

# Crawley Borough Council

## Report to Overview and Scrutiny Commission 19 November 2018

### Report to Cabinet 21 November 2018

#### Public Space Protection Order

Report of the Head of Crawley Homes – **CH181**

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#### **1. Purpose**

- 1.1 To consider proposals for the making of a Public Space Protection Order (PSPO) to prohibit vehicle related anti-social behaviour associated with car cruise activity in the borough of Crawley.
- 1.2 Car cruise activity has been taking place in Crawley since 2010. In the past 3 years the police have received at least 280 complaints of vehicle related anti-social behaviour related to the activity, and it represents a significant nuisance for those residents and businesses affected.

#### **2. Recommendations**

- 2.1 To the Overview and Scrutiny Commission:

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

- 2.2 To the Cabinet

The Cabinet is recommended to:

- a) Agree to the making of a 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 for a period of 3 years. The PSPO to be implemented within 3 months of being agreed, to allow time for signage to be in place.
- b) Agree the level of Fixed Penalty Notice(FPN) to be issued in respect of PSPO breaches at £100.

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

- 3.1 The PSPO would enhance public safety through a targeted combined approach of Council services to tackle the problems associated with car cruise activity. The PSPO is a supplementary power available to the Police and the Local Authority, designed to complement existing enforcements strategies and legislation, whilst

regulating specific activities in public places that have a detrimental effect on the local community.

- 3.2 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. PSPOs can send a clear message that certain behaviours will not be tolerated and help reassure residents and businesses that unreasonable conduct is being addressed. The anti-social behaviour that Crawley has experienced from car cruising activity has been no different from these areas. They do not appear to have required a great deal of enforcement to resolve the problem.
- 3.2 Prior to considering a PSPO the Council has undertaken preliminary consultation with partners and stakeholders including the police, West Sussex County Council, Crawley and Gatwick Diamond Business Watch who have all agreed that a PSPO would be helpful to effectively manage this issue and provide a long-term solution across for the town.

#### **4. Background**

- 4.1 PSPOs were introduced under the Anti-social Behaviour, Crime and Policing Act 2014. The purpose of a PSPO is to stop individuals or groups committing a particular nuisance or problem.
- 4.2 The Act gives local authorities the power to draft and implement a PSPO on any public space within its own area including any space to which the public has access as of right or by virtue of express or implied permission, for example a shopping centre, provided the required test is met. A PSPO can last for up to 3 years, after which it must be reviewed.
- 4.3 To make any PSPO two conditions must be satisfied. The first condition is:
  - that activities have been occurring in a public place within the Council's area that have had a detrimental effect on the quality of life of people in the locality, or, even if such activities have not happened, it is likely that they will and that they will have such a detrimental effect.

The second condition has three parts and all must be met for the condition to be met. The three parts are:

- that the effect of the activities is, or is likely to, continue
  - that the effect of the activities will make them unreasonable
  - that the effect of the activities justifies the restrictions that the order will impose
- 4.3 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. They can send a clear message that certain behaviours will not be tolerated, and help reassure residents and businesses that unreasonable conduct is being addressed.
  - 4.4 A breach of the PSPO is a criminal offence and can be dealt with by issue of a fixed penalty notice (FPN) to a maximum of £100. It is proposed to set the FPN at £100, there will be no early payment fee.
  - 4.5 Authorised Police and Council Officers have the authority to issue fixed penalty notices. If the fixed penalty notice is not paid the court action may be taken by way of

a prosecution. For persistent offenders the Council can prosecute for breach of the PSPO. A person found guilty is liable upon conviction to a fine of up to level 3 (£1000). The amount is decided by the Court.

- 4.6 Once the PSPO has been made, an “interested party” namely an individual anyone who lives in, works in, or visits the 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 Before introducing, extending, varying or discharging PSPOs, there are requirements regarding consultation, publicity and notification. This includes consultation with the local chief officer of police, police and crime commissioner, owners and occupiers of the affected land, and appropriate community representatives. Any public consultation should be of duration that allows for meaningful engagement.
- 4.8 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.
- 4.9 Crawley put in place a Designated Public Places Order (DPPO) on 1<sup>st</sup> April 2006. This gave the power to ‘require a person in a DPPO area not to drink alcohol’ and grants police and accredited officers to ‘ask the person to surrender the alcohol and any opened or sealed containers in their possession’. Under the transitional arrangements of the Anti-Social Behaviour, Crime and Policing Act 2014, the DPPO became a PSPO on 20 October 2017. The signage for PSPO relating to the consumption of alcohol in public places can be included on the same signage as the PSPO for the car cruise activity.
- 4.10 A review has been carried out into the success or otherwise of PSPOs being implemented to prohibit car cruise activity in other areas. This has involved both an online literature review and contact with relevant officers at a number of other Councils. The anti-social behaviour that Crawley has experienced arising from car cruising activity has been no different from these areas.
- 4.11 Stockport Council introduced a PSPO in March 2017 to prohibit car cruising. They were experiencing large scale gatherings of car owners, often involving in excess of 200 vehicles taking place in car parks around the Borough. The organisers of the events had no permission or authorisation to use the car parks for car cruising. After a high profile enforcement effort which involved warnings and issuing fixed penalty notices, and using social media to communicate with the car cruise groups Stockport report that car cruising has now stopped.
- 4.12 Newham Council introduced a PSPO in November 2016. Leading up to the implementation of the PSPO they wrote to all registered owners of vehicles that had been involved in such activity warning them the PSPO was going to be introduced. They issued a couple of fixed penalty notices. Now they report that it stopped car cruising.
- 4.13 Huntingdonshire Council introduced a PSPO in April 2017. They tackled the issue by doing an enforcement sweep, they issued 15 fixed penalty notices in a single batch, this covered most of their known offenders and they report car cruising has now stopped.
- 4.14 The feedback from other councils who have introduced PSPOs for car cruising suggest they have been effective in addressing the problem and provided an efficient means of deterring further instances of the behaviour.

