

Consultation on Public Space Protection Order (PSPO) for area surrounding Wembley Stadium

Background

Public Spaces Protection Orders were made available under the ASB Crime and Policing Act 2014 to enforce anti-social behaviours areas.

Sporting and other recreational activities such as concerts at Wembley Stadium, SSE Arena and now the new Wembley Theatre attract thousands of people. However, the experience of those attending the venue, those working in the area and residents is seriously marred by illegal traders (including ticket touts), street drinkers, littering (including urination), unauthorised distribution of printed material etc. whose activities blight our streets and spaces around Wembley Stadium as well as the footprint between Wembley Park, Wembley Stadium and Wembley Central Stations.

Illegal Street Traders

Illegal street trading is enforced under the London Local Authorities Act (as amended).

On event days, we experience numerous illegal street traders including ticket touts located in the main foot print of Wembley Stadium but also along the High Road Wembley, First Way etc... It is believed that the traders form part of an organised group and many have criminal convictions. They present an unsightly appearance and approach members of the public in a forceful and intimidating manner.

Generally, most of the traders are known to the Council. However, it has been found that the underage traders and unknown traders are employed to distract Council Officer's attention.

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.

Street trading also includes activities like free face painting, hair braiding, massages, 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 or even just as a free event. They are also used sometimes as a form of promotional advertising without the traditional printed materials or physical object giveaways and are usually offered in areas of high footfall thereby causing obstruction and congestion. They are also often not controlled by regulation and can even be harmful to customers such as use of allergenic products for face painting.

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 obstruction on the public highway by displaying their goods across roads that are closed to traffic.

Enforcement officers have encountered aggressive illegal traders who have verbally and physically threatened officers. On occasions officers have been thrown on the floor, which is

upsetting and distressing. To prevent such events occurring, 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 to challenge Council Officers. It is also unfair on those traders who have been licenced and are trading legally and fully compliant with regulation including having public liability insurance.

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 scourge.

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.

Using the London Local Authorities Act 1990 the following prosecutions were recently undertaken successfully:

Year	No of Prosecutions
2017	38
2018	33
2019	17

Furthermore, four criminal behaviour orders have been obtained. These individuals are still present on the Wembley footprint acting as 'spotters' for other traders who trade illegally. The reduction in prosecution numbers is not because the problem is diminishing. It is due to the fact that we have not been able to undertake regular enforcement.

The illegal street traders do not appear to be 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 foot print time and time again. Resources are very limited; therefore, the Council cannot always be present to enforce every event.

Furthermore, London Local Authorities Act allows enforcement on streets and not on enclosed private land or any open land/space. A PSPO would allow enforcement on private land as well as public land including open spaces against un-licenced traders. This will allow enforcement to be undertaken in all area highlighted in the attached plan (Appendix 1). The enforcement of the PSPO and London Local Authorities Act 1990 would be a stepping stone to obtaining the injunction against un-named illegal traders. Such an injunction brought about by the Jockey Club at Cheltenham Racecourse has resulted in drastically reducing the number of illegal traders.

It must be noted that although an injunction was obtained against the persons' unknown most of the enforcement has been undertaken against named persons breaching the PSPO. However, Cheltenham Racecourse can take persistent offenders to the high court for breach of the injunction.

In summary, the PSPO to tackle street trading which covers all areas within the highlighted area in the plan attached in Appendix 1 will help address the problem.

Distribution of Free Literature (includes giveaway items)

The area around the stadium attracts a large number of literature distributors due to hundreds of thousands of people attending events at the stadium. Majority of these individuals have not applied for a literature distributors 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) and 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.

Section 23 of the Clean Neighbourhoods and Environment Act 2005 ("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 could lead to prosecution.

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, Mostyn Avenue.

However, 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 Highway Authority. It does not apply to private land.

Therefore, the PSPO which includes the distribution of free literature in the proposed area in Appendix 1 would allow enforcement on private and public land.

Unauthorised Charity Street Collections

The Metropolitan Police Charities commission provides 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 Police Charities Commission who then verifies the applicant and gives consent to collect on the streets. In the area surrounding Wembley Stadium individuals present themselves with their buckets collecting money without consent from the Council and Metropolitan Police Charities Commission. This practice means that individual's donation has a potential of going to those who are not genuine collectors. Again street collections do not apply on private land.

