

Public Document Pack

Officer Decisions

Friday, 29th October, 2021

AGENDA

1. **Public Space Protection Order - Bastwell & Robinson Street**
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Date Published: 29th October 2021
Denise Park, Chief Executive

RECORD OF DECISION TAKEN UNDER DELEGATED POWERS OUTLINED IN THE CONSTITUTION – Part 3 Section 16



DELEGATED OFFICER DECISION	Sayyed Osman
TAKEN BY:	
PORTFOLIO	
AREA:	Adult Services and Prevention

SUBJECT: Public Space Protection Order – Bastwell & Robinson Street

1. DECISION

1. The constitution gives to the Strategic Director Adults and Health the following delegated power:

(a) To exercise all relevant powers under the Anti-Social Behaviour, Crime and Policing Act

2014 (except where such powers are exercised by the Director or Place).

2. Under the Anti-Social Behaviour Crime and Policing Act 2014 section 59 (1) a PSPO can only come into being if there is evidence of the following two matters so that the local authority can be satisfied on reasonable grounds that they have reached the correct threshold:

(a) 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 it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

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

3. Due to persistent issues with fireworks being used in a dangerous manner and unauthorised bonfires being set, a PSPO was introduced in the Bastwell and Robinson St areas in October 2015.

4. Further to the implementation of the PSPO in 2015, a multi-agency operation called 'Brightsparx' was set up in line with the PSPO to help tackle the issues around unsupervised bonfires and irresponsible firework use prior to and on Bonfire night. This front line operation assisted Council officers and emergency services to work together gathering intel and taking appropriate action on bonfire night.

In 2018, the PSPO was extended for a further 3 years as it was felt that if the PSPO was not extended, the Brightsparx operation would not be as effective which would lead to recurrences of anti-social behaviour, with the situation reverting back to how it was pre-2015 which ultimately left the local residents feeling vulnerable.

Following consultations, the PSPO was then extended in 2018 for a further 3 years and it has shown to have worked positively. It provides additional powers to the emergency services to provide a targeted response

and supports the multi-agency Brightsparx Operation. However, even with the successes of the PSPO, there no doubt continues to be a problem relating to dangerous use of fireworks and unauthorised fires in the Bastwell and Robinson Street areas (see attached appendix 1 – Evidence Report).

5. The current PSPO expires on 30th October 2021, but can be renewed before expiry for a period of up to three years.

6. Before the time when a Public Spaces Protection Order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary 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.

7. The results of the consultation are attached (see attached appendix 2 – Consultation report). The results were favourable.

8. I am satisfied on reasonable grounds that the anti-social behaviours the Bastwell Street and Robinson Street PSPO was intended to mitigate are likely to continue after the expiry of the current PSPO.

9. Section 72 of the ASBCP Act 2014 states that a local authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention. In this case the Order is not of a type that is likely to prevent anyone from exercising their freedom of expression nor assembly.

2. RECOMMENDATIONS

That the Delegated Officer:

- Approves the extension of the current PSPO which is due to expire on the 30th October 2021, for a further period of 3 years.

3. BACKGROUND

The Police, Crime and Anti-Social Behaviour Act 2014 provided Local Authorities with the power to tackle anti-social behaviour using Public Space Protection Orders.

On 30th October 2015, following consultation with residents and members, a Public Space Protection Order came into effect for a period of 3 years, to address the high levels of anti-social behaviour in the Bastwell &

Robison St area in relation to the use of fireworks and the setting of fires around the summer months and October/November months, in and around bonfire night.

The PSPO enabled the Council to exercise its powers under Sections 59(2) and 59(3) of the Act and under all other enabling powers, to make the following order:

1. The collection and/or lighting of combustible materials including bonfires is prohibited in any public space within the area marked red on the attached Plan 1 and/or Plan 2
2. No person may discharge light or discharge fireworks of any description on public land within the area marked red on the attached Plan 1 and/or Plan 2 without the express written permission of the owner.
3. No person may act or incite others to act in an anti-social manner likely to cause harassment, alarm or distress to any person in any public space within the area marked red on the attached Plan 1 and/or Plan 2 (see attached appendix 3 – Current PSPO and maps).

