

Notice of KEY Executive Decision

Subject Heading:	School Streets – consultation outcome
Cabinet Member:	Councillor Osman Dervish
SLT Lead:	Barry Francis – Director of Neighbourhoods
Report Author and contact details:	Steve Halsey – Project Manager steve.halsey@havering.gov.uk 01708 434172
Policy context:	Connections – Making life easier Delivering a consistent and sustainable approach to parking to meet the needs of residents, businesses and visitors
Financial summary:	<p>The cost of implementing school streets across the borough is c£1m excluding CCTV costs. Of which we have to date received £220,000 from TfL for the first 12 schemes. In the instance the number of schemes are less than 12, the funding available will be reduced to reflect the change.</p> <p>Should compliance continue at the current levels, implementation of school streets may generate £20k of income from PCNs. This income is likely to decline quickly based on compliance of parking around school streets.</p>
Reason decision is Key	Significant effect on two or more Wards
Date notice given of intended decision:	Decision is urgent, notice of intended decision 24th August 2020.
Relevant OSC:	Environment
Is it an urgent decision?	This is a decision pursuant to para 11 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, made under “special urgency” with the consent of the Chair of the Overview and Scrutiny Board.
Is this decision exempt from being called-in?	Exempt – urgent decision

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

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

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Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

The Council has been allocated £220k via grant funding from TfL under its Schools Streets initiative to deliver the 12 schemes in our submission, which is a proportion of the overall grant applied for.

Emergency Active Travel funding from TfL has not included Streetspace bids for LB Havering in their recommendations to the Department for Transport (DfT) for tranche 2 funding. This is because the schemes did not meet the criteria set out by the DfT; principally that they should be Low Traffic Neighbourhoods or strategic cycling route schemes.

This report sets out the proposals for use of the funding and the School Streets implementation together with variation of existing contracts to support the repurposing. Experimental Traffic Management Orders (ETMO) to permit use of the cameras within the proposed school street zones are recommended. Engagement with Head teachers and residents local to the schools prior to implementing the ETMO's has been conducted.

This decision is required under "Special Urgency" in order that contractors can work on site to deliver the necessary changes to the street architecture for School Streets to be delivered before the end of September 2020 as agreed at Theme Board on 24/08/20.

School Streets

School Street schemes offer a proactive solution for school communities to tackle air pollution, poor health and road danger reduction. A School Street scheme will encourage a healthier lifestyle, active travel to school for families and lead to a better environment for everyone.

In response to the COVID-19 outbreak, Transport for London (TfL) made limited funding available to deliver School Streets across London. Havering applied for a total of 59 School Streets in 2 phases, the first for 22 and the second for the remaining 37.

Our bid for funding for phase 1 was £1.5m, the second bid for phase 2 was for a further £2.8m. We were awarded £220k which revised our proposed School Streets to a shortlist of 12 schemes (16 schools). The Towers Federation schools were added to this list at the special urgency meeting held on 17/07/2020 after the award had been granted by TfL which increased our shortlist to 13 schemes (18 schools). The TfL funding does not include the additional school. If we request part of the award is used to deliver this scheme, we will have to make a change control submission to TfL. If the number of schools in the submission are reduced the funding allocation will also be reduced to reflect the change, and the funding withdrawn will be reallocated to another borough.

The success of the shortlisted schools is wholly dependent on the repurposing of the cameras in use around the existing PSPO schools. Without this equipment, the capital contingency budget will need to be used to procure additional camera equipment if the schemes are to go ahead.

The money awarded by TfL has to be spent by the end of September 2020. It has been confirmed by TfL that any funding that has not been spent by the deadline will be withdrawn and reallocated to other boroughs able to deliver School Street schemes within the deadline.

We are required to advise TfL as soon as possible if changes to the planned schemes does not reflect our application for funding. This is so they can reallocate any our surplus to other London Authorities.

Public Space Protection Orders

Public Space Protection Orders are implemented through the powers afforded by the Anti-social Behaviour, Crime and Policing Act 2014, which is criminal legislation, typically enforced by the police or Local Authority officers with delegated authority within the community safety service or similar.