Therefore, having a PSPO for street collections in the attached plan in Appendix 1 would allow enforcement against those who are undertaking collections without proper consents/permissions.

Street Drinking

In 2017, Public Space Protection Order was obtained to tackle street drinking hot spots in six defined areas in Brent. This PSPO for street drinking was extended to include the whole Borough in October 2017. However, it did not include private land nor open spaces.

Around the Wembley National Stadium, SSE Arena, Wembley Theatre there are new roads and private land that are not subject to the Order. For example, one such location is Olympic Way. The aim of the street drinking PSPO is to reduce anti-social behaviour in areas identified as problematic, help identify individuals who may be vulnerable, individuals that are repeat offenders and the order would be used to enforce against those who do not comply. The PSPO would afford local authority and the Metropolitan Police Service to identify hotspots so that it can be referred to Borough Joint Action Group to ensure Metropolitan Police Service, Local Authority and partners tackle the identified issues in relation to street drinking.

There has been a lot of residential and business development around the Stadium footprint, the number of residents affected by anti-social behaviour from street drinking has increased. As certain streets are not included in the PSPO for street drinking, the Police and Local Authority have to rely on other less effective legislation to tackle alcohol related matters. This has resulted in the offenders 'wising up' to the fact that they can step onto private land to avoid any action taken against them.

Most recently, several hundred people have been observed on a number of occasions to be standing around and drinking in Olympic Way, Wembley Splay, Wembley Park Boulevard adjacent to Arena Square around the London Designer Outlet, Empire Way, Wembley Hill road and Wembley Green. The drinking of alcohol in open public areas and the associated anti-social behaviour has been particularly bad during events on 31st March 2019 (Checktrade Trophy), 7th April 2019 The Emirates FA Cup semi-final and on 27th May 2019 (Championship Play-Off Final).

In addition to the drinking of alcohol and anti-social behaviour visiting fans leave the area littered with beer cans, bottles and other general litter/waste. It also results in people urinating against people's properties, leaving detritus and offensive smell lingering for weeks. This has resulted in numerous complaints from residents and businesses. These large group 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.

The PSPO for the proposed area in Appendix 1, which includes street drinking will help address these issues.

Littering (including but not limited to urination, spitting or dropping of cigarette ends).

More than two million pieces of litter are dropped in the UK every day. The cost to the taxpayers for street cleaning is over £1 billion a year. Litter is anything from a crisp packet or cigarette butt to a bag of rubbish. All litter is unsightly and makes our local areas look untidy and uncared for. Common litter items include fast-food packaging, sweet wrappers, drinks cans, bottles and cigarette butts.

Litter does not clean itself away. It can take years to degrade, causes harm to 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. Research shows litter contributes to further crime and that people feel less safe in areas that are littered.

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.

However, if litter is dropped on privately-owned land, it is either the owner or occupier who is held responsible for clearing this litter away.

In addition, it must be noted that the Council, Wembley Park (land owner around the Stadium) and Wembley National Stadium are working together to address the problems that cause a nuisance.

Therefore, a PSPO for littering will allow this issue to be addressed within the proposed area attached in Appendix 1 on public and private land.

Unauthorised Fly-posting, advertisement, affixation or distribution of any promotional adverts, offers or items (including but not limited to stands, stalls, banners, posters)

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
Section 100(b) of the Roads (Scotland) Act 1984

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

Therefore, a PSPO for fly-posting will allow this issue to be addressed within the proposed area attached in Appendix 1 on both public and private land.

Unauthorised flying of drone

The regulations for recreational unmanned aircraft flights (Drones) are contained within the Air Navigation Order 2016 (ANO) which is the primary document for all aviation regulations within the UK. In order to keep the regulations at a proportionate level for these small UAS (unmanned Aircraft system), a set of specific, simpler, regulations apply to aircraft that have a mass of 20kg or less (which are termed 'small unmanned aircraft' within the ANO).

