

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Cabinet Member for Social Inclusion and Community Safety

Date: 28/06/2023

Subject: Decision to introduce a Public Spaces Protection Order (PSPO) relating to the prohibition of e-bikes, e-scooters and other electronic vehicles along the Thames Path

Report author: Neil Thurlow, Assistant Director for Community Safety, Resilience and CCTV.

Responsible Director: Bram Kainth, Strategic Director of Environment

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 PSPO gives authorised Council and Police officers powers to issue a Fixed Penalty Notice (FPN) of £100 (reduced to £60 if paid within 7 days) to those who engage in an activity that is prohibited by the Order.

This report recommends introducing a PSPO to reduce anti-social behaviour related to certain behaviours along the Thames Path. It is proposed that this Order remains in force for a period of three years.

RECOMMENDATIONS

That the Cabinet Member for Social Inclusion and Community Safety:

1. Approves the introduction of a PSPO for prohibiting the use of e-bikes, e-scooters and other electronic vehicles along the pedestrianised parts of the Thames Path for a period of 3 years (July 2023 to July 2026).
2. Delegates authority to sign the PSPO to the Assistant Director of Community Safety, Resilience and CCTV.

Wards Affected: Ravenscourt, Hammersmith Broadway, Fulham Reach, Munster, Palace and Hurlingham, and Sands End

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	PSPOs reduce anti-social behaviour and contribute to the council's commitment to tackling anti-social behaviour. Implementing this PSPOs will contribute to the council's commitment to designing out crime.
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	The PSPO process must go through a consultation process in which residents have the opportunity to help shape and influence the order by expressing their views. The responses from the consultation form part of the evidence base informing thinking and decision making on how the final PSPO may be implemented. This decision was informed by an extensive public consultation exercise which received 1,233 responses.
Being ruthlessly financially efficient	The councils Law Enforcement Team, police officers, and PCSOs will have the ability and delegated authority to enforce PSPOs. This provides opportunities to stop offences which would cost the council money to address. The proposed PSPO could bring in financial income from the fixed penalty notices (FPNs) served to those that are in breach of the Order which will contribute towards the costs of enforcement action.
Taking pride in H&F	PSPOs aim to reduce anti-social behaviour in the borough. We know that ASB impacts negatively on perceptions of an area so, by addressing the ASB in a consistent and visible manner we will be able to deliver a safer borough for all.

Rising to the challenge of the climate and ecological emergency	PSPOs can work directly to improve the climate and ecological surroundings. This PSPO aims to improve the immediate surroundings by promoting safety along the Thames Path.
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Financial Impact

1. The cost of implementing the PSPO is limited to the cost of new signage, estimated at £2,000. This will be funded from Community Safety budgets.
2. The PSPO will be enforced by the council's Law Enforcement Officers as part of their regular duties, meaning no additional resource will be required. The income from any Fixed Penalty Notices issued will contribute towards the cost of the enforcement activities.

Implications completed by Kellie Gooch – Head of Finance (Environment), 16 June 2023.

Verified by Andre Mark, Head of Finance (Strategic planning and investment), 16 June 2023

Legal Implications

3. Section 59 of the Anti-Social Behaviour Crime and Policing Act 2014 allows the Council to make a PSPO.
4. Before confirming the Order, the Council must be satisfied that the riding of certain vehicles along the pedestrianised parts of the Thames Path is having a detrimental effect on the quality of life. Also, that the effect of those behaviours is, or is likely to be, of a persistent and continuing nature; and is, or is likely to be, unreasonable. 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.
5. Anyone who lives in or regularly works or visits the area can appeal a PSPO in the High Court within six weeks of issue on the grounds that the council did not have the power either to make the order or to include prohibitions or requirements, or that proper processes had not been followed as prescribed by the Act.
6. The Council must, when carrying out its functions, have due regard to the needs set out in section 149 of the Equality Act 2010 (the Public Sector Equality Duty,

“PSED”). This duty includes having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. The Council must consider the duty, which is personal to decision makers. In order to assist the Council to comply with section 149, an Equality Impact Assessment (“EQIA”) is attached as **Appendix 1** to this report. The relevant decision-maker must carefully consider the EQIA as applicable to the decision they are asked to approve. In summary, the PSED requires the Council, when exercising its functions, to have “due regard” to the need to:

- a. Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act (which includes conduct prohibited under section 29);
 - b. Advance equality of opportunity between people who share a relevant protected characteristic and those who don’t share it;
 - c. Foster good relations between people who share a relevant protected characteristic and those who do not (which involves having due regard, in particular, to the need to tackle prejudice and promote understanding).
7. A consultation has been carried out and the Cabinet Member must carefully consider the consultation responses when approving the recommendations.

