



**TITLE OF REPORT - Wick Woodland, Hackney Marshes and Other Areas
Public Spaces Protection Order**

Key Decision No - NH S106

**CABINET MEETING DATE
(2021/22)**

30 May 2022

CLASSIFICATION:

Open

**If exempt, the reason will be listed in the
main body of this report.**

WARD(S) AFFECTED

Hackney Wick, Kings Park and Lea Bridge

CABINET MEMBER

Cllr Susan Fajana-Thomas, Community Safety

KEY DECISION

Yes

REASON

Affects more than two Wards

GROUP DIRECTOR

STRATEGIC DIRECTOR, SUSTAINABILITY AND PUBLIC REALM

Aled Richards

1. CABINET MEMBER'S INTRODUCTION

- 1.1 Public Space Protection Orders (PSPOs) are intended to deal with nuisance or problems in a particular area that are detrimental to the local community's quality of life, by imposing conditions on the use of the area, which apply to everyone.
- 1.2 PSPOs ensure that Community Safety and Enforcement Officers and Police Officers have the necessary powers to deal with anti-social behaviour (ASB) in a public place.
- 1.3 Wick Woodland, Hackney Marshes, Millfields Park, and the other areas highlighted in Appendix 3 are Hackney's green lung, and we want to make sure that they remain places that everyone can enjoy. Following significant damage to the Woodland area, and regular large-scale illegal raves that often go on all night and cause severe disruption to people in the area, a PSPO was approved by the Council in 2019.
- 1.4 The damage resulting from the raves has included fly-tipping, fire damage and uprooting of trees and plants in the woodland.
- 1.5 The Council and the Police have over a number of years taken action using the tools they currently have to respond to these concerns. This has included installing logs and natural fencing to make the area difficult to access with machinery, and using the enforcement powers currently available to them. However these unauthorised events have continued to have a negative impact on the Woodland adjoining and nearby public spaces and neighbouring residents.
- 1.6 The Council, with the support of the police, is therefore proposing to introduce a revised extended Public Space Protection Order (PSPO) aimed at ensuring these public spaces can continue to be enjoyed and protected free from anti-social behaviour and damage.
- 1.7 As the Cabinet Member for Community Safety, I am supportive of the proposals contained in this report for Officers to undertake a formal consultation in relation to the areas highlighted in Appendix 3 which would place controls on ASB. caused by groups of people gathering, bringing generators, lighting, sound systems and decorations.
- 1.8 I commend this report to the Cabinet.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 The Council successfully introduced a Public Space Protection Order (PSPO) from the area known as Wick Woodland on the 13th of June 2019. Since this date there has been a significant decrease in the number of reported incidents of 'raves' or parties in the area of Wick Woodland, however, they have been displaced to other parks and green spaces in the localised area including Hackney Marshes, Millfields, Daubeney Fields and Mabley Green since the PSPO was enacted. This PSPO is due to expire on the 13th of June 2022.

- 2.2 The Metropolitan Police obtained a closure order on 23rd September 2019 covering Hackney Marshes following the displacement of unlicensed music events from Wick Woodland.
- 2.3 In 2020, following a number of unauthorised events at Hackney Marshes that caused disruption to nearby residents, damage to wildlife and put people at risk from coronavirus, the council successfully sought an interim injunction, coupled with a power of arrest. On 13 May 2021, the injunction order was discharged (at the Council's request) by the High Court. That decision was taken due to the legal position relating to Persons Unknown injunctions which existed at that time.
- 2.4 The Council continues to receive complaints from residents about an ongoing nuisance caused by groups of people gathering, bringing generators, lighting, sound systems and decorations in the Hackney Marshes and surrounding areas. The groups are often consuming alcohol for extended periods of time, it is believed that they are consuming other substances and they are 'partying' till the early hours, these acts cause nuisance and damage to the Wick Woodland, Hackney Marshes, Millfields, Daubeney Fields and Mabley Green. These are places of natural beauty which are being polluted by littering, defecating, urinating and damage is being caused by trees/shrubbery being broken.
- 2.5 Therefore, the Council would seek to consult to introduce a PSPO to include the Network Rail land near the A12, Hackney Marshes, Millfields, Daubeney Fields and Mabley Green.
- 2.6 The Council believes that introducing a Public Space Protection Order (PSPO), will help with controlling ongoing nuisance caused by groups of people gathering, bringing generators, lighting, sound systems and decorations in Wick Woodland, Hackney Marshes and surrounding areas. It will also enable Community Safety and Enforcement Officers and Police Officers to issue warnings and fixed penalty notices to those not complying with the requirements of the proposed PSPO.
- 2.7 The Council proposes to undertake a consultation to gauge support on the introduction of a PSPO, to consider what else it could include and gain a better understanding of residents' experience of ASB in the prescribed area so as to better protect and promote the space.

