

Approval for a Variation to the Burmantofts' Public Spaces Protection Order to include Household waste requirements (Bins Left on the Street and Dumping Waste)

Date: Wednesday 1st December 2021

Report of: Chief Officer, Environmental Services. Communities, Housing and Environment Directorate

Report to: Chief Officer, Safer Stronger Communities. Communities, Housing and Environment Directorate

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

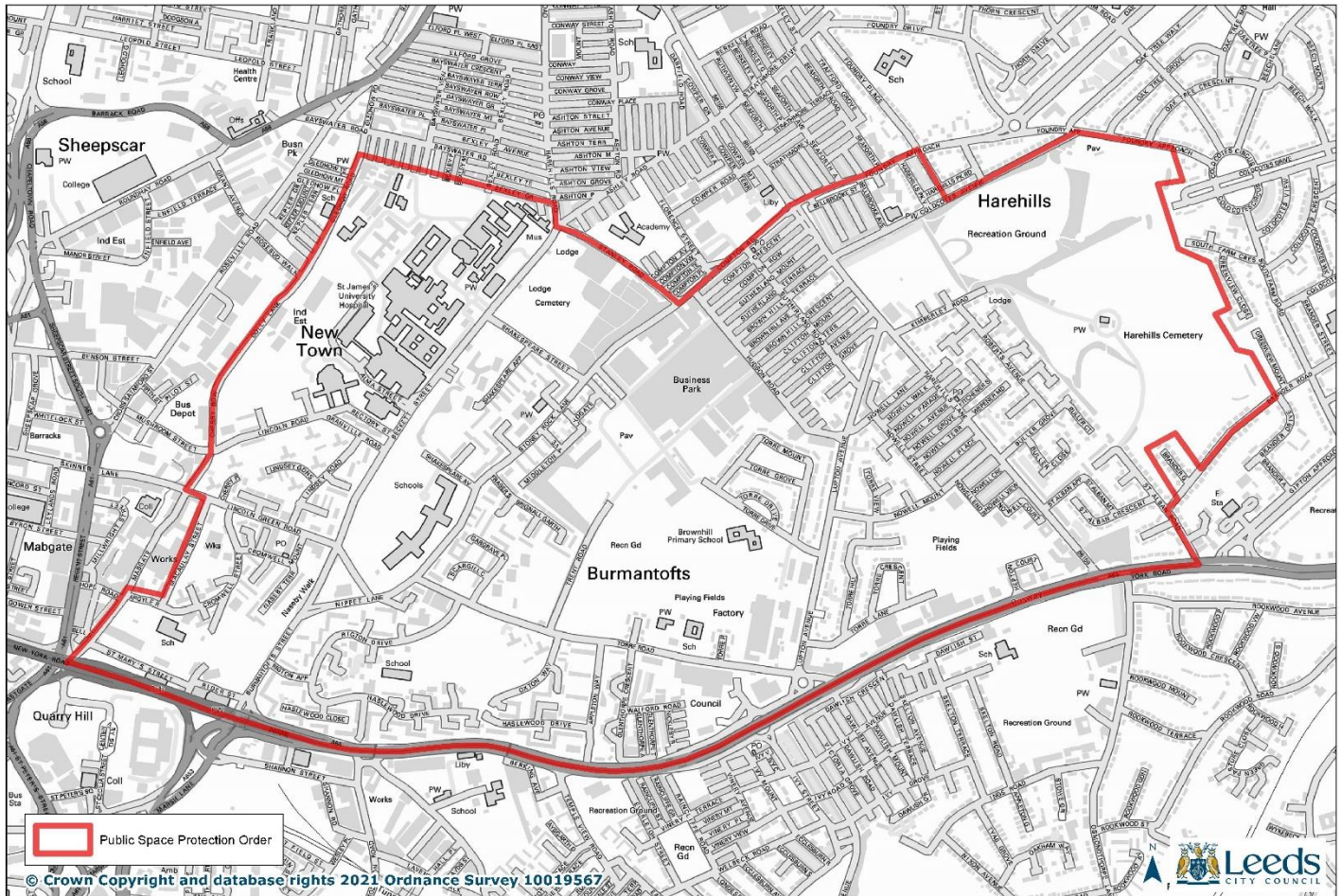
- The purpose of this report is to advise the Chief Officer for Safer Stronger Communities, of the background and legal basis for the variation of Burmantofts Public Spaces Protection Order (PSPO) to include household waste requirements (bins left on the street and dumping waste). This also highlights the public consultation results and seeks approval to implement the variation to the order commencing 31st January 2022.
- The variation to the Burmantofts' PSPO is in relation to encouraging the putting away of bins after collection and keeping gardens and streets clear of rubbish. This supports community cohesion and quality of life from a cleaner and more welcoming neighbourhood. The variation helps the city's and council's ambition for stronger, safer communities by tackling the leaving of bins on streets for prolonged periods or dumping rubbish in gardens/ side of bins that causes a nuisance and contributes to waste crime and antisocial behaviour. This variation also supports the Health and Wellbeing strategy's outcomes to ensure people live in healthy, safe and sustainable communities that are protected from waste crime and the vermin it can attract.

