

Public Document Pack

Executive Member Decisions

Monday, 25th March, 2019

AGENDA

**Public Space Protection Order - Laburnum Road (Little
Harwood Ward)**

2 - 12

Date Published: 25th March 2019
Harry Catherall, Chief Executive



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member for Neighbourhood and Prevention Services (Please Select) (Please Select...)
LEAD OFFICERS:	Director of Localities and Prevention (Please Select)
DATE:	25 March 2019

PORTFOLIO/S AFFECTED: Neighbourhood and Prevention Services

WARD/S AFFECTED: Little Harwood

SUBJECT: Public Space Protection Order

1. EXECUTIVE SUMMARY

This is a New application for the consideration of a Public Space Protection Order (PSPO) to be granted within the Laburnum Road bridge area of the Little Harwood Ward of Blackburn.

This area currently has an existing Gating Order obtained under the Neighbourhood Clean Act of 2005 – Scheme number 122 of 2014.

This new PSPO application will revoke and replace the existing Gating order, and also in addition will add prohibitions that can be enforced in deterring and preventing crime and disorder and anti-social behaviour (ASB) around this location.

Retaining the existing Gate is essential in maintaining order, this measure alone will not combat the problems being experienced within the area, which is why it is proposed to include a number of prohibitions within this Public Space Protection order to help further enforce and protect using this additional PSPO tool under the Anti-Social Behaviour, Crime and Policing Act of 2014.

An initial consultation was conducted with 280 households within the immediate affected area of Laburnum Road bridge locality, which received a 14% response with no objections to the proposal.

- ***Please refer to the Statistical graph and summary at Appendix C***

Following this an additional 'options consultation' was carried out and the results from this consultation showed that the majority are for option A which is the permanent closure of the gate restricting public access at all times.

- ***Please refer to the summary at Appendix D***

The Executive Member is asked to consider the completion of the PSPO, subject to which, the Council would be required to :-

1. Erect notices on the public place location to which the order refers to
2. Publish the order on the Councils website
3. Conduct a statutory consultation

RECOMMENDATIONS

That the Executive Member :-

Approves, subject to drafting by the Council solicitor, the use of the Public Space Protection Order for the listed area to allow the continued closure of the highway through the use of the alley gate, and approves the proposed prohibitions listed to help prevent anti-social behaviour within the locality and protect the local community.

Following the statutory consultation, authorises the Council Solicitor to execute the PSPO and apply the Council seal with or without amendments following consultation.

- ***Please refer to the map at Appendix A which outlines the specific proposed PSPO area and boundaries***

2. BACKGROUND

This built up residential community has suffered persistent ongoing crime and ASB since 2014 which has adversely affected their quality of life to their own detriment.

Numerous complaints by concerned local residents and Community Connectors / Councillors originally led to the existing Gating Order being approved and installed.

This action in conjunction with Rail Track alterations to the bridge area, the installation of a CCTV camera and local Police patrolling on a regular basis sought to remedy the anti-social behaviour problems.

More targeted Policing patrols and the Community Safety Team's use of ASB and Policing Act enforcement powers through the issuing of Community Protection Warning Notices to identified offending vehicle owners have further sought to remedy the more recent problems.

Direct regular contact between the Community Safety Team and local residents, and a recent local Community Meeting at Little Harwood Community Centre has again sought to remedy the problems and ease the negative impact on the residents.

Unfortunately although problems did quieten down for a short while, and the Community Protection Warning Notices were successful in deterring those targeted vehicles from returning to the area, ASB problems and complaints have continued, and it was feared by residents that these would worsen as the summer months and better weather came, which they have.

The Community Safety Team have over a period of time but more specifically since October 2016 collected a wealth of evidence of noise nuisance, fire setting, vehicle nuisance, suspected drug abuse and dealing, violence and threatening behaviour.

It should be noted that since March 2017 the Police have received 44 complaints or incident reports of anti-social behaviour from the Laburnum Road / Gladstone and Blakewater residents who form part of the immediate problem bridge area.