A PSPO permits local authorities to impose conditions on the behaviour of people in a specified area to address a particular nuisance or problem that is detrimental to the local community's quality of life. They

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are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour.

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.

In line with the Local Government Association Public Spaces Protection Orders Guidance for Councils Local Authorities need to:

“Satisfy themselves that the legislative requirements are met before an Order can be introduced, and obtaining clear evidence to support this is important. Collating information about the nature and impact of the ASB subject to the PSPO are core elements of the evidence-gathering and consultation process and will help inform the council’s view as to whether the requirements under section 59 of the Act have been fulfilled.”

“The evidence will need to be weighed up before authorities can determine whether or not it is appropriate and proportionate to introduce a PSPO at all, and if so, whether the draft proposals are suitable. It can be used to help shape the scope of the Order, including any exemptions – such as times of day when a behaviour might be prohibited – and can also help to determine what area the Order should cover and how long it should last. The most robust Orders will be supported by a solid evidence base and rationale that sets out how the statutory criteria for each of the proposed restrictions have been met, and demonstrates a direct link between the anti-social behaviour and the PSPO being proposed in response.”

Under S.66 of the Act anyone who lives in, or regularly works in or visits the area can appeal a PSPO in the High Court within six weeks of issue.

The legal PSPO orders that were in place at each school were valid for a period of 3 years from the date of making in November 2016. This was for The James Oglethorpe, Harrow Lodge, Parsonage Farm and Engayne Primary Schools.

An order can be extended if the purpose it has been installed for remains relevant and it is reasonable to assume the behaviour deterred by the order will return if it is no longer in place.

The orders were not extended and are no longer enforceable. It is therefore not possible to extend the existing orders as they have expired.

For the PSPOs to be enforceable again, the orders will have to be treated as new. The Council must legally adhere the section of the legislation referenced above, and follow the guidelines for implementing a new PSPO as per the statutory guidance for front line professionals from the Home Office published in August 2019.

“Before making a Public Spaces Protection Order, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner.

The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. The council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of a park or those involved in specific activities in the area, such as buskers and other street entertainers.”

CCTV Contracts

There are currently 2 contracts with P. Ducker Systems Ltd (PDS) namely the Public Space Protection Order contract (PSPO contract) and the Moving Traffic Contravention contract (MTC contract) both of which are specific in their requirements.

The PSPO contract allowed for enforcement outside 4 stated schools to take place in accordance with the PSPO. However, the PSPO itself expired in November 2019 and has not been renewed. As it has

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expired it cannot be extended. This means that the Council cannot enforce as there is no legal basis to do so. The cameras remain on street but are not in use.

The value of the contract is £249,700.00 with £147,994.55 having been paid to PDS leaving an amount of £101,705.45 remaining outstanding to be paid

The MTC contract with PDS is specific in its requirements which are:

- Twenty unattended cameras and associated equipment
- Two attended CCTV cameras and associated equipment to supply new or existing CCTV enforcement vehicles
- An interface, which facilitates the download of data from the attended equipment, sited within the CCTV enforcement vehicles to the back-office systems.

To date 18 cameras have been sited with 2 complex cameras and the vehicle software outstanding. Since procuring the contract, the Council has ceased to operate vehicles in this service. This aspect of the contract is no longer required. The redundant software will be offset against 1 additional camera and 2 complex ones making 3 additional cameras in total.

Ward Member and School Support

Ward Members and the Head Teachers of all the schools proposed for a School Street in the following recommended actions are in support of a trial scheme for the schools.

Recommendations

It is recommended Cabinet agree:

1. To implement school streets at the schools listed that show a favourable response from the consultation and have support from the schools that are highlighted in green in the attached background paper 'School Streets ED consultation results background paper v1.0'
 - a. Hylands Primary School
 - b. Squirrels Heath Infant and Junior School
 - c. Branfil Primary School
2. To remove all camera equipment and signage around the 4 PSPO schools listed that are no longer in operation, due to data protection and home office compliance issues should they remain.
 - a. Engayne Primary School
 - b. The James Oglethorpe Primary School
 - c. Harrow Lodge Academy
 - d. Parsonage Farm Primary School
3. Should recommendation 2 be agreed, to repurpose the existing CCTV equipment that is not in operation outside of the PSPO schools to deliver the school streets schemes agreed and for any other MTC schemes requiring additional cameras.
4. Subject to 3 above, to terminate the PSPO contract and to vary the MTC contract as set out in the body of this report and agreed in the schools streets urgency Executive Decision on 23rd July 2020.
5. To consult with the PSPO schools on interim alternative restrictions to prevent issues of schools parking, whilst officers seek evidence and apply for the PSPO schools as set out in 2. In order to satisfy the evidential requirements for a PSPO, the application process could take up to 12 months.