Recommendations

- a) The Chief Officer for Safer Stronger Communities is recommended to approve the implementation of the variation to the Burmantofts' PSPO to include household waste requirements (bins left on the street and dumped waste) from 31st January 2022.
- b) That breach of the PSPO is a criminal offence and enforcement officers can issue a fixed penalty notice (FPN) of up to £75 (or £60 if paid within 10 days) which is consistent with other household waste PSPOs in Leeds.

Why is the proposal being put forward?

1. The current [Burmantofts PSPO](#) expires on the 16th November 2023 covering an area within the Inner East Leeds community committee, comprising of Burmantofts and Richmond Hill Ward.
2. The proposed variation area will be north of York Road following the same boundary as the existing Burmantofts PSPO for anti-social behaviour with alcohol and psychoactive substances which includes the grounds within St James Hospital:



3. A [PSPO](#) is an official measure that can deal with persistent anti-social behaviour impacting on a community's quality of life. Waste receptacles like wheelie bins being left on the street have a negative effect on the quality of life for residents, visitors, and businesses in the local area. Putting a bin out for collection and returning it back to a resident's property is easy to do and assisted collection support can be provided for people who are unable to do this due to a disability. Wheelie bin capacity and availability of bulky waste collections should negate the need to dump rubbish in gardens or at the sides of bins. Bins left on the street and dumped rubbish can cause:
 - Obstructions for vehicles and pedestrians including wheelchair and push chair users
 - Contribute to fly-tipping, littering, and attracting vermin
 - Look unsightly and can attract antisocial behaviour like 'bin-dipping', the practice of sifting another person's waste looking for valuable items that leads to rubbish being strewn on the street.
4. There are currently three existing PSPOs (north-west Leeds – includes Headingley, Hyde Park, Little London and parts of Woodhouse and Burley; Armley and Harehills) with terms relating to

household waste requirements. Within the Burmantofts area there is a current PSPO related to drinking alcohol and psychoactive substances in a public place, this proposal seeks to expand this to include restrictions for household waste including bins left on the street and the containment of waste.