These regulations state that:

- you are responsible for flying your UAS in a safe manner
- you must keep the UAS in your direct sight at all times while it is flying, so that you can ensure that it does not collide with anything, especially other aircraft
- you must not endanger anyone, or anything with your UAS, including any articles that you drop from it

- you must not fly more than 400ft above the surface. If flying over hilly/undulating terrain or close to a cliff edge, this may be interpreted as being a requirement to remain within a distance of 400ft from the surface of the earth
- you must not fly within the Flight Restriction Zone of a protected aerodrome
- if your UAS weighs more than 7kg, additional rules apply if you fly in certain types of airspace.

If a UAS is fitted with a camera, there are also a number of additional limitations surrounding where you can fly it, and how close you can fly it to other uninvolved people or objects. In order to be able to fly within these areas, or closer than the minimum distances that are in the regulations, you must obtain prior Permission from the CAA (Civil Aviation Authority) to do so.

The government is preparing a new Drones Bill, which will give police powers to clamp down on those misusing drones and other small unmanned aircraft, including a power to access electronic data stored on drones with a warrant. In addition, the Home Office announcing new stop and search powers for drones around aerodromes, which will also be included in the bill.

These enforcement powers will complement legislation introduced last year which will require the mandatory registration of operators and the online competency testing of remote pilots for drones over 250g. These requirements will become a legal obligation in November this year (2019) and work with the new police powers to increase accountability and clamp down on irresponsible and dangerous behaviour.

The Home Office is further reviewing the UK's response to the malicious use of drones, and will consider how best to protect the full range of the UK's critical national infrastructure, as well as testing and evaluating technology to counter drones.

These actions will help to combat the misuse of drones, so that small unmanned aircraft can be used safely and securely, and continue to support the development and growth of this rapidly expanding new industry.

In the meantime, should an individual wish to fly a drone whilst hundreds and thousands of people are walking along Olympic Way or the surrounding area, it can cause people to stop which can cause the flow of movement to come to an abrupt stop with a potential to cause an obstruction resulting in crushing or more serious injuries.

Therefore, a PSPO for flying unauthorised drones is required in the proposed area in Appendix 1.

Games or competitions

Wembley National Stadium's primary offer is that of sporting events – mostly football. Many of the spectator's attending these events also enjoying playing the various associated sports. In some locations – particularly within locations around the stadium which are closed off to traffic such as Fulton Road, Engineers Way, Olympic Way, Wembley Boulevard, Arena Square, the White Horse bridge etc. groups of spectators occasionally engage in a kick-about, or in the case of NFL – a throw-about involving a ball or other object have been observed. While this behaviour is generally seen to be harmless if the group is small and is not consuming alcohol, on some events these activities quickly grows in size and attract individuals who are or have been consuming alcohol. The result of this is that a large crowd quickly develops in an area either set aside as a fan-zone or designated as a thoroughfare whose focus is intent on chasing, kicking or throwing a ball or other object often in a very

excitable manner with little or no consideration for others around them. This in turn results in obstruction, risk of injury, risk of damage to property and on occasion violent aggression if other persons relaxing in or passing through the space take offence.

Where such activities are small and not seen to be posing a threat it is reasonable to allow them to continue however in certain areas where the risk of these activities is seen to be dangerous or can cause obstruction or where such activities involve large groups who have been or are consuming alcohol, this then becomes both a nuisance and a danger. A PSPO to prohibit such nuisance or dangerous activities therefore would be a preferred approach to enable officers to control such activities on the public highway and on private land within the Wembley area.

Pyrotechnics including Fireworks including flares or smoke emitters

You can't buy 'adult' fireworks if you're under 18, and it's against the law for anyone to set off fireworks between 11pm and 7am, except on certain occasions.

Adult fireworks are category 2 and 3 fireworks - they don't include things like party poppers.

Category 4 fireworks can only be used by professionals.

The law says you must not set off or throw fireworks (including sparklers) in the street or other public places.

You must not set off fireworks 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 fireworks off in the street or a public place. You should only let fireworks off on private land such as your garden or on land where you have the landowner's permission. It is UKFR's understanding this means it is also illegal to let fireworks off on the beach (not to mention having the potential for fireworks to be mistaken for distress flares).

It is **not** a legal requirement to have any form of licence or training to let off consumer fireworks. However, for larger displays which are insured, some form of training may be a requirement of the underwriters.

