 <b>Brent</b>	<b>Cabinet</b> 12 December 2022
	<b>Report from Corporate Director Resident Services</b>
<b>Appendix 1 - Public Space Protection Order (PSPO) - Borough Wide including Wembley Park (Wembley Stadium Events), Parks, Open Spaces, Graveyards and Cemeteries</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	37 Please see Schedule at the end of the report for a list of all appendices.  <b>Please note the appendices have been published as a separate supplementary pack to accompany the Cabinet agenda.</b>
<b>Background Papers:</b>	N/A
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Susana Figueiredo - Community Protection Officer 07985615616 <a href="mailto:Susana.figueiredo@brent.gov.uk">Susana.figueiredo@brent.gov.uk</a>  Chris Whyte – Director Environment & Leisure 07984120922 <a href="mailto:Chris.whyte@brent.gov.uk">Chris.whyte@brent.gov.uk</a>

## 1.0 Purpose of the Report

- 1.1 Section 59 of the [Anti-Social Behaviour Crime and Policing Act 2014](#) permits local authorities to implement a Public Space Protection Order (PSPO) in a public place within the authority's area that is, or is likely to have a detrimental effect on the quality of life for those in the locality. This initiative assists in combating anti-social behaviour (ASB) for a maximum of 3 years and has been adopted by many local authorities in the UK. Prior to the expiry of the PSPO, there is an opportunity to review and renew or revoke the PSPO to ensure that the targeted ASB is proportionate.

1.2 The levels of anti-social behaviour and the nuisance complained of pursuant to a PSPO are always being assessed to see whether they continue to have a detrimental effect on the quality of life of those in the community. At any point before the expiry of a PSPO, the council can extend and or vary the PSPO if it is considered necessary to prevent the original behaviour from occurring or recurring. This report seeks approval to vary two existing PSPOs into a single PSPO, for the entire Borough with specific prohibitions in the area surrounding Wembley Stadium (Wembley Park) and Parks, Open Spaces, Cemeteries and Graveyards (POsCGs). The extent of the area covered by the proposed PSPO is attached in three maps as detailed below.

1.3 Attached to this report as Schedule 1, is a list of the Appendices referred to within this report. The proposed PSPO draft order can be seen in **Appendix 2** and comprises of prohibitions within each of the defined areas (maps) as shown in the respective Appendix detailed below

#### **Entire Borough (including POsCGs & Wembley Park)**

- **Appendix 3** (Map): (1) consumption of alcohol, (2) Use of illegal drugs or psychoactive substances (formerly known as legal highs or balloons), (3) Littering (urination or defecation), (4) Littering (spitting), (5) Littering (bottles, cans, packets, food, chewing gum, cigarettes), (6) Dog fouling **(7) Illegal trading (food or other items in the street)\*, (8), Use of megaphone or microphone with speaker without consent\* and (9) Aggressive begging\***  
\*Does not apply to POsCGs

#### **Wembley Park only**

- **Appendix 4** (Map): (10) Illegal trading of merchandise, (11) Illegal trading of tickets (ticket touting), (12) Distribution of free literature (including giveaway items) without consent, (13) Charity collectors without consent, (14) Busking without consent, (15) Ambush marketing (including fly posting), (16) Pyrotechnics such as flares or smoke emitters, (17) Obstruction of the public highway, preventing the free flow of person's movement and (18) Flying of drones

#### **Parks, Open Spaces, Cemeteries & Graveyards only**

- **Appendix 5** (Map) & **Appendix 6** (List): (19) Unauthorised use of motor vehicles (including e-scooters and e-bicycles), (20) Use of permitted vehicles without due care and attention, (21) Loss of control of dogs (dog not within eyesight of owner and/or do not respond to recall), (22) Dogs that are prohibited from specific areas, (23) Letting a dog off a lead in a specified area, (24) More than four dogs being walked at the same time, (25) Flying drones and model aircrafts without consent, (26) The lighting of fires or use of barbeques, (27) The use of fireworks without consent, (28) Defacing or damaging fixtures, furniture or other items, (29) Launching of sky lanterns, (30) Feeding wild animals inclusive of birds and (31) Unauthorised events or activities.

1.4 The prohibitions include consideration of existing prohibitions, evidence derived from an evidence gathering exercise, consultation, complaints to officers, adverse effects on the

safety for residents and citizens in the Borough and consideration of the council's local threshold criteria for PSPOs.

### **Structure of report**

- 1.5 Section 2 lists the recommendations and identifies areas to be considered by Cabinet. Section 3 sets out the intention of the PSPO, together with other considerations such as displacement, vulnerable persons, the definition of anti-social behaviour, the PSPO as a deterrent, PSPO training for officers and under-reported evidence. Section 4 covers each of the prohibitions in detail and where available, the evidence to support each restriction. Section 5 suggests the removal of prohibitions that form part of the current Wembley Park PSPO and the expired POsCGs PSPO and invites Cabinet to specifically consider and comment on these. Section 6 comments on the evidence gathering, whilst section 7 comments on the consultation outcome. Section 8 details the expected implementation timeline. Finally, sections 9, 10, 11 and 12 go through the financial, legal, equality and human resource implications respectively.
- 1.6 The legal requirements regarding the council's powers to extend, make, vary or discharge a PSPO are set out in section 10. They must be taken into account, together with the council's local threshold criteria for making PSPO's in Brent, when members consider each prohibition of the proposed PSPO.

## **2.0 Recommendation(s)**

- 2.1 That Cabinet:
- a. note the Parks, Open Spaces, Cemeteries and Graveyards (POsCGs) PSPO expired on 16.09.2022
  - b. note the Wembley Park PSPO is due to expire on 31.12.2022 and it is proposed to allow this PSPO to expire.
  - c. note the Borough wide street drinking PSPO is due to expire on 19.10.2023. It is proposed to vary this PSPO to include the prohibitions formally in a. and b. above and extend its duration.
  - d. note that the prohibition relating to; Use of illegal drugs or psychoactive substances is only to be enforced by the Metropolitan Police.
  - e. consider and comment upon the introduction of in effect, one single PSPO across the entire borough with specific prohibitions in the area surrounding Wembley Stadium (Wembley Park) and POsCGs.
  - f. consider and confirm the proposed areas shown in **Appendix 3, 4 & 5**
  - g. consider and comment upon the proposed removal/discontinuation of prohibitions set out in section 5.
  - h. delegate authority to the Corporate Director Resident Services in consultation with the Cabinet Member for Safer Communities & Public Protection for the function of

making all Public Spaces Protection Order under the Anti-Social Behaviour Crime and Policing Act 2014 Act.

### 3.0 Detail

- 3.1 Brent Council is committed to maintaining a clean and safe environment. In order to assist in achieving this, this report proposes a borough-wide PSPO. It also includes specific prohibitions in POsCGs and events held at Wembley National stadium (Wembley Park).
- 3.2 The aim of the PSPO is to deal with particular nuisance or problem in a particular area that is detrimental to the local community's quality of life which in Brent includes enviro-crime. The Council knows that the majority of those who live in, work in and visit the borough keep the area clean and safe; however, it wants to ensure where this is not the case, it uses the relevant legislation and approaches to maintain a clean and safe environment.
- 3.3 The Anti-Social Behaviour, Crime and Policing Act 2014 ('the 2014 Act') provides a legal framework within which PSPOs can be implemented. PSPO's can be introduced to target a range of anti-social behaviour which is, or likely to be detrimental to the local community's quality of life where the local authority is satisfied that certain conditions have been met. The legal requirements and conditions regarding the Council's powers to make PSPOs are set out in further detail in **section 10** of this report and they must be taken into account (including any additional local threshold criteria for making a PSPO in Brent) when considering each prohibition and requirement of the proposed PSPO.
- 3.4 The PSPOs are due to expire are as follows:
- Borough wide street drinking PSPO - **19 October 2023 (renewed twice)**
  - Wembley Park (the area surrounding Wembley National Stadium) PSPO – **31 December 2022 (first PSPO)**
  - Parks, Open Spaces, Cemeteries and Graveyards (POsCGs) PSPO - **16 September 2022 (first PSPO), expired and no longer enforceable.**

The list of current prohibitions for each PSPO can be found here <https://www.brent.gov.uk/pspo>

- 3.5 This report sets out the intention to create one PSPO that introduces prohibitions that reflect the restrictions contained in the PSPOs set out in **paragraph 3.5** above., For e.g. a prohibition for street drinking could apply across the borough including POsCGs and Wembley Park but a prohibition preventing more than four dogs from being walked would only apply to POsCGs. The reasoning for introducing one single PSPO is the confusion it potentially causes for members of the public and enforcement officers in having three separate orders. Many of the prohibitions also creates displacement, which is discussed in **paragraph 3.10**.
- 3.6 The proposed prohibitions were identified by analysing the evidence gathered, the consultation responses, and the evidence provided by officers, the results of which indicate that specific activities have had an adverse effect on residents, businesses and the wider public.

### **Ward Boundaries**

- 3.7 At the time of the evidence gathering, the ward boundaries had not yet been changed. Accordingly, the evidence gathering and subsequently the consultation are based on the old ward boundaries. The new varied PSPO will be based on the new ward boundaries.

### **Displacement**

- 3.8 The PSPO Statutory Guidance for Councils, December 2017 expressly states, 'when defining the area restrictions should cover, consideration should be given as to whether prohibitions in one area will displace the problem behaviour elsewhere, or into a neighbouring authority. It is worth noting here that the legislation allows for orders to address activity that 'is likely to' occur in that public place. Local authorities can therefore consider whether there are any legitimate concerns that introducing an Order in one area, and not another, could simply move issues somewhere else – and thus whether it would be appropriate to extend into a larger area or adjacent street. Councils will however need to ensure that a proportionate approach is taken overall, and that there is evidence to support using a broader approach. Where there are concerns that activity may be displaced into other areas, authorities should contact neighbouring councils to discuss managing any unintended consequences'.
- 3.9 It is important to take into consideration the adverse effect that some prohibitions will have on neighbouring areas and wards. Where there has been a risk of displacement, impacting neighbouring boroughs they have been consulted on this proposal.

### **Vulnerable Persons**

- 3.10 Brent Council is committed to protecting vulnerable persons. Indeed the PSPO Statutory Guidance for Councils, December 2017 sets out that; 'PSPOs should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community's quality of life which justifies the restrictions imposed. It suggests the council should consider whether the use of a PSPO is the appropriate response and if it will have a detrimental impact on homeless people and rough sleepers. Councils will find it useful to consult with national or local homeless charities on this issue, when councils are considering restrictions or requirements that could affect homeless people and rough sleepers'.
- 3.11 Targeting vulnerable persons including those with mental health issues is not an appropriate or effective way of dealing with issues. In any case, fines would remain unpaid, as it is likely that the means by which to pay them is not available and would not resolve the root cause. Brent Council will continue to work in partnership with Westminster Drug Project (WDP), B3 & St Mungo's to ensure that vulnerable persons are assisted and not targeted. Where enforcement is required, it is important that this be carried out in a way that supports an effective long-term solution for those vulnerable persons. Please see **Appendix 15** for the Vulnerable Persons Statement.
- 3.12 The Neighbourhood Patrol officers (NHPs) also assist vulnerable persons wherever possible. An e.g. of this includes a homeless male whom the NHPs met in Neasden Parade with his dog, was sign posted to a charity to assist in finding the male a home. Unfortunately,

the charity could not rehome the male with his dog so the NHPs helped to find another way for the male to be rehomed so that he could keep his dog.

### **Defining Anti-Social Behaviour**

- 3.13 **Paragraph 10.5 (a)** discusses the case law surrounding the term 'detrimental effect', as it is not defined in statute. It is vital to remember that local authorities have to balance the needs of residents, businesses and visitors to Brent. What may appear as only a few complaints, may still have a 'detrimental effect' on members of the public in an area. On the other hand, a few members of the public may be sensitive to activities which they believe are anti-social but is not detrimental enough or proportionate to be added to a PSPO. The evidence included as part of this proposal consequently includes Council and MET police's viewpoints who do have overall local knowledge and therefore an overview of the more detrimental anti-social behaviours, not just what may be annoying to someone.

### **PSPO as a Deterrent**

- 3.14 Having a PSPO in place, which is communicated well in terms of for e.g. social media or signage, acts as a strong deterrent to preventing anti-social behaviour in the first instance. If over time, the PSPO influences a cultural change just by its mere presence, the PSPO in itself can be justified as a success from the Council's perspective.
- 3.15 For e.g. during the first football game of the year held at Wembley National Stadium on the 27 February 2022, the street drinking prohibition was enforced. Meetings were held with the relevant football clubs so that all ticket holders could be advised that the street drinking prohibition would be enforced because of the likelihood of anti-social behaviour attributed to street drinking. For the first time in many years, the enforcement of this prohibition meant that the anti-social behaviour in relation to aggression, urination and littering was suddenly at an all-time low (**see Appendix 16**). The enforcement of this and other prohibitions continued to be enforced throughout the remaining football season and were hailed a success.

