



CABINET

13 April 2016

Subject Heading:

**Improving the Safety of Our Schools
across the Borough**

Cabinet Member:

Councillor Osman Dervish

Cabinet Member for Regulatory Services and
Community Safety

CMT Lead:

Andrew Blake Herbert

Deputy Chief Executive Community and
Resources

Report Author and contact details:

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Policy context:

Community Safety throughout the Borough

Financial summary:

Overall estimated set up costs (Revenue &
Capital) of approximately £893k funded from
the phase 3 school expansion programme
(Capital) & contingency (Revenue). On-going
revenue costs of £66K offset from FPN
income

Is this a Key Decision?

Yes

Significant effect on two or more Wards

When should this matter be reviewed?

After 12 months of operation circa 20 June
2017

Reviewing OSC:

Crime & Disorder, and Environment.

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	[x]
People will be safe, in their homes and in the community	[x]
Residents will be proud to live in Havering	[x]

SUMMARY

The purpose of this report is to outline a new option to augment conventional parking enforcement around schools, the arising dangers and anti-social behaviour by using a Public Space Protection Order (PSPO) under the Anti-social Behaviour Crime and Policing Act 2014 (ASBCPA). This report considers the use of this new power.

RECOMMENDATIONS

That Cabinet:

1. Considers this report and **agree in principle** to make Public Space Protection Orders (PSPOs) relating to detrimental activities in the locations/in the vicinity of the following schools:

Broadford Primary School, Engayne Primary School, Parsonage Farm Primary School, St. Peter's Catholic Primary School, The James Oglethorpe Primary School, Wykeham Primary School, Ardleigh Green Infants & Juniors Schools, Crownfield Infant & Junior Schools, Gidea Park Primary School, Hylands Primary School, and Rise Park Academy School.

2. Where the evidential surveys and studies have identified detrimental activities taking place therefore justifying a need for the introduction of a Public Space Protection Order, **delegate authority** to make the order to the Deputy Chief Executive for Community and Resources, in consultation with the Cabinet Member for Regulatory Services & Community Safety.
3. Consider and **set the maximum** level of the fixed penalty at £100 payable within 14 days of issue of a Fixed Penalty Notice.
4. **Consent** to issue free of charge permits for residents who live within a PSPO area and to extend the same to their visitors.
5. **Note** that a statutory consultation exercise will take place prior to the introduction of any proposed PSPO. Though not exhaustive, consultees will include local Councillors, residents, school governing bodies, teachers, pupil/student parents and or carers, the Police and other emergency services. The results of the consultation will be presented to the Cabinet Member for Regulatory Services & Community Safety and in discussion with the respective Ward Members, agreement from the Lead Member will be sought to determine whether to proceed with the PSPO.

REPORT DETAIL

1 Background

- 1.1 The “school run” is a period of significant traffic chaos at many school locations and their surrounding areas in Havering, just as it is so across the United Kingdom. The situation poses dangers to children due to irresponsible and selfish parking and vehicle manoeuvring. However, conventional parking enforcement regulations were significantly curtailed by the Deregulation Act 2015. The 2015 Act limits the use of CCTV to enforce some of the more serious types of illegal parking acts and provides for greater “grace” periods before a penalty can be issued. Those factors therefore all but allow the stopping of vehicles in areas around schools for a time before a penalty can be issued and this increases the probability of an accident involving children, parents and carers.
- 1.2 Parking contraventions previously monitored and enforced by CCTV now need to be monitored and enforced by a Civil Enforcement Officer (CEO) observing from the kerbside and manually processing a Penalty Charge Notice (PCN) on site. That process is time consuming and frequently provides an opportunity to illegally park for up to ten minutes without a penalty.
- 1.3 The Council has embarked on a substantial School’s Expansion Programme, which is currently focusing on Primary Schools across the Borough. This programme may further compound the already identified issues, due to increased pupil numbers and associated traffic flow. The net result of the previously noted legislative changes are that at many schools it is becoming almost impossible to issue a PCN so illegal, dangerous, obstructive and inconsiderate parking has increased and therefore congestion and hazards are more common during the school run. Officers believe that this is creating an unsafe environment for school children and their parents/carers.
- 1.4 There has been much media interest to date in respect of introducing PSPO’s around schools of which the vast majority of coverage has been supportive and well received by the general public. The PSPO initiative has also created huge interest from councils across the country. Officers will review the PSPO project following initial implementation and provide practical advice and information to requesting Council’s. Additionally, a comprehensive communication strategy has been devised and will be a critical element in ensuring that this programme is delivered successfully.