Implications verified/completed by: Grant Deg, Chief Solicitor, 23 June 2023

Proposals and Analysis of Options

8. A briefing note was presented to the Cabinet Member in November 2022, which considered launching a public consultation to address anti-social behaviour in relation to the riding of pedal cycles, e-bikes and e-scooters, as well as guidance on the use of enforcement powers. Following this briefing, the council began a public consultation to consider introducing a PSPO.
9. In this consultation, the council proposed introducing a PSPO containing the following prohibitions:

1	No person shall ride/cycle/use an E-scooter or E-bike, or use other motorised vehicles listed in Schedule 1 , along the Thames Path (shown on the attached map) unless - <ul style="list-style-type: none">o that person has a reasonable excuse for failing to do so; oro the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so
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2	No person shall recklessly ride a pedal bike in such a way that jeopardises safety along the Thames Path unless - <ul style="list-style-type: none"> o that person has a reasonable excuse for failing to do so; or o the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so
3	Exemptions apply to: Nothing in this order shall affect a Disabled person (see Schedule 2 for definition) or anyone with restricted mobility who uses any electric powered vehicle as a mobility aid.

10. The motorised vehicles listed in **Schedule 1** were: segways, quad bikes and hoverboards.

11. Before introducing a PSPO, the council must consult with the police and with any partners and stakeholders that they think appropriate. In addition, the owner or occupiers of any land affected should be consulted.

12. 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 introduced for three years (until July 2026) due to the financial impact and impact on officer time of renewing after a shorter period. 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.

13. If introduced, the council's Law Enforcement Officers or other authorised enforcement partners such as a Police Constable or Police Community Support Officer, may issue a fixed penalty notice (FPN) of up to £100 to those who fail to comply with the Order.

Options and analysis of options

14. The following options have been considered:

15. Option 1 – A PSPO is introduced prohibiting the use of e-bikes, e-scooters and other electronic vehicles on the pedestrianised parts of the Thames Path (RECOMMENDED OPTION).

16. A copy of the draft proposed Order can be found in **Appendix 2**.

17. The recommended option proposes introducing a PSPO containing the following prohibitions:

1	No person shall ride/cycle/use an E-scooter or E-bike, or use other motorised vehicles listed in Schedule 1 , along the pedestrianised parts of the Thames Path (shown on the attached map) unless - <ul style="list-style-type: none">o that person has a reasonable excuse for failing to comply; oro the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to comply
2	Exemptions: <ul style="list-style-type: none">• Nothing in this order shall affect a Disabled person (see Schedule 2 for definition) or anyone with restricted mobility who uses any electric powered vehicle as a mobility aid. • Nothing in this order shall affect any parent or carer using electric powered vehicles to transport children.

18. The motorised vehicles listed in **Schedule 1** of the proposed order are: e-bikes, e-scooters, segways, quad bikes and hoverboards.

19. The pedestrianised parts of the Thames Path the proposed order will apply to can be found in the draft Order (**Appendix 2**).

20. This recommendation proposes amendments to the original draft Order published as part of the consultation. Following this consultation and further data collection, this report recommends removing the proposed second prohibition in relation to the 'reckless riding of a pedal bike'.

21. The proposed exemption for those with a disability or mobility issues has also been amended, in order to ensure this is clearly defined. This will help ensure that enforcement of a breach of the order is a robust, objective exercise, rather than a subjective decision by an individual enforcement officer. Feedback from the consultation exercise highlighted that many residents with restricted mobility use e-bikes to assist them. 50 comments were received as part of the consultation highlighting this. As such, the council has adopted the definition used by London Councils, in accordance with the Transport Act 2000, in respect to transportation and eligibility for Freedom Passes. A further exemption has also been added in relation to the use of e-bikes to transport children following consultation feedback.

22. The wording of the first prohibition has been updated to clarify that the order will only apply to pedestrianised parts of the Thames Path and an updated map has

also been provided to provide greater clarity with regards to where the order will apply.

23. This report recommends proceeding with introducing a PSPO placing restrictions around the use of e-bikes and e-scooters, along with the 'other motorised vehicles' that were included in the draft order: segways, quadbikes and hoverboards.

24. The proposed PSPO would prohibit riding/driving these vehicles along the Thames Path for a period of 3 years (July 2023 to July 2026).