The PSPO was renewed in 2018 under identical terms, subject to favourable consultation. As part of the process to renew the Public Space Protection Order, Blackburn with Darwen Council consulted with stakeholders including the emergency services and the public.

The current PSPO expires on the 30th October 2021. The legislation allows for the order to be renewed before the time it is due to expire if satisfied on reasonable grounds that doing so is necessary 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.*

Consultation have been made with members, stakeholders, emergency services and residents. Consultees were asked to provide their view on the proposed renewal of the Order in identical terms to the original Order made in 2015 and the subsequent renewal made in 2018. This was a statutory consultation. The results of the consultation were favourable and can be found in the attached (see attached appendix 2 – Consultation Report).

Renewal of the existing PSPO will make it an offence for a person without reasonable excuse to engage in activity that is prohibited by this Order. 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.

4. KEY ISSUES AND RISKS

The areas outlined in appendix 3 have high levels of ASB and/or persistent issues around the use of fireworks/lighting of fires. The Order forms part of a range of preventative measures looking to address persistent ASB concerns.

5. OPTIONS CONSIDERED AND REJECTED

None

6. DECLARATION OF INTEREST

All Declarations of Interest of the officer with delegation and any Member who has been consulted, and note of any dispensation granted should be recorded below:

VERSION:	1
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CONTACT OFFICER:	
DATE:	
BACKGROUND DOCUMENTS:	Appendix 1 – Evidence Report Appendix 2 – Consultation Report Appendix 3 – Current PSPO and areas Appendix 4 – Draft PSPO Extension 2021

Signed: 

Director Sayyed Osman	Date:28/10/21
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Appendix 1

Evidence Report 2021

Proposed extension of Bastwell & Robinson Street PSPO

For a number of years, the Bastwell Ward has persistently seen increases in anti-social behaviour related to the use of fireworks and the setting of fires around the summer months and October/November months in and around bonfire night, more notably around the Robinson Street area of the ward.

As a result of this, following consultations and supported by data statistics, a Public Space Protection Order (PSPO) was implemented in 2015 that prohibited the following activities:

- The collection and/or lighting of combustible materials including bonfire.
- The discharge of light or fireworks of any description without express permission from the owner.
- Acting or inciting others to act in an anti-social manner likely to cause harassment, alarm or distress to any persons in a public space

Further to the implementation of the PSPO, a multi-agency operation called 'Brightsparx' was set up in line with the PSPO to help tackle the issues around unsupervised bonfires and irresponsible firework use prior to and on Bonfire night. This front line operation assisted Council officers and emergency services to work together gathering intelligence and taking appropriate action to safeguard residents and enforce restrictions on bonfire night.

In 2018, an application to extend the PSPO was made on the basis that the PSPO had worked positively in the previous 3 years as it provided additional powers to allow the emergency services to provide a targeted response. In addition, it gave the residents the confidence to report problems knowing that the local authority can respond with suitable powers.

The 'Brightsparx' operation had become established in this time and was fully supported by the PSPO, as one of the conditions enabled the confiscation of combustible materials which provided a proactive approach in responding to the local concerns.

It was therefore felt that if the PSPO was not extended, the Brightsparx operation would not be as effective and there would be a recurrence in the anti-social behaviour meaning the situation could revert back to how it was pre 2015 leaving the residents feeling vulnerable.