This severely impacts upon the already depleted Police resources and portrays some of the problems faced by residents.

For these reasons, it is thought necessary, proportionate and entirely justifiable to add prohibitions to this PSPO to help reduce or eliminate ASB, provide the Council and Police with more enforcement options, and deter would be offenders away from the local area to protect the Community and raise

public confidence.

These added prohibitions or conditions attached to the PSPO will help the Police and the Local Authority enforce against individuals who persist in causing ASB breaching the conditions set, which in turn will hopefully reassure the local residents and raise public confidence improving the quality of life for the community.

Quite often individuals are witnessed within the area being anti-social but not committing any criminal offences preventing the Police from making arrests or issuing summonses or penalty notices.

Including prohibitions within this order will in itself make it an offence to breach these conditions allowing the Local Authority to issue Fixed Penalty Notices or prosecute for any breaches, allowing the Council to better protect the community and deal with individuals more expediently and robustly.

PSPO's are designed to stop individuals or groups from committing ASB in a public place under the Anti-Social Behaviour and Policing Act of 2014.

The proposed Prohibitions that would be enforced throughout the prohibited area set out in the Order at Appendix B will be :-

- 1. To restrict public right of way at all times over the highway on Laburnum Road leading to Whalley New Road as outlined in map below, by all persons except for those listed in Schedule 2. The Order authorises the installation of gates which will enforce the access restriction. The gate delineated in red within the attached plan shall remain in place for all purposes of this Order. This Public Space Protection Order will revoke and replace the existing Gating Order.***
- 2. No person, whilst within the prohibited area delineated in red, may act or incite others to act in a manner likely to cause alarm, harassment or distress to any person therein.***
- 3. Any person in breach of the aforementioned conditions will be liable to a fine or penalty as described in Schedule 3.***

3. KEY ISSUES & RISKS

The primary purpose of the Public Space Protection Order is to revoke and replace the existing Gating Order and to allow the addition of the above mentioned prohibitions that would be able to be enforced.

The Public Space Protection Order would exist for a period of up to 3 years with a potential to be reviewed if necessary.

The PSPO will grant both the Council and Police extra enforcement powers through enforcement of the prohibitions listed with options to issue Fixed Penalty Notices or prosecute persons breaching these prohibitions.

It is strongly believed that these prohibitions alone once publicised throughout the local community and the threat of fines or prosecution will in itself deter and disrupt persons causing ASB within this immediate area.

However as previously stated other options have been tried and tested and so far failed, so this is a last resort to try and help keep the faith of the community and stamp out the persistent ASB affecting residents lives.

There will be no cost for the erection of the gate as this is already installed and up and running.

General maintenance will be through the Council's primary maintenance contract and any deliberate damage or environmental damage will be financed via the Community Safety Team budget.

4. POLICY IMPLICATIONS

The Anti-Social behaviour enforcement policy was approved in November 2015 which authorises the use of PSPO's to assist in reducing ASB and Crime in public places.

An updated revised version of the Community Safety ASB enforcement policy is currently going through the Senior Policy Team at this time.

5. FINANCIAL IMPLICATIONS

The only financial implications would be any future criminal damage or environmental damage to the existing gate, and any costs incurred during the process of prosecuting offenders who breach the prohibitions.

6. LEGAL IMPLICATIONS

Legal services will be required to draft and approve the final Order and seal the PSPO's and maintain a register for public view.

7. RESOURCE IMPLICATIONS

The co-ordination of the work required will be undertaken by the community safety team.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 ☒ Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 ☐ In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 ☐ In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

8. CONSULTATIONS

An initial and options consultation has been completed with residents.

On approval, the PSPO will be advertised on the council website with notifications being posted locally for 14 days. This will form part of the statutory consultation.

To date there have been no concerns or objections raised from those households consulted, however we have received a very late objection from a nearby local shopkeeper.

This objection is geared towards the locking times of the gate only as he believes the gate should be locked at 10pm rather than 8pm daily as he feels this is having an unfair effect on his dessert business which closes at 10pm, even though the gate closing order was long established before he even

opened his business.

