatly enhance the capability of both the police and local authority to deal with these growing problems, whilst still allowing law abiding residents and visitors to enjoy all the facilities and attractions the borough offers.
- 3.11 Because the nature of the issues means that problems could be identified anywhere in the borough, it is proposed that the restricted area contained within the order is applied borough wide.
- 3.12 Consultation took place over a period of 8 weeks between 3rd August and 28th September 2021 where the Council used a range of means to reach out to potential respondents. A copy of the consultation questionnaire is appended at Appendix A.
- 3.13 The consultation was publicised on the Council's website and invited responses by social media. All elected members were invited to take part and requested to bring this matter to the attention of their constituents. Opinions were sought from relevant stakeholders including the police and community groups who were all invited to respond.
- 3.14 On-going work with Lancashire Constabulary in relation to on street drinking and the anti-social use of mechanically propelled vehicles has shown that the police are fully supportive of the proposed measures
- 3.15 Despite the wide circulation and publication of the consultation no comments were received in relation to the Order. Questions in relation to the geographic restrictions of the proposed order were received from 2 elected members and from the Bacup Community Partnership but no further comment was made upon clarification.
- 3.16 The proposed Order will introduce the following measures across the restricted areas and will apply at all times unless specifically stated.
- 3.17 **Consumption of alcohol in public areas, away from licensed premises**
- 3.18 It will constitute an offence should any person, when requested by an authorised officer, not cease from drinking alcohol in a public place (away from licensed premises) and not surrender any opened vessels of alcohol.
- 3.19 Any unopened alcoholic drinks may be subject to confiscation or disposal should the officer believe the person is either ;
- i) Under 18 years of age
 - ii) Intoxicated
 - iii) Likely to consume the alcohol in public and cause nuisance if left with them.

3.20 **Consumption/Possession of Nitrous Oxide Canisters**

It will constitute an offence for any person, when requested by an authorised officer, not to surrender any nitrous oxide canisters.

3.21 **Mechanically Propelled Vehicles**

3.22 Mechanically propelled vehicles (hereafter referred to as “MPV”) are prohibited from being used on any publically owned land in the Borough, or on any other land without express or implied permission.

3.23 A person is prohibited from having a MPV in their possession but not being ridden when in a public space or on a highway or pavement, unless they can produce appropriate insurance for use of the MPV on a public highway.

3.24 A person is prohibited from parking up a motor vehicle or trailer on any road or land without the land owners permission, with the intention to then off load any MPV to be used on any publically owned land/highway in the Borough, or any other land without the express or implied permission

3.25 The only exception will be granted for persons wheeling a MPV to a clearly identified van or trailer for onwards transportation.

3.26 The following list is of mechanically propelled vehicles are included in this order, but this list is intended to be indicative, not exhaustive ;

3.27 Motorbikes (road going and off road) Including mini “pee-wee” bikes
Scooters
Quad Bikes and mini quad bikes
Motor Cars

3.28 The following MPV’s are exempt from the Order:

Vehicles for use by a person with a mobility impairment, and being used by someone with a mobility impairment

4. **RISK**

4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Failure to introduce specific measures to tackle the increasing issues of on street and public space drinking along with the continued use of nitrous oxide as a recreational psychoactive substance will lead to increased anti-social use and subsequent behavior.
- Evidence of anti-social use of motor vehicles, including motor bikes used “off road” is increasing and without these measures being introduced, powers of both the police and local authority to deal with the problems are limited.

5. **FINANCE**

5.1 Any financial implications arising will be contained within existing budget resources

6. **LEGAL**

6.1 The implementation of the PSPO can be challenged at the High Court by any interested person within 6 weeks of the making of the Order on the basis that the Council does not

have the power to make the Order or that a requirement of the Act was not complied with. This has been mitigated by the Council following due process in compliance with the legislation.

- 6.2 Any Order approved by the Council is for a period of no more than 3 years. However, there is provision to extend the order, both in terms of the time and the area that it covers and can be extended more than once.
- 6.3 Under s67 of the Anti-Social Behaviour, Crime and Policing Act 2014 it is an offence for a person without reasonable excuse—
 - (a) to do anything that the person is prohibited from doing by a public spaces protection order, or
 - (b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.

7. POLICY AND EQUALITIES IMPLICATIONS

- 7.1 No equality issues were identified as part of the consultation.