### **PSPO Training**

- 3.16 Should permission for the PSPO be granted, training for all authorised council and police officers will be provided. This is not only to ensure that all officers understand what prohibitions can be enforced but also ensure that the council's expectations around proportionality is applied when making a decision as to whether an FPN should be issued. This is to ensure a fair and consistent approach across the borough.
- 3.17 In order to ensure proportionality, enforcement will consist of a method that firstly involves assessing a situation. This will include whether there is or is likely to be ASB as a result of a prohibition being breached. The next step is to engage with the individual and educate them on their actions. This may include encouraging someone to cease what they are doing or explaining that it could lead to ASB which would in turn have a negative effect on others in the same locality. It may also include a warning that if the individual returns and carries on the same breach, they are likely to receive an FPN. Those individuals that continue or exhibit the restricted activity will be issued with an FPN.
- 3.18 An example of proportionality may include for example a couple that are sat having a bottle of wine whilst eating a picnic with their young children. Having assessed the situation, the officers would have no reason to approach the family and would continue with their duties. If for example those officers then return a few hours later to find the same couple are now

arguing, their kids appearing distressed and litter is strewn across the immediate area, the officers will approach the couple and engage with them. Based on how the couple respond to the warning, will determine whether a FPN is issued.

3.19 Another example may include a group of males that regularly stand by the edge of the entrance to the park consuming alcohol and paying particular attention to passing females. They have previously been engaged with, educated and warned about the consumption of alcohol together with their predatory behaviour towards females and how this is having a detrimental effect on park users. These males would be issued with an FPN.

3.20 The way in which FPNs are issued may also depend on the prohibition. If an individual is seen to be defacing a fixture in the park, smoking cannabis or doing balloons (nitrous oxide), it is likely they will be issued with a fine immediately by the appropriate officer. Whereas someone that drops litter or allows their dog off a lead in a prohibited area, are likely to be given a warning in the first instance.

### 3.21 **Under-Recorded Complaints**

It is important to note that unreported evidence, does not necessarily equate to the non-existence of ASB behaviour. A proportion of the evidence gathered includes reports of evidence that has been provided to officers during face-to-face customer engagement rather than in the usual formal manner of complaints in writing/email to council officers. Please see **Appendix 17** for a list of prohibitions, which are under-reported in the usual way and split into those that have either had or are likely to have a detrimental effect on the community. Of those prohibitions, in order to ensure a proportionate approach, some are targeted at specific areas such as town centres and transport hubs where the ASB activity is more likely to occur.

## 4.0 **Prohibitions**

4.1 **Paragraphs 4.1 to 4.141** discuss the proposed prohibitions to be included across the entire Borough including parks, open spaces, cemeteries and graveyards (POsCGs) and the Wembley Park area surrounding Wembley Stadium event days. Additional specific prohibitions are proposed for POsCGs and Wembley Park where particular issues of ASB are present and relevant to the area in question. Below is a table which indicates which prohibitions are included in current PSPOs (including expired) and which prohibitions are proposed for the new single PSPO.

# Appendix 1

Prohibition	Borough Wide		Parks, Open Spaces, Cemeteries & Graveyards		Wembley Park	
	Current	Proposed	Current	Proposed	Current	Proposed
Consumption of alcohol	✗	✗	✗	✗	✗	✗
Use of drugs or Psychoactive substances (formerly known as legal highs or balloons)		✗	✗	✗		✗
Littering (urination or defecating)		✗	✗	✗	✗	✗
Littering (spitting)		✗	✗	✗	✗	✗
Littering (bottles, cans, packets, food, chewing gum)		✗	✗	✗	✗	✗
Littering (cigarettes)		✗	✗	✗	✗	✗
Dog fouling		✗	✗	✗		✗
Use of megaphone or microphone with speaker without consent		✗				✗
Illegal trading (food or other items on the street)		✗			✗	✗
Charity Collecting without consent					✗	✗
Aggressive begging		✗				
Leaflet distribution without consent					✗	✗
Unauthorised use of motor vehicles including e-scooters and e-bicycles			✗	✗		
Use of permitted vehicles without due care and attention				✗		
Loss of control of dogs (dog not within eyesight of owner and/or do not respond to recall)			✗	✗		
Dogs that are in a banned area in parks (such as a playgrounds, outdoor gyms, multi-use games areas, tennis courts, walled gardens, etc.)			✗	✗		
Letting a dog off a lead in an area where a notice specifies that dogs must be on a lead			✗	✗		
Prevent more than four dogs being walked at the same time			✗	✗		
Flying drones and other model aircrafts without consent			✗	✗		
Lighting of fires or use of barbeques			✗	✗		
Use of fireworks without consent			✗	✗		
Defacing or damaging fixtures, furniture or other items			✗	✗		
Feeding wild animals inclusive of birds				✗		
Unauthorised events and activities				✗		
Illegal trading of merchandise						✗
Illegal trading of tickets (ticket touting)						✗
Pyrotechnics such as flares and smoke emitters					✗	✗
Ambush marketing including fly posting						✗
Busking a without consent					✗	✗
Obstruction of the public highway, preventing the free flow of persons movement						✗
The launching of sky lanterns (with an open flame)			✗	✗		
To fly drone(s) without consent					✗	✗
To play games or competitions which may cause an obstruction or nuisance					✗	
To leave the engine of a vehicle idling without reasonable excuse					✗	

Proposed Prohibitions for PSPO 2023-26



## Borough Wide (including Parks, Open Spaces, Cemeteries & Graveyards (POsCGs))

### Prohibition 1: Consumption of Alcohol

#### General

- 4.2 A Borough-wide PSPO for the consumption of alcohol (street drinking) was introduced in October 2017 and renewed again in 2020. In 2019, a separate PSPO was introduced to prevent members of the public from consuming alcohol in five of Brent's parks. In 2020, a further PSPO was introduced to deal with the street drinking surrounding Wembley National stadium. The intention is to have one single PSPO that includes the entire Borough in relation to the consumption of alcohol. This amongst other things will prevent confusion for both those consuming alcohol and enforcing the PSPO.
- 4.3 The aim of the consumption of alcohol prohibition is to reduce anti-social behaviour in areas identified as problematic. The current PSPOs have enabled the local authority and the MET Police to identify hotspots. With one unified PSPO, this will continue to provide a more efficient way of referring hotspot areas to the Borough Joint Action Group to ensure the Police, Local Authority and partners such as Westminster Drug Project (WDP) and St Mungo's tackle the identified issues in relation to street drinking.
- 4.4 There is a direct causal link between the behaviour of street drinkers and unlawful or anti-social behaviour which is characterised by drinking in the street, parks, vacant land or private land in groups or singly, littering the streets etc., fighting, aggressive behaviour, urinating and on occasions defecating. The Council's approach would not be to penalise those who drink moderately without causing a nuisance and who dispose of their alcohol vessels lawfully.
- 4.5 Where someone is evidenced drinking alcohol in the street/park and the nuisance test has been met, officers would approach the individuals concerned and request they stop drinking alcohol, if they fail to comply with the order a fixed penalty notice will be issued for non-compliance. A vulnerability protocol is in place between the police and council to ensure that those with mental health, substance misuse issues and or other vulnerabilities are safeguarded, have enforcement waived and are triaged to support services commissioned by Brent. The nuisance test is subjective to the circumstances on the ground at the time the prohibition is witnessed and is likely to include the behaviour of the person/group and the likelihood that the behaviour may in turn, become anti-social behaviour.
- 4.6 Offenders who continue to breach prohibitions after being issued with a fixed penalty notice will be referred for prosecution and be subject to other anti-social behaviour tools and powers such as Community Protection Notices (CPNs). Criminal Behaviour Orders (CBOs) will also be considered to ban individuals from areas. A breach of these orders could lead to a large fine or a custodial sentence at the discretion of the court.

#### Wembley Park

- 4.7 The drinking of alcohol in open public areas and the associated anti-social behaviour was extraordinarily bad during the Euro events which led to the independent review by Baroness Casey (**see Background Reading 1**). The impact statement written by the Director of Environmental Services (**see Appendix 18 pg13-15**) sums up the issues that took place, the recommendations made by Baroness Casey and what measures have been put in place. The PSPO forms a vital part in these measures.

- 4.8 In addition to the drinking of alcohol and consequential anti-social behaviour, visiting fans leave the area littered with beer cans, bottles and other general litter/waste; this is despite Wembley Stadium and Wembley Park providing extra litterbins during event days. The street drinking also contributes to people urinating against people's properties, leaving the area with detritus and offensive smells, which linger for weeks. This has resulted in numerous complaints from residents and businesses. These large groups of drinkers together with the illegal traders operating in the Wembley footprint cause obstruction and create a health & safety and public risk to residents, local workers and visitors.
- 4.9 In relation to the area surrounding Wembley National Stadium the current PSPO includes private land and open spaces where the land is considered a 'public place' within a 'restricted area'. **Appendix 2** defines these, and **Appendix 19** gives examples of some private land that is considered a 'public place'. With such land included, it will mean that local residents for example, are protected from members of the public who step onto private land, which is considered a public place, to consume alcohol in order to avoid any action being taken against them.

#### **Parks and Open Spaces**

- 4.10 There is an under-recording of drinking complaints in relation to drinking alcohol across all parks and open spaces. There are currently five of Brent's parks which have restrictions included in the PSPO which are enforced. There is also an under-recording of Police data in relation to the consumption of alcohol (please see **Appendix 20**), which indicates 61 street drinking complaints made to the Police over a one-year period. This is not a true reflection of the extent of the street drinking issues, however the way in which the report is logged, is dependent on the tag used by the telephone operator when the call is received. On the contrary, there are 11,233 nuisance calls which may include alcohol related ASB but are not logged to reflect this.
- 4.11 The implementation of this prohibition will maintain the Council's ability to prevent the detrimental effect from continuing
- 4.12 The following is feedback from the evidence gathering exercise and consultation: -

#### **Consumption of Alcohol**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>57.35%</b>	<b>Borough Wide</b>	<b>86.7%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>83.2%</b>
	<b>Wembley Park</b>	<b>85.4%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

- 4.13 One resident commented; 'Street drinking in Neasden Shopping is a major problem'. Another representation received from the Safer Neighbourhood Board also asked that

the consumption of alcohol prohibition be extended to include all parks and open spaces and not just the current five.

**Prohibition 2: Use of illegal drugs or psychoactive substances** (formerly known as illegal highs or balloons)

- 4.14 Psychoactive substances are designed to replicate the effects of other illegal drugs and have the capacity to stimulate or depress the central nervous system. This is due to one or more chemical substances used in the manufacturing process, and the effects of taking them can cause erratic behaviour which can be anti-social.
- 4.15 The sale of nitrous oxide for its psychoactive effects was made illegal after the Psychoactive Substances Act in 2016, but it is not currently a crime to be caught in possession of the drug. The government has concerns that this could be a significant factor resulting in the increasing consumption of the substance. Nitrous oxide has become popular since 2014 and is currently the most common form of psychoactive substance used. In 2019-20, 8.7% of 16 to 24-year-olds [reported](#) using nitrous oxide in the last 12 months.
- 4.16 The Advisory Council on the Misuse of Drugs (ACMD) had previously provided [advice](#) on nitrous oxide in 2015 and summarised this advice as follows; ‘Home Office Drugs Misuse Data has shown there has been an increase in the abuse of nitrous oxide over the last few years and this has the potential to cause harm to users, including death.
- The legal status and ease of purchase may be important factors contributing to the recent increase. The use of nitrous oxide in combination with alcohol and/or other psychoactive drugs may increase the potential for harm to its users.
- Evidence supports the claim that the use of nitrous oxide other than in line with designated guidance and for the purposes other than for which it was manufactured can cause harm to users. The ACMD further understands that there have been incidents where nitrous oxide supplies have been misappropriated from hospitals or other medical premises.
- 4.17 Given the increase in use among young people and concern over potential long-term effects, the Home Secretary requested an updated assessment in September 2021. Being able to prevent the use of nitrous oxide via a PSPO is an effective, low-level intervention whilst we await any further assessment.
- 4.18 In Brent, nitrous oxide canisters can be found in high streets, side roads, service roads and parks and open spaces. As it is a legal ‘high’, it is usually carried out in view of members of the public. The evidence gathering exercise demonstrated that this issue is as problematic as street drinking with 318 out of a possible 552 responding.
- 4.19 It is illegal to smoke cannabis in the UK. This includes any residential property with the exception of medicinal purposes. The smell of cannabis can be strong and linger in the air for some time. It is also viewed by members of the public as a nuisance including the anti-social behaviour associated to the smoking. This is particularly true of Brent where individuals often openly stand, usually in groups, in streets openly smoking cannabis. For passers-by, this can be intimidating.
- 4.20 When comparing the use of a psychoactive substance to that of a drug such as cannabis, a layperson may never be able to tell the difference. What they are able to describe is the actions of the individuals whilst ‘using’ that substance or drug. This may

include an attitude towards passers-by, intimidating behaviour and a 'pack' mentality. Similar to the consumption of alcohol, it is often the effects of individuals 'using', that members of the public are negatively impacted by.