5. This PSPO is proposed as part of a range of measures to tackle environmental issues that are exacerbated by bins being left on the streets or waste not contained within the bin. There is a large proportion of privately rented dwellings with a transient population that can make education on positive behaviours challenging to embed longer term. It is anticipated that associated proactive publicity and education around the terms of the proposed PSPO will help set expectations within the restricted area by discouraging the nuisance behaviour of leaving bins on streets for prolonged periods or dumping rubbish in gardens/ side of bins. This will have the additional benefits of supporting community cohesion and quality of life from a cleaner and more welcoming neighbourhood.
6. The proposed area has been identified as having an issue of bins being left out on streets from visual evidence and the attraction of associated incidents that have contributed to the higher than the city average of recorded incidents around fly-tipping and side waste:

Recorded Incidents	2017	2017 City average	2018	2018 City average	2019	2019 City average	2020	2020 City average
Fly-tipping	113	56	96	57	95	55	120	52
Side waste	-	-	-	-	580	110	315	94

7. Environmental Services have identified the proposed terms and PSPO restriction area and agreed these with the three Ward Members. The persistent anti-social behaviour that this PSPO aims to tackle is defined as ‘Household waste requirements’ including:
 - (a) Each relevant person must ensure that all household waste presented for collection from their premises is contained in a wheelie bin or is presented for collection in a manner specified for their property by Leeds City Council.
 - (b) Each relevant person must ensure that the wheelie bin for their property or waste presented for collection in a manner specified for their property is not situated outside the boundary of their premises other than between 6pm on the day before collection is due, and 9pm on the day of collection unless the wheelie bin is in an identifiable bin storage area or yard for wheelie bins of their property.
8. The definition of a ‘relevant person’ is either: a temporary or permanent resident, owner or managing agent.

What impact will this proposal have?

Ward(s) Affected: Burmantofts & Richmond Hill		
Have ward members been consulted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

9. The variation will allow additional legal powers to enable authorised officers to issue FPNs of up to £75 (or £60 if paid within 10 days), where appropriate, for non-compliance with the PSPO. These are similar powers linked to bins left on streets and containment of waste as seen in the other three PSPO areas of north-west Leeds, Armley and Harehills.

10. An equality, diversity, cohesion and integration screening exercise and form have been undertaken and no significant outstanding issues were identified (appendix A).

What consultation and engagement has taken place?

11. Legislation requires the council to conduct formal consultation with the regional mayor, Police, West Yorkshire Mayor alongside interested parties including residents, landowners, community groups and people who work or visit the proposed PSPO. An online public consultation was undertaken over a four-week period between Tuesday 14th September 2021 and Friday 8th October, receiving 27 completed (and 38 partial) responses with supportive feedback of 92.6% of respondents (25 people) agreeing with the PSPO variation. The levels of response for this type of survey is to be expected, due to the high levels of deprivation (the identified area is within the Indices of [Multiple Deprivation Decile 1](#)), history as a transient area with a strong [private rental sector](#) and the legal subject-matter of the survey meaning engagement can be challenging. Two recent similar PSPO consultations in August 2020 had responses as low as 29 within certain areas, and the Nowells in 2018 received 40 responses for a PSPO on anti-social behaviour and violent crime. Appendix B has the full consultation response details.
12. A local ward member briefing note was produced and discussed to outline the variation proposals and receive feedback. Members were supportive of this proposal and assisted in the sharing of the consultation with constituents.
13. The Leeds Police Chief Superintendent, Damien Miller, and East Leeds Neighbourhood Policing Team, Sergeant Fred Winster, were contacted for feedback. Sergeant Winster responded to confirm the variation will not affect the police's ongoing enforcement of the existing PSPO.
14. The West Yorkshire Mayor's office responded via Deputy Mayor for Policing and Crime, Alison Lowe. The Mayor's office is supportive of the variation to ultimately reduce rubbish and litter and its detrimental impact on the community and their feelings of safety. Furthermore, the office agrees that the PSPO is a proportionate approach and will further support the reduction of crime and antisocial behaviour in Burmantofts fitting with the draft priorities in their Police and Crime Plan.

What are the resource implications?

15. The purpose of implementing a PSPO is to achieve broad compliance with the requirement across the community, rather than to increase the number of FPNs and prosecutions that are undertaken. All enforcement will be undertaken within existing resources.
16. One of the requirements for implementing a PSPO is that adequate signage is displayed in order that people are aware of what is expected of them. The signage requirements will be one sign per street equated to 70 signs costed at £2,030 to be paid for from the Environmental Services budget.