AUTHORITY UNDER WHICH DECISION IS MADE

Article 9 Power of the Executive to make decisions.

STATEMENT OF THE REASONS FOR THE DECISION

Due to the recent pandemic outbreak of Covid-19 across the world, measures continue to be taken by the Government which are being actioned by the London Borough of Havering to protect the workforce and residents.

School streets will be a vital part of the recovery in supporting social distancing outside schools and protecting children, teachers and residents.

OTHER OPTIONS CONSIDERED AND REJECTED

Extend the Public Space Protection Orders

Unlike all moving traffic contraventions enforceable under the powers granted by the Traffic Management Act 2004, Public Space Protection Orders are implemented through the powers afforded by the Anti-social Crime and Policing Act 2014.

The important difference to consider between the two Acts, is firstly, the Traffic Management Act 2004 is civil legislation created after the decriminalisation of parking with the adoption of the Road Traffic Act 1991. This is adopted and enforced by almost every local borough in the United Kingdom for the last 30 years through their traffic and parking services or similar.

The Anti-social Crime and Policing Act 2014 is criminal legislation that is typically enforced by the police or staff specifically trained anti-social behaviour and requires officers that are trained in Police and Criminal Evidence Act 1984 (PACE) interviewing and to attend court when necessary, which is not what Parking Services Appeals and Challenges team members are trained to do.

The legal PSPO orders that are in place at each school were valid for a period of 3 years from the date of making in November 2016. This was for The James Oglethorpe, Harrow Lodge and Parsonage Farm Primary Schools. Engayne Primary School was introduced in January of 2017 at the school's request because of building work taking place on site.

An order can be extended if the purpose it has been installed for remains relevant and it is reasonable to assume the behaviour deterred by the order will return if it is no longer in place. To extend an order, the intention must be advertised not later than 3 months before the expiry in accordance with section 72(3) of the Anti-social Behaviour, Crime and Policing Act 2014.

The orders were not extended and are no longer enforceable. It is therefore not possible to extend the existing orders as they have expired. However, the council will prepare the necessary evidence to apply for new orders for the 4 previous PSPO schools

For the PSPOs to be enforceable again, the orders will have to be treated as new and adhere the section of the legislation as referenced above, and follow the guidelines for implementing a new PSPO as per the statutory guidance¹ for front line professionals from the Home Office published in August 2019.

"Before making a Public Spaces Protection Order, the council must consult with the police. This should be done formally through the chief officer of police and the Police and Crime Commissioner.

The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate,

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proportionate or needed at all. The council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of a park or those involved in specific activities in the area, such as buskers and other street entertainers."

Based on the complexity of PSPOs to enforce, the costs associated, the fact that these have now expired and legal advice, officers are recommending that these are replaced with School Streets moving forward, funded in part by the TfL funding Havering have bid for.

CCTV Contract

Do Nothing – if the Council take this option, they will be required to continue to pay the outstanding amounts on the PSPO contract as they are specified in the contract. In respect of the MTC contract some equipment cannot be installed as the vehicles are not fit for purpose. Without the variation to the MTC and repurposing of the PSPO cameras, there will be no additional finances available to deliver requirements under school streets. This option is not recommended as this does not represent value for money or provide the Council with a sustainable solution.

PRE-DECISION CONSULTATION

A consultation was conducted from 20 July to 16 August 2020. The results are attached as the 'School Streets ED consultation results background paper v1.0'

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Steve Halsey

Designation: Project Manager

Signature: Steve Halsey

Date: 25/08/20

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) states that a local authority may make a PSPO if it is satisfied on reasonable grounds that 2 conditions are met:

- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
- (2) 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.
- (3) 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.

