

# Cabinet Member Report

<b>Decision Maker:</b>	Councillor Heather Acton - Cabinet Member for Communities and Regeneration
<b>Date:</b>	6 <sup>th</sup> December 2021
<b>Classification:</b>	General Release
<b>Title:</b>	Public Spaces Protection Order – Nuisance from Motor Vehicles
<b>Wards Affected:</b>	St James's and Knightsbridge & Belgravia
<b>City for All/Policy Context:</b>	The report sets out solutions linked to both our Cleaner & Greener and Smart City objectives.
<b>Cabinet Member/Lead Member:</b>	Not required for Cabinet Member reports
<b>Key Decision:</b>	It does involve a Key Decision and has been given a date for decision of 25 <sup>th</sup> November 2021
<b>Financial Summary:</b>	
<b>Report of:</b>	Raj Mistry, Executive Director – Environment & City Management

## 1. Executive Summary

- 1.1. This report outlines the issue of Anti-social Behaviour arising from nuisance / noisy vehicles and car meets in Westminster. We receive regular reports about nuisance vehicles and car meets (groups of car owners meeting up at a specific location) across Westminster. We also know that this is an issue that our residents and businesses regularly report to their Ward Members, often relating to individual vehicles, but also groups of vehicles that appear to be part of an organised meet. Evidence points towards infrequent car meets being a particular issue in some hotspot locations. RBKC have responded to similar issues around vehicle nuisance with a Public Spaces Protection Order (PSPO) and the use of acoustic cameras, an approach for which we have sought evidence to replicate.
- 1.2. This report summarises the results of a public consultation to introduce a PSPO to tackle nuisance vehicles and car meets in parts of St James and Knightsbridge &

Belgravia wards as outlined in the PSPO application appendix. A public consultation is one of the key elements required to support such a PSPO.

## **2. Recommendations**

- 2.1. That the Executive Director for Environment & City Management, in consultation with the Cabinet Member for Communities and Regeneration, agrees to:
  - a) The making of a Public Spaces Protection Order (PSPO) to tackle nuisance vehicles and car meets in St James's and Knightsbridge & Belgravia wards as outlined in Appendix 1;

## **3. Reasons for Decision**

- 3.1. The City of Westminster is at the heart of London, a world class City. Westminster City Council's policies aim to safeguard the architectural and historic character of the city and provide an inclusive environment for everyone who lives, works, and visits. To help achieve this, we want measures in place to deter crime and anti-social behaviour while, at the same time, ensuring that the appropriate support is available to protect some of the most vulnerable people in our society.
- 3.2. Nuisance vehicles and car meets have been a persistent source of crime and noise nuisance in recent years, leading to a number of complaints from members of the public and a series of costly policing operations to respond to the issue. Despite this, problems persist, and the Council and its partners are looking at more sustainable ways to tackle the problem.
- 3.3. If the Cabinet Member is minded to make the PSPO as recommended, The Executive Director for Environment & City Management is asked to approve the proposals outlined in this report and to commit the necessary resources to implement the proposal.

## **4. Background, including Policy Context**

- 4.1. There is currently limited legislation available to Local Authorities to enforce vehicle noise. Statutory nuisance legislation (Environmental Protection Act 1990) does theoretically allow enforcement of traffic/vehicle noise however it is generally superseded by other primary legislation and considered by local councils an ineffective tool for dealing with moving traffic due to the need to witness the noise and also identify which vehicle it originated from.
- 4.2. Ordinarily, vehicle noise (from exhausts) should be enforced by the Police or Vehicle Inspectorate under The Road Vehicles (Construction and Use) Regulations 1986, with the current legal noise limit for new cars within the EU area being 74dB. In addition, noise emissions from existing vehicles are checked during an MOT annually. However, the existing legislation is limited, and it is virtually

impossible for the police to enforce the noise regulation as they either don't have the dedicated equipment, or the expertise, or both. In addition, the measurement procedure is very precise, cannot accurately be performed at the roadside (meaning the police would need a reason to seize the vehicle) and this approach is resource intensive.