It has been explained to him that he would be given an opportunity to make his representations during the next final consultation process, and he was asked to provide the Community Safety Team with a detailed email explaining his thoughts and representations, which he has failed to do to date.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered as detailed in the attached briefing paper. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

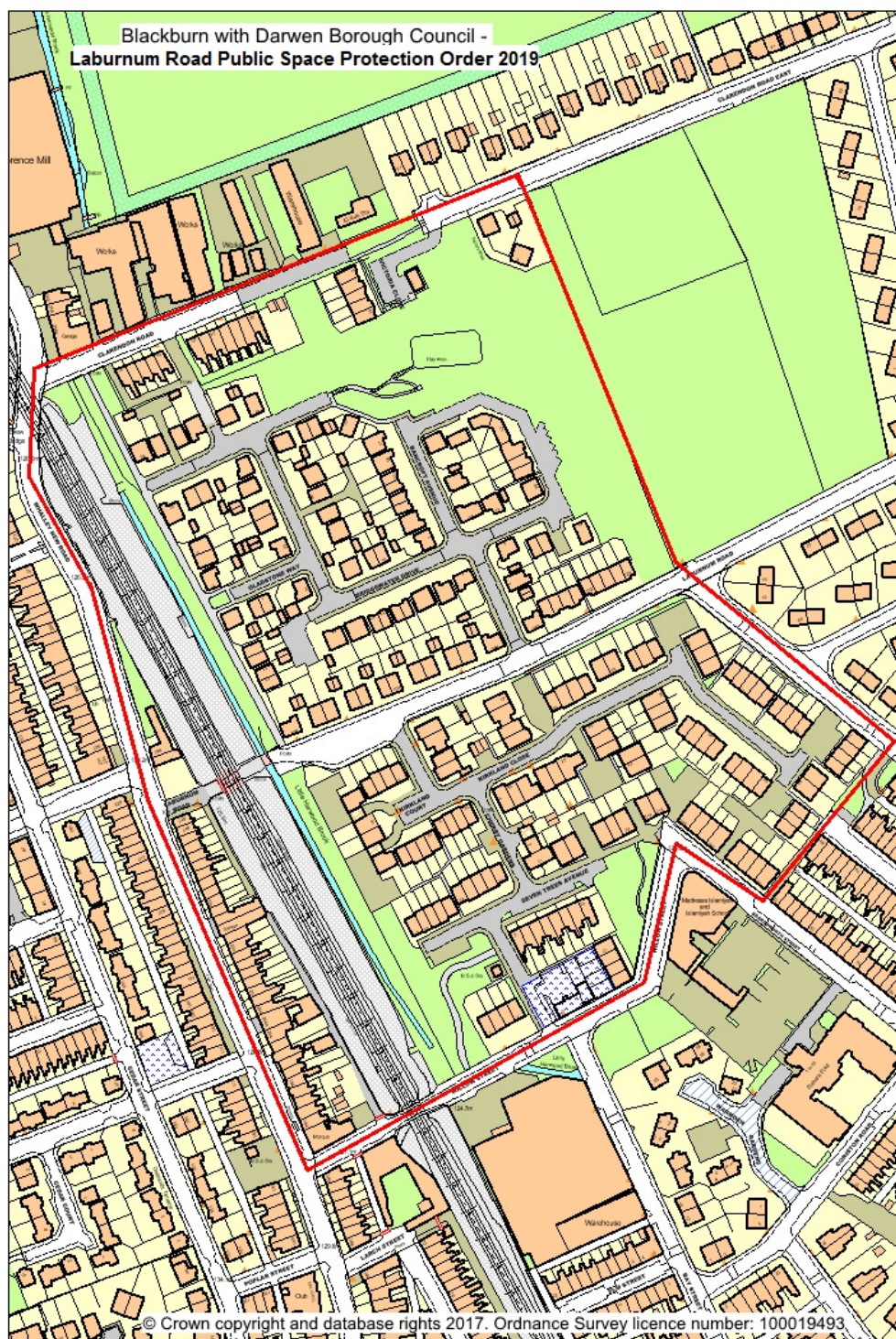
All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	0.07
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CONTACT OFFICER:	Mariyam Emam
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DATE:	25 March 2019
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BACKGROUND PAPER:	Copy of proposed red lined mapped PSPO area - Appendix A Copy of Draft order - Appendix B Summary of initial consultation - Appendix C Summary of additional Options consultation - Appendix D
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**Blackburn with Darwen Borough Council – Laburnum Road
Public Space Protection Order (PSPO) 2018**

