

Subject:	Review of Public Space Protection Orders for Alcohol, Nitrous Oxide and Off Road Bikes	Status:	For Publication
Report to:	Full Council	Date:	11 th December 2024
Report of:	Public Protection Manager	Lead Member:	Environment and Corporate Services
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: No	Attached:	No
Biodiversity Impact Assessment:	Required: No	Attached:	No
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1. RECOMMENDATION(S)

- 1.1 That the attached Public Spaces Protection Order as amended be formally varied and extended for a further 3 year period.

2. EXECUTIVE SUMMARY

- The original order relating to the control of nitrous oxide, alcohol consumption away from licensed premises and off-road bikes was approved by Council on 15th December 2021.
- The order has been amended to remove the provisions around nitrous oxide.
- The order creates two new offences relating to the provision of identity details and insurance documentation.
- It is proposed to amend the order as attached and extend it for a further period of 3 years.

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 They are designed to address specific anti-social behaviours in public spaces.
- 3.3 The original order was approved by Council on 15th December 2021 and it is therefore appropriate to consider whether the order requires variation and extension.
- 3.4 As a result of legislative changes, a draft amended order was consulted upon. That consultation ran for a period of 4 weeks which ended on 25th October 2024.
- 3.5 The consultation was published on the Council's website and promoted through the Council's social media pages.
- 3.6 The Police, Crime & Commissioner's office as well as the Neighbourhood Policing Inspector were specifically consulted upon and their views sought on the proposed amended order.

4. DETAILS

- 4.1 The Order has been amended to reflect new offences with regard to the provision of identity details and insurance in relation to MPV's. These are found at paragraphs 3.3 and 3.4 of the Order.
- 4.2 The previous provisions around nitrous oxide have been removed from the amended order.
- 4.3 At the time that the original order was adopted, it was illegal to produce, supply, import or export nitrous oxide where a person knew, or was reckless as to whether it would be consumed for its psychoactive effects.
- 4.4 Possession was not illegal and its anti-social use was sufficiently significant to warrant its inclusion in the order.
- 4.5 Since 8th November 2023, it has become illegal to possess the Class C drug for wrongful inhalation under the Misuse of Drugs Act 1971.
- 4.6 Consultation responses were supportive of the amended order and supportive of its extension. Those responses also highlighted that off-road bikes continue to be a problem for the community.
- 4.7 Only 1 response did not agree with the removal of nitrous oxide canister offences from the PSPO but did not cite a reason for the disagreement.
- 4.8 All respondents supported the introduction of a new offence for failing to provide insurance documentation when requested.
- 4.9 Only 1 respondent did not support the introduction of a new offence of failing to provide identity information when requested.
- 4.10 Further comments on the proposed Order made reference to alcohol and drug use around Bacup town centre being off-putting for people as well as off road bikes being out of control in the borough riding the moors and roads without fear often taunting others whilst doing so.
- 4.11 There were comments about these bikes running the trails around the Valley which volunteers are striving to improve and that the Police need as much power as possible to confiscate the bikes and prosecute the offenders.
- 4.12 It should be noted that there are a range of powers available for dealing with off-road bikes and the PSPO is merely one such tool.
- 4.13 The order remains largely unchanged and it is only the removal of what is now an existing offence under separate legislation and a small addition of 2 further offences that make this a variation.

5. RISK

- 5.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
 - Failure to have specific measures in place to tackle the increasing issues of on street and public space drinking will lead to increased anti-social behavior.
 - Anti-social use of motor vehicles, including motor bikes used "off-road" continue to frustrate communities and agencies and powers to deal with the problems must be made available.

6. FINANCE

6.1 There are no further financial implications from the variation and extension of the order and any arising will be contained within existing budget resources.

7. LEGAL

7.1 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 local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order or that a requirement under the statute was not complied with in relation to the order. This has been mitigated by the Council following due process in compliance with the legislation.

7.2 Any order approved by the Council may be extended both in terms of the time and the area that it covers and it can be extended more than once.

7.3 Section 60 of the Anti-Social Behaviour, Crime and Policing Act 2014 states that a PSPO may not have effect for a period of more than 3 years, unless extended. Before the time when an order is due to expire, the Council may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent— (a) occurrence or recurrence after that time of the activities identified in the order, or (b) an increase in the frequency or seriousness of those activities after that time. An extension under this section may not be for a period of more than 3 years. If the orders are not extended they will lapse which would be detrimental to the borough.

8. POLICY AND EQUALITIES IMPLICATIONS

8.1 No equality issues were identified as part of the consultation.

9. REASON FOR DECISION

9.1 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
Draft Order - Alcohol, Vehicular Nuisance & Other Matters	Appendix A

Anti-Social Behaviour, Crime and Policing Act 2014



Public Spaces Protection Order

Alcohol, Vehicular Nuisance & Other Matters

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

This order may be cited as the Rossendale Borough Council, Public Spaces Protection (Alcohol, Vehicular Nuisance & Other Matters) Order.

This order came into force on 15th December 2021 and was varied and extended for a further 3 years from **(date to be confirmed)**.

This Order relates to all areas within the Borough of Rossendale, 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").

This order shall apply at all times.

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

- activities carried on or 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

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

Prohibitions

1) Consumption of alcohol in public areas, away from licensed premises

1.1 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

2) Mechanically Propelled Vehicles

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 The only exception will be granted for persons wheeling a MPV to a clearly identified van or trailer for onwards transportation.
- 2.5 A person is prohibited from engaging in, promoting, encouraging or assisting in the carrying out of any anti-social behaviour connected to the use of a mechanically propelled vehicle in or on a public highway, public car park and other land to which the public has access in the Rossendale District area (the restricted area).

The following list is of mechanically propelled vehicles which 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:

- 3.1 It is an offence for a person without reasonable excuse to engage in any activity that is prohibited by this Order.
- 3.2 In accordance with section 67 of the Act, a person found to be in breach of this Order is liable to be issued with a Fixed Penalty Notice in the sum of £100 or if guilty on summary convictions liable to a fine not exceeding level 3 on the standard scale.
- 3.3 It shall be an offence under this Order for any person to fail to give their true name and ordinary residential address to an Authorised Officer of Rossendale Borough Council or to a Police Constable when requested or to otherwise obstruct such officers in the course of their duty.
- 3.4 It shall be an offence for a person to fail to provide evidence of insurance for any MPV when requested to do so by an Authorised Officer of Rossendale Borough Council or Police Constable.

THE COMMON SEAL OF ROSSENDALE)
BOROUGH COUNCIL was hereunto)
affixed in the presence of:-)

DRAFT