2 Public Space Protection Order (PSPO) & evidence gathering

- 2.1 PSPO’s were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. Section 59 provides powers to make orders. A local authority may

make a public space protection order if it is satisfied on reasonable grounds that two conditions are met:

- 1) Activities carried on in a public place within the authority's area have a detrimental effect on the quality of life of those in the locality.
 - 2) The activities are likely to be of a persistent or continuing nature.
- 2.2 To reduce school area safety hazards the Council is reviewing school travel plans and associated initiatives. Public Space Protection Orders (PSPO) will be an adjunct to those travel plans and initiatives.
- 2.3 The restricted area (Zone) and times of operation of a PSPO would normally consist of the main entry and exit points to a school and a length of highway radiating out, and bounded by nearby junctions. The operational times of a zone will be set to coincide with the AM and PM arrival and departure times of pupils at the school. However, it should be noted that PSPO zones and operational times may vary by location in order to meet the needs of the zone and the school.
- 2.4 PSPO zones will be clearly signed on the highway in advance of their commencement points with signs noting the zone type and operational times. The placing of the signs will provide a clear opportunity for local and passing motorists to observe the presence of a PSPO zone and act appropriately.
- 2.5 Notices will be permanently placed within the zone providing public information on the PSPO. The notices will be similar to those more commonly seen on lamp columns in respect of dog fouling.
- 2.6 A PSPO will allow an area outside a school to be controlled and this will result in improving road and pedestrian safety in the area. A PSPO can be in operation for a maximum of 3 years and could be renewed continuously, up to a maximum of 3 years on each occasion provided the criteria for the PSPO are satisfied.
- 2.7 Using a PSPO to ban the access and subsequent stopping of any vehicle in an area during a prescribed time would address the school drop-off and pick-up issues and improve safety around our schools through a viable method of enforcement and deterrence.
- 2.8 Before a PSPO can be introduced a sufficient weight of evidence has to be identified. This evidence gathering was collected using Automatic Traffic Counters (ATC) and CCTV for all of the schools listed within this report.
- 2.9 Each school had between 4 and 6 ATC's strategically positioned to identify the volume and extent of the traffic dropping off and picking up outside each school.
- 2.10 In addition, each school had between 5 and 10 CCTV cameras positioned to identify the volume and the activities undertaken during the dropping off and picking up outside each school. This also identified any patterns and whether the activities were of a continuous and persistent nature. The results of the surveys confirmed that these are unsafe environments.

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- 2.11 Officers have also been in receipt of numerous requests from members and residents for additional enforcement patrols around school sites in recent years. Those requests have grown rapidly over the last year with most raising concerns at the dangers that are becoming increasingly apparent in respect of the school run.
- 2.12 Reports of near misses, where a child has been placed at risk by either an illegally parked or manoeuvring vehicles is the most frequent issue raised followed by the obstructive parking of some who block residents' drives and access to their off street parking places. Historically, letters/petitions have been received from School Children and residents asking the Council to help and to take the necessary actions to prevent and prohibit the inconsiderate and dangerous behaviours witnessed on a daily basis.
- 2.13 Photos, video's, emails have been received by Officers of the Council requesting assistance and highlighting concerns that there will "soon be a very serious accident". Subsequent recent site visits and surveys have confirmed all raised issues as being genuine causes for concern.
- 2.14 The below table shows the collected evidence for The James Oglethorpe Primary School. This example data is common to other school locations recently surveyed.

Behaviour Evidence	The James Oglethorpe	
	Primary School	
Activity	7:45-8:45am	2:15-3:15pm
No of Pupils (Approx)	300	300
Average School Drop Off & Pick Up	84	61
%age Pupils Dropped Off & Picked Up	28%	20%
Driving along the footway in close proximity to vulnerable road users	9	6
Dropping Off, Picking Up & Parking on School Keep Clear Zig-Zags	11	4
Dropping Off, Picking Up & Parking on Waiting/Loading Restrictions	3	3
Obstructing Dropped Crossings	1	2
Obstructive Parking	8	4
Reversing/Manoeuvring in close proximity to vulnerable road users	45	27
Total No of Activities	77	46
%age Chance of a Pupil Being Involved in an Accident	26%	15%

- 2.15 The above table sets out the potential risk of a child being involved in an accident compared to what would be considered the norm, viz where all vehicles are manoeuvring and parking safely. For purposes of clarity it should be noted that the percentage figure was arrived at by the number of activities occurring during the peak hour divided by the number of pupils attending the school. It is felt that this highlights a potential percentage chance of a pupil being involved in an accident given the nature of the motoring activities in the area and the close proximity of children to them. It is accepted that there are other methods of calculating such a risk however; the method used is basic and informative.