At this stage (21.08.20) there is insufficient evidence to show that those 2 conditions have been met.

Examples of some of the evidence that could be produced to meet the above statutory test are:

- (a) Evidence from school staff, parents, school crossing patrollers and school children re the problems the traffic is causing
- (b) Measurements of pollution especially when school children are being dropped off and picked up (i.e. at peak times).
- (c) Health experts' reports on those pollution measurements demonstrating the health dangers (or otherwise) for residents and particularly school children.
- (d) Evidence from the police, hospitals, GPs or parents regarding the numbers of car accidents outside the schools esp. involving children.
- (e) Complaints to schools from parents and local residents re the amount of traffic, pollution, congestion and the difficulties created for other commuters
- (f) Photos/videos/CCTV of congestion at peak times.

The evidence should be over a fairly lengthy period to meet the test under s59 that the effect of the activity is persistent

If the statutory test is not met by the council an “interested person” would be able to challenge the validity of the PSPOs in the High Court under s66 of the Act. An “interested person” is an individual who lives in the restricted area or who regularly works in or visits that area. Under s66 the court also

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has the power to quash or suspend the operation of a PSPO or any of the prohibitions or requirements imposed by it until the challenge has been dealt with.

Although the Act states that the validity of a PSPO can only be challenged under s66 this does not affect the possibility of a challenge via Judicial Review by those who do not have “interested person” status.

Home Office Surveillance Camera Code of Practice

The council will operate the surveillance cameras used in the scheme in accordance with the 12 principles set out in the Home Office Surveillance Code of Practice dated June 20th 2013 and the Surveillance Camera Commissioner’s Guide to the Code.

Principle 10 states there should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published. Good practice dictates that a system operator should assess whether the location of cameras remains justified in meeting the stated purpose and whether there is a case for removal or relocation.

FINANCIAL IMPLICATIONS AND RISKS

Financial Impact

The council currently has two contracts to deliver PSPOs and moving traffic contraventions via CCTV. The same supplier P. Duckers Ltd (PDS) supply both systems, PSPO and MTC. Both contracts are prescriptive in their requirements and allow little flexibility for future growth or expansion of the infrastructure for MTC cameras. This means that we must deliver current requirements within the parameters of the existing contracts.

The Council are looking to procure a new MTC camera contract that will provide future proofing for the service, but this procurement is at concept stage and will not be finalised in time to deliver these projects.

Emergency Active Travel funding from TfL has not included Streetspace bids for LB Havering in their recommendations to the Department for Transport (DfT) for tranche 2 funding. This is because the schemes did not meet the criteria set out by the DfT; principally that they should be Low Traffic Neighbourhoods or strategic cycling route schemes.

PSPO

The PSPO contract value is £249,700k providing 31 cameras for four schools. Of the contract value, an amount of £80,669.05 is outstanding for immediate payment. This is the remaining charges for the PSPO scheme plus the maintenance and support charges for year 2. A further £21,036.40 will be due for year 3 maintenance and support. The total amount outstanding is £101,705.45.

In accordance with the decision made in respect of School Streets, Urgency ED 23/07/20, contractual discussions have taken place with the supplier to deliver the requirements.

The supplier has agreed to terminate the PSPO contract and transfer the total remaining value of this contract, £101,705.45 to the MTC contract. The supplier has agreed this with no penalty to the Council.

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The above amount would enable the Council to deliver the School Streets project, 3 schemes / 4 schools. The 31 cameras from the PSPO contract were to be used to achieve this. The TfL funding does not cover the cost of cameras so they must be funded within the constraints of the current PSPO/MTC contract.

There will be a requirement for ongoing maintenance and support charges, one off payments for surveys and ancillary work, which can be met within the above envelope.

In the event the that new PSPO schemes are pursued, the amount of £101,705.45 will not be transferred to the MTC contract. This will be used to deliver the four PSPO schemes should new orders be established.

The current PSPO contract ends in 2022 with an option to extend for two further periods of 12 months each. This contract is not being utilised at present as there is no valid PSPOs to enforce against.

