
REPORT TO:	ENVIRONMENTAL AND DEVELOPMENT SERVICE COMMITTEE	AGENDA ITEM: 10
DATE OF MEETING:	14th NOVEMBER 2019	CATEGORY: RECOMMENDED
REPORT FROM:	STRATEGIC DIRECTOR, SERVICE DELIVERY	EXEMPT PARAGRAPH NO: NOT EXEMPT
MEMBERS' CONTACT POINT:	ENVIRONMENTAL HEALTH MANAGER	DOC:
SUBJECT:	LOWES LANE PUBLIC SPACES PROTECTION ORDER	REF:
WARD(S) AFFECTED:	ASTON & STENSON	TERMS OF REFERENCE: EDS14, HCS10

1. Recommendations

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

2. Purpose of Report

- 2.1 To provide the Committee with the outcomes of a recent consultation on a proposed Public Spaces Protection Order on Lowes Lane, Swarkestone;
- 2.2 To seek approval to declare a Public Spaces Protection Order on Lowes Lane;

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 three 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 six 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 seven 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);
 - Staker Lane PSPO to control fly tipping and anti-social behaviour near Findern;
 - Eureka Park PSPO to control aspects of ASB in Eureka Park.

5. Issues at Lowes Lane, Swarkestone

- 5.1 Lowes Lane in Swarkestone has been a location for repeated 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. Vehicle access to the land will still need to be provided to

members of a local shooting club, local agricultural landowners and their tenants as well as by emergency services vehicles.

- 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, 15 responses have been received to the consultation. Four responses gave no objection to the proposal. Eleven responses were in support of the proposed declaration of a PSPO to prevent access onto the land. A number of the responses made additional comments which can be summarised as follows;
- CCTV or other surveillance should also be installed near to the proposed barrier or elsewhere on Lowes Lane;
 - Comments on the design of the barrier to allow access for agricultural machinery and shooting club membership;
 - Suggested alternative location for the barrier to the south of the bridge over the A50;
 - Suggestion for an additional barrier on Moor Lane;
- 5.4 Importantly, the Council received comments in support of the proposal from local residents, landowners, the agent acting on behalf of landowners and tenants and Derbyshire Constabulary.

6. Financial Implications

- 6.1 Minor to major. The cost of the installation of a barrier to meet all of the stakeholders requirements will be approximately £1,000. These costs can be met from existing revenue budgets. It is estimated 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.
- 6.2 Because of the rural location of the site, the installation of CCTV / surveillance cameras of an adequate specification will be approximately £15,000. This cost cannot be met from existing budgets or savings. For the time being the Council will continue to use its existing motion activated surveillance cameras to monitor the parts of Lowes Lane not covered by the Order. Officers will continue to evaluate emerging products to assess their cost and suitability.

7. Corporate Implications

- 7.1 The proposals align with the “Our Environment” Corporate Plan theme and the key aim to “Reduce fly tipping and litter through education, engagement and enforcement action where appropriate”.

8. Community Implications

- 8.1 None

9. Conclusion

- 9.1 The proposed PSPO will enable the Council to install a gated entrance to a short section of the northern part of Lowes Lane, Swarkestone. It is expected that the gated entrance will significantly reduce incidents of fly- tipping and ASB in this area.