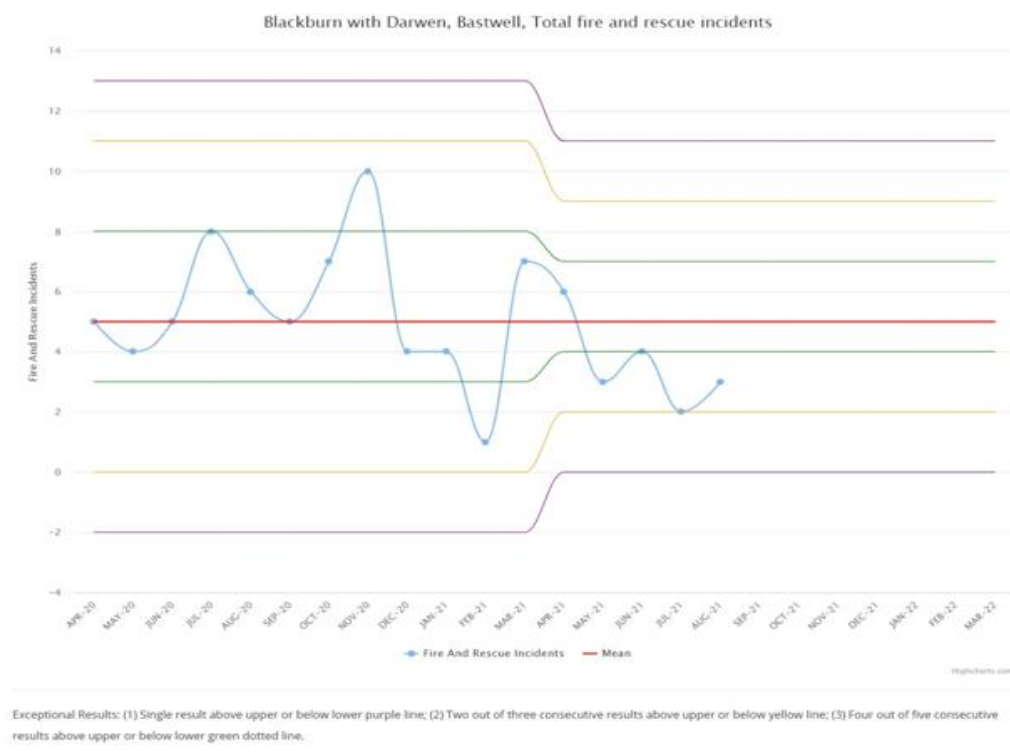
The extension of the PSPO was granted and became enforceable from October 2018 for a 3 year period. This order expires on 30th October 2021.

Data abstracted from MADE shows that following implementation of the original PSPO in October 2015, there have been 72 deliberate fires set in the Bastwell Ward between November 2015 and November 2020. Further analysis of that data shows that over those 5 years, 28 of those deliberate fires occurred between the months of October and November. That equates to 39% of all fires occurring over the bonfire night period.

Further data shows that between April 2020 and April 2021 there were 76 fire related incidents recorded in the Bastwell ward, 39 of which were recorded as 'false alarms'*

*False alarms relate to malicious or good intent reports.

28 of these fire related incidents took place between August 2020 and November 2020. Data shows that fire related incidents peak around bonfire night with 17 incidents recorded in October and November 2020 in comparison to an average of 3.5 per month.



On 5th November 2020 a large incident occurred in the Bastwell ward in which a deliberate fire was lit and, upon attendance to extinguish the fire, emergency service personnel were targeted with fireworks by a large group of youths and residents. Extensive CCTV footage

was gathered and, as a result of this, 15 Community Protection Warnings were issued by the local authority to individuals. In addition, the Police issued 22 Section 59 warnings to individuals identified with the assistance of the CCTV hub. These types of incidences are common in this area each year around bonfire time.

Although the 'Brightsparx' operation is imperative in educating residents around the unauthorised and dangerous use of fireworks, as well as the setting of dangerous fires, it would not be as effective without the supporting powers offered by the PSPO which allows authorised officers to seize fireworks and issue FPN's to persons found to be in breach of the PSPO.

To enable positive enforcement to continue past the expiration of the current PSPO on 31st October 2021, we therefore propose to further extend the existing PSPO for a further 3 years.

A PSPO can only come be implemented if there is evidence of the following two matters so that the local authority can be satisfied on reasonable grounds that they have reached the correct threshold:

- 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 it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- the effect, or likely effect, of the activities— is, or is likely to be, of a persistent or continuing nature and is, or is likely to be, such as to make the activities unreasonable, and justifies the restrictions imposed by the notice.