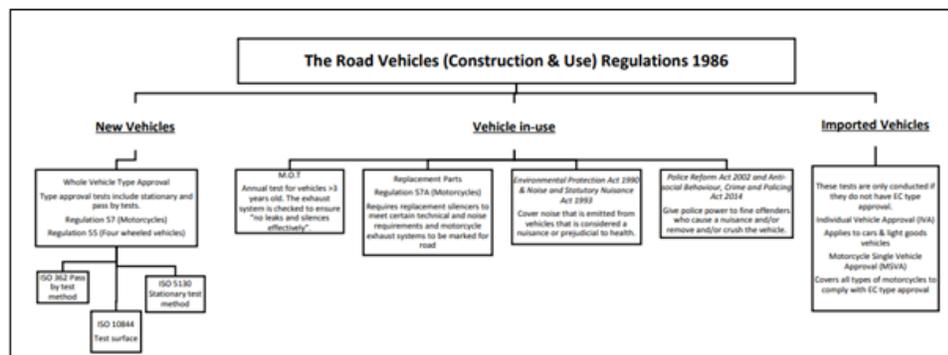


Figure 1. Current UK legislative framework to control and mitigate noise from motor vehicles

## Current enforcement tools

- 4.3. As evidenced above enforcement tools specifically relating to noise emitted by vehicles are currently ineffective. Therefore, local authorities and police tend to rely on other pieces of legislation to deal with vehicles causing noise nuisance, focused more on the nuisance and/or relating to the manner in which the vehicle is being driven.
- 4.4. For local authorities the alternative enforcement options are limited, though RBKC have shown that, in conjunction with the use of policing powers, there is the ability to provide a comprehensive toolkit of enforcement options and that a joined-up approach is likely to be the most effective. As previously stated, the Road Vehicles (Construction and Use) Regulations 1986 requires specific equipment and expertise to enforce, and therefore is rarely used, however the following powers in conjunction with use of a Public Spaces Protection Order (PSPO) and acoustic cameras have been shown to impact on the issue of nuisance noise .

## Section 59 Police Reform Act 2002

- 4.5. Police have powers under Section 59 of the Police Reform Act 2002 to seize a vehicle where they believe it is being used in a manner causing or likely to cause alarm, distress, or annoyance to the public and contravenes Section 3 (careless / inconsiderate driving). Traditionally, use of this power requires significant police resource to gather evidence and enforce, though using CCTV and body worn cameras has been discussed (and now used) as a potential enforcement tool in

relation to Westminster's hotspots. Often a warning highlighting this power can be enough to persuade vehicle owners to comply.

### **Section 35 Dispersal ASB, Crime and Policing Act 2014**

- 4.6. Police can implement a dispersal zone where they have reasonable belief that use of such a power will reduce the likelihood of crime or disorder taking place. This power has been successfully used in RBKC in relation to supercars and is in the toolkit of options for the MPS to use in Waterloo Place.
- 4.7. Police can also take action against vehicles for various infringements such as window tinting, and modified parts. This potentially can lead to vehicle owners being reported to their insurance companies and refused insurance.
- 4.8. All of the above solutions however rely on dedicated policing resources and therefore can generally only be resourced intermittently.

### **Community Protection Notice ASB, Crime and Policing Act 2014**

- 4.9. A Community Protection Notice (CPN) can be used to deal with, ongoing problems or nuisances which are having a detrimental effect on the community's quality of life by targeting those responsible. An important requirement for issuing a CPN is that the conduct is persistent and continuing in nature. ASB from noisy vehicles is often by different vehicle owners and it can be difficult to identify conduct as being persistent and continuing by the same vehicle owner.