3 Consultation

- 3.1 For those areas identified as being in need of a PSPO the Council will undertake a statutory consultation process to seek local opinion on the plans to introduce PSPOs in the areas around those schools detailed in this report. Consultees will be asked to provide feedback on the actual need for a PSPO, geographical extents, hours of operation, suggestions on complementary safety measures, and any other parameter that may underpin the implementation and continuing operation of a PSPO. The consultation will initially be postal with consultees being given the option to respond using a prepaid envelope, or online, or via email.
- 3.2 In addition to the statutory consultation local engagement meetings have been scheduled to take place throughout April for the phase 1 pilot priority school sites. Those meetings will brief stakeholders on the PSPO proposal and respond to any questions raised.

Details of the engagement meetings can be found at:

<https://www.havering.gov.uk/Pages/News/Parents-and-residents-to-be-consulted-on-school-parking-crackdown.aspx>

4 Complementary Measures

- 4.1 A PSPO is not necessarily considered to be a stand-alone measure and there may be some instances where complementary measures could be considered supportive of a PSPO and could improve the traffic flows, reduced congestion and maximise the available parking in the local area. There may be some locations where a PSPO isn't appropriate. Where this is so, it may be suitable to review the location and apply complementary measures only.
- 4.2 Though not exhaustive, complementary measures may be;
- Environmental Improvements such as: footway widening, one-way systems, or pedestrian crossings.
 - Enhanced or new parking regulations such as, waiting/loading restrictions, school keep clears etc.
 - The exploration of new or enhanced Controlled Parking Zones to minimise any vehicular displacement into a wider area and any unwelcomed impacts of that upon local residents and businesses.
 - Further development of School Travel Plans will be a key part to the success of the project, Schools will be encouraged and assisted to gain gold accreditation with the TfL STARS programme.
 - Additional safe parking areas, such as local Supermarkets, School grounds, Kiss and Drop points, will also be identified in conjunction with the School's Travel Plan.

5.0 Proposal

5.1 Pilot Priority Schools

5.1.1 The following schools have been selected as part of Phase 1 (PSPO Operational by 20 June):

- Broadford Primary School;
- Engayne Primary School;
- Parsonage Farm School;
- The James Oglethorpe Primary School;
- St Peter's Catholic Primary School; &
- Wykeham Primary School

5.1.2 The following schools have been selected as part of Phase 2 (PSPO Operational by 7 September):

- Ardleigh Green Infant & Junior Schools;
- Crownfield Infant & Junior Schools;
- Gidea Park Primary School;
- Hylands Park Primary School; &
- Rise Park Academy School

5.1.3 It is envisaged that phase 3 of the PSPO project will examine the need for PSPOs in the areas around the remaining primary schools.

5.2 Exemptions Identified

5.2.1 The exemptions identified (i.e. who can access the restricted area during the prohibition) are as follows:

- Any vehicle that is accessing the area but does not drop off/pick up (i.e. stop);
- Delivery Vehicles;
- Emergency Vehicles;
- School Official Visitors;
- School Special Events; &
- Statutory Undertakers Vehicles.

5.3 Access Permits

5.3.1 All residents who live within a PSPO zone will be provided with an information pack in advance of the commencement of a PSPO to enable them to apply for access permits for themselves, their friends, family/carers and visitors (excluding the drop off/pick up of school children). The access permits are virtual and therefore have a minimal administration cost. It is therefore proposed that no charge levied for the permits.

5.4 Method of Enforcement

5.4.1 PSPO's will be monitored via demountable CCTV cameras and automatic number plate recognition software that will support the identification of those in the area with a permit allowing them to stop and so prevent the erroneous issuing of a Fixed Penalty Notice (FPN).

5.4.2 This near automated monitoring and enforcement method will enable Civil Enforcement Officers to maintain the current disposition required to maintain the more conventional aspects of civil parking enforcement across the borough. Therefore, the enforcement of PSPO's will not be a burden upon the routine day to day monitoring of traffic and parking in the borough.

5.4.3 Additionally, those locations not able to benefit from the placement of a PSPO would be prioritised for enhanced conventional enforcement. The implementation of a PSPO at the Pilot Priority schools noted would release enforcement resource to increase our physical enforcement at other schools without a PSPO in place.

5.5 Fixed Penalty Notices (FPN)

5.5.1 It is recommended that the Council set the level of costs for the FPN at £100 with no prosecution if paid within 14 days of issue. It should be noted that non-payment of the FPN and those who offend persistently will be prosecuted through the Courts and face a fine up to £1000.