The provision relating to extension states:

Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary 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.*

Data from MADE shows that over the period of the original and extended PSPO and corresponding 'Brightsparx' operation, there has been a decrease in deliberate fires in the Bastwell Ward around bonfire night

Year: Oct and Nov	2015	2016	2017	2018	2019	2020
Number of Deliberate Fires	4	10	9	2	2	1

This data demonstrates the success of the PSPO and 'Brightsparx' operation and shows that the publication of the PSPO continues to have a deterrent effect.

Information gathered from the police relating to logs recorded using the word 'FIREWORKS' were also gathered. The data is taken from the police national computer and shows incidents reported from October 2018 to November 2020, for the October and November months respectively. This data relates to firework nuisance occurring within the boundaries of existing PSPO. The data shows the following reports were received over this period:

Robinson Street Area

Period	Number of reports relating to fireworks
01/10/2018 – 10/11/2018	8
01/10/2019 – 10/11/2019	4
01/10/2020 – 10/11/2020	15

Cedar Street / Bastwell area

Period	Number of reports relating to fireworks
01/10/2018 – 10/11/2018	10
01/10/2019 – 10/11/2019	21
01/10/2020 – 10/11/2020	4

Prior to the implementation of the PSPO in 2015, data shows that between the same period October and November for both 2013 and 2014, the police were receiving reports in excess of 100 incidents relating to fireworks.

This shows that there has been a significant decrease in logs of ASB relating to fireworks since the implementation of the PSPO. However, there are still issues that need to be taken account of.

The CCTV Hub Supervisor gathered evidence from the CCTV logs in relation to fires/fireworks around Robinson St in 2020. This data shows

Incidents for Robinson St.

05/Nov/20	18:20	Crowds with fireworks gathering around Robinson St, Blackburn large group
05/Nov/20	19:20	Group on Robinson St with fireworks start fighting between themselves
05/Nov/20	20:44	group on Robinson set fire to bin near Phillips Rd connected to fireworks
06/Nov/20	22:25	Patrol taking details of vehicles on Robinson St, after one vehicle made off over grassed area.
07/Nov/20	0:30	Obs on small group of asian males, start bonfire again on Robinson St. Ran off when patrols arrived.

Public awareness of the order and operation means that residents and visitors to the Bastwell Ward understand that should anti-social behaviour activities be conducted at any time, but more so, during the period of the operation, robust and decisive action can and will be taken.

Should the PSPO not be extended, the 'Brightspax' operation would not carry the weight that the powers within the order afford the local authority and policing teams. Concerns are that, this could lead to an increase in the behaviours witnessed in previous years relating to fireworks and the deliberate setting of fires, which would put the public and emergency services at greater risk.

It is therefore proposed that the existing PSPO be extended for a further 3 years period to prevent occurrence or reoccurrence of the activities identified in the existing order and to prevent an increase in frequency or seriousness of those activities after the expiration of the current order.

Statutory consultation have taken place and Public Consultation ended on the 19th October 2021.

There were no objections from the Public Consultation. The results from the consultation with partners were favourable, with evidence of support for the extension of the PSPO provided from CCTV Services, Police and LFRS (see consultation report).

To conclude, the PSPO has worked positively over the last 6 years and has provided additional powers to allow the emergency services to provide a targeted response and deploy staff to the sites, as well as giving the residents the confidence to report problems knowing that we can respond. It would appear that the decision to extend the current PSPO is favoured and the evidence available demonstrates a reduction in ASB since the introduction of the initial PSPO in 2015.

Appendix 2
Consultation Report
Public Space Protection Order
Proposed Renewal for Bastwell and Robinson Street

Overview:

The proposed renewal of the Bastwell and Robinson Street Public Space Protection Order was sent out to consultation on Monday 4th October 2021 requesting that any representation be made by Monday 18th October 2021. Consultees included members, stakeholders, partner agencies and residents. The proposal seeks to renew the existing Public Space Protection Order for a further 3 years from 30th October 2021.