Notice is hereby given that Blackburn with Darwen Borough Council (“the Council”) in exercise of its powers under Sections 59(2) and 59(3) of the Act and under all other enabling powers, proposes to make the following order:

1. To restrict public right of way at all times over the highway on Laburnum Road leading to Whalley New Road as outlined in map below, by all persons except for those listed in Schedule 2. The Order authorises the installation of gates which will enforce the access restriction. The gate delineated in red within the attached plan shall remain in place for all purposes of this Order. This Public Space Protection Order will revoke and replace the existing Gating Order.
2. No person, whilst within the prohibited area delineated in red, may act or incite others to act in a manner likely to cause alarm, harassment or distress to any person therein.
3. Any person in breach of the aforementioned conditions will be liable to a fine or penalty as described in Schedule 3.

The draft of the proposed order is set out below. Further details and reasons for making the order may be inspected during normal office hours at the Community Safety Partnership office, Old Town Hall, Blackburn, by prior arrangements. The proposed order is also published on the Council’s website www.blackburn.gov.uk

If you wish to make representations concerning the proposed order, you should send them in writing to Community Safety Partnership, 3rd Floor, Old Town Hall, Blackburn, BB1 7DY to arrive on or before [INSERT DATE] (please quote the name of the PSPO in your correspondence)

Please note that all representations may be considered in public by the Council and could become available for public inspection.

Dated this day [INSERT DATE]

**Blackburn with Darwen Borough Council – Laburnum Road
Public Space Protection Order (PSPO) 2018**

This order may be cited as the Blackburn with Darwen Borough Council – Laburnum Road area Public Space Protection Order (PSPO) 2018

Blackburn with Darwen Borough Council (“the Council”), being satisfied that the conditions set out in Section 59(2) and 59(3) of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”) have been met in relation to the area as described in Schedule 1 of this order (“the prohibited area”), namely that activities in public spaces within the prohibited area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried out within that prohibited area and have such an effect. The Council is also satisfied that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, and these activities are unreasonable and justify the restrictions imposed by the notice and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

The Council in exercise of its powers under Sections 59(2) and 59(3) of the Act and under all other enabling powers, hereby makes the following order:

1. To restrict public right of way at all times over the highway on Laburnum Road leading to Whalley New Road as outlined in map below, by all persons except for those listed in Schedule 2. The Order authorises the installation of gates which will enforce the access restriction. The gate delineated in red within the attached plan shall remain in place for all purposes of this Order. This Public Space Protection Order will revoke and replace the existing Gating Order.
2. No person, whilst within the prohibited area delineated in red, may act or incite others to act in a manner likely to cause alarm, harassment or distress to any person therein.
3. Any person in breach of the aforementioned conditions will be liable to a fine or penalty as described in Schedule 3.

SCHEDULE 1

The prohibited area is those indicated as shown on the attached map being:

1. Any public space within the area marked red on the attached plan

SCHEDULE 2

Nothing in Schedule 1 relating to access only shall apply to:

- a) Fire brigade, police or NHS Trust / Foundation staff when in the exercise of their duties.
- b) Employees, contractors or agents of statutory undertakers in relation to gas, electricity or water or telecommunications apparatus as defined in the telecommunications Act 1994 situated in the relevant highway in connection with the laying, erecting, inspection, maintenance, alteration, repair, renewal or removal of any relevant apparatus.
- c) Council staff and its authorised contractors when in the exercise of their duties.
- d) Persons using the highway with the permission or on the direction of a duly authorised Council Officer in this regard.

