

# Crawley Borough Council

## Report to Overview and Scrutiny Commission

31 January 2022

## Report to Cabinet

2 February 2022

### Extension to Public Space Protection Order (PSPO) – Car Cruising

Report of the Head of Crawley Homes, CH/195

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#### 1. Purpose

- 1.1 The Council made a Public Space Protection Order (PSPO) to prohibit car cruise activity on 7 December 2018. This PSPO was made under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 and is due to expire on 14 March 2022.
- 1.2 Section 60(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 allows the local authority that made the order to extend the period for which the PSPO has effect if satisfied on reasonable grounds that doing so is necessary to prevent –
  - (a) Occurrence or reoccurrence 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.
- 1.3 This report seeks the Cabinet's agreement and recommendation that Full Council extends the PSPO for a further 3 years to continue to prohibit car cruise activity in the borough of Crawley.

#### 2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

That the Commission considers the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet:

The Cabinet is recommend to:

- a) Request that Full Council extends for a period of 3 years the Borough wide Public Space Protection Order (PSPO) to prohibit vehicle related anti-social behaviour associated with car cruise activity in the borough of Crawley as set out in Appendix A.
- b) Request that Full Council agrees that fixed penalties imposed for breaches of the PSPO be maintained at £100.

### **3. Reasons for Recommendations**

- 3.1 A PSPO can target a range of behaviours and can prohibit specified activities or require certain things to be done by people engaged in certain activities. PSPO's can send a clear message that certain behaviours will not be tolerated and help reassure residents and businesses that unreasonable conduct is being addressed.
- 3.2 Council officers from a number of services including ASB, Community Wardens and Community Safety consider it necessary to extend the PSPO in order to prevent an increase in the in frequency and/or seriousness of car cruise activity after the current PSPO expires. The extension is also supported by the Police, Police and Crime Commissioner (PCC), and West Sussex County Council.
- 3.3 The current PSPO has had some success at controlling the incidence of car cruise activity, particularly in relation to repeat offenders. However, the incidence of car cruise incidents continues to occur and there are currently regular gatherings including those occurring late into the evening and early hours of the morning between the hours of 22:00 and 03:00.
- 3.4 The extension of the PSPO will continue to enhance public safety through a targeted approach to tackle the problems associated with car cruise activity.

### **4. Background**

- 4.1 The power for local authorities to make PSPOs were introduced under the Anti-social Behaviour Crime and Policing Act 2014. They are intended to deal with a particular nuisance or problem in a specific area that is having/likely to have a detrimental effect to the local community's quality of life, by imposing prohibitions and requirements on persons specified which are aimed at preventing or reducing the detrimental effect. They are intended to ensure the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 4.2 Before making, varying, extending or discharging a PSPO, the council must carry out the necessary publicity, consultation and notifications and must publish information about the order in accordance with the regulations.
- 4.3 A PSPO can be extended if certain criteria under section 60 of the Act are met. This includes that a council is satisfied upon reasonable grounds that an extension is necessary to prevent activity recurring or an increase in frequency or seriousness of the activity after the end of the current PSPO. An extension can be repeated and each extension can last for a period of up to 3 years. The impact of the original order should be evaluated.
- 4.4 Consultation should include formal consultation with the chief officer of the police, PCC, local partners, including West Sussex County Council and the local community including the public and local businesses (further details regarding consultation are noted below, including the legal requirements which are set out in 8.1).
- 4.5 Breach of a PSPO is a criminal offence and can be dealt with by way of a fixed penalty notice (FPN) (currently set at £100) or a fine up to level 3 (£1000) on prosecution.
- 4.6 Once the PSPO has been extended, an "interested party" namely, an individual being anyone who lives in, or who regularly works in or visits the restricted area, can challenge the validity of the PSPO in the High Court within six weeks of the making of the Order. A similar challenge exists if a PSPO is varied by the council.

- 4.7 Within the confines of the legal framework, councils have the freedom to determine their own procedures for introducing a PSPO including satisfying themselves that the statutory requirements are met and giving final approval for the Order to go ahead.
- 4.8 The existing PSPO signage is not dated and will not need to be adjusted in light of the extension of the Order.

## **5. Description of Issue to be Resolved**

- 5.1 Car cruise activity involves the drivers and passengers of a number of vehicles taking part in organised and ad hoc 'car cruise' events in public locations including the public highway and car parks to which the public has access.
- 5.2 Car cruise gatherings pose both a danger and nuisance to the wider public, road users and participants of the events due to the performance of stunts and the speed at which the vehicles are driven and possibility of drivers losing control and a crash occurring.
- 5.3 Key locations that are currently affected include Manor Royal, County Oak Way, supermarket car parks and local parks including Tilgate Park and Maidenbower Park. The number of vehicles involved can vary from two or three vehicles gathering, to organised events with over 50 vehicles.
- 5.4 According to police data, between March 2019 and October 2021 there were a total of 146 incidents reported relating to car cruise activity and anti-social driving reported in the key locations associated with car cruises. 116 incidents occurred in Sainsbury West Green car park. The peak month was July 2021. The peak time for the reporting of incidents was between 23:00 and 00:00, and a further peak between 20:00 and 22:00.
- 5.5 131 incidents have also been reported to Crawley Borough Council during the same period (though some of these may be duplicates of the incidents reported to the police).
- 5.6 Since the PSPO was made, the council has issued 83 breach of PSPO letters. 4 of these related to repeat offenders. No fixed penalty notices have been issued (as the required evidential burden of proof for the repeat offenders was not met).