- 4.21 Drug use and drug dealing have been a persistent problem in Brent. Open drug markets and drug addiction problems continue to be one of the top priorities for the Council's Community Protection Unit, Public Health and Brent Police. The crime reports relating to possession of drugs, which includes all drugs, during the period, 1st July 2021 to 30th June 2022, can be seen in the table below and shows a comparison between 1st July 2020 to 1st July 2021 in the previous year. This does not include the possession of Psychoactive substances as these are not classed as illegal.

Possession of Drugs	1st July 2021 to 30th June 2022	1547
	1st July 2020 to 30th June 2021	2038

- 4.22 The detrimental effect of drug use can lead to physical and mental health issues. The Community Protection Team has seen a significant correlation between youth violence involving knife, guns and gangs and drugs. There is strong evidence across the UK of vulnerable minors being exploited and relocated to areas around the country to supply drugs.
- 4.23 Dispersal Powers under the ASB Crime and Policing Act 2014 have been used by police to remove suspected drug dealers from town centres where this activity is most prevalent. However, although effective this can cause displacement to other neighbouring areas, parks, and open spaces.
- 4.24 This proposed prohibition will be enforced by the Police due to the nature of the substance and the 'high' it creates. It will also include the preparation for the use of drug or substance and the paraphernalia used in conjunction with such preparation. For e.g., the rolling of a joint or balloons being filled with nitrous oxide and the canisters which contain the nitrous oxide.
- 4.25 The following is feedback from the evidence gathering exercise and consultation: -

#### **Smoking Cannabis and Psychoactive Substances**

Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)	Consultation 233 responses (% in support of prohibition)		
		Smoking Cannabis	Psychoactive Substances
<b>54.6%</b>	<b>Borough Wide</b>	<b>79.2%</b>	<b>86.3%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>81.4%</b>	<b>85.4%</b>
	<b>Wembley Park</b>	<b>80.5%</b>	<b>86.7%</b>

See <b>Appendix 10</b> for full report breakdown per ward		See <b>Appendix 11</b> for full report	

- 4.26 One resident during the consultation commented; 'The playground at HAZEL ROAD is deplorable. People are drinking & selling drugs. The playground is not looked after. It's disgraceful'.

**Prohibition 3: Littering (urination and defecation)**

**Prohibition 4: Littering (spitting)**

**Prohibition 5: Littering (bottles, cans, packets, food, cigarettes)**

**General**

- 4.27 The Environmental Protection Act 1990 makes certain 'duty bodies' legally responsible for keeping land, which is under their control, and to which the public has access, clear of litter and refuse and their highways must be kept clean, as far as is practicable. Duty bodies include crown authorities, principal litter authorities (Brent Council is one), governing bodies of educational institutions and statutory undertakers such as transport companies and operators.
- 4.28 Litter includes spitting, cigarette butts, packaging and drink vessels, urination and defecation. These littering issues are prevalent across the borough for different users. Across the borough in general, persons are known to drop cigarette butts, spit, drop packaging and urinate. In specific areas across the borough, these issues are more obvious, such as paan spitting in High Road, Wembley and Ealing Road. Paan is a substance that is made with areca nut and lime, with or without tobacco and causes profuse red coloured salivation. When spat, the saliva, causes irremovable stains on public highways and biological waste pollution in public spaces. The act of spitting red saliva can also be found to be offensive and unnerving, particularly when people do not know what it is. It should also be noted, that Litter does not clean itself away. It can take years to degrade (Styrofoam containers up to a million years, a diaper more than 500 years and cigarette ends more than 10 years).
- 4.29 Litter also has the potential to cause harm to human health, safety, welfare, as well as harm the environment such as wildlife and habitats. In addition, food people drop – whether it is half-eaten burgers, chips or apple cores - can attract pigeons and vermin such as rats. In the UK, the cost to the taxpayers for street cleaning is over £1 billion a year. Research shows that litter contributes to further crime and that people feel less safe in areas that are littered.
- 4.30 There are high numbers of reports everyday around littering on *Brent Cleaner App* which is one of the biggest issues tackled by the Envirocrime Enforcement Team. It is most likely this activity will continue but this prohibition gives us greater capacity to address and enforce against this behaviour in the borough.
- Public Order Act**
- 4.31 With regard to urination and defecation, the Crown Prosecution Service (CPS) does not classify urinating in the street as a basic offence that would fall under Section 5 of the Public Order Act 1986 [Public Order Act 1986](#), and enforceable by the Police. However, urination in the street can be part of a drunk and disorderly offence, but the offence must also include evidence of abusive language or disorderly behaviour. Urination alone is not enough for the police to take action.

### **Parks & Open Spaces**

4.32 Littering has become a growing problem in Brent's parks with increasing costs, year on year to clean Brent parks, open spaces graveyards and cemeteries. From April 2021 to March 2022, it is estimated that over £45,000 was spent keeping our parks and open spaces free of litter.

4.33 Where members of the public may visit for a number of hours, the likelihood of these types of littering offences increases. This makes it unpleasant for other visitors who are then unable to enjoy the same space. The increase in littering also breeds further littering with some people being of the mind-set that there are already persons urinating and dropping cigarettes and waste and therefore adding to it will not make a difference. There are currently six wardens across all parks and open spaces who make a visible impact carrying out their day-to-day duties when visitors are present. However, in the absence of any members of staff, there is a small minority that take advantage of this. It is not possible to cover all of our parks and open spaces with CCTV cameras.

### **Wembley Park**

4.34 In the area surrounding Wembley stadium, spitting, the dropping of cigarette butts, urination and the littering of waste has been known to increase dramatically on event days. There is a definitive link to the decrease in this type of littering since the prohibition relating to the consumption of alcohol was introduced in 2020 and implemented in on 27<sup>th</sup> February 2022.

4.35 With the potential of over 100,000 members of the public in the Wembley Park area at over 35 Wembley Stadium and OVO arena events each year, the likelihood of an increase in litter increases dramatically. Although the enforcement of the street drinking prohibition has assisted radically in reducing the amount of litter present on event days, the littering prohibitions still assist for the those that continue to litter the area. Local residents, businesses and visitors to the area should not have to suffer at the hands of those that are irresponsible.

4.36 If litter is dropped on privately-owned land, it is either the owner or occupier who is held responsible for clearing this litter away. Whilst the Council, Wembley Park (land owner around the Stadium) and Wembley National Stadium work together to address the problems that cause a nuisance to local residents and visitors; for example, by the provisions of extra bins and toilets along the main thoroughfares during events at Wembley Stadium, a renewed prohibition for littering would allow this issue to be addressed.

4.37 The following is feedback from the evidence gathering exercise and consultation:-

### **Littering (urination and defecation)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>52.17%</b>	<b>Borough Wide</b>	<b>92.9%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>91.6%</b>

	<b>Wembley Park</b>	<b>91.6%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**Littering (spitting)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>40.21%</b>	<b>Borough Wide</b>	<b>85%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>85.4%</b>
	<b>Wembley Park</b>	<b>88.5%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**Littering (bottles, cans, packets, food)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>	<b>Borough Wide</b>	<b>92%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>92%</b>
	<b>Wembley Park</b>	<b>92%</b>
<b>N/a</b>	See <b>Appendix 11</b> for full report	

**Littering (cigarettes)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>53.2%</b>	<b>Borough Wide</b>	<b>83.2%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>85.8%</b>



	<b>Wembley Park</b>	<b>85.4%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

- 4.38 One comment made in the consultation states; 'There [are] a couple prohibitions I disagree with. One of them is classifying spitting as littering. I'm not in the habit of spitting for the enjoyment. But I do suffer from extreme rhinitis which causes mucus to drain from my sinuses down into my throat. The only way to clear it when that does happen is to spit out the mucus'. If implemented, the prohibition would require that the resident spit into a tissue and then dispose of it in an appropriate receptacle (bin).

### **Prohibition 6: Dog Fouling**

- 4.39 With the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014, legislative scope was given to replace previous dog control orders (which included addressing dog fouling) with PSPOs. It is an emotive subject, and while the majority of dog owners are responsible in their approach, unfortunately it remains an issue.
- 4.40 Dog fouling is often seen as one of the most offensive types of nuisance anti-social behaviour, affecting parks and streets. Dog excrement is also a public health risk and no person using the streets or parks of Brent should have to worry about this risk of infection.
- 4.41 There is currently a prohibition in relation to dog fouling in parks and open spaces, including Paddington Old cemetery. The proposal aims to extend this prohibition to cover the entire borough's streets. Dog fouling is an issue on the outskirts of parks. It is also an issue for the dog owner who has to get to a park on foot, as dogs often defecate once they have left their home and do not necessarily wait to reach a park area. It is an issue for members of the public when owners refuse to pick up after their dogs.
- 4.42 The following is feedback from the evidence gathering exercise and consultation: -

### **Dog Fouling**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>19.93%</b>	<b>Borough Wide</b>	<b>83.6%</b>
	<b>Parks, Open Spaces, Cemeteries &amp; Graveyards</b>	<b>88.9%</b>
	<b>Wembley Park</b>	<b>82.3%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	



- 4.43 One respondent in the consultation commented; 'Dog owners HAVE to be forced to pick up after their dogs somehow. There is so much dog poo in Roundwood Park I hate my children going off the path in case they tread in it / fall in it. It's also a real problem on Drayton Road and the roads in general surrounding the park in Harlesden. It's so antisocial. Please help.'

### **Prohibition 7: Illegal trading (food or other items)**

#### **General**

- 4.44 Illegal street trading is enforced under the London Local Authorities Act 1990 (as amended). It is also currently a restriction in the Wembley Park PSPO. Other than Wembley Stadium events, there are a number of persons who choose to set up in public areas to trade items and services. for example, barbeque drums used to cook meat, the sale of home/street made drinks and the cutting up of fruit on the street for sale. Some items and/or services are not immediately linked to financial remuneration, but there is a long-term goal of reward or gain that can be ultimately equated to financial remuneration. An example of this was when a new brand of biscuit was being handed out in Wembley as a 'giveaway', which relied on word of mouth. This biscuit was then later recognised when it appeared in mainstream supermarkets and therefore equated to a financial gain to the business.
- 4.45 There are other issues that can be attributed to the illegal trading of goods and services which can include littering, obstruction of the highway, harassment, food hygiene issues with no running water, odour nuisance and a lack of reprisal when the goods and services are of a sub-standard quality.

#### **Wembley Park**

- 4.46 Prior to the PSPO being introduced, illegal street traders were not affected by the court convictions and fines as they continue to attend events and sell merchandise regardless. The same traders present themselves in the Wembley footprint time and time again. Resources are very limited; therefore, the Council cannot always be present to enforce every event. The PSPO regime is a stronger enforcement measure for the council to use and also enables us to apply for Criminal Behaviour Orders (CBOs) for persistent offenders.
- 4.47 Street trading includes activities like face painting, hair braiding, massages and therapy etc. At some events these services are offered at no cost to entice members of the public to subscribe to or purchase something at a later date, occasionally it is just a free event. This form of street trading is sometimes used as an alternative form of promotional advertising without the traditional printed materials or physical object giveaways. Evidence shows these activities are usually offered in areas of high footfall thereby causing an obstruction and congestion. These traders are often not controlled by Regulation and their products can even be harmful to customers. For example, face painters may use allergenic products or have poor cleaning processes.
- 4.48 Moreover, the vicinity around Wembley Stadium attracts vast amounts of new residents, workers and visitors. The effects of illegal street traders not only cause a nuisance due

to their poor behaviour and unwelcoming presence, they also cause an obstruction on the public highway by displaying their goods across roads that are closed to traffic.

