

Proposed Public Spaces Protection Order, Lowes Lane, Swarkestone

Consultation and Evidence Base

September 2019

1.0 Introduction

Public Spaces Protection Orders (PSPO) are a control measure, created by the 2014 Anti-Social Behaviour, Crime and Policing Act, intended to deal with specific nuisances or problems in a defined area that are;

- Detrimental to the local community's quality of life, and
- Unreasonable, and
- Persistent or continuing in nature.

The Council has already created a number of PSPOs to deal with a variety of forms of anti-social behaviour such as dog fouling, dog nuisance, littering and anti-social consumption of alcohol.

All of the Councils existing PSPOs can be seen on our [website](#).

The purpose of this consultation report is to seek views on the Councils intention to seek to declare a further Public Spaces Protection Order in relation to Lowes Lane, Swarkestone, Derbyshire.

2.0 Background

2.1 Location

The location of Lowes Lane, Swarkestone, Derbyshire is illustrated in the following Figures.

Lowes Lane is located approximately 0.5km to the north west of the Grade 1 listed Swarkestone Bridge and 1km to the south west of Chellaston. The OS reference of the southern entry point to Lowes Lane is at 436670:328700, the end of the metalled part of the Lane is at 436550:329950.

Lowes Lane consists of a single carriageway metalled road which starts at its junction with the A5132 and runs to the north. It crosses over a railway bridge, a canal bridge before extending past a junction with Moor Lane, then crossing via a bridge over the A50.

Lowes Lane then extends past another junction with Moor Lane immediately to the north of the A50 (see Figure 2). The entrance to Moor Lane at this point is impeded by a locked gate with sufficient passage to the side of the gate for pedestrians and equine traffic.

Lowes Lane continues from here to the north. The metalled length of the Lane terminates approximately 1.3km to the north of the A5132 at the entrance to Lowes Lane Clay Shooting Ground and a number of privately owned fields.

Beyond the shooting club Lowes Lane continues as an unrestricted, unmetalled track for a further 0.8km at which point it becomes Sinfin Lane.

Between the entrance to Lowes Lane from the A5132 and its junction with Moor Lane, it serves as the only access route to one commercial premises and approximately a dozen residential properties.

Beyond the junction with Moor Lane, Lowes Lane serves as the only access to the Shooting Ground and a number of agricultural fields.

Beyond the Shooting Ground, the Lane is not in a condition which supports road traffic.