### **Capturing evidence – noise and related issues**

- 4.10. To identify the scale of the issue of vehicle noise, we regularly review the number of complaints/issues reported to both WCC and the MPS.
- 4.11. Westminster categorises noise complaints in several different ways and people wishing to report noise nuisance can choose at point of contact which type of noise to report. As noise from vehicles is not a statutory nuisance there is not currently a specific reporting category for vehicles. Therefore, to identify vehicle noise complaints in Westminster we undertake a manual search of a data extract from Uniform, our line of business system. The period most recently extracted covered May 2020 – October 2020, and a key word search is used to identify complaints relating to cars.
- 4.12. Of 11,767 noise complaints, 60 appeared to relate to noise from vehicles, with a further 52 relating to music coming from vehicles, some of which may have related to the increase of unlicensed music events (UMEs) seen in the latter half of 2020.

Of the 60 vehicle related noise complaints, over a third (22) related to Waterloo Place or Carlton House Terrace, consistent with our understanding of the hotspot for vehicle related noise and car meets. A caveat with the data is that the ability to identify noise complaints relating to noisy vehicles does rely on the amount and quality of the free text, which can often be missing or lacking detail.

- 4.13. Similarly, there is no specific category of reporting noisy vehicles to the police, with the most likely proxy being vehicle nuisance/improper use. For the period December 2019 to November 2020 there were 528 reports of vehicle nuisance across Westminster. With no detail to this data, we are unable to examine how many of these related to noisy vehicles, however the locations with the highest number of calls were Knightsbridge & Belgravia (99), Strand & Whitehall (54) and Mayfair & St James's (49) – locations that include our known hotspots.
- 4.14. More recently, as we have started gathering evidence to support further enforcement action, we know that between January 2020 and the end of May 2021 police had received 80 reports of vehicle nuisance specific to Waterloo Place/Carlton House Terrace. In addition to noise reports the MPS and our own ASB caseworkers have been obtaining victim impact statements from residents and businesses in Waterloo Place.
- 4.15. The relative lack of formal noise complaints around noisy vehicles may relate to one or all of the following scenarios:
- It is a type of noise that some/many of our residents expect/are used to and only in key locations such as Waterloo Place do residents/businesses report this issue.
  - The lack of a dedicated reporting category might dissuade reporting of the issue altogether.
  - Residents/businesses are aware it is an issue that may be better investigated by the police as the dangerous driving/anti-social driving may be more concerning than the noise alone.

## **Interventions to Date**

WCC are working closely with the MPS (both local officers and the Roads and Transport Policing Command) to ensure a comprehensive enforcement plan for our hotspot locations, as well as securing evidence to support a PSPO. However, given our limited powers at present, enforcement has relied on the MPS to take action in the first instance.

- 4.16. *Example* - On 25th April 2021, MPS were made aware of a car meet taking place in Waterloo Place. Through use of the MPS CCTV in the area, 32 vehicle

registrations were captured. 30 vehicle owners were sent warning letters whilst 2 are currently being prosecuted for dangerous driving.

- 4.17. Example – On 4<sup>th</sup> July 2021, MPS were made aware of a car meet in Waterloo Place/Pall Mall. Early intervention by police, resulted in 2 FPNs for speeding, 1 vehicle owner being issued a s59 notice and another being dispersed from the area under s35 dispersal powers. All other vehicles witnessed in the area are being written to by the police warning them about their conduct.
- 4.18. WCC have agreed to fund policing operations in the area from 10<sup>th</sup> July for a period of 8 weeks, utilising the Ward members budget for St James's Ward and PPL funding. Results from these deployments have so far included 5 drivers being reported for traffic offences following vehicle stops, 2 x Section 59's being issued and a vehicle seizure in Bournemouth following on from a warning issued in Westminster. Operations continue with this funding, including a large Traffic operation in place for Sunday 31<sup>st</sup> October 2021 as Halloween was particularly problematic in 2020. ,
- 4.19. With the ultimate threat of seizing these often very expensive and/or highly modified vehicles (through Sec 59 of the Police Reform Act 2002) it is hoped this may dissuade a number of this group from returning. Indeed, a comprehensive communications campaign between ourselves and the MPS is another tool in alerting those who would want to travel into Westminster and cause nuisance that they ultimately risk having their car seized, if not there and then at a later date.
- 4.20. WCC have purchased two acoustic cameras to support enforcement in our car meet hotspots. Use of acoustic cameras are currently being used to gather evidence of noise nuisance and dangerous driving and used in conjunction with other approaches such as police dispersal powers, evidence capture via body worn cameras and potential design-out solutions. Long term we hope to be able to replicate the methodology. In the first two months of the cameras being installed, there have been just over 700 triggers, and upon viewing the footage, some of these would have met the PSPO prohibition criteria, and therefore would have been enforceable by way of an FPN.