- 4.49 The following is feedback from the evidence gathering exercise and consultation: -

#### **Illegal Trading (food or other items)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>7.97%</b>	<b>Borough Wide</b>	<b>64.2%</b>
	<b>Wembley Park</b>	<b>70.4%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

#### **Prohibition 8: Use of megaphone or microphone with speaker**

- 4.50 It is an offence to use loudspeakers for any purpose in the street at night between 9pm and 8am under S62 of [The Control of Pollution Act 1974](#). Further, it is an offence to use loudspeakers at any time for advertising any entertainment, trade or business. Exceptions when a loud speaker can be used are in emergencies, as a public address system or if Council gives consent. In an emergency loud speakers can be used by the police, fire brigade, ambulance service, environment agency, water and sewage companies or public transport companies.
- 4.51 However, there have been several instances when individuals come to Brent with their loudspeakers to preach sermons and advertise their services. This is common in High Road, Wembley, Wembley Park on event days and Kilburn High Road. This causes significant distress to local residents when this practice continues for hours on end and prevents them from enjoying the use of their own communities/homes. It also causes a nuisance to those that are using the same public space, as they can feel harassed by the noise. Therefore, a prohibition is sought to address the nuisance in the use of loudspeakers.
- 4.52 The following is feedback from the evidence gathering exercise and consultation:-

#### **Use of megaphone or microphone with speaker**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>13.77%</b>	<b>Borough Wide</b>	<b>63.7%</b>
	<b>Wembley Park</b>	<b>64.6%</b>

See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report
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- 4.53 One of the representations included in the consultation included the following comment 'I think you should be able to have PSPO cover across all places in the borough that will allow you to stop loud noise from megaphones, loudhailers, amplified speakers and sound systems, or even people just making loud noise in the street - these types of behaviours take place currently in my local area and to deprive the police of the tools to take action against these when they may need them most seems counterproductive and odd'.

### **Prohibition 9: Aggressive Begging**

- 4.54 Aggressive begging can include:-
- begging with intent to intimidate another person into giving money or goods by any means including repeated requests for money while approaching or following the person from whom funds are being requested;
  - continuing to solicit from a person or continuing to engage that person after the person has given a negative response to such soliciting;
  - following a person with intent to solicit money or other things of value;
  - begging with use of false, misleading information, where the person knew or reasonably should have known of the falsity or misleading nature of the information;
  - begging with or involving activities that are unsafe or dangerous to any person or property;
  - begging in a manner that exploits children; or
  - willfully providing or delivering, or attempting to provide or deliver unrequested or unsolicited services or products with a demand or exertion of pressure for payment in return.
- 4.55 Aggressive begging can be intimidating, especially when combined with drunken, noisy or lewd behaviour such as shouting, swearing and urinating in the street.
- 4.56 As mentioned previously, a prohibition of this type is not intended to be targeted at persons who are homeless, rough sleeping or vulnerable. Other enforcement action is available where this type of behaviour persists and would always include partnership working with outreach workers to ensure the behaviour ceases rather than be exasperated.
- 4.57 It is important to remember that this type of behaviour is not only associated with vulnerable persons. There have been reports in the last 6 months of persons that have residential addresses, have been seen withdrawing money from a cash point, are well presented in appearance but choose to target specific locations of high footfall where they can beg from passers-by. This has then attracted further beggars when one of them is not present. A prohibition to prevent this type of aggressive behaviour would therefore be pertinent.
- 4.58 The following is feedback from the evidence gathering exercise and consultation:-

**Aggressive Begging**

<b>Evidence Gathering Exercise</b> 552 responses (% who identify with the suggested prohibition as an issue)	<b>Consultation</b> 233 responses (% in support of prohibition)	
<b>13.04%</b>	<b>Borough Wide</b>	<b>79.2%</b>
	<b>Wembley Park</b>	<b>77.4%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**Wembley Park (surrounding Wembley Stadium events)**

- 4.59 Sporting and other recreational activities such as concerts at Wembley Stadium, SSE Arena and the Wembley Troubadour Theatre attract thousands of people (at times exceeding 100,000 people). However, the experience of those attending the venue, local residents, visitors to the area and those working in the locality, is seriously marred by illegal traders (including ticket touts), street drinkers, littering (including urination and empty packaging), unauthorised distribution of printed material, use of flares, etc. These activities blight the streets and spaces around Wembley Stadium as well as the footprint between the three transport hubs namely; Wembley Park, Wembley Stadium and Wembley Central Stations.

**Prohibition 10: Illegal Trading of Merchandise****Prohibition 11: Illegal Trading of tickets (Ticket Touting)**

- 4.60 Illegal street trading is enforced under the London Local Authorities Act 1990 (as amended). It is also currently enforced under the Wembley Park PSPO. The continuation of a PSPO for the above prohibitions would allow enforcement against unlicensed traders.
- 4.61 All events were cancelled in 2020 because of the pandemic, hence the nil return of enforcement figures. Since enforcing the PSPO in January 2021, the number of illegal merchandise traders has drastically reduced and addresses the continuing ASB that it causes. This is noticeable by officers on Stadium event days as merchandise sellers have declined. The Fixed Penalty Notice (FPN) issued to illegal merchandise traders appears to have had a positive effect on the decrease of illegal traders. If the restriction is not continued, it is likely that the number of offenders would increase and start to re-occur.
- 4.62 The goods that are sold to members of the public are often of a dubious quality, which may also breach intellectual property rights of the event owner. Consumers who purchase counterfeit goods such as scarves, t-shirts and tickets from illegal street traders are put in a position where they cannot return the goods as the traders do not

have a fixed location. This provides a poor experience for visitors and creates unfair competition in the Borough.

- 4.63 On event days, another type of illegal street trader includes ticket touts, which can be found along the main footprint of Wembley Stadium and along High Road Wembley, First Way etc. Officers and key stakeholders are of the opinion that these types of traders form part of an organised group and many have criminal convictions. This view has been formed by work that is undertaken by Brent Council and Police officers in this area, where most of the ticket tout offenders are seen linked together.
- 4.64 Enforcement Officers have encountered aggressive illegal traders who have verbally and physically threatened officers. On one occasion in 2015, an officer was thrown on the floor, which was upsetting and distressing. Since the Stadium events begun in February 2022, most traders have shown some aggression towards officers. This has included swearing, threats of violence and shouting. To prevent such events reoccurring, police assistance is required to prevent a breach of peace and verify details of the illegal traders. In addition, certain traders are known to give false details and provide no fixed abode. It is also unfair on those traders who have been licenced, are trading legally and in compliance with the appropriate Regulations and Council process and have the appropriate public liability insurance in place.
- 4.65 Where ticket prices for football matches can be high, the income made from the sale of a ticket minus a fine (when paid), can still make it a viable business. However, the distraction caused by officers approaching the offenders, causes a disruption in their activity and therefore reduces the nuisance caused to members of the public who are often harassed or sold fake tickets.
- 4.66 The Council have and continues to receive complaints from licenced traders about un-licenced traders who are affecting their livelihoods and the impact on their legitimate business. They have even offered to pay for Council enforcement to remove this nuisance.
- 4.67 The cost of staffing the events, securing evidence, prosecuting individuals, preparing reports, attending court and disposing of forfeited items have all increased tremendously, putting additional pressure on limited resources.
- 4.68 The following is feedback from the evidence gathering exercise and consultation:-

#### **Illegal Trading of merchandise and tickets (ticket touting)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>		
		<b>Trading of merchandise</b>	<b>Trading of tickets</b>
<b>N/a</b>	<b>Wembley Park</b>	<b>70.8%</b>	<b>76.5%</b>

N/a	See <b>Appendix 11</b> for full report
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### **Prohibition 12: Distribution of Free Literature (including giveaway items)**

- 4.69 The area around the stadium attracts a large number of literature distributors due to hundreds of thousands of people attending events at the stadium. The majority of these individuals have not applied for a literature distributor's licence. Distribution of free literature has been of concern due to people dropping the printed material as litter. Current controls, namely, statutory nuisance provisions (which only apply to public land), seizure and disposal of literature under London Local Authorities Act 1996 have had limited impact because the distributors return with more literature. Furthermore, there are no controls in place to limit the number of distributors or recover the cost of enforcement.
- 4.70 Section 23 of the Clean Neighbourhoods and Environment Act 2005 ("CNEA The Act") as inserted by section 94B and Schedule 3A of the Environment Protection Act 1990 provides specific provisions to control the distribution of free literature. The powers provide a presumption to allow distribution of free literature but only under consents (to be issued in the form of a licence) by the Council. The licence includes specific conditions to control problems arising from the consequences of distributing free literature. Breach of a licence is a criminal offence, which can lead to prosecution.
- 4.71 In 2012 members agreed to designate the following roads as places where free literature may not be distributed; without the Council's prior written consent in the form of a licence: Bridge Road, Wembley Hill Road, Wembley Park Drive, Park Lane, Empire Way, South Way, Rutherford Way, Engineers Way, Fulton Road, Olympic Way, Brook Avenue, Great Central Way, First Way, Fourth Way, Fifth Way, High Road, Harrow Road, St John's Road, Lancelot Road, Ealing Road, Ecclestone Place, London Road, Dagmar Avenue, Linden Avenue and Mostyn Avenue.
- 4.72 However, the CNEA Act powers only apply to land within the ownership of the Council (as the principle littering authority) or to Highways for which it is responsible as the Highway Authority. It does not apply to private land. This would therefore exclude main thoroughfares such as Olympic Way and Wembley Park Boulevard (the sections owned by Quintain) from being enforced, with the litter, being left on neighbouring streets on Council land as a result of the distribution. Consequently, Quintain have consented to Brent Council enforcing the PSPO on their land.
- 4.73 The following is feedback from the evidence gathering exercise and consultation:-

#### **Distribution of Free Literature**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>3.62%</b>	<b>Borough Wide</b>	<b>39.8%</b>

	<b>Wembley Park</b>	<b>43.8%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

- 4.74 There were a few representations in relation to people being able to distribute literature. The legislation does not prevent persons from doing so in relation to political, religious or charitable purposes. In this case, the PSPO will reflect the legislation and maintain the above exemptions.

### **Prohibition 13: Unauthorised Charity Collectors**

- 4.75 The Metropolitan Police provide dates each year to local authorities whereby the Local Authorities Mayor can give permission for street collections to take place for small charities. If a local charity wants to make a street collection, a letter from the Mayor has to be presented to Met Police who then verifies the applicant and gives consent to collect on the streets.
- 4.76 In the area surrounding Wembley Stadium, individuals regularly present themselves with their buckets, collecting money without consent from the Council and the Metropolitan Police. This practice means that an individual's donation has a potential of going to those who are not genuine collectors. Street collections do not apply on private land and therefore excludes officers from approaching charity collectors on private land that would otherwise be considered a 'public place' under the PSPO.
- 4.77 The following is feedback from the evidence gathering exercise and consultation:-

### **Charity Collecting**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>3.62%</b>	<b>Borough Wide</b>	<b>38.9%</b>
	<b>Wembley Park</b>	<b>44.7%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

### **Prohibition 14: Busking without consent**

- 4.78 Busking is not a licensable activity. This is because busking is usually 'incidental' to other activities, such as shopping, or the premises where the music is played will not have been provided for busking to take place. In order to busk, an individual would need to ensure that they have the relevant permission for the area in which they wish to use, for example, to contact Transport for London (TFL) to 'busk' on the London Underground. If the land proposed to be used is private, then permission must be sought from the landowner. If it is on the highway, or pavement etc. an individual would require consent from the Council.

- 4.79 There have been several occasions when individuals have set up to busk to members of the public. This usually takes place outside Wembley Central and Wembley Park train stations on Brent Council's land. With a high footfall of persons in the immediate area, it provides for the perfect numbers in terms of an audience. Not only does this cause a potential nuisance from the continual noise to those who live, work and visit the area but it also poses a public safety issue when those busking, obstruct the public highway. With 100,000 persons in the area at any one time, an interruption in the flow of persons moving too and from the stadium could have a detrimental effect on crowd control. This causes great distress to local residents when this practice continues for days. Reports to Brent Council have come from Council and Police officers who are confronted by large crowds because they are blocked by a busker in the middle of the footway. Therefore, the continuation of a prohibition is sought to address the problem of unauthorised busking.