- 4.15 In accordance with the legislation the Council is required to publish the Order on its website erect Notices on or next to the land that is subject to the Order to make people aware of the Order and the effect of it. A survey has been carried out on the proposed locations of the Notices. The current signage has been reviewed which reflects the current hotspots for antisocial drinking locations. See Appendix B for an illustrative copy of the sign.
- 4.16 Due to the need for a driver to be able to both read and understand road signs whilst on the move, different size signs are used depending on the speed limits that apply to the road. Therefore the signs on the main arterial roads leading into Crawley will be approximately A3 size and the repeater signs throughout the rest of the town will be A5 size as they will mainly be placed in pedestrian areas and where the speed limits are lower.
- 4.17 The location of signs on roads with higher speeds has taken into account road safety considerations and local utilities services. They will be installed by staff who have received the appropriate risk assessment and installation training. See Appendix C for a list of the sign locations.

## **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 'car cruise' events in public locations including the public highway and car parks to which the public has access (key locations include Manor Royal; County Oak Retail Park, Sainsbury's car park in West Green and Morrison's Car Park in the Town Centre). The organised events take place on a regular basis, usually several times per week. The number of vehicles involved can vary from two to three vehicles, to over 50 vehicles, with at least one event occurring including food stalls and the sale of other merchandise.
- 5.2 Some examples of car cruise activity that have taken place in Crawley include: vehicles congregating in various locations across the town and driving in convoy through the town from one point to another; rapid acceleration/deceleration and racing and driving at excessive speed; vehicles carrying out stunts on the highway and in car parks including donuts and handbrake turns; sounding horns, revving engines and playing loud amplified music. In addition, participants regularly leave large quantities of litter; urinate in public and into the letterboxes and doorways of local businesses; intimidate and threaten the employees of local businesses; trespass on private land, and cause damage to property. A list of reported incidents can be found in the background papers.
- 5.3 The car cruise gatherings pose a danger 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.
- 5.4 The Manor Royal Business Rangers have challenged the behaviour and been intimidated and harassed as a result. One of the Rangers has provided a statement on car cruising activity in support of the PSPO, and this is included within the impact statements forming part of the background papers.
- 5.5 This problem has been long standing within Crawley and affected businesses and residents have an expectation that the Council will use its powers in an effort to curb the offending behaviour.

## **6. Information & Analysis Supporting Recommendation**

- 6.1 Crawley Borough Council has been working in collaboration with various partners and stakeholders including the police, West Sussex County Council, Crawley and Gatwick Diamond Business Watch and local businesses to tackle the problems associated with the car cruise activity. A number of council departments have been involved including the Nuisance and Anti-Social Behaviour Team (NASB), Community Wardens and Environmental Health.
- 6.2 Various actions and activities have been implemented in an attempt to stop the problem including:
- Targeted joint operations between the police and council officers to interrupt and stop car cruise activity.
  - Police and NASB officers have directly approached the organisers and requested they stop the events.
  - Community Protection warning letters and Community Protection Notices issued under the Environmental Protection Act 1990 in relation to one organiser and some participants.
  - Action under the Environmental Protection Act 1990 in relation to statutory nuisance
  - The police have used their dispersal powers to disperse the events
  - Police directed patrol activity has been used in the areas concerned
  - Manor Royal Bid have employed business rangers for security of the local businesses.
  - Crawley and Gatwick Diamond Business Watch have installed Automatic Number Plate Recognition (ANPR) cameras in Manor Royal.
  - The NASB mobile CCTV camera has been deployed in the areas most affected to identify offenders.
  - Police have used their powers under Section 59 of the Police Reform Act 2002 (Vehicles being used in a manner which causes alarm, distress or annoyance).
  - In December 2017 Morrisons supermarket installed speed humps/bollards in the car park and restricted access to the 1<sup>st</sup> Floor after 8pm as a result of car cruising activity.
  - The Council hired a security company to observe reported antisocial vehicle driving in Tilgate Park over a period of time and additional speed bumps have been installed
  - The Council installed bollards to Enterprise Court in County Oak Way.
- 6.3 These strategies have together achieved some success in stopping the problems. However, the success has been short lived and often the actions taken have simply dispersed that particular event and / or displaced the behaviour to another part of the town.
- 6.4 The draft PSPO contains the suggested prohibitions. It also notes specific exemptions such as vehicles take part in funeral processions (see Appendix A).
- 6.5 Police have powers to tackle Anti-Social driving but due to conflicting demand the Police are not able to respond immediately. The police are committed to retrospective evidence gathering through CCTV and ANPR cameras and providing information to the Council to issue warnings or Fixed Penalty Notices. The Police can also issue section 59 offences (vehicle can be seized if previous warnings have been given) when they witness antisocial driving.
- 6.6 Sussex Police will not issue Fixed Penalty Notices at the scene, but coordinated action with the police to both prevent and disrupt car cruise activities may be possible. Serving FPNs will be the role of Council Officers. The Manor Royal