On the basis the funds (£101,705.45) are not transferred to the MTC contract there would be insufficient funding to deliver the 3 school streets schemes and new funding for the schools will be required, via the capital contingency budget.

In accordance with the Urgency decision, an amount of £46,486 would have been repurposed from the MTC contract and a variation of £139,964 (50% of the original MTC Contract) would also be added to the MTC contract.

Whilst, these amounts can be used towards the cost of delivering the shortlisted School Streets, there is insufficient funding to deliver them all or any other Moving Traffic enforcement.

Financial Commitment

A number of commitments and orders have been placed with suppliers and contractors to enable school streets to be delivered in accordance with the urgency ED of 23/07/20.

The Council has confirmed with TfL the funding deadline cannot be extended beyond 30 September 2020.

The funding award of £220k from TfL will be reduced to reflect the change to the number of schemes now to be delivered. The exact amount is yet to be confirmed as their decision is reliant on the outcome of this executive decision, but the funding is likely to be reduced by up to 70% (£190k) of the original award. We are required to advise TfL as soon as practicably possible once this decision is made.

If the decision is taken that the Council implement the 3 4 supported school street schemes and consider new PSPO schemes this would require additional cameras and funding as detailed in the following tables.

	Cameras required	Costs for cameras
Hylands	2	£ 70,000
Branfil	2	£ 70,000
Squirrels Heath	1	£ 35,000
Total	5	£ 175,000

Ongoing maintenance costs for the cameras would need to be funded by the Highways Traffic and Parking Services revenue account.

Should compliance continue at the current levels, implementation of school streets may generate £20k of income from PCNs. This income is likely to decline quickly based on compliance of parking around school streets.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

If the School Streets Scheme is accepted, there are no HR implications or risks arising directly. However, in the event School Streets are not agreed and PSPOs are successfully introduced after meeting the statutory test as outlined in the legal section of this paper, the following staffing requirements will need to be met by the administering service.

PSPO Staffing

Up to 2 project manager to investigate, evidence, apply and implement the PSPOs will be required before this work can commence. Budget will need to be established for this from within the existing Environment budgets.

Should the PSPO be granted, the following HR implications will be required.

Previously the PSPO scheme was monitored using an unattended CCTV system, meaning the footage recorded by the cameras were reviewed after the events had occurred. It was soon evident the cameras were not suitable for this type of monitoring as they lack the analytical software required to reduce false positives and reduce the amount of time taken up by officers to review each offence.

For the system to work properly using the existing equipment, it would have to become an attended CCTV system, meaning that an authorised officer would need to review footage in real time and track offences as they occurred.

To do this effectively would require officers to be qualified to observe criminal offences committed under the Anti-social Behaviour Crime and Policing Act 2014 and be qualified to conduct interviews under caution as governed by the Police and Criminal Evidence Act 1984 (PACE).

In the instance an officer has issued a Fixed Penalty Notice (FPN) for an offence, they cannot legally conduct a PACE interview with the recipient. To do so would introduce bias and deem the pursuit of the penalty unlawful.

To observe 4 PSPO schools at the same time in the morning and afternoon during term time would require 4 qualified officers working full time who are able to issue FPNs, carry out PACE interviews under caution and compile legal evidence packs to be presented to legal officers to prosecute offenders in a magistrate court.

The following table shows the yearly salaried amount including on costs for 4 full time officers. Should this be provided by another service, there will be additional fees yet to be determined.

ASB Officer	£32,000
X4	£128,000

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

External stakeholders such as the shortlisted schools, members of the public and parents / guardians of the pupils attending the proposed schools were consulted for a period of 4 calendar weeks before implementation.

The Police Commissioner and the emergency services will also be consulted as required under the Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 section 6.

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

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- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

Restricting vehicular access to schools during pick-up and drop-off time will encourage walking and cycling for parents / guardians and children which will contribute to improving their health.

This will also reduce the pollution caused by traffic and idling vehicles which will benefit all those living in close proximity, and those travelling to and from, the schools.

BACKGROUND PAPERS

School Streets ED consultation results background paper v1.0.docx

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____