

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Cabinet Member for Social Inclusion and Community Safety

**Date:** 02/08/2022

**Subject:** **Decision to renew the Public Spaces Protection Order (PSPO) relating to amplified noise issues within a defined area of Hammersmith Town Centre**

**Report author:** Sina Moini, Community Safety Officer

**Responsible Director:** Bram Kainth, Strategic Director of Environment

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### SUMMARY

Public Spaces Protection Orders (PSPOs) are a tool that can be used by local authorities to address Anti-Social Behaviour (ASB) and the impact that this behaviour can have on individuals and communities (under the Anti-Social Behaviour, Crime and Policing Act 2014). An Order can be introduced in a public area where the local authority is satisfied on reasonable grounds that the effect, or likely effect, of such activities is, or is likely to be, of a persistent and continuing nature; is, or is likely to be, such as to make the activities unreasonable; and justifies the restrictions imposed by the Order. The Order identifies a public place (restricted area) and prohibits specified things being done in the restricted area; requires specified things to be done by persons carrying on specified activities in that area; or does both of those things. The PSPO gives authorised Council and Police officers powers to issue a Fixed Penalty Notice (FPN) of £100 (Reduced to £60 if paid within 10 days) to those who engage in an activity that is prohibited by the Order.

This report seeks a decision in the renewal of the PSPO in a defined area of Hammersmith Town Centre, where amplified noise nuisance continues to be an issue. Public consultation and feedback from residents and businesses highlights the extent to which amplified noise is a disruption to daily life, as well as a health and safety concern for some visitors. It is proposed that this Order is renewed until 22 June 2025 to align with the expiry period of the Shepherd's Bush PSPO.

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### RECOMMENDATIONS

That the Cabinet Member for Social Inclusion and Community Safety:

1. Approves the renewal of the Hammersmith Town Centre PSPO from 01 August 2022 to 22 June 2025.
  2. Approves the slight variation of the PSPO to apply exemptions to:
    - a) Premises or vehicles where these activities are permitted under their licence conditions
  3. Delegates authority to sign the renewed Order to the Assistant Director of Community Safety, Resilience and CCTV
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## Wards Affected: Hammersmith Broadway

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Our Values	Summary of how this report aligns to the H&F Values
Creating a compassionate council	The PSPO enforcement plan will align with the Metropolitan Police 4 'E' model – Engage, Explain, Encourage and Enforce to address ASB and will prioritise safeguarding and support. Enforcement action will only be taken as a last resort.
Doing things with residents, not to them	This decision was informed by an extensive public consultation exercise which received <b>73 responses</b>
Taking pride in H&F	The PSPO supports the council and police to tackle anti-social behaviour and ensure the borough is a safe place for all.

### Financial Impact

The cost of implementing the PSPO is limited to the cost of new signage (estimated at £1700) and can be funded from existing Community Safety revenue budgets.

The PSPO will be enforced by the council's Law Enforcement Officers and as part of their regular duties meaning no additional resources will be required. The revenue from any Fixed Penalty Notices issued will contribute to the cost of enforcement.

*Implications completed by Giles Batchelor, Finance Manager (Environment), [giles.batchelor@lbhf.gov.uk](mailto:giles.batchelor@lbhf.gov.uk), 17/06/22*

### Legal Implications

As set out in the report The Anti-Social Behaviour Crime and Policing Act 2014 ("the Act") gives the Council power to create, extend and vary PSPOs.

Before confirming the extension of the Order, the Cabinet Member must be satisfied that amplified noise in Hammersmith Town Centre is having a detrimental effect on the quality of life of those in the locality. Also, that the effect of the noise is, or is likely to be, of a persistent and continuing nature; and is, or is likely to be, unreasonable, and that the effect or likely effect of these activities justifies the restrictions in the notice.

Since the area to which the Order applies is proposed to remain the same, these requirements must be satisfied in relation to the whole of the area to which the Order will apply. The Cabinet Member must also be satisfied that it is reasonable to impose these conditions to prevent the detrimental effect of the activities from continuing,

occurring or recurring or reduce that detrimental effect or the risk of its continuance, occurrence or recurrence.

In addition, the Home Office statutory guidance states that the proposed restrictions should, be proportionate to the detrimental effect that the behaviour is causing and be necessary to prevent it continuing.

The Act sets out several requirements for consultation and communication before the variation of an Order is introduced. The way in which the Council has complied with these is set out in paragraphs 22 to 27 below.