The enforcement under the Fireworks Regulations of 2004 is a police function. Local Authorities therefore do not have any legal powers to take action under the act. A common theme at many Wembley Stadium events is for spectators to launch or set off fireworks, flares or smoke emitters while travelling to or waiting to get into the stadium. These items are prohibited from being brought into the stadium and prevented through bag searches because they can be dangerous and are a nuisance to others yet they are still used freely outside the stadium and on the public highway. Not only are fireworks dangerous in terms of being a fire hazard, the smoke that some of them emit is also unpleasant and unhealthy to inhale and they are often noisy. Furthermore, if fireworks, including 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 fireworks which are not related to commercial fireworks events, fireworks nights or other aspects of fireworks regulation that the police would normally deal with. These PSPO's focus mainly on controlling fireworks nuisance on the public highway and in parks and open spaces.

Given the growing trend for spectators to carry and set off fireworks in crowded spaces, on thoroughfares and adjacent to roads there is a clear and ongoing potential risk to public safety and a nuisance. A PSPO allowing officers to control the use of such fireworks if they are seen to be dangerous or causing a nuisance 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.

Idling Engines

Leaving an engine idling is already an offence under the Section 42 of the Road Traffic Act 1988. The Act enforces rule 123 of the Highway Code, which states 'you MUST NOT leave a vehicle engine idling whilst the vehicle is stationary on a public road'.

If drivers are caught doing this, they could face a £20 fixed-penalty fine under the Road Traffic (Vehicle Emissions) Regulations 2002. This can increase to £80 depending on how local councils decide to enforce the rule. Currently officers are only permitted to impose such a fine if drivers fail to turn off their emission and stay parked for another minute.

Although initially promoted as a public transport venue, events at Wembley Stadium attract thousands of vehicles to the borough each year in the form of spectators' cars and coaches, staff, contractors and taxi's. While most vehicles coming to the stadium eventually park in car parks, a large number of vehicles are there only to pick up friends and family or carry out post event works or activities and therefore circle the stadium perimeter waiting for the event to end or their passengers to come out or wait nearby until called on. There are a number of designated waiting areas around the stadium including pickup areas in car parks, on private forecourts and a temporary taxi rank is created on Engineers Way during the event dispersal period. Given that drivers of vehicles often wait in a 'ready to move state' – often while parked illegally or use their vehicle technology, heating or air-conditioning to maintain comfort while waiting, vehicle engines are more often than not kept running for long periods of time while waiting. This behaviour has caused a nuisance in terms of noise and pollution resulting in complaints from local residents. It is also harmful to the environment- particularly emphasised by Brent's recent commitment to join the movement to declare a climate emergency.

Although officers have within their power the means to use the Road Traffic Act to enforce this legislation, it does not relate to private land. By introducing a PSPO to prevent idling by waiting vehicles on private land this widens the scope of officers to address this issue. It further protects the environment and enables both the Local Authority and its partners Such as Wembley Park, Wembley Stadium and the arena to ensure a joint, cohesive and more responsible approach to tackling idling engine emissions.

Busking including use of loud speakers

In most circumstances busking, in the sense the word is normally used, will not be licensable. 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.

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 TFL for permissions relating to the London Underground. If the land proposed to be used is private, then permission must be sought from the land owner. If it is on a pavement etc. one would require a consent from the Council.

There have been busking events around the stadium footprint during the international busking week. These events have had consent from the Council and the private land owners. Care is taken to ensure that a nuisance is not caused to those who live, work and visit the area.

However, there have been several occasions when individuals have set up loud speakers to busk or preach/deliver sermons to members of the public. This has a great potential to cause a nuisance from the continual noise to those to live, work and visit the area. The likelihood of this nuisance continuing and causing a nuisance is extremely high due to the high footfall in the Wembley Area.

Loudspeakers in the Street

It's an offence to use loudspeakers at any time to advertise entertainment, trade, for business. It is an offence to use loudspeakers for any purpose in the street at night between 9pm and 8am under The Control of Pollution Act 1974.

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.

However, there have been several instances when individuals come to the area with their loudspeakers to preach sermons and advertise their services. This causes great distress to local residents when this practice continues for days on private land.

Therefore, a PSPO is sought to address the problem of unauthorised busking and use of loudspeakers.

APPENDIX 1

Proposed Area for PSPO highlighted in red.

