

Motions Submitted to Council

In accordance with Chapter 2, Part 2 (Rule 15) of the Council's Constitution

Motion 2

Submitted by Councillor Redsell

Irresponsible riders of motorbikes and other similar vehicles misusing public and private land are putting our resident's lives and wellbeing at risk. I call on the relevant authority to implement a borough wide PSPO to prevent the unlawful use of these vehicles where the residents have lawful access. This will help protect residents across Thurrock and also make it easier for the police and council to take action.

Monitoring Officer Comments:

The motion affects the authorities area and relates to a matter in which the authority has relevant powers. It will be a matter for Cabinet to make any order in line with the relevant legislation and guidance.

Before making an order the Council has to demonstrate that the behaviour which is being restricted has to: be having, or be likely to have, a detrimental effect on the quality of life of those in the locality; be persistent or continuing nature; and be unreasonable. This will require specific evidence and consideration of the locations where issues are occurring. It is very unlikely given the statutory guidance that a single order covering all open spaces within the borough equally will meet the necessary legal tests, however an order targeting those sites which are proportionate across the Borough may meet the tests providing that the evidence supports this.

The order has to be targeted to the specific harms, and be structured in such a way as to not interfere with lawful activities and uses. As with all the anti-social behaviour powers, the council should give due regard to issues of proportionality: is the restriction proposed proportionate to the specific harm or nuisance that is being caused? Councils should ensure that the restrictions being introduced are reasonable and will prevent or reduce the detrimental effect continuing, occurring or recurring. In addition, councils should ensure that the Order is appropriately worded so that it targets the specific behaviour or activity that is causing nuisance or harm and thereby having a detrimental impact on others' quality of life. Councils should also consider whether restrictions are required all year round or whether seasonal or time limited restrictions would meet the purpose.

Whilst the Council can make an order on any land where the public have access, on payment or otherwise, as of right or by virtue of express or implied permission. Where land is owned by a third party, the Council must consult with the land owner before making the order.

The Council has a duty to consult the police prior to making any orders. Any decision will need to be made in light of that consultation feedback, which can include

commentary on their view of information about the area and the problems being caused as well as the practicalities of enforcement.

The council must also consult whatever community representatives they think appropriate. It is strongly recommended that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all. The council should also ensure that specific groups likely to have a particular interest are consulted, or those involved in specific activities in the area, which would be impacted by the proposals. This will include any legitimate motorbike or motocross groups which use public areas.

It should be noted that any order is subject to a right of appeal by an interested person to the High Court, this can include a challenge to specific terms of any order, or the inclusion of any specific area of public space. A challenge would be successful where the order is excessive in terms of the areas covered or where the evidence does not support the basis for the order.

Section 151 Officer Comments:

It is not possible to provide a figure for the motion in the timescale. It is clear that there will be significant cost to progress a borough wide PSPO, especially considering the evidence gathering, legal input and bringing in the required resource.

Should Council agree to this motion, detailed costings will be included within the Cabinet report and, if agreed, would be a pressure on the budget as it would not be possible to meet this from existing budgets.

Is the above motion within the remit of Council to approve?

Yes