5.6 Non-Payment of an FPN/Prosecution

5.6.1 Authorised officers of the Council will only issue a PSPO FPN where it's considered that there is adequate evidence of an offence having taken place and that the evidence is robust enough to support a prosecution in court. However, if a recipient of an FPN considers that they did not commit the offence in question, or that the issue of the FPN was incorrect, then the recipient can effectively challenge the Council by opting not to pay the FPN and instead await the Council to summons the recipient to attend court where they can present their case to a magistrate or judge.

5.6.2 It should be noted that non-payment of an FPN is the first stage of Court prosecution and the Council reserves the right to go to prosecution through the direct issuing of a court summons rather than issuing an FPN if habitual offending is proven by a history of previous FPNs being issued.

5.6.3 Should a case proceed to court then the Council will, in addition to any fine imposed by a magistrate or judge, seek to recover its costs associated with the court prosecution. Notwithstanding the above, the Council reserves the right to review any FPN issued and if appropriate may apply discretion at any point prior to court prosecution.

5.7 FPN Process

5.7.1 The FPN process will be undertaken according to the requirements of the legislation; however, each FPN will be robustly checked prior to issuing to ensure that the evidence and circumstance meet the aspiration and intent of the PSPO prohibition. Such a check will be undertaken by a Supervisor/Manager.

5.7.2 The proposed FPN Process is as follows:

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A. Review

- A vehicle has been detected as possibly committing an offence;
- 24hr cooling off period to allow for a temporary “Access Permit” or “Exemption” to be applied for;
- Does the vehicle have an “Access Permit” or is it an “Exempt” vehicle;
- If Yes the case is closed;
- If No, the collected evidence is reviewed to determine whether an offence has occurred and that sufficient evidence has been collected;
- If No, the case is closed;
- If Yes, apply to DVLA for the Keeper’s Details;
- FPN Pack prepared, check for any previous history concerning FPN’s, and any previous FPN Non-payment;
- Recommendation to issue FPN or to issue Summons;
- Supervisor/Manager to check the FPN Pack, history and recommendation;
- Supervisor/Manager to authorise FPN issue, Summons or close the case.

B. FPN Issued

- Informal representation received within 14 days;
- If accepted the case is closed;
- If not accepted a summons is issued and the case is reviewed at the Magistrates Court.
- Payment received within 14 days;
- The case is closed.

C. Summons Issued

- The case is reviewed at the Magistrates Court, the Magistrate determines whether an offence has occurred, and whether a fine and costs are set.

5.8 Communication

- 5.8.1 A comprehensive communications strategy has been devised between the Project Team and Corporate Communications. The strategy will see the production and distribution of leaflets, articles in Living, and the local press. The Council’s web site will also be augmented to display comprehensive information and user guidance describing how a PSPO works and how to access permit arrangements. Additionally, a comprehensive frequently asked questions (FAQs) document will be created and maintained on the Council’s web page and distributed locally as part of the PSPO consultation process. See **appendix 1** for the initial iteration of the PSPO FAQs.
- 5.8.2 The Project Team has engaged with all stakeholders. That engagement will be maintained through to and post any implementation of a PSPO and will be used to inform as to the performance of the PSPO.

5.8.3 As Havering is the first local authority in England to use these powers for parking, there has already been widespread national press interest in the PSPO project and officers are dealing with a significant number of enquiries from other local authorities requesting assistance, and guidance on the use of PSPOs to mitigate problems associated to the school run. Officers will in the near future be holding an information sharing event where interested local authorities can send a representative.

5.9 Review

5.9.1 As the introduction of PSPO's for parking is a first for this type of measure in the Borough and the UK, it will be important to undertake regular reviews and adapt the processes as necessary.

REASONS AND OPTIONS

Detailed statement of reasons

A Public Space Protection Order provides the best opportunity to enable a safer environment for children during the school drop off and pick up. The behavioural evidence collected clearly shows that detrimental activities are occurring on a persistent and continuing nature and that the proposed prohibition will mitigate the school drop off and pick up's detrimental activities and create a safer environment.

Other options considered:

Congestion Zone

A congestion zone could be set up around a school and anyone entering the zone would be charged to enter and exit the area. This would reduce the congestion in the area and would improve safety. However it would not deter parents that could afford to pay the congestion charge. This proposal was therefore rejected.

Pedestrian Zone

A Pedestrian zone could be set up along the frontage of a school and this would prohibit all vehicular access during the school drop off and pick up times. This would reduce the congestion in the area and would improve safety. However, as local residents would have no access during the school drop off and pick up times they would be disproportionately affected. This proposal was therefore rejected.