SCHEDULE 3

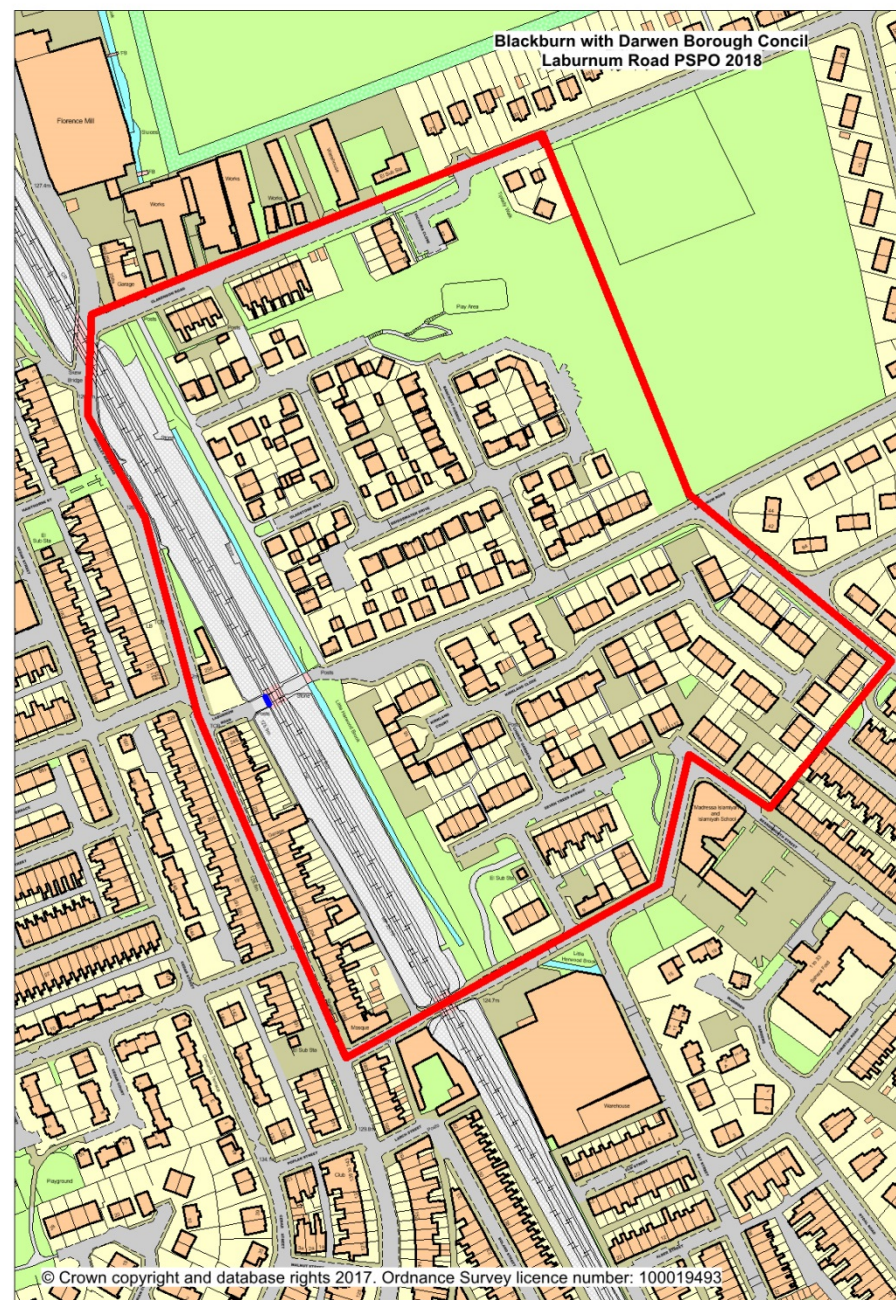
- a) It is an offence for a person without reasonable excuse to engage in activity that is prohibited by this order.
- b) A person found to be in breach of this Order is liable on summary conviction to a maximum penalty of a level 3 fine or to a Fixed Penalty Notice up to £100.
- c) The length of highway for the purpose of this order is to the Whalley New Road end of Laburnum Road, Blackburn.