What are the legal implications?

17. As outlined in section 5c(i) of the Director's Sub-Delegation Scheme 1 - Director of Communities, Environment and Housing and the Chief Officer for Safer Stronger Communities is authorised to approve the implementation of PSPOs.
18. A Principle Legal Officer in the council's Legal Services has been fully engaged at all stages of the planning, drafting and preparation of the PSPO variation. Enforcement by prosecution will be supported by the Legal Services Prosecution Team only on the understanding that the number of such prosecution cases city wide remains unchanged.
19. In order to introduce a PSPO variation, the local authority must be satisfied the behaviour that is being restricted is:
- Having or is likely to have, a detrimental effect on the quality of life of those in the locality
 - persistent or continuing in nature
 - unreasonable
 - Justifies the restrictions imposed
20. The variation will be absorbed into the existing Burmantofts PSPO that expires on 16th November 2023 as a single entity to facilitate easy understanding for the public. The PSPO will be reviewed after the expiry and a decision made whether to extend it further.
21. An interested person may apply to the high court to question the validity of a PSPO on the grounds that the local authority did not have the power to make the order or to include a particular restriction or requirement of that order, or that it did not meet the 'tests' outlined in the Anti-Social Behaviour Crime and Policing Act 2014. Any such application has to be made to the High Court within six weeks of the variation of the Order. The High Court has the opportunity to suspend or quash any of the requirements of the order.
22. The proposed PSPO variation has been subject to public consultation as required by the Anti-Social Behaviour Crime and Policing Act 2014
23. The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 requires that any PSPO that is implemented is published on the council's website and that signage is placed as deemed appropriate to ensure that the public are aware of the requirements.
24. This decision constitutes a significant operational decision and as such is not eligible for call in. The drafted PSPO and associated schedules are attached in Appendix C.

What are the key risks and how are they being managed?

25. There is a risk with the variation of a PSPO that an interested person may apply to the high court to question the validity of that order. However, in order to mitigate such a risk, legal advice has been sought throughout the process and an extensive consultation process undertaken.
26. There are no extra resources available to enforce the additional requirements, which could result in the perception that the PSPO will not be properly enforced. The purpose of the

implementation of the additional areas on the PSPOs is to achieve broad compliance and, that with assistance from colleagues and members of the public in providing intelligence, resources can be targeted to those areas and problems most requiring it.

27. Publication of successful enforcement action can also be used to act as a deterrent.

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth

Health and Wellbeing

Climate Emergency

28. The variation to the Burmantofts' PSPO is in relation to encouraging the putting away of bins after collection and keeping gardens and streets clear of rubbish. This supports the Health and Wellbeing strategy's outcomes to ensure people will live in healthy, safe and sustainable communities that are free from the waste crime of flytipping and the vermin it can attract. The variation also supports quality of life from a cleaner and more welcoming neighbourhood that encourages people who live, visit and work in the area to engage in healthy physical activity.

Options, timescales and measuring success

29. What other options were considered?

A programme of proactive interventions like education through leaflets, door step conversations and multi-agency action days that includes the numbering/ sticking of bins. However, this area has a large proportion of privately rented dwellings with a transient population that can make education on positive behaviours challenging to embed longer term. The variation to the PSPO will provide a wider set of tools that complements the education work to set expectations within the restricted area by discouraging the nuisance behaviour of leaving bins on streets for prolonged periods or dumping rubbish in gardens/ side of bins.

30. How will success be measured?

Success will be measured by the number of service requests for flytipping and side-waste alongside perception levels from local ward members and their constituent networks.

31. What is the timetable for implementation?

The PSPO variation will be implemented in 31st January 2022.

Appendices

Appendix A – Equality screening form

Appendix B – Public Consultation results

Appendix C – Draft Burmantofts PSPO variation to include household waste requirements

Background papers

3. None