*Implications completed by John Sharland, Senior solicitor (Contracts and procurement), [john.sharland@lbhf.gov.uk](mailto:john.sharland@lbhf.gov.uk), 20/06/2022*

## **DETAILED ANALYSIS**

### **Proposals and Analysis of Options**

#### **History of amplified noise PSPO in Hammersmith Town Centre**

1. The Council has historically received complaints from King Street residents, businesses and visitors in relation to amplified noise from street entertainers and public speakers.
2. In response to these reports, in the winter of 2018, following the successful implementation of a PSPO for amplified noise in the Shepherd's Bush area, H&F consulted widely on noise nuisance from busking, street entertainment and amplified public speaking around Hammersmith Town Centre and invited feedback on whether the community supported a PSPO being introduced to address these issues. The overwhelming response was in favour of a PSPO.
3. A PSPO for amplified noise nuisance was introduced in August 2019 for a period of three years, following evidence which highlighted the negative impact of high levels of noise disturbances were having on the local community. In accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), a condition of the Order is that the effect, or likely effect, of such activities is, or is likely to be, of a persistent and continuing nature; is, or is likely to be, such as to make the activities unreasonable; and justifies the restrictions imposed by the notice.

#### **Proposal**

4. A briefing note was presented to the former Deputy Leader, Councillor Sue Fennimore, dated March 2022, which considered the use of PSPOs to manage street entertainment, as well as guidance on the use of the power. The note also provided background data outlining our proposed next steps prior to launching the public consultation.
5. Before renewing a PSPO, the council must consult with the police and any community representatives they think appropriate. In addition, the owner or occupiers

of any land affected should be consulted. The council undertook an online public consultation for a period of 44 days, from 25 March until 8 May 2022.

6. If the decision is made to renew and vary the PSPO the new Order must be published in accordance with regulations made by the Secretary of State and must:
  - identify the activities having the detrimental effect
  - explain the potential sanctions available on breach and
  - specify the period for which the PSPO has effect.
7. A copy of the draft Order can be found in Appendix 2.
8. The maximum duration of a PSPO is three years, but they can be made for shorter periods and then reviewed. It is proposed that this Order is implemented for three years, due to the financial impact and impact on officer time of renewing after a shorter period. It is proposed that this Order is renewed until 22 June 2025 to align with the expiry period of the Shepherd's Bush PSPO. This will allow for future consultations for both areas to be held simultaneously. At any point before the expiry of a PSPO it can be extended for a further period of up to three years. The terms can also be varied, subject to further consultation.
9. A Police Constable, Police Community Support Officer or other authorised person may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order. An FPN will only be issued if an individual continues to breach the Order after being asked to desist by an authorised person. Individuals will have 14 days to pay the fixed penalty of £100 (reduced to £60 if paid within 10 days).
10. The cost of implementing the PSPO for the council is estimated at around £1700. This covers the cost of appropriate signage for the area to ensure those using the area are aware of the Order. This cost estimate is for 25 signs.

### **Options and Analysis of Options**

11. The following options have been considered:
12. **Option 1- Renew and vary the current Order:** Increase the amount of time the Order shall remain in place, until 22 June 2025. An extension can be deemed necessary under s60 of the Act if it is necessary to prevent the activity recurring, or that there has been an increase in frequency or seriousness of the activity. There was significant public support for the implementation of the original Order and recent consultation has confirmed that the strong majority of the public support the further renewal of the Order (see Appendix 4). Police have also provided feedback in relation to their support of the PSPO and their willingness to continue to enforce the Order. The geographical area and times these restrictions apply would remain unchanged. The exemptions to the Order would be varied slightly to apply exemptions to: Authorised Council events and activities, and premises or vehicles where these activities are permitted under their license conditions. **(This is the recommended option)**

13. **Option 2- Extend and vary the current Order:** Change the conditions of the Order - either in terms of the behaviours it seeks to tackle or the geographical scope of the Order. In this instance we may wish to adjust the areas where the ban applies. For example, extending or reducing the remit of the restricted area. As the majority of responses were in favour of keeping the geographical area and times the restrictions apply the same, this is not the recommended option.
14. **Option 3- Discharge the Order:** Remove the Order as it is no longer required. The data provided by Police and the council provides evidence of the need for this Order to be renewed and to allow Authorised Officers to effectively manage issues related noise and nuisance due to the use of amplifiers in the area. This option would remove any powers Police or Council Officers have to issue fines to those in breach of the restrictions. As only a very small minority of responses from the consultation were in favour of the removal of the Order, this is not the recommended option as it would not address the complaints about nuisance caused by amplified noise in the locality.
15. The proposed Order includes the following prohibitions;

1	You are prohibited from using microphones/loudspeakers/megaphones/loud hailers or any other similar equipment designed to amplify the volume of speech or music within the area outlined on the above map, 24 hours a day.
2	You are prohibited from using mains electricity or generator power for the purposes of amplification.
3	Exemptions apply to <ul style="list-style-type: none"> <li>- Authorised Council events and activities</li> <li>- Premises or vehicles where these activities are permitted under their license conditions (including temporary event notices)</li> </ul>