The Order shall come into operation on [] and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Council's statutory powers.

If any interested person requests to question the validity of this order on the grounds that the Council did not have the power to make the order or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the order is made.

GIVEN under the Common Seal of Blackburn with Darwen Borough Council on theday of 2018

THE COMMON SEAL of the }
Blackburn with Darwen Council }
Was hereunto affixed }
In the presence of }



Appendix A - Initial Consultation graph and response summary

Blackburn with Darwen Borough Council – Laburnum Road, Blackburn (Scheme 122) Public Space Protection Order (PSPO) 2017 Supporting Evidence

A PSPO can be sought if the council are satisfied that the activities being carried out are seen to be or are likely to be detrimental to local community life. The location in this proposed order has suffered from criminal activity such as vandalism and anti-social behaviour including youths causing annoyance and high levels of vehicle nuisance.

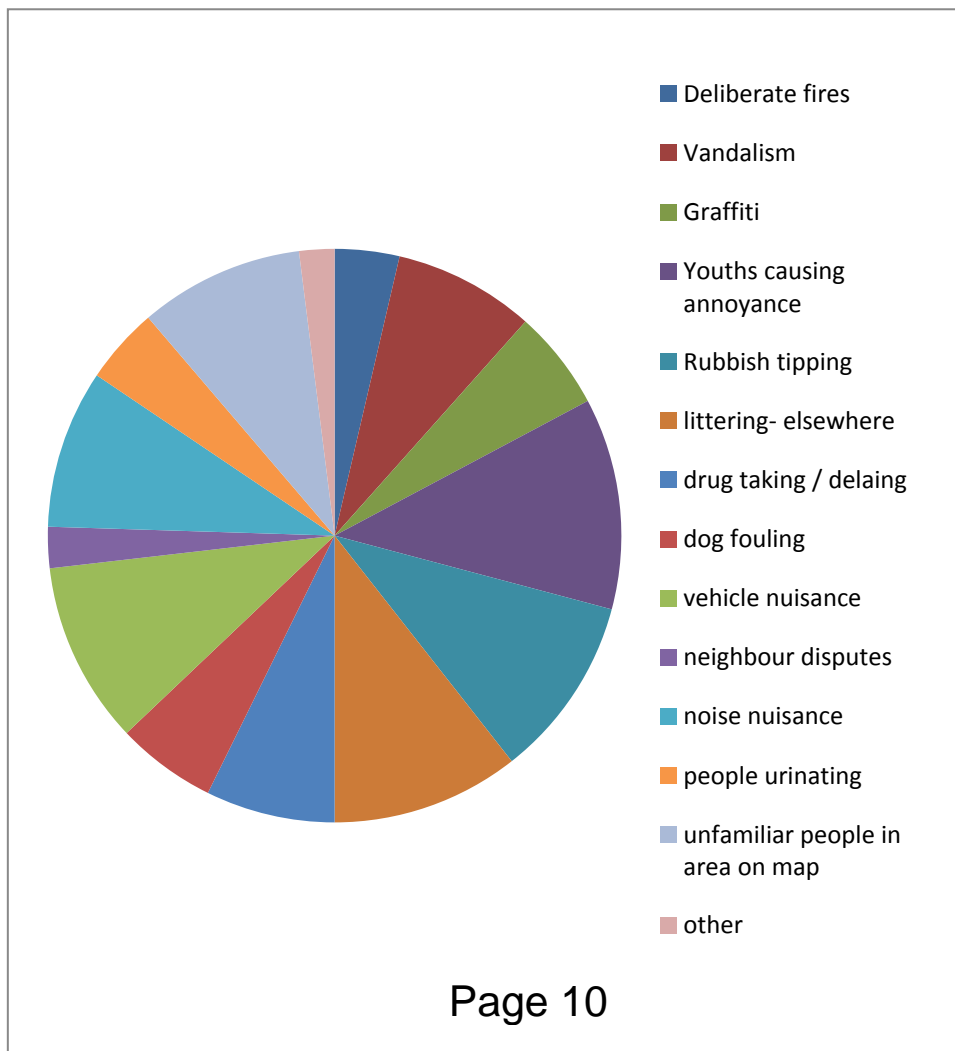
A preliminary consultation was held with 280 households within the immediate vicinity mapped area (please see Appendix B) around Laburnum Road. Of the 280 consulted households, 14% have replied of which 100% fully supported the proposals for the PSPO. Breaking the response down further, we received a 32% response from the residents who actually live on Laburnum road who are directly affected and situated at the heart of the ongoing ASB.