The Councils Enforcement Policy will guide the use of powers created under the terms of the PSPO.

8. CONCLUSION

- 8.1 The Council could consider a "do nothing" approach. However, this will not address the anti-social behaviour in question.
- 8.2 The facilities and enjoyment of our towns, parks and open spaces should be open to everyone without fear, intimidation or harassment, and these measures will ensure that this is the case for the foreseeable future.

Background Papers	
Document	Place of Inspection
Consultation Document	Attached and at The Business Centre, Futures Park

Dear.....

PUBLIC SPACE PROTECTION ORDERS (BOROUGH WIDE 2021)

A public consultation is taking place in relation to the introduction of Public Space Protection Orders (PSPO's)

These are in relation to street drinking, the use of Nitrous Oxide canisters and anti-social use of mechanically propelled vehicles

This can be found at the link below.

https://www.rossendale.gov.uk/info/210191/council_priorities/10679/consultation

The consultation is open for 8 weeks and the council is seeking your views on the proposals.

You can send these either via email to

philmorton@rossendalebc.gov.uk

or via post to

Public Protection Manager

Rossendale Borough Council

Futures Park

Bacup

OL130BB

Any comments should be received by 5pm on 28th September 2021

ROSSENDALE BOROUGH COUNCIL

Anti-Social Behaviour, Crime and Policing Act 2014, Section 59

Public Spaces Protection Order (Borough wide) 2021

This Order is made by Rossendale Borough Council ("the Council") under the Anti-Social Behaviour, Crime and Policing Act 2014, Section 59 ("the Act").

1. This Order relates to all areas within the Borough of Rossendale (as shown on attached map), including public space in the Council's area and privately owned land made available to the public, to which the Act applies ("the Restricted Area").

2. The Council is satisfied that the two conditions below have been met, in that:-

- activities carried on in the restricted area as described below have had a detrimental effect on the quality of life of those in the locality, or it is likely that these activities will be carried on in the public place and they will have such an effect;
- the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the Order.

By this Order

3. The effect of the Order is to impose the following prohibitions and/or requirements in the Restricted Area at all times, unless specifically stated-

B. Consumption of alcohol in public areas, away from licensed premises.

It will constitute an offence should any person, when requested by an authorised officer, not cease from drinking alcohol in a public place away from licensed premises and not surrender any opened vessels of alcohol. Any unopened alcoholic drinks may be subject to confiscation or disposal should the officer believe the person is either;

- i) Under 18 years of age
- ii) Intoxicated
- iii) Likely to consume the alcohol in public and cause nuisance if left with them

B. Consumption/Possession of Nitrous Oxide Canisters

It will constitute an offence for any person, when requested by an authorised officer, not to surrender any nitrous oxide canisters or related paraphernalia.

C. Mechanically Propelled Vehicles

Mechanically propelled vehicles (hereafter referred to as “MPV”) are prohibited from being used on any publically owned land/highway in the Borough, or on any other land without express or implied permission.

A person is prohibited from parking up a motor vehicle or trailer on any road or land without the land owners permission, with the intention to then off load any MPV to be used on any publically owned land/highway in the Borough, or any other land without the express or implied permission

A person is prohibited from having a MPV in their possession but not being ridden when in a public space or on a highway or pavement, unless they can produce appropriate insurance for use of the MPV on a public highway.

The only exception will be granted for persons wheeling a MPV to a clearly identified van or trailer for onwards transportation.

The following list is of mechanically propelled vehicles are included in this order, but this list is intended to be indicative, not exhaustive;

Motorbikes (road going and off road) including mini “pee-wee” bikes

Electrically propelled motor bikes

Scooters

Quad Bikes and mini quad bikes

Motor Cars

The following MPV’s are exempt from the Order:

Vehicles for use by a person with a mobility impairment, and being used by someone with a mobility impairment

Offences under this Public Space Protection Order:

a. A person who is guilty of an offence shall on summary conviction be liable to a fine not exceeding level 3 on the standard scale.

b. A Fixed Penalty Notice of £100.00 will be issued to offenders (reduced to £60.00 if paid within 14 days) which would discharge any liability to conviction for an offence under Section 67(1) of the Act.

c. This order may be cited as 'The Public Space Protection Order (Borough wide 2021)' and shall come into force on (date of commencement) and remain in force for a period of three years.

DRAFT