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<b>REPORT TO:</b>	<b>ENVIRONMENTAL AND DEVELOPMENT SERVICE COMMITTEE</b>	<b>AGENDA ITEM: 12</b>
<b>DATE OF MEETING:</b>	<b>16<sup>th</sup> AUGUST 2018</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>ALLISON THOMAS – STRATEGIC DIRECTOR (SERVICE DELIVERY)</b>	<b>OPEN</b>
<b>MEMBERS’ CONTACT POINT:</b>	<b>MATT HOLFORD – ENVIRONMENTAL HEALTH MANAGER</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>FINDERN PUBLIC SPACES PROTECTION ORDER</b>	<b>REF:</b>
<b>WARD(S) AFFECTED:</b>	<b>FINDERN</b>	<b>TERMS OF REFERENCE: EDS14, HCS10</b>

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## **1. Recommendations**

- 1.1 That the Committee approves the proposed declaration of a Public Spaces Protection Orders (PSPO) at Staker Lane, Findern.

## **2. Purpose of Report**

- 2.1 To provide the Committee with the outcomes of a recent consultation on a proposed Public Spaces Protection Order in Findern;
- 2.2 To seek approval to declare a Public Spaces Protection Order in Findern;
- 2.3 To confirm the protocol for the more rapid implementation of some forms of PSPO where they are required quickly or are only local relevance.

## **3. Background**

- 3.1 The Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) introduced various discretionary powers for the police and local authorities to take new actions to tackle anti-social behaviour.
- 3.2 Sections 59 to 75 of the Act offer councils powers using Public Spaces Protection Orders to stop individuals or groups from committing anti-social behaviour in a public place.
- 3.3 Before making a PSPO the Council must be satisfied that the behaviour being restricted;
- Is having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
  - Is persistent or continuing in nature;
  - Is unreasonable, and
  - The impact of the behaviour justifies the restrictions being proposed.

- 3.4 The PSPO can control the unreasonable behaviour by imposing conditions on the use of a specified area which will apply to everyone. Statutory guidance issued by the Home Office advises that a PSPO is “*designed to make public spaces more welcoming to the majority of law abiding people and communities and not simply restrict access*”.
- 3.5 Once declared a PSPO can last up to 3 years. After this it must either be extended or it is automatically revoked. The controls contained in a PSPO can be varied or removed at any time.
- 3.6 Where the conditions of a PSPO are breached there are two possible sanctions. Firstly, a Fixed Penalty Notice (FPN) can be issued which, if paid, discharges the liability for the offence. If the offence is not admitted or the FPN is not paid then the offence can be taken to a Magistrate’s Court to seek a prosecution. Where a PSPO is used for restricting alcohol consumption, a FPN will only be issued to an individual if they fail to comply with a request to cease drinking or surrender the alcohol.
- 3.7 FPNs can be issued by police officers, Police Community Support Officers (PCSOs), council officers or anyone else authorised by the Council. Prosecutions can only be taken by the Council. FPN’s issued in relation to alcohol consumption will be issued by either a PCSO or police officer.
- 3.8 The contents of a PSPO can be challenged in the High Court within 6 weeks of it being made. The challenge can be either on the basis that the Council did not have the power to make the relevant restriction, that the relevant tests stated in para 3.3 above are not met or that the procedural requirements for creating a PSPO were not met.

#### **4. PSPOs in South Derbyshire**

- 4.1 Levels of anti-social behaviour in South Derbyshire are relatively low. Nevertheless the Council has made proactive use of the power to deal with specific issues or locations of anti-social behaviour and to continue to apply pre-existing controls on how people use our parks and open spaces.
- 4.2 To date the Council has declared six PSPOs, all of which are published on the Council’s website. These consist of;
- A districtwide PSPO requiring dog owners to clean up after their dog;
  - A requirement for dogs to be kept on leads in some parks;
  - A ban on dogs in some children’s play areas;
  - A PSPO making registered owners responsible for litter thrown from their vehicle;
  - The Swadlincote Town Centre PSPO to control aspects of town centre anti-social behaviour (ASB);
  - Eureka Park PSPO to control aspects of ASB in Eureka Park.

#### **5. Issues at Staker Lane, Findern**

- 5.1 A small area of land formed by an access ramp off Staker Lane near to the A50 in Findern has been a repeated location for incidents of fly-tipping and other forms of anti-social behaviour over recent years. Having attempted a number of forms of intervention to prevent this officers have reluctantly concluded that the only viable means of preventing misuse of the land is to prevent access by unauthorised vehicles. The land will still need to be accessed by District and County Council vehicles as well as by a local landowner and their tenants.

- 5.2 The Council has undertaken a consultation exercise in accordance with the statutory guidance. A copy of the consultation paper is attached to this report.
- 5.3 In total, 13 responses to the consultation were received. All responses were in favour of the proposed declaration of a PSPO to prevent access onto the land. The only adverse comments were;
- Concerns that the impact of the barrier will move fly-tipping to other locations rather than preventing it;
  - Complaints made that the fly-tipping is as a result of the policy of some Councils to charge for waste disposal at recycling sites (this is not the case in Derbyshire) and charges by district council's for bulky waste collections.
- 5.4 Importantly, the Council received comments in support of the proposal from the landowner (Highways England), the agent acting on behalf of the owner of the private land affected by the ramp, Derbyshire Constabulary, local Councillors and Findern Parish Council.

## **6. Delegated Powers for Future PSPOs**

- 6.1 PSPOs can potentially be very wide in scope or used to deal with local or short-term problems, such as this.
- 6.2 Local or short-term problems will often require a relatively rapid response by the Council. In order to enable the Council to respond rapidly to acute or localised issues of ASB, this Committee decided, following a previous report dated 20<sup>th</sup> August 2015, that some PSPOs should be adopted without the need for full Committee approval.
- 6.3 The conditions for adoption of a PSPO without full Committee approval are that:
- The full statutory consultation process has been completed and no significant objections have been made;
  - The nature of the ASB is acute or localised;
  - Both the Chair of this Committee and the Chair of Housing and Community Services (H&CS) Committee agree to the proposed PSPO.
- 6.4 Arguably all of these criteria apply to the proposed Findern PSPO, however as the shortened PSPO process has not previously been invoked then it was considered appropriate in this case to bring the proposed PSPO to Committee and to remind Committee of the criteria which apply for the more rapid declaration of a PSPO.

## **7. Financial Implications**

- 7.1 Minor. Quotations have been obtained for the installation of the proposed gate to the access ramp. It is estimate that the costs of the installation will be recovered within 12-18 months through the savings due to the reduced number of fly-tips the Council is required to remove and dispose of at this location.

## **8. Corporate Implications**

- 8.1 The proposals align with the "Place" Corporate Plan Theme and the key aim to "help maintain low crime and anti-social behaviour levels".

## **9. Community Implications**

- 9.1 None

## **10. Conclusion**

- 10.1 The proposed PSPO will enable the Council to install a gated entrance to a ramped access road off Staker Lane, Findern. It is expected that the gated entrance will significantly reduce incidents of fly-tipping and ASB in this area.
- 10.2 The proposal to jointly authorise the Chair of this Committee and Chair of H&CS to approve the declaration of a PSPO where the matter requires an acute response or is localised in impact will enable the Council to more rapidly deal with some forms of ASB.