The chart below shows a breakdown of the responses from the initial consultation.

In the 24 months prior to this application for the PSPO, the area concerned (Appendix B) reported 213 incidents of crime and anti-social behaviour to the Police, which accounted for 16% of households within the area consulted.

It is also of note and concern that since March 2017, the Police have received an additional 44 complaints or incident reports relating to anti-social behaviour within the immediate affected area. This highlights that these issues are very much ongoing.

The residents have provided additional details of the crime and anti-social behaviour incidents experienced. This includes, emails, police logs and details of information regarding the vehicles causing nuisance and times and dates of these events. All responses are to be retained and recorded.



Summary report re options consultation to residents

- The consultation letter and feedback form (appendix A) was sent for residents views on two options re the gate:
 - Option A – to restrict access at all times
 - Option B – restrict access between 7:30pm – 7:30am
- The letter was sent to a total of 323 addresses. These addresses include all 265 properties within the PSPO area as well as an additional 58 properties outside the PSPO area but are directly affected or in close proximity to the gate on the Whalley New Road side.
- 6 letters were returned by Royal Mail due to the addresses being inaccessible
- We received 132 completed responses reviewed and ratified by democratic services. Of those we received 8 responses which have been discounted:
 - 4 were duplicates where we had 2 responses from the same property, with the same response.
 - Another 4 were duplicates where we had responses from the same property having agreed to both option A and option B.
- All 8 responses have been discounted therefore the final figures are:
- **68** requested option A - permanent closure of the gate
- **56** requested option B -opening the gate to allow access during the day

In terms of feedback - For Option A the primary concerns noted were:

- Gate closure has proven to be successful in the decrease of anti-social behaviour
- Residents feel safer

For Option B the primary concerns noted were:

- Easier and quicker to access the school, madrassah, businesses and school bus from the main road
- Family and friends live on either side of the gate so easier to visit if the gate is open
- Businesses feel having the gate closed has and will impact on their sales

The below map highlights where the responses were from and their close proximity to it. The majority of the properties close to the gate within the PSPO area opted for Option A as they felt the anti-social behaviour has decreased and they feel much safer.

Properties on the opposite side to the gate, which are not within the PSPO area have confirmed they would like the gate open at certain times as this impacts on their businesses. This also includes the response from the school and the mosque.

EQUALITY IMPACT ASSESSMENT CHECKLIST

This checklist is to be used when you are uncertain if your activity requires an EIA or not.

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

Service area & dept.	Community Safety	Date the activity will be implemented	01/04/2019
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Brief description of activity	An application for the consideration of a Public Space Protection Order to be granted within the Laburnum Road bridge area of the Little Harwood Ward of Blackburn.
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Change to existing Council policy/strategy - Budget changes	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Does this activity: Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act (i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not (i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not (i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)	<input checked="" type="checkbox"/> No
FOR = 0	TOTAL	AGAINST = 6

Will you now be completing an EIA?

The EIA toolkit can be found [here](#)

☐ Yes

☒ No

Assessment Lead Signature	A Rigby
Checked by departmental E&D Lead	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Date	11/07/2017