3. RECOMMENDATION

- 3.1 That Cabinet approves undertaking a consultation exercise in relation to the making of a Public Spaces Protection Order which would place controls on ASB caused by groups of people gathering, bringing generators, lighting, sound systems and decorations in Wick Woodland, Hackney Marshes and surrounding areas, often consuming alcohol and other substances and 'partying' till the early hours. These acts cause nuisance and damage to the proposed prescribed areas. A copy of the proposed Order is attached to this report as Appendix 1.**

4. REASONS FOR DECISION

- 4.1 A PSPO is a tool to ensure the law-abiding majority can use and enjoy public spaces safe from activities which have a detrimental effect on the quality of their life in that area. The proposed PSPO should ensure that Hackney has an effective response to ASB in the areas covered by the PSPO.
- 4.2 PSPOs are intended to be used to deal with a particular nuisance or problem in an area that is detrimental to the local community's quality of life by putting in place conditions on the use of that area that apply to everyone. They are designed to ensure people can use and enjoy public spaces safe from activities which have the requisite detrimental impact.
- 4.3 Councils can make a PSPO after consultation with the Police and other relevant bodies and communities. The legislation sets out a two-pronged test of which a Local Authority has to be satisfied on reasonable grounds before a PSPO can be made. These conditions are as follows:
- (1) That the activities carried out in a public place have had a detrimental effect on the quality of life of those in the locality; or that it is likely that they will have such an effect.*
- (2) That the effect or the likely effect of the activities:*
- *Is (or is likely to be) persistent or continuous.*
 - *Is (or is likely to be) unreasonable.*
 - *Justifies the restriction imposed by the notice.*
- 4.4 A PSPO must identify the public place in question and can:
- (a) prohibit specified things being done in that public place
 - (b) require specified things to be done by persons carrying on specified activities in that place; or
 - (c) do both of those things.
- 4.5 The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.
- 4.6 Prohibitions may apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.
- 4.7 The PSPO may specify the times at which it applies and the circumstances in which it applies or does not apply.
- 4.8 Unless extended, the PSPO may not have effect for more than 3 years.

- 4.9 Breach of a PSPO without reasonable excuse is a criminal offence. The Police or a person authorised by the Council can issue fixed penalty notices, the amount of which may not be more than £100. A person can also be prosecuted for breach of a PSPO and on conviction the Magistrates' Court can impose a fine not exceeding level 3 on the standard scale (currently £1000).
- 4.10 In deciding to make a PSPO the Council must have particular regard to Article 10 (Right of Freedom of Expression) and Article 11 (Right of Freedom of Assembly) of the European Convention on Human Rights ('ECHR').
- 4.11 The Council must also carry out the necessary prior consultation, notification and publicity as prescribed by s.72 of the 2014 Act.
- 4.12 In preparing this report Officers have had regard to the statutory guidance issued by the Home Office and the Guidance on PSPOs issued by the Local Government Association.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 Not having a PSPO in place means that Community Safety and Enforcement Officers/Police Officers will be required to attempt to address the ASB associated with the consumption of alcohol across the borough through other means.
- 5.2 An options analysis will be undertaken before any decision to implement a PSPO. Cabinet will need to decide whether or not to implement a PSPO once the outcomes of the consultation are known and have been analysed.

6. BACKGROUND

6.1 Policy Context

- 6.1.1 PSPOs are made under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.
- 6.1.2 After three years they are treated as transitioned PSPOs for the purposes of enforcement by virtue of s.75(3) of the 2014 Act. Once that a further three years expired (in October 2020), the orders came to an end because a PSPO may not have effect for a period of more than three years (s.60(1)).
- 6.1.3 Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific 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. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from ASB.
- 6.1.4 Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is

causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

6.2 Equality Impact Assessment

6.2.1 An Equality Impact Assessment (EIA) has been undertaken to assess the potential of an adverse positive or negative impact of the proposed PSPO on protected groups. A copy of the EIA is attached as Appendix 2 of this report. In completing the EIA the Council has taken the requirements of the Public Sector Equality Duty into account, which was created by the Equality Act 2010.