IMPLICATIONS AND RISKS

Financial implications and risks:

Estimated Costs are as follows:

Revenue Set Up Costs (One Off)

Surveys/Project Management	£65k
Consultation (advertising, venue higher, temp staff)	£100k
Total Revenue Set Up Costs	£165k

One Off Revenue Funding

Contingency Allocation (approved by s151 Officer) £165k

Capital Set Up Costs

Location Highway Signs 88 No @ £850	=	£75k
Primary Highway Signs 11 No @ £750	=	£8k
Highway Lines 11 No @ £1500	=	£17k
Works/Equipment Design & Integration	=	£12k
Camera Costs 22 No @ £28,040	=	£616k
Total Estimated Cost (Works/Equipment)	=	£728k

Funding Phase 3 School Expansion Programme* £728k

*Funding will either come from individual schemes unallocated funds within the Phase School Expansion Programme

Ongoing Revenue Costs

Annual Maintenance of Camera's 22 No @ £3002 = £66k

Ongoing Revenue Funding

Although the PSPO's are not being set up as an income generating initiative, it is envisaged that a number of PCN will be issued before the PSPO's create a sufficient deterrent. At this stage income generated is expected to be sufficient offset to costs of maintaining the cameras. If PCN numbers decline then this will be raised through the appropriate channels.

Risks

- 1 A legal challenge could be made that could stop, delay or curtail the project until such time as a legal remedy could be agreed and such an event could take place after a significant amount of project funding has been spent.
- 2 A protracted legal challenge could require significant funding to the degree where the objectives of the project become over expensive. The project would still be viable viz its aims to improve safety etc., but the cost of achieving objectives may not be acceptable.
- 3 There is a risk that estimated project funding may not be sufficient. This could delay or curtail the project if additional funding cannot be identified.
- 4 There is a minor risk that earmarked equipment costs may increase. This could delay or curtail the project if additional funding cannot be identified.
- 5 There is a minor risk that earmarked contractor engaged to undertake physical environmental works may increase their costs. This could delay or curtail the project if additional funding cannot be identified.

Legal implications and risks:

A Public Spaces Protection Order may be made by a local authority where reasonably satisfied of 2 conditions set out in section 59 of the Anti-social Behaviour Crime and Policing Act 2014.

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 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 notice.

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—

- (a) to prevent the detrimental effect from continuing, occurring or recurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

The PSPO must also:

Identify the activities that are detrimental to the locality

The area to be restricted.

Set out the restrictions and when they apply.

The sanctions for contravention of the PSPO being a fixed penalty notice or prosecution.

The PSPO may be borough wide or local and could be made for a period of up to 3 years. A PSPO is capable of being renewed every 3 years provided the statutory criteria is met.

The making of the PSPO, or any restrictions or requirement within it are open to challenge by Judicial Review in the High Court by an interested party who lives or visits the area, within 6 weeks of the making of the order. A defendant to criminal proceedings brought as a result of non-payment of a FPN may also seek to challenge the validity of a restriction or a requirement of a PSPO.

The court may quash or suspend a provision of the PSPO

A PSPO may not restrict a public right-of-way over specified category of highway, being mainly strategic or truck roads, or other highways without considering the effect of the proposed restrictions and notifying those likely to be affected of the proposals and considering any representations received. The provisions are set out in sections 64 and 65 of the 2014 Act and copies are annexed to this report.

The Authority must have regard to the Human Rights legislation and articles 10 and 11, in respect of freedom of expression and assembly. In essence challenges for breach of human rights breaches could be made by an interested party.

The Authority must also undertake statutory consultation and publicise the making of their PSPO and have in place sufficient signage to alert members of the public to the order, its restrictions and requirements.

An Equalities Impact Assessment of these proposals should be carried out to ensure that the Council does not breach its equality duties.

Human Resources implications and risks:

No human resources implications and risks have been identified for this report.

Equalities implications and risks:

Due to the nature of Public Space Protection Orders (PSPO) and their potential to restrict the public right of way, robust Equality Impact Assessments (EIA) are a crucial part of each of the projects within this programme. As PSPO's are currently within a range of options that are being developed for each of the School's and each School will have a bespoke solution it is recommended that each School will have a bespoke EIA. The individual EIA's will be completed once the detailed list of interventions for each school has been confirmed.

The EIA will consider the impact of the bespoke solution on the full range of age groups, disability, sex/gender, ethnicity/race, religion/faith, sexual orientation, gender reassignment, marriage/civil partnership, pregnancy/maternity/paternity, and socio-economic status.

Particular interest will be any nursery's, religion/faith establishments, doctor's/care centres within the proposed restricted areas. Also allowing parent's with disabled children to have access to the proposed restricted areas.

BACKGROUND PAPERS

None