- 4.80 The following is feedback from the evidence gathering exercise and consultation:-

#### **Busking without consent**

<b>Evidence Gathering Exercise</b> <b>552 responses</b> <b>(% who identify with the suggested prohibition as an issue)</b>	<b>Consultation</b> <b>233 responses</b> <b>(% in support of prohibition)</b>	
<b>1.63%</b>	<b>Wembley Park</b>	<b>41.6%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

#### **Prohibition 15: Ambush Marketing (including fly-posting)**

- 4.81 Ambush marketing is a strategy that involves a brand trying to associate their products or services with a big event that already has official company sponsors. In most cases, it happens during sports events and aims to raise brand awareness of a particular company with no sponsorship rights.
- 4.82 By using this marketing technique the wrong way, companies can get involved in unlawful actions such as infringing the event owner's trademarks, copyright, and other rights of a particular event. However, if implemented correctly, it can bring several benefits to a business, without any recourse.
- 4.83 In England/Wales, fly-posting is illegal (in certain circumstances) under the Highways Act 1980 and the Town and Country Planning Act 1990. Offences under the 1980 Act include that of obliterating a traffic sign, while under the 1990 Act it is an offence to display an advertisement in a way that breaches specified Regulations. The legislation:
- Sections 131(2) and 132(1) of the Highways Act 1980
  - Section 224(3) of the Town and Country Planning Act 1990

The main legislation mentioned above covers public land but not private land.



4.84 A PSPO for ambush marketing including fly-posting will allow this issue to be addressed on both public and private land. This would include the advertisement, affixation or distribution of any promotional adverts, offers or items (including but not limited to stands, stalls, banners, posters or stationary vehicles), which are often attached and can cause damage to public and private fixtures and buildings.

4.85 The following is feedback from the evidence gathering exercise and consultation:-

#### **Ambush Marketing (including fly-posting)**

<b>Evidence Gathering Exercise</b> <b>552 responses</b> <b>(% who identify with the suggested prohibition as an issue)</b>	<b>Consultation</b> <b>233 responses</b> <b>(% in support of prohibition)</b>	
<b>N/a</b>	<b>Wembley Park</b>	<b>69.9%</b>
N/a	See <b>Appendix 11</b> for full report	

#### **Prohibition 16: Pyrotechnics such as flares or smoke emitters**

4.86 Pursuant to the Fireworks Regulations, one cannot buy 'adult' pyrotechnics if they are under 18 years of age. Adult fireworks are category 2 and 3 fireworks - they do not include things like party poppers. Category 4 fireworks can only be used by professionals.

4.87 Presently, individuals must not set off pyrotechnics between 11pm and 7am, except for:

- Bonfire Night, when the cut off is midnight
- New Year's Eve, Diwali and Chinese New Year, when the cut off is 1am

It is illegal to let pyrotechnics off in the street or a public place. However, pyrotechnics can be let off on private land such as a garden or on land where you have the landowner's permission. It is not a legal requirement to have any form of licence or training to let off fireworks. However, for larger displays, which are insured, some form of training may be a requirement of the underwriters.

4.88 Enforcement under the Fireworks Regulations of 2004 is a police function. Local Authorities do not have any legal powers to take action under the act. A common theme at many football stadia events is for spectators to launch or set off flares or smoke emitters while travelling to or waiting to get into the stadium. In Wembley Stadium, these items are prohibited from being brought into the stadium and confiscated through bag searches because, with improper use, they can be dangerous and are a nuisance to others.

4.89 The pyrotechnic most used in the area surrounding Wembley Stadium is flares. Flares are dangerous in terms of being a fire hazard, causing burns, the smoke that some of them emit is unpleasant, unhealthy to inhale and they are often noisy. Furthermore, if flares are let off in a busy thoroughfare, they have a great potential of spooking the crowds with a potential to cause injuries to members of un-suspecting public. Given that the Fireworks Regulations only provides powers to police officers, a number of Local

Authorities have already opted to use PSPO's to allow their officers to tackle the nuisance aspect associated with flares which are not related to other commercial pyrotechnic events, of pyrotechnic regulations that the police would normally deal with. These restrictions focus on controlling flare nuisance on the public highway surrounding Wembley Stadium.

4.90 CarnDu Ltd, an explosives consultancy, carried out a study in November 2016 on the Health and Safety issues relating to the use of pyrotechnics in football stadia. These included;

- Burns to flesh
- Burns to clothing
- Burns to structures and other hazards
- Explosive effects on persons
- Explosive effects on structures
- Smoke – acute toxic effects
- Smoke – chronic effects
- Impact on head, eyes, etc.
- Impact on vision
- Impact on Hearing
- Panic

To view the study in full, please click [here](#)

4.91 This year, there appears to have been a year on increase in the use of flares on the walk up to Wembley Stadium. What is most concerning is that once lit, the flares are freely thrown into the air in the middle of crowded spaces. During one event on 29<sup>th</sup> May 2022, in one street alone (Olympic Way), the MET caught 35 persons setting off flares, whilst the Council caught a further 8 with the METs assistance. On the same day, one male was found with two T1 category flares that had been imported from Italy and are typically used for marine distress/signal purposes. These flares can be purchased online for as little as 2.50 euros in Italy and £8.99 in the UK. The issuing of FPNs together with the communication delivered via local tannoy and directly to football clubs for those visiting Wembley, sends out a clear message and to this form of anti-social behaviour.

4.92 Given the growing trend for spectators to carry and set off flares in crowded spaces, on thoroughfares and adjacent roads there is a clear and ongoing potential risk to public safety as well as the nuisance caused. A prohibition permitting officers to continue the enforcement in the use of such fireworks is therefore seen to be essential in terms of improving the experience for both visitors to, and residents of, the borough in the Wembley area on event days.

4.93 The following is feedback from the evidence gathering exercise and consultation:-

#### **Pyrotechnics such as flares or smoke emitters**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>	<b>Wembley Park</b>	<b>77.4%</b>

N/a	See <b>Appendix 11</b> for full report
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### **Prohibition 17: Obstruction of the public highway, preventing the free flow of person's movement**

- 4.94 In 2022, a number of groups held protests outside of Wembley Stadium on event days. In doing so, by default, they prevented the free flow of person's movement in accessing the Stadium. For public safety reasons and with over 100,000 persons present at any one time, it is vital to keep the free flow of movement to avoid congestion and incidents from occurring. The aim is not to prevent members of the public from rightfully protesting but to ensure they do so in a way that does not have a detrimental impact on those visiting the surrounding area by causing catastrophic public safety issues. During one of the events this year, two naked females with tassels and a thong, painted head to toe in paint, stood on Olympic Way. These females caused such a distraction to members of the public walking past, that stewards had to be allocated to the area to ensure a free flow of persons to and from the Stadium. On another occasion, there were a group of males protesting and handing out leaflets. They were causing an obstruction, but could not be dealt with by council officers. When asked to cease the distribution of leaflets (a current PSPO prohibition), they obliged, but then continued to protest. Again stewards had to be located to the immediate area to ensure a free flow of persons.
- 4.95 The following is feedback from the evidence gathering exercise and consultation:-

#### **Obstruction of the highway**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>	<b>Wembley Park</b>	<b>63.3%</b>
N/a	See <b>Appendix 11</b> for full report	

### **Parks, Open Spaces, Cemeteries and Graveyards (POsCGs)**

#### **Prohibition 19: Unauthorised use of motor vehicles (including e-scooters and e-bicycles)**

#### **Prohibition 20: Use of permitted vehicles without due care and attention**

- 4.96 There is evidence of driving over grass verges throughout the Borough, with limited action viable by the Council. The detrimental impact of this activity is damage to the verges and open spaces, which not only spoils the appearance of the street, but involves the Council in unnecessary additional expense in making good the damage. Enforcement can only take place if it can be directly shown that a vehicle has caused damage to the verge / footpath. By renewing this prohibition, it provides officers with a far more straightforward approach to ensuring verges, open spaces, footpaths and footways are not damaged or not causing nuisance or risk.

- 4.97 Motor vehicles cause damage to path surfaces particularly during the wetter months of the year, causing poaching of the ground. Where grassland is poached, the disturbance can lead to subsequent weed growth. There is also damage to vegetation when vehicles are driven through areas of grassland.
- 4.98 Motor Vehicles are a large problem in our parks. King Edwards Park in Willesden, King Edwards Park in Wembley, Roe Green, Barn Hill, Neasden Recreation Ground and Gladstone Park, to name a few, all experience issues with motorised mopeds, e-scooters and e-bikes being driven across them at night causing disturbance and health and safety issues for other users.
- 4.99 There are current issues with quad bikes being ridden in Barnhill and Fryent Country Park. There have also been regular traveller incursions in Roe Green, Gladstone Park, One Tree Hill and Welsh Harp open space in the last few years, with this activity becoming more frequent.
- 4.100 In addition to the use of motorised vehicles in parks and open spaces without Brent's permission, there is also an issue with permitted vehicles being misused, with the potential to cause harm to other users on foot. For example, pedal cycles and push scooters being ridden at speed, despite pedestrians being in close proximity. When collisions with pedestrians do occur, these quite often go unreported, as there are no vehicle registration numbers to attribute the collision.
- 4.101 The following is feedback from the evidence gathering exercise and consultation:-

**Unauthorised use of motor vehicles (including e-scooters and e-bicycles)**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>81%</b>	<b>Parks, open spaces, cemeteries and graveyards</b>	<b>77%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

- 4.102 A representation was received from the Brent Cycling organisation in relation to the use of electrically assisted pedal cycles (EAPCs). The organisation was concerned that such bicycles would not be permitted in parks and open spaces. The current parks and open spaces PSPO does not permit motorised vehicles to be ridden in parks and open spaces without the consent of Brent Council, however EAPCs are not considered a motorised vehicle and therefore would be exempt from the suggested prohibition. In addition to this, mobility scooters would also be exempt.
- 4.103 Another representation in favour of the prohibition was received from the Safer Neighbourhood Board who was concerned for park users that may be injured by vehicles

such as e-scooters and e-bikes. The prohibition will ensure motorised vehicles such as e-bikes and e-scooters are not used in POsCGs.

- 4.104 A further representation was received from the Safer Neighbourhood Board in relation to vehicles who enter car parks within parks and open spaces and cause public nuisance. A vehicle that enters a car park and causes a public nuisance would be in breach of this prohibition. Nuisance in this case may include revving, speeding, horn blowing, shouting or the playing of music. In order to combat this, it is suggested that although consent for the use of car parks in parks and open spaces is implied, if a nuisance is caused, this would also be included in the prohibition.
- 4.105 One comment in the consultation says, 'The worst problem is cars and mopeds on a daily basis (and at night) wheel spinning, rallying around the car park I have tried with police and football club to resolve this but it is an ongoing issue and the noise is horrendous. We cannot enjoy our gardens in this beautiful location, it's very depressing no one will listen. The car park should NEVER have been placed at the back of a residential area when the park offers so much space and alternatives. It's crazy and it's getting worse'. In order to ensure there is a balanced approach to this prohibition, there would need to be a trigger to begin action on any complaints, such as 3 repetitive reports of the same issue taking place.
- 4.106 In addition to this, a further prohibition has been suggested to cover EAPCs and other non-electric vehicles from being ridden without due care and attention in order to prevent park users from being injured. This would also include mobility scooters where they are not being ridden with due care and attention. If implemented, this prohibition would be included as prohibition 20.
- 4.107 One resident in the consultation stated; 'Use of Bicycle in parks often used as shortcuts and at speed is dangerous to park users especially children and older people. Bicycles are vehicles that have consideration in the highway code that is where they should be'.

**Prohibition 21: Loss of control of dogs (dogs not within eyesight of owner and/or do not respond to recall)**

**Prohibition 22: Dogs that are prohibited from specific areas**

**Prohibition 23: Letting a dog off a lead in a specified area**

**Prohibition 24: More than four (4) dogs being walked at the same time**

- 4.108 The Statutory Guidance provided by the Home Office in December 2017 sets out some guidance regarding the use of PSPOs relating to dog control in public spaces. Brent must consider that owners have a duty under the Animal Welfare Act 2006, to provide for their animal's welfare, which includes exercising them. In determining the area covered by any restrictions under a PSPO, it would be best practice to direct dog owners to locations where those restrictions do not exist. Without the provision of facilities for dog owners, it is likely that contraventions will likely reoccur.
- 4.109 Paddington old cemetery is the only Brent cemetery that permits access to dogs. However, dogs must be kept on a lead and any dog waste is deposited in the bins provided. There continues to be complaints in relation to dogs that remain off lead which is against section 27 of the current cemetery rules and as a result many owners are not able to monitor or control their dog's urination and defecation on graves.
- 4.110 Although not regularly recorded, the Parks Policy and Projects Manager confirms that regular complaints are made to wardens and other staff in relation to the above prohibitions. Please see **Appendix 21** for some of the complaints relating to cemeteries.