## **6. Consultation, Information & Analysis Supporting the Recommendation**

- 6.1 Consultation took place from 27 October 2021 to 15 November 2021. A copy of the consultation questions is included in Appendix B.
- 6.2 A range of methods of consultation have been used including:
- Consultation with the police, PCC, WSCC, Crawley and Gatwick Diamond Business Watch
  - Consultation with car cruise organisers via face to face meeting
  - Publicity via the local press
  - An online questionnaire
  - Paper copies of questionnaire upon request
  - Promotion to local businesses via the Business Watch
  - Social media
  - Targeted letter drops to residents known to be affected
  - Display of posters in community centres, ward notice boards, library, Crawley rail stations and Sainsbury's West Green

6.3 Formal consultation has been carried out with Sussex Police. Chief Inspector Shane Baker – District Commander said:

“Anti-social vehicle use (or car cruising) affects our local communities and causes serious damage, injuries or potential fatalities. The PSPO allows Sussex Police, Crawley Borough Council and the local community to work together and tackle these issues in a combined effort; by generating intelligence, commissioning patrols and enforcing legislation. This community partnership approach ultimately prevents issues and continually improves Crawley for us all.”

6.4 Formal consultation has taken place with the Police and Crime Commissioner and they are in support of the proposal.

6.5 West Sussex County Council have been consulted and have confirmed they support the extension of the PSPO.

6.6 Manor Royal Business District has been consulted and has confirmed its support for the extension of the PSPO. A copy of the letter of support can be found in Appendix C.

6.7 An interview has taken place between the Council, Police and the organiser of a local car cruise group which indicated that the organisers would not cease their activity in the absence of enforcement powers, such as those provided by the PSPO.

6.8 Consultation responses:

- 219 responses were received, 196 from members of the public and 23 from businesses or organisations. 95% of respondents live in Crawley. 10 respondents have been involved in car cruise activity, 6 of whom live in Crawley and 4 were from out of town.
- 82% of non-business respondents and 83% of business respondents support the extension of the PSPO
- 71% of respondents had experienced or been affected by the anti-social use of vehicles in the past 12 months. 47 mentioned noise and many stated it had kept them awake or woken them up.
- 72% of respondents had experienced anti-social use of vehicles more than 6 times in the past 12 months.
- 77% of all respondents and 70% of businesses who responded felt that the anti-social use of vehicles in Crawley was a big problem.
- 13% of respondents felt that the anti-social use of vehicles in Crawley is not a problem at all. Around a third of these take part in car cruise activity.
- Key areas that were noted as being affected were Sainsbury's West Green, Matthews Drive, Tilgate Park, Buchan Park, Maidenbower Park/car park, Lucas Close, A23 between Pease Pottage towards County Oak and Astral Towers to Gatwick and also A23 Sainsbury's to Cheals roundabout, Gainsborough Road playing field, A264 between Horsham Road and Pease Pottage, Crompton Way, Tesco car park, Tollgate Hill, Peglar Way and Morrisons car park.

## **7. Financial Implications**

7.1 There are no significant financial implications.

7.2 Legal costs in the event of prosecutions being taken. To date, no prosecutions have been necessary.

## **8. Legal and Risk Implications**

- 8.1 The government has issued statutory guidance in respect of powers under the Anti-Social Behaviour, Crime and Policing Act 2014 (which includes the power to make and extend PSPOs) and it is recommended that this guidance is taken into account in making decisions in relation to this report. The guidance can be found on the government's website. The LGA has also published guidance for local authorities.
- 8.2 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities the powers to make a PSPO. Section 60 give the power to extend a PSPO and Section 61 gives the power to vary one. The requirements for consultation, notification and publication are set out in section 72 of the 2014 Act and in the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014.
- 8.3 Before making or renewing a PSPO the Council must publicise the text of the proposed order and:
- consult with the chief police officer and the local policing body
  - consult with such community representatives as the Council thinks appropriate
  - consult (as reasonably practicable) the owners or occupiers of land in the area of the proposed order
  - notify West Sussex County Council
  - consider any representations made.
- 8.4 The Council has complied with the above requirements and in order to complete the process must take into account any consultation responses before taking its decision, which it has done.
- 8.5 Section 72(1) of the Act specifically states that a council, when deciding to extend a PSPO, and if so for how long to extend it, must have "particular regard" to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (as given effect in domestic law by the Human Rights Act 1998).
- 8.6 The consultation process and making of PSPOs in some locations to address some issues have received wide public criticism, particularly where they have sought to address behaviours linked to homelessness and begging. The possible reputational risks need to be balanced with the wider public risks associated with the continuation of car cruise activity, as well as the risks associated with a failure of local agencies to find a solution to the impact on local businesses who are affected by the behaviour.
- 8.7 The Cabinet is reminded of the requirement under the Public Sector Equality duty (Section 149 of the Equality Act 2010) to have due regard to the duty when making this decision.

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