25. This is the recommended option following the public consultation and further data analysis. This option is informed by 68.2% of respondents to the public consultation responding in favour of the proposed measure 'a PSPO prohibiting the use of E-Scooters and E-bikes down the Thames Path.' 70.8% of respondents also felt that vehicles being ridden down the Thames Path are decreasing safety.

26. Option 2 – A PSPO is introduced with the original proposed prohibitions (NOT RECOMMENDED).

27. This option proposes introducing a PSPO containing the original prohibitions included in the draft order shared as part of the consultation process:

1	No person shall ride/cycle/use an E-scooter or E-bike along the Thames Path (shown on the attached map) unless - <ul style="list-style-type: none">o that person has a reasonable excuse for failing to do so; oro the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so.
2	No person shall recklessly ride a pedal bike in such a way that jeopardises safety along the Thames Path unless - <ul style="list-style-type: none">o that person has a reasonable excuse for failing to do so; oro the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to that person failing to do so
3	Exemptions apply to: Nothing in this order applies to a Disabled person who uses a mobility scooter for access reasons.

28. This is not the recommended option due to a significant number of responses to the public consultation expressing concern in relation to placing additional restrictions on the use of pedal cycles in the borough. In addition, there were over 40 comments from the consultation highlighting how the proposed PSPO could

have a negative impact on the environment and current climate crisis by restricting the use of pedal cycles.

29. Hammersmith & Fulham also wishes to promote the use of cycling as a healthy and sustainable means of transportation as part of the council's ambition to become carbon neutral by 2030.

30. Option 3 – Not to introduce a PSPO (NOT RECOMMENDED).

31. The council could choose not to introduce a PSPO. However, this is not the recommended option because the majority of responses to the proposed PSPO were in favour (68.2%) of prohibitions being introduced to prohibit e-scooters and e-bikes down the Thames Path. 70.8% of respondents also felt that vehicles being ridden down the Thames Path are decreasing safety which demonstrates support for action to be taken to manage the riding of vehicles in this area.

32. Without a PSPO, the council's Law Enforcement Team will not be able to address the issue of ASB caused by motorised vehicles along the Thames Path effectively.

Reasons for decision

33. The proposed order is being recommended following a public consultation exercise which received 1,233 responses. The findings of the public consultation can be found in **Appendix 3**. The findings of the public consultation found that 70.8% of respondents felt that vehicles are being ridden irresponsibly down the Thames Path which decreases safety. Making the decision to implement the PSPO will give the council's Law Enforcement Officers, and other authorized enforcement officers, tools to combat this.

34. 68.2% of respondents were also in favour of the proposed prohibition of the use of e-scooters and e-bikes (with 27.3% voted no, 3.8% maybe and 0.7% unsure).

35. 64% voted that Segways should be included in the list of prohibitions. 70% voted that quad bikes should be included. 64% voted that hoverboards should be included. A few other vehicles were also suggested in the 'comments' section of the consultation such as skateboards, but these did not represent a statistically significant volume of responses to warrant including these in the proposed prohibitions at this stage.

36. Following the consultation, four amendments have been proposed to the original draft order published as part of the consultation:

- a. The first amendment clarifies the area that these restrictions will apply, adding in the phrasing ‘the pedestrianised parts of the Thames Path’ to avoid any confusion with the parts of the Thames Path that are public highways.
- b. The next amendment is the removal of the prohibitions relating to ‘reckless riding of pedal bikes.’
- c. The proposed exemptions have also been amended to clarify that those with statutory disabilities, as listed in the Transport Act 2000, would be exempt. This is the same process used by London Councils for Freedom Pass eligibility. This will help ensure that enforcement of a breach of the order is an robust, objective exercise, rather than a subjective decision by an individual enforcement officer. 50 responses to the consultation highlighted that many residents with restricted mobility use e-bikes to assist them.
- d. An exemption has also been added in relation to the use of electric powered vehicles to transport children following concerns raised by parents who use e-bikes to transport children responsibly and would not be able to do so using a pedal bike. This promotes healthy and sustainable methods of transportation, for example to and from school, which is a priority for the council in its ambition to become carbon neutral by 2030. When used responsibly, the Thames Path provides a key transport link for parents to take their children to and from school safely, and away from air pollution.

37. These amendments have been proposed due to concerns raised during the consultation period in relation to discouraging the use of pedal cycles as a healthy means of transport to and from work, and following consultation responses from various key stakeholders and local cycling groups expressing their concern regarding the proposed prohibitions in relation to pedal cycles. Comments were also received in relation to the difficulties surrounding the enforcement of this prohibition and how ‘reckless riding’ could be interpreted. Allowing the safe use of pedal cycles also further support Hammersmith & Fulham’s commitment to tackle the climate emergency and our commitment to become net carbon zero by 2030. We will continue to monitor reports of dangerous or anti-social cycling along the Thames Path during the period of this order, and will continue to explore alternative options for promoting the responsible and safe cycling of pedal cycles along the Thames Path.