4.111 The following is feedback from the evidence gathering exercise and consultation:-

**Loss of control of dogs (dogs not within eyesight of owner and/or do not respond to recall)**

Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)	Consultation 233 responses (% in support of prohibition)	
<b>7.06%</b>	Parks, open spaces, cemeteries and graveyards	<b>78.3%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**Dogs that are prohibited from specific areas**

Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)	Consultation 233 responses (% in support of prohibition)	
<b>3.44%</b>	Parks, open spaces, cemeteries and graveyards	<b>78.3%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**More than four (4) dogs being walked at the same time**

Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)	Consultation 233 responses (% in support of prohibition)	
<b>3.26%</b>	Parks, open spaces, cemeteries	<b>53.5%</b>

	<b>and graveyards</b>	
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

- 4.112 One respondent to the consultation said, 'there are often, in the morning, around 20-25 dogs running off the lead on Gladstone Open space'. Another said, 'One respondent to the consultation said; 'It is now impossible to enjoy a walk in Gladstone Park due to the huge number of dogs constantly jumping up and dirtying my clothes'. Another respondent to the consultation said, 'I've been threatened by an owner because I asked her to keep her dog away from me. Her dog was growling and behaving aggressively', whilst another commented; 'also in the green by Armstrong Way people keep walking dogs in the children's playground'.
- 4.113 Another representation received from the Safer Neighbourhood Board also wanted to make sure that the wording in relation to dogs being permitted in parks was clear and concise.

**Prohibition 25: Flying of drones or any other form of model aircraft without written consent**

- 4.114 This activity is currently prohibited under the current PSPO. Flying of drones and other model aircrafts is regulated by The Drone and Model Aircraft Code, which was last updated in November 2021. Rules surrounding this include, flying no higher than 120m from the earth's surface and ensuring a minimum distance of 50m from other persons and 150m from any buildings. To fly most drones or model aircrafts, a person must first have a Flyer ID and Operator ID in place. For the full list of rules please see the code [here](#), which includes flying lower than 120m from the earth's surface and not flying closer than 50m to people.
- 4.115 There has been an increase in this activity in Brent. The likelihood of the public being injured or damage to dwellings and trees and shrubs in parks, if not properly enforced, is very high. The Park Service confirm over 20 reported incidents of unauthorised use of drones over our parks in the current financial year.
- 4.116 The following is feedback from the evidence gathering exercise and consultation: -

**Flying of drones or other model aircrafts**

<b>Evidence Gathering Exercise</b> <b>552 responses</b> <b>(% who identify with the suggested prohibition as an issue)</b>	<b>Consultation</b> <b>233 responses</b> <b>(% in support of prohibition)</b>	
<b>2.54%</b>	<b>Parks, open spaces, cemeteries and graveyards</b>	<b>52.7%</b>

See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report
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### **Prohibition 26: The lighting of fires or use of barbeques**

- 4.117 London Fire Brigade have responded to 1512 incidents to date (24 July 2022) in Brent with 277 of those incidents being actual fires. However, the data in this case does not show how many of those are in relation to barbeque related fires. There is also a likelihood in the view and submission of Council officers that unregulated barbeques could increase the potential for fires in our open spaces which could have serious consequences on people and property. A breakdown of the LFB data can be accessed at [here](#).
- 4.118 This activity could result in smoke nuisance to residential premises and also presents a fire risk to all parks and open spaces. There have been some reports of fires resulting in damage to parks and open spaces with the most recent [incident](#) occurring in June 2022, where an entire bench had to be removed because of damage caused by a disposable BBQ.
- 4.119 Officers have explored the viability of having barbeque zones in our parks. The Parks Service have stated there is no hardstanding or provisions in Brent parks for BBQ zones. Council officers advise against losing any more green space in the Council's parks for the purpose of building concrete BBQ areas thereon. There would also be no way of policing these areas when in use.
- 4.120 Brent has 24 parks with wildflower meadows which also contain longer grass; in large areas which are sometimes up to half of the park area. A fire in one of these areas would be catastrophic with potentially serious and devastating consequences for the Council's parks, members of the public and neighbouring properties, particularly as all of the Council's parks and open spaces are so close to residential properties.
- 4.121 Officers recommend that this prohibition is retained in the proposed PSPO. The Parks Service have confirmed the current issues of lighting fires or use of barbeques in our parks this year (**see Appendix 22**).
- 4.122 The following is feedback from the evidence gathering exercise and consultation:-

#### **The lighting of fires or use of barbeques**

<b>Evidence Gathering Exercise</b> 552 responses (% who identify with the suggested prohibition as an issue)	<b>Consultation</b> 233 responses (% in support of prohibition)	
<b>7.25%</b>	<b>Parks, open spaces, cemeteries and graveyards</b>	<b>77%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	



**Prohibition 27: The use of fireworks without consent**

- 4.123 Anti-social behaviour involving fireworks ranges from them being set off late at night, in areas where they are banned, to cause deliberate physical harm or threat of harm, to people, animals and property. Not only is there a danger from fireworks exploding, they can also pose a serious fire risk.
- 4.124 Firework displays when carried out correctly can be enjoyable. Unfortunately, a small minority of people are using them irresponsibly. It is an offence to throw or set off any firework (including sparklers and category 1 fireworks) in or into any highway, street, thoroughfare or public space.
- 4.125 The use of fireworks occurs mainly in parks and open spaces, rather than on the public highway. There are large clean ups required in our parks on days when large numbers of fireworks are set off illegally by members of the public around November, which takes many of the resources of the parks team away from other horticultural duties.
- 4.126 The following is feedback from the evidence gathering exercise and consultation: -

**Use of fireworks without consent**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>4.89%</b>	<b>Parks, open spaces, cemeteries and graveyards</b>	<b>78.3%</b>
See <b>Appendix 10</b> for full report breakdown per ward	See <b>Appendix 11</b> for full report	

**Prohibition 28: Defacing or damaging fixtures, furniture or other items**

- 4.127 Damage to infrastructure to our parks and open spaces is very costly to the Council. From April 2021 to March 2022 over £200,000 was spent repairing the infrastructure in our parks and open spaces, this includes damage to verges and grasses and fixing damaged furnishings.
- 4.128 Examples of some of the issues include damage to toilets, pavilions and structures, destruction of gym equipment installed in some of our parks and evidence of grounds being dug up to make unauthorised cricket pitches. The Parks Service have confirmed they receive requests for repair work on an almost a daily basis for items in our parks that have been damaged or vandalised. This can be a toilet door that is jammed or broken, gym or playground equipment that has been vandalised, wooden borders to flower beds that have been set on fire; damage to buildings caused by people climbing on them; benches damaged or stolen; perimeter fences cut and damaged; height barriers damaged, gates broken, bins set fire to etc.

4.129 The following is feedback from the evidence gathering exercise and consultation: -

**Defacing or damaging fixtures, furniture or other items**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>	<b>Parks, open spaces, cemeteries and graveyards</b>	<b>85.8%</b>
N/a	See <b>Appendix 11</b> for full report	

**Prohibition 30: Feeding wild animals inclusive of birds**

- 4.130 There is a current byelaw prohibiting this activity and there is supporting evidence that this behaviour does attract vermin and contribute to the overall cleaning cost of food waste left behind. Annual maintenance littering costs are estimated at £45,000 and this prohibition would be consistent with keeping our parks and open spaces free of litter.
- 4.131 Food left uneaten attracts vermin, who come to rely on it and remain in the area – such as rats which are dangerous for children. If this prohibition is not implemented, it is likely that this will lead to and exacerbate the increase of vermin in the Council's parks which will have adverse consequences for the proper upkeep of these parks for local communities and public health. Although, a number of complaints about rats in Roe Green and the amount of food left under trees on Barham Park and Butlers Green on a regular basis (around 10 -20 complaints per year). The Parks Service also report that there are issues with the feeding of wildlife in particular birds (**see Appendix 22**).
- 4.132 The Council would need to be mindful of penalising those persons who are genuinely unaware that this activity is prohibited. If this proposed prohibition is implemented, there will need to be sufficient signage to ensure that it is clearly communicated.
- 4.133 The following is feedback from the evidence gathering exercise and consultation: -

**Feeding wild animals inclusive of birds**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>	<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>	<b>Parks, open spaces, cemeteries</b>	<b>51.3%</b>

	<b>and graveyards</b>	
N/a	See <b>Appendix 11</b> for full report	

- 4.134 One respondent in the consultation commented as being affected by; 'food being left as a religious offering that attracts vermin'.

### **Prohibition 31: Unauthorised events or activities**

- 4.135 Use of areas specified for sports often require booking. When a member of the public turns up for their booking and someone is already using the space and refuses to leave, this can be frustrating, causes problems for teams playing in league matches.
- 4.136 In other areas in parks and open spaces, members of the public set up sporting activities without taking into consideration others that may be using the same space. Any sporting activity, where it interferes with others use of the park/open space or where there is a financial gain (a business or trade), must first seek permission from the Parks Service. This is to ensure that the correct checks are made for the person carrying out the sporting activity and that suitable risk assessments have been provided and that the relevant fee paid. A Brent officer recently complained to Brent Parks about a person they had engaged with who was providing sporting activities to children. The complainant had felt that they had been overcharged and were complaining to the Council in the belief that the person had authorisation from Brent to carry out the sporting activity in the first place. There was no option of recourse for the parent in question. The Parks Service report that there is an increase in issues with unauthorised sporting activities (**see Appendix 22**).
- 4.137 The following is feedback from the evidence gathering exercise and consultation: -

### **Unauthorised events or activities**

<b>Evidence Gathering Exercise 552 responses (% who identify with the suggested prohibition as an issue)</b>		<b>Consultation 233 responses (% in support of prohibition)</b>	
<b>N/a</b>		<b>Parks, open spaces, cemeteries and graveyards</b>	<b>43.4%</b>
N/a		See <b>Appendix 11</b> for full report	

- 4.138 A request was originally made by the Parks service to include a prohibition for the issues mentioned above. As there has also been an increase in the number of events / gatherings that cause a public nuisance, it is suggested that rather than including a prohibition that deals solely with unauthorised sporting events, that one be included that covers any unauthorised events/activities that are causing or likely to cause anti-social

behaviour. An example of this includes a complaint that was received regarding a group of males who play football in King Edwards Park twice a week in the evening. At the end of the match, they then make excessive noise as a group until the early hours of the morning, which causes a nuisance to residents.

- 4.139 Any events such as organised gatherings, particularly where there is music played, alcohol, consumed and may or may not include a celebration, would require written consent from Brent Council. Where persons gather and this causes a public nuisance, such as shouting and banging, this would be a breach of this prohibition.
- 4.140 A report of this appeared three times in the consultation; 'large groups being very loud until the early hours after football at King Edward VII Park twice a week' and 'large gatherings in king Edwards Park that don't finish until after midnight. Particularly on Tuesday's when there is a group of men playing football until late' and 'large groups playing football on Tuesdays and Thursdays especially. They stay till very late 2/3am. Talking/ shouting/ playing loud music and socialising till late. They bring a large BBQ and have a party in the park. Last August Bank Holiday, as Notting Hill Carnival was cancelled, we had 200 people turn up at 9pm. They came fully equipped with a marquee, speakers, DJ, microphone food, alcohol and raved all night long and left at 8am. Neighbours complained, police came, but nothing was done and they got away with it all. No resident slept that night because of them'.
- 4.141 Other repetitive examples mentioned in the consultation relating to the same park include; 'also have youngsters sitting on the benches until early hours of the morning shouting, drinking and using drugs' and 'we have drunks sitting on the bench and smoking weed till early hours of the night. Why won't you do something??????? ACT NOW!!!!'

## 5.0 Removal of Prohibitions (no longer required)

The prohibitions in Paragraphs 5.1-5.4 are included in one of the three PSPO's but there is no further evidence that they continue to have or likely to have a detrimental impact on the quality of life of those in the locality, and consequently, it is not proposed to continue them in the new PSPO.

- 5.1 Cabinet should consider whether the following prohibitions should remain or be removed. Although the local threshold test is not technically being met. The prohibitions which were in existing PSPOs, no longer have complaints to evidence them, but based on officer intelligence or community representatives, still present an issue and and consequently they would like them to be contain should still be retained in the PSPO. If retained, they could then be monitored over the next 12 months to see whether they meet the local threshold of 5 occasions of complaints within 12 months or consistently complained of over a 3-month period
- 5.2 **Previous Prohibition 9: Unauthorised flying of drone(s) – Wembley Park PSPO**
- To fly drone(s) without written consent from the landowner and/or the London Borough of Brent
- 5.2.1 Although there is minimal evidence to continue this restriction, the landowner Quintain which surrounds Wembley National stadium have submitted a representation to the consultation as they have reservations about removing this prohibition and have asked that it remain. They are one of 58% of a possible 233 responses that objected to the

removal of this prohibition during the consultation. If renewed, this prohibition would become prohibition 18 in the new order. This issue cannot be dealt with using any of the existing prohibitions.