Condition within the proposed order were:

1. The collection and/or lighting of combustible materials including bonfires is prohibited in any public space within the area marked red on the attached Plan 1 and/or Plan 2
2. No person may discharge light or discharge fireworks of any description on public land within the area marked red on the attached Plan 1 and/or Plan 2 without the express written permission of the owner.
3. No person may act or incite others to act in an anti-social manner likely to cause harassment, alarm or distress to any person in any public space within the area marked red on the attached Plan 1 and/or Plan 2 (see attached appendix 2 – current PSPO and maps).

The consultation period has now come to an end and a number of representation have been made.

Representations:

The Police Sergeant of the Local Neighbourhood Policing Team, confirmed that he supports the extension of the PSPO for Bastwell and Robinson Street stating that the PSPO will continue to 'enhance the lives of the community'.

The Police CCTV Liasion Officer noted, in respect of the supporting Brightsparx operation, 22 Section 59 warnings being issued to vehicle owners and a penalty notice ticket being issued due to a Covid Breach following the incident on Robinson Street on Bonfire night 2020. She further noted that the additional CCTV enabled an abundance of intelligence to be collected. She further stated that police vehicles were targeted with fireworks during the incident.

The Service Delivery Manager from Lancashire Fire & Rescue Service provided his support for the proposed renewal of the PSPO, stating 'historically, LFRS has had significant ASB in the areas highlighted within the PSPO and whilst trying to serve and protect the community, LFRS staff have both been physically and verbally attacked. ASB is caused by the minority, it is my belief that extending the PSPO will protect law-abiding citizens within the area and reduce the risk of injury to both the public and my staff'

Further support was provided from the Neighbourhood Manager for the area who noted she would be 'happy for the extension to be approved to support reduction in ASB around bonfire night'.

Conclusion:

Local Authorities can use a PSPO under the Anti-social behaviour, Police and Crime Act 2014 to prohibit specified activities and/or require certain things to be done by people engaged in particular activities, within a defined public area.

Before making a Public Spaces Protection Order, the Council must be satisfied on reasonable grounds that two conditions are met.

The first condition is that-

- a) 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 activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or the 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 Order.

Based on the results of this consultation and the attached report, it is likely we can satisfy both conditions.

**Blackburn with Darwen Borough Council –
Bastwell & Robinson Street area
Public Space Protection Order (PSPO) 2018 Extension
(under section 60 (2) of Public Space Protection Order (PSPO) 2015)**

This order may be cited as the Blackburn with Darwen Borough Council – Bastwell & Robinson Street area Public Spaces Protection Order 2018.

WHEREAS on 29 October 2015 Blackburn with Darwen Borough Council ("the Council"), made the **Public Spaces Protection Order (PSPO) 2015 hereafter referred to as the '2015 Order'** because the Council was satisfied that the two conditions set out in Section 59(2) and 59(3) of the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act") had been met in relation to the area as described in Schedule 1 of this order ("the area"), namely that the activities in public spaces within the 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 area and have such an effect and 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.

This Order, made under section 60 subsection 2 of the Act, is an extension of the 2015 Order because the local authority is satisfied on reasonable grounds that extending the 2015 Order is necessary to prevent the occurrence or recurrence after the expiry of the 2015 Order of the activities identified in the 2015 Order, or to prevent an increase in the frequency or seriousness of those activities after that 2015 Order expires. The effect of this 2018 Order is to extend the period for which the 2015 PSPO has effect.

The Council in exercise of its powers under Sections 60 (2) and 59(2) and 59(3) of the Act and under all other enabling powers, hereby makes the following order:

1. The collection and/or lighting of combustible materials including bonfires is prohibited in any public space within the area marked red on the attached Plan 1 and/or Plan 2
2. No person may discharge light or discharge fireworks of any description on public land within the area marked red on the attached Plan 1 and/or Plan 2 without the express written permission of the owner.
3. No person may act or incite others to act in an anti-social manner likely to cause harassment, alarm or distress to any person in any public space within the area marked red on the attached Plan 1 and/or Plan 2.