6.2.2 The equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

6.2.3 The proposed PSPO sets out a range of powers available to the Council and how these will be legally applied. The PSPO reflects national legislation and the various powers would have been assessed for their impact on equality as part of the consultation and development process before the legislation was enacted. Its use will be determined by the behaviour occurring rather than any protected group.

6.2.4 The Council is mindful that when making a Public Space Protection Order, regard needs to be given to the rights of freedom of expression and freedom of assembly safeguarded by Articles 10 and 11 of the European Convention on Human Rights: s.72(1). These rights are very likely to be engaged by any order which restricts liberty and gatherings of groups of people. The Council will carefully consider the need to pursue a legitimate aim to protect all residents from anti-social behaviour in public spaces as a proportionate means of tackling anti-social behaviour. The Council has produced credible reasons and justification for the interference with these fundamental human rights and the Equalities Impact Assessment concludes that the Public Space Protection Order and its provisions strike a fair balance between the interests of the community on the one hand, and the rights of the persons affected on the other

6.3 Sustainability

6.3.1 A PSPO will expire after a period of three years unless it is varied or extended.

6.4 Consultations

- 6.4.1 This report is requesting approval to undertake appropriate consultation in accordance with statutory guidelines and detailed under section 72 of the Act. This will include Metropolitan Police, appropriate community groups, owners and occupiers of land.
- 6.4.2 The consultation summary explaining the purpose of the consultation and online questionnaire will be included on the Council's online consultation platform, Citizen Space: <https://consultation.hackney.gov.uk/>
- Consultees will be able to request paper copies of the consultation pack (summary, questionnaire) by calling the switchboard and a member of the Enforcement team will post a copy of the consultation pack to them.
 - The consultation pack will also be made available at public access points across the borough that will be open to the public when the consultation is launched.
 - The consultation will also be promoted via the Council's publications: Hackney Today and Hackney Life.
- 6.4.3 A further report will be submitted to Cabinet for a final decision on whether or not to approve the proposed PSPO.

6.5 Risk Assessment

- 6.5.1 Some users of the public spaces to be covered by the proposed PSPO will be unhappy with the proposal. However, the consultation exercise will provide a better understanding of the balanced approach to managing freedoms for all, with the need to control inappropriate behaviour that infringes the freedoms of the community more widely.
- 6.5.3 The purpose of the proposed PSPO, and subject to certain restrictions, is to provide a better understanding of the balanced approach to managing freedoms for all with the need to control inappropriate behaviour that infringes the freedoms of the community more widely.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 7.1 The cost of undertaking the consultation of the proposed PSPO is met from the Community Safety and Enforcement approved budgets.

8. VAT Implications on Land & Property Transactions

- 8.1 Not applicable.

9. COMMENTS OF THE DIRECTOR, LEGAL AND GOVERNANCE SERVICES

9.1 The recommendation set out in paragraph 3 of this report is for Cabinet to approve the undertaking of a consultation for the making of a Public Spaces Protection Order

9.2 s.72 of the Anti-Social Behaviour Crime and Policing Act 2014 states that:

(3) A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before—

- (a) making a public spaces protection order,
- (b) extending the period for which a public spaces protection order has effect, or
- (c) varying or discharging a public spaces protection order.

(4) In subsection (3)—

“the necessary consultation” means consulting with—

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area;’

9.3 A PSPO may be considered to be an appropriate response where Local Authorities have identified a particular local issue. A single PSPO can be used to target a range of different ASB issues. These orders allow Local Authorities to introduce reasonable prohibitions and/or requirements regarding certain behaviours within the specified public area. They may also include prescribed exemptions. Orders can be introduced for a maximum of 3 years, and may be extended beyond this for a further three-year period(s) in circumstances where certain criteria are met.

9.4 There are some limitations set out in legislation regarding behaviours that can be restricted by PSPOs. As a public sector body, the Council must have regard to the freedoms permitted under articles 10 and 11 of the Human Rights Act 1998 when drafting, which cover freedom of expression, freedom of assembly and association.

APPENDICES

Appendix 1 - Proposed PSPO

Appendix 2 - Equality Impact Assessment

EXEMPT

Not applicable

CONFIDENTIAL

No

BACKGROUND PAPERS

None

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