#### **4.21. Proposed Prohibitions**

- Between the hours of 12 noon and 6am in the location described in paragraph 2 of the Order and the Schedule to this Order anyone being the driver of a vehicle performs any of the following activities:
  - (a) Revving of engine(s) (as to cause a public nuisance)
  - (b) Sudden and/or rapid acceleration (as to cause a public nuisance)

- (c) Repeated sudden and/or rapid acceleration (as to cause a public nuisance)
- (d) Racing by two or more vehicles
- (e) Performing stunts (as to cause a public nuisance)
- (f) Sounding horns (as to cause a public nuisance)
- (g) Playing music from a vehicle (as to cause a public nuisance)
- (h) Using threatening, intimidating behaviour towards another person
- (l) Causing obstruction on a public highway, whether moving or stationary, including but not limited to driving in convoy

A copy of the full draft PSPO including a map of the boundary is provided in Appendix 1

## **5. Consultation**

- 5.1. The PSPO consultation included a 13-question survey (including demographic questions) to gather views both on the extent of car nuisance, and the proposed geographical area of the PSPO to tackle it. A copy of the survey questions is provided in Appendix 1.
- 5.2. The consultation, amongst other channels, was promoted in the Knightsbridge & Belgravia Law and Order Committee Newsletter on the 18<sup>th</sup> August 2021.
- 5.3. There were 167 responses to the consultation and full analysis is available in Appendix 2.
- 5.4. The majority of the responses were made by residents (88%). Where respondents' postcodes could be accurately linked, West End and St James's wards, followed by Knightsbridge & Belgravia were the most prevalent location for respondents.
- 5.5. Approximately half of respondents were over 50 years old and the majority (66%) described themselves as "White British", with just 9 responses self-describing as Black, Asian or Middle Eastern. There were very few responses by those under 30 years of age.
- 5.6. The majority of respondents replied that all the listed car related activities were a "nuisance, annoyance or danger". Revving", "Rapid acceleration" and "idling" were the most frequent problematic.

- 5.7. An overwhelming response of (93%) felt that the nuisance and danger of the activities required a PSPO.
- 5.8. The respondents were less clear on the most suitable location. A slim minority (40%) reported that the proposed area was correct, and approximately half (51%) suggesting the proposed area was too small
- 5.9. In relation to times and seasonality, the largest response was for weekday late evenings. Friday and Saturday issues occur later overnight. A majority of respondents (61%) report that these activities occur all year round but with a clear emphasis on the summer.

## **6. Financial Implications**

- 6.1 As a result of the introduction of Public Spaces Protection Order (PSPO) there will be no additional staffing or administrative costs associated with issuing Fixed Penalty Notices (FPN). There will be revenue costs for the annual maintenance charges for the cameras and these costs will be met from existing budgets.
- 6.2 Fixed Penalty Notices up to £100 will be issued to persons in breach of the PSPO. The impact on income from issuing FPNs cannot be determined at this stage. However, it is envisaged the numbers of FPNs issued on an annual basis will not be significant, as the notices should act as means to encourage compliance.