SCHEDULE 1

The areas are those indicated as shown on the attached map being:

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

2. Any public space within the area marked red on the attached Plan 2.

SCHEDULE 2


- 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.

The Order shall come into operation on 30 October 2018 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.

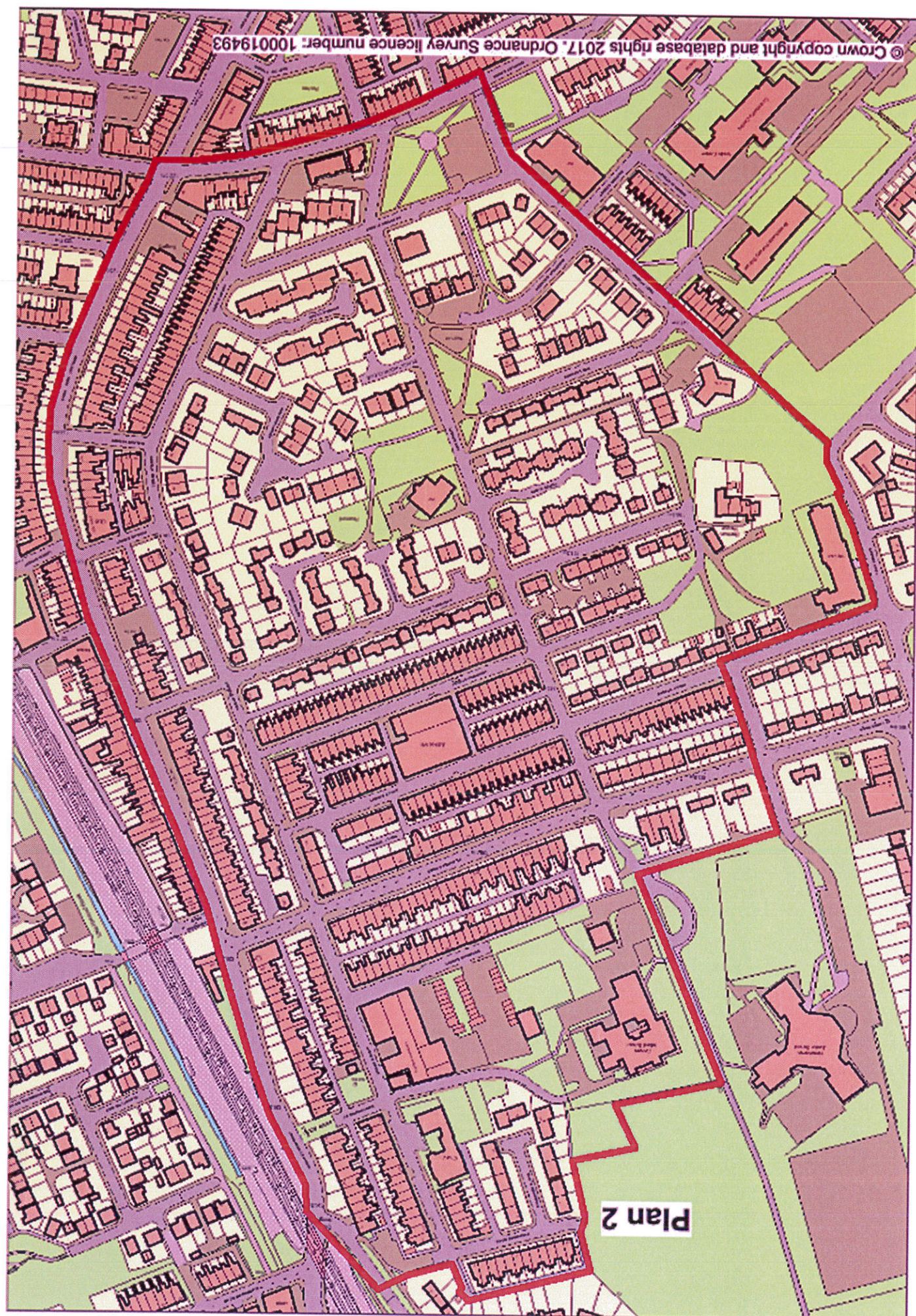
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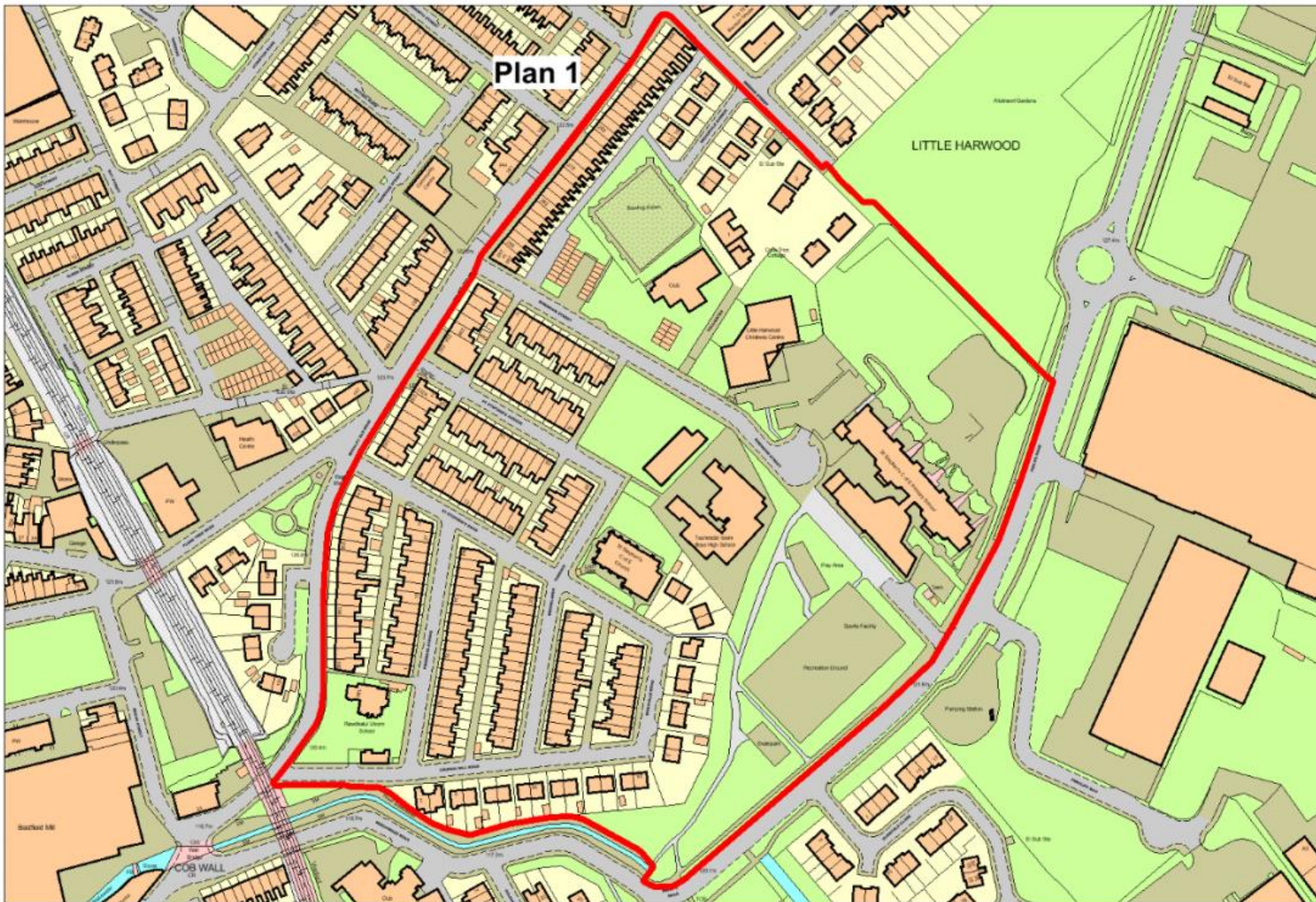
26 th day of October 2018

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

Sian Roxborough Council Solicitor
Authorised Officer









Plan 2