### 5.3 **Previous Prohibition 8: Games or competitions – Wembley Park PSPO**

- To play games or competitions which may cause an obstruction or nuisance to members of the public.

5.3.1 This prohibition was originally put in place as a result of those members of the public that play games outside of the stadium. Footballs are often seen being thrown/kicked around between members of the public, which can attract a large crowd with some passers by being hit and injured by the ball. The difficulty with this prohibition is working out who has kicked the ball. With such a large crowd, this is almost impossible to determine. 50.9% of a possible 233 responses objected to this prohibition being removed during the consultation. If renewed, this prohibition would become prohibition 32 in the new order. This issue could also be dealt with under the 'obstruction of the highway, preventing the free flow of person's movement' prohibition, however it isn't always the case that there is an obstruction being caused at the time football is being played, despite the high number of persons being present in the vicinity.

### 5.4 **Previous Prohibition 10: Idling Engines – Wembley Park PSPO**

- To leave the engine of a vehicle idling without reasonable excuse, which is continued when asked to be stopped by an authorised Council officer.

5.4.1 This prohibition is covered by Section 42 of the Road Traffic Act 1988, where it is illegal to leave your engine running, whilst stationary. There is no evidence to date based on the existing PSPO which suggests the prohibition should remain. The act of idling as mentioned above, is also dealt with under separate legislation. Should idling become a problem, this prohibition can be reinstated as part of a future PSPO. The evidence gathering indicated nine persons (out of a possible 552) that found idling to be an issue, whilst 66.8% of a possible 233 responses objected to this prohibition being removed during the consultation. It is important to point out that this prohibition only applied to the Wembley Park PSPO and not the borough wide PSPO.

### 5.5 **Previous Prohibition 10: Launching of sky lanterns – POsCG PSPO**

- Launching sky lanterns 'that rely on an open flame to heat the air inside the lantern'

5.5.1 Although the suggestion to remove this prohibition is based on a lack of evidence, there have been objections to the removal of this prohibition by the Safer Neighbourhood Board who acts on behalf of members of the public. A further 54.9% of a possible 233 responses objected to this prohibition being removed during the consultation. If renewed, this prohibition would become prohibition 29 in the new order.

5.5.2 One of the representations in the consultation included the following comment which also includes the prohibition above; 'I don't think you should remove restrictions on Sky Lanterns and cars idling - being able to take action against these may be useful - both circumstances could be Climate Change issues in future (lanterns starting more fires on dry land, polluting engines needing to be turned off more). To remove restrictions on these would prevent you from being able to guard against these in future'. If renewed, this prohibition would become prohibition 33 in the new order.

### 5.6 **Previous Prohibition : Flying of drones and other model aircrafts – PosCG PSPO**

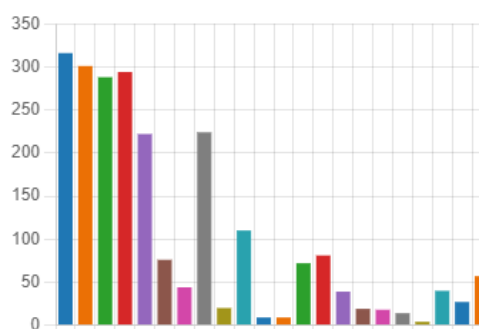
- 5.6.1 There is a lack of evidence to support this, however the manager of the Parks Service are concerned that if removed, there may be an increase in individuals that fly drones or model aircrafts and as a result injure park users.

## 6.0 Evidence Gathering

- 6.1 Prior to consultation, an evidence gathering exercise was undertaken. This included a questionnaire that was placed on social media for residents, businesses and visitors to Brent, to tell us about the ASB issues they face (**see Appendix 36**).

- 6.2 The evidence gathering exercise focussed on addressing nuisance impacting the borough as a whole, as opposed to specific wards, localities. The consultation however, focussed on addressing all the prohibitions sought impacting the borough as a whole and the specific restrictions posed for specific localities – e.g. Wembley stadium. The overall results of the evidence gathering exercise questionnaire are displayed below;

Street drinking (drinking alcohol)	316
Illegal drugs or psychoactive su...	301
Littering (urination or defecating)	288
Littering (cigarettes)	294
Littering (spitting)	222
Use of megaphone or micropho...	76
Illegal trading (food or other ite...	44
Smoking shisha, cannabis, cigar...	224
Leaflet distribution	20
Dog fouling	110
Charity collectors	9
Busking (without permission)	9
Aggressive begging	72
Use of motor vehicles in parks, c...	81
Loss of control of dogs (dog not...	39
Dogs that are in a banned area i...	19
More than four dogs being walk...	18
Flying drones	14
The launching of sky lanterns (w...	4
The lighting of fires or use of BB...	40
The use of fireworks in a banne...	27
Other	57



- 6.3 The tag marked 'other' included other issues such as *noisy neighbours* and *fly tipping*. 'Other' also included a further description of the other tags, such as a description of the issues of smoking cannabis or street drinking.
- 6.4 552 responses were received in the evidence gathering exercise. A further summary report of the questionnaire detailed by ward can be found in **Appendix 10**. At the end of the report the 'other' issues have also been summarised, the main comments for which can be found in **Appendix 11**.

- 6.5 Three sets of Fixed Penalty Notice (FPN) data have been provided which cover the fines given under the :
- Borough wide street drinking PSPO (**Appendix 23**)
  - Wembley Park PSPO which covers Wembley Stadium events (**Appendix 24**)
  - Parks, Open Spaces, Cemeteries and Graveyards PSPO (**Appendix 25**)
- 6.6 Brent officers were asked to describe the issues they witness when they are out in the borough as they are best placed to describe the conditions on the ground. The returns provided by 17 officers can be found in **Appendix 26**. However, in summary, 7 of the highest issues that appeared in the evidence-gathering questionnaire results shown in the graph above are also the same issues that are described by officers.
- 6.7 MET Police officers have provided statements, which demonstrated the issues found in various wards (**Appendix 27**) and specifically around Wembley Stadium events (**Appendix 18**). All of the statements support the PSPO variation and restrictions. Enforcement data provided by the MET Police for 2022 Wembley Stadium football games can be found in **Appendix 28**.
- 6.8 In relation to the Wembley Park area's Wembley Stadium events, further statements in support of the PSPO were provided by stakeholders and a business (**Appendix 18**). WNSL also provided a statement which appears in **Appendix 29**, with references to Appendix A, B & C (shown as **Appendix 24, 30 & 31**).
- 6.9 Although mentioned previously, statements that support PSPO prohibitions in parks and open spaces can be found in **Appendix 22** together with FPN data in **Appendix 25** and complaints made about dogs accessing the cemetery in **Appendix 21**.
- 7.0 Consultation Outcome**
- 7.1 An on-line consultation for the proposed PSPO was undertaken from 11 July 2021 to 18 August 2022 which can be found in **Appendix 32**. FAQs were also sent out with both the evidence gathering questionnaire and consultation (**see Appendix 33**). 233 responses were received to the consultation. A summary report is attached in **Appendix 10**. All of the representations who made comments in the consultation can be found in **Appendix 11**.
- 7.2 Section 4, which describes the issues presented by each prohibition in the borough together with a breakdown of the data gathered in the evidence gathering exercise and consultation, has resulted in a proposed draft PSPO with prohibitions, which is set out in **Appendix 2**. Draft notices for each space (Borough, POsCGs, Wembley Park) have also been attached in **Appendix 7, 8 & 9**.
- 7.3 The evidence gathering exercise and consultation included contacting members of the public and stakeholders via various media channels including the intranet, Twitter, Instagram & Facebook (including Facebook groups). As well as feedback from the following persons, they were also asked to share the links to both the evidence gathering exercise and consultation, with their own contacts; Safer Neighbourhood Teams (SNTs) and their Inspectors, the Safer Neighbourhood Board, resident associations, Brent Park's service, Brent schools (excluding the consultation as schools closed in mid-July for summer holidays), Wembley Park Ltd, Quintain, Fire Brigade, Wembley National Stadium, Brent Councillors, Public Health (Brent Council), Brent cemeteries, the London Designer Outlet (LDO), Environmental Enforcement Manager, Town Centre Managers, ASB officers, Environmental Enforcement officers, Neighbourhood Managers, the Town Centre bulletin and Brent's weekly e-bulletin.

- 7.4 In addition to the above, the following were also included in the consultation process; Director (Environment Services, Brent Council), Westminster Drug Project (WDP), St Mungo's, Crisis UK, Battersea Dogs Home, Mayhew Animal Home, The RSPCA, Age UK, what's app business groups (Wembley) and all seven relevant departments in neighbouring boroughs.

## **8.0 Implementation Timeline**

- 8.1 Subject to Cabinet approval, it is proposed that the commencement date for the PSPO will be set by the Corporate Director, Residential Services. PSPO signage across the borough, informing the public of the prohibitions will also be put in place.

## **9.0 Financial Implications**

- 9.1 The approximate cost of affixing the notices is £15,000 and will be funded within the Environment and Leisure service budget.
- 9.2 As part of existing duties by the Neighbourhood Patrol team and MET Police enforcement will be undertaken, with no extra budget required.
- 9.3 Should the PSPOs not be agreed, there is an estimated cost of £5,000 to remove the current signage.
- 9.4 The current annual income generated from fixed penalty notices for breach of the PSPO is £40,000., and will rise to approximately £70,000, with an increase in prohibition and more police involvement. Part of this income will be used to further communicate and educate on the existence of the PSPO, to train additional staff where required, and to provide additional signage.
- 9.5 Annual income generated from fixed penalty notices for breach of the PSPO is estimated at £70,000. Some of this income can be used to further communicate and educate on the existence of the PSPO, to train additional staff where required and to provide additional signage.

## **10.0 Legal Implications**

- 10.1 The Anti-Social Behaviour, Crime, Crime and Policing Act 2014 ("the 2014 Act") provides the Council with power to make PSPOs in the areas where a particular nuisance is having a detrimental effect to local communities quality of life, by imposing conditions on the use of those areas. PSPOs can also be used to deal with likely future problems (section 59).
- 10.2 In order to **make** a PSPO, the Council must be satisfied on reasonable grounds that the two statutory conditions are met and that it is reasonable and proportionate for the restrictions

the first condition (section 59(2) of the 2014 Act) is that:



- a) the activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, **or**
- b) it is likely that the activities will be carried on in a public place within that area and that they will have such an effect, and

the second condition (section 59(3) of the 2014 Act) is that the effect, or likely effect, of the activities –

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and
- c) justifies the restrictions imposed by the notice.

The statutory code of guidance issued by the Home Office provides for "*is likely to have a detrimental effect*" in relation to the first condition (a).

10.3 The reasonableness requirement is set out in section 59(5) of the 2014 Act which provides that the only prohibitions, or requirements that may be imposed are ones that are reasonable to impose in order-

- (a) prevent the detrimental effect referred to from continuing, occurring or reoccurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

S59(6) provides that a prohibition or requirement may be framed-

- (a) so as to apply to all persons, or only persons in specified categories, or to all persons except those in specified categories;
- (b) so as to apply at all times, or only at specified times, or at all times except those specified;
- (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified

10.4 In order to vary a PSPO where the PSPO is in force, the local authority that made the order may vary it:

- (a) by increasing or reducing the restricted area;
- (b) by altering or removing a prohibition or requirement included in the order, or adding a new one.

(2) A local authority may make a variation to a public spaces protection order that results in the order applying to an area to which it did not previously apply only if the conditions in section 59(2) and (3) are met as regards activities in that area.

There is no limit on the number of variations or extensions a PSPO can undergo.

10.5 The Home Office Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers statutory guidance for frontline professionals (The Home Office Guidance) (pg. 48) states "these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focussed on

specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring”.

10.6 In appendix 2 of the April 2015 Cabinet report in relation to the implementation of the 2014 Act, it sets out a local protocol within Brent for making a PSPO. The local protocol includes a local threshold criteria in addition to the requirements for making a PSPO to those set out in section 59 of the 2014 Act and the additional local threshold criteria are as follows:

- “The nuisance behaviour described has taken place on at least five occasions over a one year period
- Evidence has been gathered over a three month period”.