business rangers could issue FPNs providing they obtain the necessary skills and training and then seek accreditation from Sussex Police.

6.7 For persistent offenders the Council can prosecute for breach of the PSPO.

6.8 The PSPO is designed as a supplementary power available to the Police and the Local Authority and is designed to complement existing enforcement strategies and legislation already in place.

#### 6.9 PUBLIC CONSULTATION

Consultation took place from the 3<sup>rd</sup> September 2018 to 14<sup>th</sup> October 2018. A copy of the consultation questions is included in the background papers.

A range of methods of consultation have been used including;

- Public Notice in the local press
- Online questionnaire and paper copies
- Publicity via local press
- A copy of the draft order and details of the issue available on the Council and Police website
- Paper copies of the questionnaire and draft order available in the Town Hall, Crawley Police Station and both public libraries (town centre and Broadfield Barton)
- Crawley and Gatwick Diamond Business Watch promotion to local businesses
- Use of social media (Facebook/Twitter)
- Direct consultation of known car cruise groups and representatives
- Targeted letter drops to residents affected in the direct vicinity of antisocial driving activity
- Awareness of the PSPO consultation circulated to chairs of Neighbourhood Forum Groups
- Crawley Live published information regarding the proposed PSPO and invited people to express a view. Crawley Live was distributed to every house hold in Crawley from the 10<sup>th</sup> September and was available to be picked up in County Mall, Marks and Spencer's, K2, Crawley and Broadfield Libraries and the Hawth Theatre.
- The display of posters at all Council owned Community Centres and Neighbourhood notice boards (every parade except Maidenbower has a notice board) making people aware of the proposed PSPO and consultation process inviting them to express a view
- Community Development sent in an E Newsletter Information regarding the proposed PSPO and consultation to signed up local residents

#### 6.10 Analysis of the Consultation responses:

- 311 responses were received. 11 of which were from businesses and 11 believed to be from the car cruising community.
- 73% of respondents agreed with the proposals to implement a PSPO. 100% of businesses also agreed with the proposals to implement a PSPO
- 66% of responders experienced anti-social use of vehicles in Crawley in the past 12 months. Of which 66.8% indicated they had been affected by anti-social use of vehicles more than 6 times in the past 12 months
- 62% felt the anti-social use of vehicles was either a very big or fairly big problem in Crawley
- Of the 27% not supporting the proposals, the most common issues are on PSPOs being unnecessary or unenforceable.
- Tilgate was the ward where most responses originated from with 60 in total

## **7. Implications**

### **7.1 Financial Implications**

- Resources – It is not considered that additional resources to enforce the order will be required. The issue already creates demand which is currently absorbed within the provision of Police and Council services.
- Signage – The PSPO guidance states that the Council is required to erect multiple signs when the order is covering a large area to make people aware of the Order and the effect of it at locations throughout the town including main entry points and current car cruise locations. The wording for the existing PSPO relating to the consumption of alcohol in public places will be included on the same signage as for car cruise and antisocial driving. The estimated cost for the signage is £500 (this does not include installation of the signs)
- Fixed Penalty Notice Books will be produced for use by Council officers to enforce the Order and will cost approximately £173 per 10 books.
- Training - PSPO Enforcement and Fixed Penalty Notice Training. Cost £1,000 for an in-house training day for Council Officers, Police Officers, legal representatives
- Legal Costs in the event of prosecutions being taken.

### **7.2 Legal and Risk Implications**

#### Legal Implications

Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities the powers to make a PSPO. The procedure for making a PSPO is 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 made under that Act.

Before making 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
- consider any representations made

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

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.

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.

## **8. Background Papers**

Impact Statements

Consultation Questionnaire and subsequent report

Summary of reports of car cruising activity

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