16. A map of the area affected by the proposed PSPO can be found at Appendix 1.

### **Reasons for decision**

17. The results from the public consultation (outlined in Appendix 4) showed that 91.8% were in favour of banning amplified noise completely. 65.8% of responses agreed to keeping the current restrictions the same regarding the geographical area the ban applies to. The findings evidenced that noise relating to amplified street entertaining, busking and public speaking continues to have a detrimental effect on the quality of life of H&F residents and visitors, is persistent or continuing in nature, is unreasonable and justifies the restrictions being imposed. There is also evidence of public support for the current PSPO.
18. The consultation findings further demonstrate that a renewal of the Order is required in order to prevent an increase in frequency or seriousness of noise related ASB and

to tackle recurring issues. In the area the PSPO applies to, noise nuisances from amplified busking and public speaking are frequent issues.

## **Equality Implications**

19. The Council has given due regard to its responsibilities under Section 149 of the Equality Act 2010 and it is not anticipated that there will be any negative impact on any groups with protected characteristics from the adoption of this PSPO. The proposed PSPO is a direct response to issues raised by a group representing visually impaired residents. The overall impact of the PSPO will be neutral, but positive for those with visual and/or visual impairments.

*Implications completed by: Yvonne Okiyo, (Business Partner for EDI), [Yvonne.Okiyo@lbhf.gov.uk](mailto:Yvonne.Okiyo@lbhf.gov.uk), 15/06/2022*

## **Risk Management**

20. As an authority, we must decide what's reasonable and what isn't, before we act. Everyone's perception of noise nuisance is different. It's not just about sound levels in decibels but of what is acceptable. 'Noise' is generally considered to mean unwanted sound, but what one person considers unwanted may seem reasonable to someone else. Consultation took place over what action should be taken and this is in accordance with meeting our residents and community needs and expectations. The proposals in this report contribute to the management of noise pollution risk to the local area.

*Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, [david.hughes@rbkc.gov.uk](mailto:david.hughes@rbkc.gov.uk), 15/06/22*

## **Climate and Ecological Emergency Implications**

21. The PSPO will ensure our open spaces continue to thrive and stay a pleasant place for residents and businesses to visit. The biodiversity of the Hammersmith Town Centre area will be positively impacted, with less noise pollution to disrupt the aesthetic and quality of life there.

*Implications verified by: Hinesh Mehta, (Strategic Lead, Highways, Parks and Waste), [hinesh.mehta@lbhf.gov.uk](mailto:hinesh.mehta@lbhf.gov.uk), 13/06/2022*

## **Consultation**

22. Public consultation took place between 25 March and 8 May 2022. The public consultation received 73 responses. 67 responses (91.8%) were in favour of banning amplified noise completely. 48 (65.8%) of responses agreed to keeping the current restrictions the exact same, with 17 (23.3%) of responses in favour of extending the Order with regards to the geographical area the ban applies to and the remaining 8 (11%) supporting the removal of restrictions entirely. All responses came via the council's online portal Have Your Say.

23. Full findings of the public consultation, and a sample of the comments received as part of the public consultation from those both for and against the proposed PSPO are included in Appendix 4.
24. It is worth noting that several comments expressed that they would like to see the current Order extended geographically, with Hammersmith Grove highlighted as one of the areas. Whilst we do not recommend extending the current Order on this occasion due to majority of responses in favour of keeping the current restrictions the same, Officers will make further investigations into the extent of anti-social behaviour and noise nuisance at these locations and will consider alternative options to manage any identified issues.
25. The consultation was promoted extensively through our wide range of communications channels. We reached out to residents on the NextDoor App and delivered letters to local businesses and residents, which included residents from Riverside Gardens, Aspen Gardens, Ashcroft Square and Queen Caroline Estate. The Council's Law Enforcement Officers and area Community Safety Officer also engaged with the community on King Street and on Lyric Square with leaflets directing residents, visitors, and businesses to the consultation page.
26. Officers from the Community Safety Unit also directly consulted with Hammersmith Businesses Improvement District (BID), the new Civic Campus team, local shopping centres and other partners to ensure they support our proposals.
27. It is specified within the legislation that before extending/varying a PSPO the council must consult with the chief of police for the area. This consultation has taken place and police have confirmed they are in support of the proposed Order.

#### **LIST OF APPENDICES:**

- Appendix 1 - Proposed Area and Restrictions
- Appendix 2 - Draft Order
- Appendix 3 - Equality Impact Assessment
- Appendix 4 - Consultation Findings