10.7 Before deciding to make the PSPOs, the Council must comply with certain statutory requirements relating to publication, consultation, notification and information in respect of the proposed PSPOs in the relevant areas. In addition, the Council will need to evidence that it has given regard to statutory guidance issued by the Secretary of State. Given the number of restrictions proposed, the following consideration points are brought to Cabinet’s attention:

- a) the term “detrimental effect” is not defined by statute. The term has been considered by case law<sup>1</sup> and the current position is “local authorities [have been] given a wide discretion to decide what behaviours are troublesome and require to be addressed within their local area. This requires local knowledge, taking into account conditions on the ground, exercising judgement (i) about what activities need to be covered by a PSPO and (ii) what prohibitions or restrictions are appropriate for inclusion in the order. There may be strong feelings locally about whether any particular activity does or does not have a detrimental effect, in such cases a local authority will need to weigh up competing interests. The behaviours which PSPOs are intended to target are those which are seriously anti-social, not ones that are simply annoying”.
- b) Cabinet members are reminded that “it should look at each proposal under the PSPO and not focus on just the matters raised in writing”<sup>2</sup>.
- c) The Home Office Guidance of December 2017, makes clear PSPOs should not be used to target people based solely on the fact that someone is homeless or rough sleeping; it states: “Public Spaces Protection Orders should not be used to target people based solely on the fact that someone is homeless or rough sleeping, as this in itself is unlikely to mean that such behaviour is having an unreasonably detrimental effect on the community’s quality of life which justifies the restrictions imposed. Councils may receive complaints about homeless people, but they should consider whether the use of a Public Spaces Protection Order is the appropriate response. These Orders should be used only to address any specific

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<sup>1</sup> Summers v Richmond Upon Thames [2018] EWHC 782 (Admin) and applied in Florica Alina Dulgheriu, Andrea Orthova v The London Borough of Ealing, case no Co/1695/2018., [2018] EWHC 1667 (Admin).

<sup>2</sup> Summers v Richmond Upon Thames [2018] EWHC 782 (Admin)

behaviour that is causing a detrimental effect on the community's quality of life which is within the control of the person concerned.

Councils should therefore consider carefully the nature of any potential Public Spaces Protection Order that may impact on homeless people and rough sleepers. It is recommended that any Order defines precisely the specific activity or behaviour that is having the detrimental impact on the community. Councils should also consider measures that tackle the root causes of the behaviour, such as the provision of public toilets.

The council should also consider consulting with national or local homeless charities when considering restrictions or requirements which may impact on homeless people and rough sleepers."

The Home Office Guidance of December 2017 also provides guidance regarding dog control and restricting the use of alcohol.

- d) The Local Government Association paper entitled "Public Spaces Protection Order, Guidance for Councils" (pg. 15), although non statutory guidance, states "Councillors have an important role in examining the processes used in drafting the proposal. This will include analysing the outcomes of the consultation process and other supporting evidence offered to satisfy the statutory criteria, and determining whether, on balance this provides sufficient grounds to proceed". The Local Government Association ("LGA") does not provide statutory guidance and local authorities are not legally obliged to follow advice from the LGA. However, the LGA provides useful advice to local authorities on areas of best practice in relation to the exercise of various local authority functions.

- 10.8 Furthermore, the council will need to evidence that it has given regard to The Human Rights Act 1998. The rights and freedoms provided for in the Human Rights Act are qualified rights which means they can lawfully be restricted providing it is a proportionate and necessary means of achieving a legitimate aim. In considering the Human Rights Act the council must balance the rights and freedoms of individuals, in relation to the proposed restrictions imposed, against the needs of the wider community.
- 10.9 PSPOs, or their variation, may be challenged within six weeks of being made by way of an application to the High Court. The Court may suspend the operation of the PSPO or any of the prohibitions or imposed by it until the determination of the proceedings. Should the Court be satisfied the Council erred and the applicant has been substantially prejudiced by that failure, it may quash the Order or any of the prohibitions imposed by it.
- 10.10 Breach of a PSPO is a criminal offence subject to, up to a level three fine on prosecution (up to £1,000), level two fine for street drinking (£500).
- 10.11 The decision notice for the Cabinet meeting of 14 April 2015 regarding the delegation of functions in the exercise of powers under the 2014 Act, which covers PSPOs, confirms:

*"delegated authority to the Chief Operating Officer in consultation with the lead member for stronger communities for the function of making Public Spaces Protection Order under the 2014 Act and for this arrangement to be reviewed after one year".*

- 10.12 The post of Chief Operating Officer has since been deleted, so to has the post of Strategic Director of Regeneration and Environment and the relevant functions relating to PSPO's transferred to the Corporate Director, Resident Services. Consequently, the delegation is also "inherited" by the said Corporate Director. In the current circumstances and considering the political sensitivities involved in this matter, officers recommend that the decision to make a PSPO as proposed in this report is made by the Cabinet rather than by officers with delegated authority.
- 10.13 Once approved, the PSPO must be published on the Council website and notices put up where practical on or adjacent to the public places to which the PSPO relates publicising the fact that the PSPO has been made and its effect.
- 10.14 S60 of The Act sets out the requirements in order to extend a PSPO. It states that a PSPO has effect for not more than three years and may be extended in order to prevent
- (a) Occurrence or recurrence after that time of the activities identified in the order, or*  
*(b) An increase in the frequency or seriousness of those activities after that time.*
- London Local Authorities Act 1990**
- 10.15 The London Local Authorities Act 1990, the council cannot enforce its street trading powers on land that is not considered a 'street' pursuant to S21 which defines a street as including
- a) "any road, or footway*  
*b) Any other area, not being permanently enclosed premises, within 7 metres of any road, or footway, to which the public have access without payment;*  
*c) Any part of such road, footway or area;*  
*d) Any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985".*

Some of the roads owned by Quintain are not considered to be a 'street'. The PSPO would, with permission from the landowner, give Brent Council the authority to deal with any issues of ASB.

**Business and Planning Act 2020**

- 10.16 As a result of the Covid-19 pandemic, [The Business and Planning Act 2020](#) was introduced to temporarily modifies the Licensing Act 2003 to provide an automatic extension to the terms of most premises licenses which only permit the sale of alcohol for consumption on the premises to allow the sale of alcohol for consumption off the premises. It is important to note that the provisions in the Act do not override or suspend PSPOs that ban the consumption of alcohol in public. However, licensed premises in such an area and wanting customers to be able to consume alcohol outside or off the premises, can apply to the Council for an exemption under the form of a pavement licence. In this case, where consumers are within the curtilage of the pavement licence, the PSPO would not apply. This temporary extension is valid until 30 September 2022, unless the Secretary of State makes further recommendations to extend this date.

**Licensing Act 2003**

- 10.17 Permission to permit the consumption of alcohol in public spaces can be obtained via the Licensing Act 2003 in the form of a [Premises Licence](#) or [Temporary Event Notice](#)

[\(TEN\)](#). A rigorous process including event plans and risk assessments are requested when such a request is made to hold an event (small or large), in a public place. These permissions would be exempt from any PSPO enforcement contained within the defined event space.

## **11.0 Equality Implications**

11.1 The implementation and policing of the PSPO will be in accordance with Equality Act 2010.

11.2 The public sector equality duty, as set out in section 149 of the [Equality Act 2010](#), requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

11.3 Enforcement data has been analysed to determine what adverse impacts, if any, exist for those persons with protected characteristics as set out in the Equalities Act 2010. The following protected characteristics appear to be those that are mostly affected.

### **Vulnerable Persons**

11.4 Westminster Drug Project (WDP) an organisation that works with people with protected characteristics and is commissioned by Brent Council. The extension of the PSPO will continue to aid the identification of individuals with alcohol misuse issues and ensure effective signposting to support services takes place.

### **Disability**

11.5 Home Office Guidance 2017 “Consideration must also be given on how any dog walking restrictions being proposed would affect those who rely on assistance dogs, ensuring any prohibition or requirement is compliant with the provisions of Equality Act 2010 or considering what exemptions should apply for assistance dogs.”

### **Males**

11.6 The enforcement carried out under the three PSPOs, show an overrepresentation of males who have been issued warnings and notices. There are challenges in obtaining data around race, sexual orientation, or religious belief and there are suggested plans in progress to mitigate this by developing more joined up enforcement structures between the council and police.

### **11.7 Religion/Belief**

The PSPO must ensure that it does not prevent those individuals who wish to openly speak about their religion/belief, are not prevented from doing so. The way in which this is undertaken however, should not cause a nuisance to other members of the public

11.8 Consideration must be given to how any prohibition may adversely impact any other person with protected characteristics and what mitigated actions are proposed to counteract these adversities. An Equality Impact Assessment has been undertaken and

the findings are attached as **Appendix 14. Appendix 34 & 35**, detail the demographics of the respondents in both the evidence gathering exercise and the consultation.

- 11.9 The variation and extension of the PSPO is overall an extremely positive tool, which is likely to assist in reducing the anti-social behaviour in Brent. For those with protected characteristics, there are measures that can be put in place to ensure they are not adversely affected.
- 11.10 These measures may include targeted communication in relation to the implementation of the PSPO, a period of embedding where education of the PSPO is a priority over the issuing of any FPNs, up to date information on the Brent website and regular communication to members of the public via social media and other avenues. Training of council and Police officers is of utmost importance in relation to those of protected characteristics and will reflect when FPNs should be issued. The officers will be able to use their discretion as to when to issue and FPN, as a blanket approach would not be appropriate.
- 11.11 Further, all FPNs are issued via the Council so any Police officer, who issues a fine, must first report this to the Council, after which a secondary check can be made based on the evidence provided and the decision as to whether a fine should be issued, will then be made. In any case, anyone issued with an FPN has a right to appeal this via the Magistrates court.
- 11.12 It is also suggested that a reporting tool be made available for those members of the public that wish to report anti-social behaviour. This may include persons with protected characteristics.

## **12.0 Human Resources/Property Implications (if appropriate)**










- 12.1 The Neighbourhood Patrol Officers with the assistance of council enforcement officers will primarily enforce the PSPO. There will also be some assistance from relevant Safer Neighbourhood Teams (SNTs) including two recently created MET Town Centre teams in Harlesden and Wembley.

**Report sign off:**

**Peter Gadsdon**

Corporate Director Resident Services

## **Schedule 1**

-  Appendix 1 - PSPO Report December 2022
-  Appendix 2 - Public Space Protection Order (PSPO) Draft Order
-  Appendix 3 - Proposed PSPO Mapped Area – Entire Borough
-  Appendix 4 - Proposed PSPO Mapped Area – Wembley Park
-  Appendix 5 - Proposed PSPO Mapped Area – Parks, Open Spaces, Cemeteries & Graveyards
-  Appendix 6 - List of Brent Parks, Open Spaces, Cemeteries & Graveyards
-  Appendix 7 - PSPO Public Notice Borough Wide
-  Appendix 8 - PSPO Public Notice Wembley Park
-  Appendix 9 - PSPO Public Notice Parks
-  Appendix 10 - Evidence Gathering Questionnaire Data by Wards
-  Appendix 11 - Evidence Gathering Questionnaire Comments
-  Appendix 12 - Consultation Questionnaire Outcome
-  Appendix 13 - Consultation Outcome Comments
-  Appendix 14 - PSPO Equality Impact Assessment
-  Appendix 15 - Vulnerable Persons Statement
-  Appendix 16 - Ward Officer Returns by Ward - Mapped
-  Appendix 17 - Under-Reporting Supporting Statement
-  Appendix 18 - Wembley Park Supporting Statements
-  Appendix 19 - List of Quintain Open Spaces with Maps
-  Appendix 20 - Police Crime Data
-  Appendix 21 - Dog Complaints - Cemeteries
-  Appendix 22 - POsCGs Supporting Statements
-  Appendix 23 - Borough Wide FPN Data
-  Appendix 24 - Wembley Park FPN Data
-  Appendix 25 - Parks and Open Spaces FPN Data
-  Appendix 26 - Officer Returns - Borough Wide
-  Appendix 27 - Borough Wide Supporting Statements
-  Appendix 28 - Police Enforcement Data - Stadium Events
-  Appendix 29 - Wembley Stadium Statement
-  Appendix 30 - Evidence Gathering Exercise Data Maps
-  Appendix 31 - WNSL Appendix A & C
-  Appendix 32 - Consultation Questionnaire
-  Appendix 33 - FAQs
-  Appendix 34 - Consultation Response - Demographic Outcome
-  Appendix 35 - Evidence Gathering Exercise - Demographic Outcome
-  Appendix 36 - Evidence Gathering Questionnaire
-  Background Reading 1 - Independent Review of events surrounding the UEFA Euro 2020 Final at Wembley