38. Similarly, concerns were also raised during the consultation period in relation to those who use electric-assist vehicles such as e-bikes for mobility reasons and concerns that the order would disproportionately impact parents or carers who

transport children via e-bikes. Over 50 responses noted concerns around disproportionality. The amendments made to the exemptions reflect these concerns.

39. An Equality Impact Assessment can be found at **Appendix 1**. This also informed the amendments made to the exemption list.
40. From the 25 May 2023 to 5 June 2023 the council's Law Enforcement Team conducted further operations along the pedestrianised parts of the Thames Path to observe any instances of dangerous or anti-social riding of e-scooters or e-bikes. During that period 44% of e-scooters or e-bikes observed were considered to be either travelling at excessive speed or riding in an anti-social manner. On 2 occasions officers reported that the actions of riders nearly resulted in an accident.
41. As such, at present, there is insufficient evidence of ASB caused by pedal cyclists for a PSPO to be considered proportionate. There were also over 40 comments from the consultation highlighting how the proposed PSPO could have a negative impact on the environment and current climate crisis. However, the council will continue to monitor this and, should further evidence be identified, a consultation can be launched with a view to varying the PSPO or utilise other enforcement powers available to address this. We will continue to monitor reports of dangerous or anti-social cycling along the Thames Path during the period of this order and are committed to exploring alternative options for promoting the responsible and safe cycling of pedal cycles along the Thames Path.

Equality Implications

42. The Council has given due regard to its responsibilities under Section 149 of the Equality Act 2010, and it is anticipated that there will be positive impacts on different groups with shared protected characteristics from the adoption of this PSPO. The implementation of the proposed PSPO will have a positive impact upon individuals on the basis of age. Those of an older age will be able to walk down the Thames Path more safely due to there being a smaller number of vehicles that cause obstructions and pass at high speeds. Children are also more likely to be safer and less likely to be at risk of a collision. The implementation of the proposed PSPO is expected to have a positive impact on individuals with certain impairments. Those with mobility impairments will be able to walk down the Thames Path more safely due to there being a smaller number of vehicles that cause obstructions and pass at high speeds. The overall impact of the proposed PSPO will be neutral, but positive for those of all ages and disabled people.
43. An Equalities Impact Assessment can be found in **Appendix 1**.

Implications verified/completed by: Yvonne Okiyo, Strategic Lead Equity, Diversity and Inclusion, Yvonne.Okiyo@lbhf.gov.uk, 16 June 2023.

Risk Management

44. As an authority, we must decide what's reasonable and what isn't, before we act. Everyone's perception of the use of certain vehicles and the type of riding behaviour is different and many residents are passionate about this topic. 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 this along the Thames Path.

Implications verified by: David Hughes, Director of Audit, Fraud, Risk and Insurance, 16 June 2023

Climate and Ecological Emergency Implications

45. The PSPO will ensure our Thames Path will continue to thrive and stay a pleasant place for residents and businesses to visit. It will ensure that pedestrians will feel safer and hopefully contribute to more walkers along the Thames Path. This order will ensure that more people are encouraged to use the Thames Path as a means of safe travel. The amended PSPO will also continue to allow safe and considerate cyclists to enjoy the Thames Path and promote healthy and environmentally sustainable modes of transport.

Implications verified by: Hinesh Mehta, Head of Climate and Ecology, 16 June 2023.

Consultation

46. The public consultation took place for a period of 58 days, from the 9 December 2022 until 5 February 2023. The consultation was through the online 'Have Your Say' consultation platform and was advertised online on the council's website, advertised through community groups, councillors, and ward panel meetings. An 'easy-read' version of the consultation documents was also published.

47. The consultation received 1,233 responses via the online portal. The results and a sample of comments received as part of the public consultation from those both for and against the proposed PSPO are included in **Appendix 3**.

48. It is specified within the legislation that before making a PSPO the council must consult with the chief of police for the area. This consultation took place on 21 February. Furthermore, an effort was made to consult any private landowners

affected to ensure they were fully sighted and able to contribute to the consultation via the public consultation platform.

LIST OF APPENDICES

Appendix 1 – Equality Impact Assessment

Appendix 2 – Draft Order

Appendix 3 – Consultation Findings

Appendix 4 – Easy Read version of draft Order