## **7. Legal Implications**

- 7.1 PSPO's took effect from 20 October 2014 under the Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") enabling the Council to follow prescribed procedures to seek to make a PSPO.
- 7.2 PSPO's are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.
- 7.3 The validity of a PSPO can be challenged on two grounds:
  - i. that the Council did not have the power to make the PSPO, or to include particular prohibitions or requirements; or
  - ii. that one of the requirements, for instance consultation, had not been complied with.

The High Court can suspend the operation of the PSPO in part or in whole as well as uphold the PSPO, quash it, or vary it.

- 7.4 The maximum duration of a PSPO is 3 years unless extended. A PSPO can be extended more than once. Any extension may not be for a period of more than 3 years.

## **8. Consultation requirements**

- 8.1. Before making a PSPO, the Council must consult with the local police and whatever community representatives the Council considers appropriate. The Council will need to decide how best to identify and consult with interested persons and can include the use of newspapers, the Council's own website and other social media.
- 8.2. It is an offence for a person, without reasonable excuse, to:
- i. do anything that the person is prohibited from doing by a PSPO;
  - ii. fail to comply with a requirement to which the person is subject under a PSPO.
  - iii. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 8.3. The formal process for making a PSPO is set out in statute and guidance, but is not prescriptive and therefore the Council may want to proceed with caution in gathering views and ensuring widespread support for the measures before declaring the PSPO.

## **9. Resources Implications**

- 9.1. Enforcement of a PSPO can be police officers, police community support officers, and authorised Council officers.
- 9.2. An enforcing officer can issue a fixed penalty notice and although this can be undertaken by Council Officers, given the potentially aggressive nature of some of the individuals participating in car meets and the dynamic nature of vehicles moving about, it is likely that some police involvement will be required if enforcement takes place on location. Acoustic camera footage however can be used to issue FPNs by Council Officers where criteria for nuisance is met as set out by the PSPO prohibitions.
- 9.3. Police have committed to support enforcement activity however, there is an expectation that future enforcement will be less resource intensive through use of the PSPO.

## **10. Equalities Implications**

- 10.1. The ASB (and criminality) taking place in this location is impacting members of the local community and general members of the public as well as affecting residents' enjoyment of their homes and local businesses. The PSPO will help prevent the current anti-social behaviour and criminal activity being conducted in the location. The action is proportionate and necessary to prevent a continuation of this behaviour.
- 10.2. As enforcement will only be taken against the legal owner of any offending vehicles we are not provided details of the socio-economic background, age, ethnicity or religion of the vehicle owner through this process. The enforcement relates to the use of the vehicle first and not the driver and therefore the characteristics of the driver/owner are not relevant to the enforcement taken. Whilst enforcement may identify the gender/sex of the vehicle owner, this bears no relation to objective decision making around enforcement and would not be known before the decision was made to enforce.
- 10.3. An equalities impact assessment has been completed and can be found at appendix 3

## **11. Communications Implications**

- 11.1. Section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 sets out requirements on publicity and notification for PSPOs and the statutory guidance issued by the Secretary of State requires that the final set of measures in a PSPO be published identifying:
- a) The activities having the detrimental effect;
  - b) The potential sanctions available on breach; and
  - c) The period for which the PSPO has effect
- 11.2. In essence this means publishing a copy of the PSPO on the council's website and displaying appropriate signs in the affected area.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact:**

**Alex Juon, Head of Service (South & West)**

## **APPENDICES**

**Appendix 1 - Draft PSPO order**

**Appendix 2 – PSPO consultation survey**

**Appendix 3 - EQIA**

**Declaration of Interest**

I have <no interest to declare / to declare an interest> in respect of this report

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: \_\_\_\_\_

State nature of interest if any .....

.....

*(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)*

For the reasons set out above, I agree the recommendation(s) in the report entitled

Public Spaces Protection Order – Nuisance from Motor Vehicles and reject any alternative options which are referred to but not recommended.

Signed .....

Cabinet Member for Communities and Regeneration)

Date .....

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:

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.....

If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, City Treasurer and, if there are resources implications, the Director of People Services (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from

publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