Figure 1: Site Location

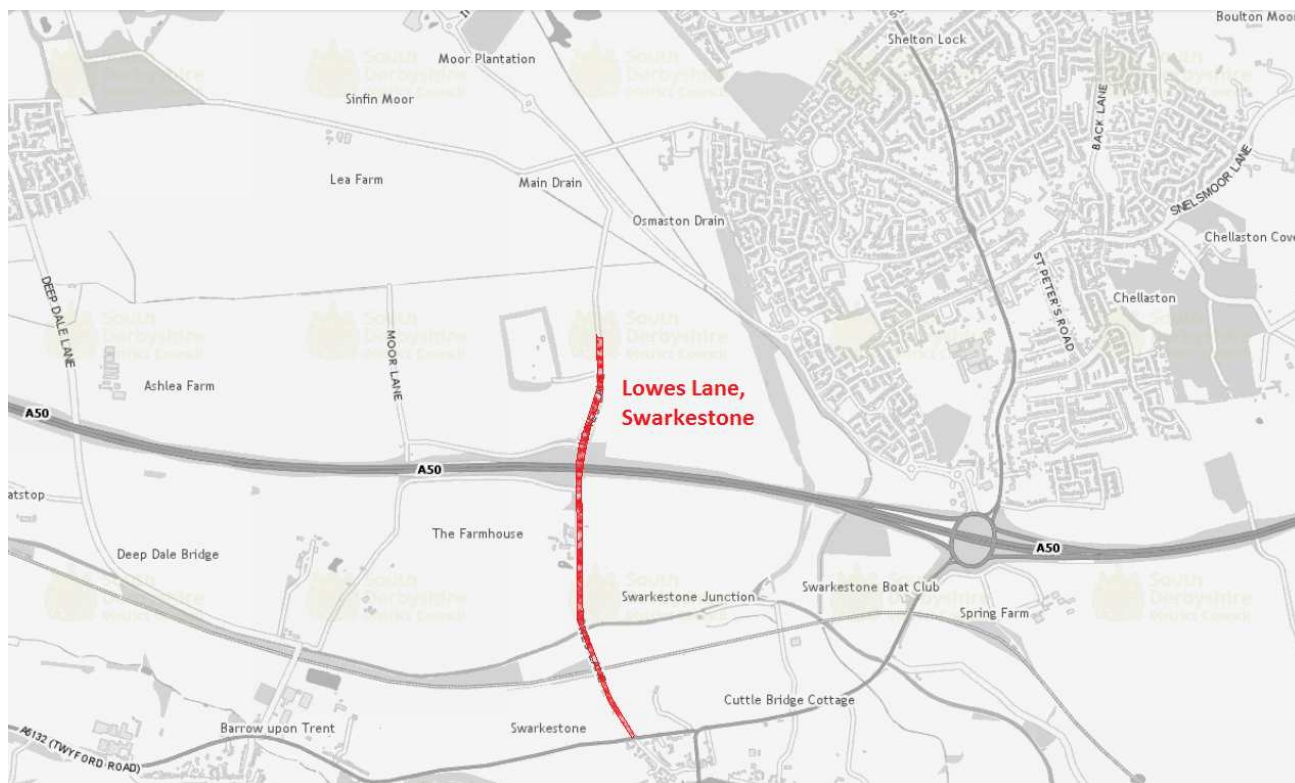


Figure 2: Image of Junction of Lowes Lane with Moor Lane (gated)



Figure 3: Image of the Termination of the Metalled Length of Lowes lane



2.2 Detrimental Impacts on the Community Quality of Life

Fly tipping on Public Land and the Public Highway

Between June 2017 and June 2019 there have been 36 recorded incidents of fly tipping on Lowes Lane. This makes Lowes Lane the second highest public land location for fly tipping in South Derbyshire. Based on this data, Lowes Lane is impacted by fly tipping approximately every 3 weeks.

Typically the fly tipping offences occur along the stretch of Lowes Lane between the second (gated) junction with Moor Lane to the access point with the shooting ground. It is estimated based on officer experience that approximately three quarters (75%) of fly tip incidents occur along this 400m length of road.

Based on standard unit costs published in the Environment Agency WasteDataFlow database, the estimated clean-up cost to South Derbyshire District Council between June 2017 and June 2019 was £3,500. The estimated standard unit clean-up costs in WasteDataFlow are now outdated and so these estimated costs are significantly less than the true costs to the public finances for removal and disposal of fly tipped material. The actual cost to the Council is more likely to be in the region of £7,000.

Due to the frequency of fly tipping incidents, the District Council has previously put up warning signs to dissuade potential offenders from fly tipping. This made no difference to the frequency of offences.

The Council has deployed surveillance equipment to gather evidence of offences. Unfortunately the nature and length of Lowes Lane creates enormous difficulties in the practical siting and operation of surveillance cameras. Cameras deployed on the Lane have captured images of offences being committed, however the difficulty in locating the cameras has resulted in images which have never been sufficiently clear to identify the vehicles or individuals associated with the offences. Two of the Councils surveillance cameras have been stolen from this location.

South Derbyshire District Council has a strong record in bringing prosecution action against fly tipping offenders. Anyone fly tipping in South Derbyshire is five times more likely to receive a fixed penalty than the average for the East Midlands and four times more likely to be prosecuted. To date the Council has not been successful in securing any fly tipping prosecutions for offenders on Lowes Lane. This highlights the problems in the practical enforcement of fly tipping law in this location and supports the case that investigating incidents after the event will not address the problems.

The nature of the material routinely disposed of at this location has led Council officers to believe that it has been specifically targeted by criminals as a location at which they can routinely commit waste disposal crime with a low risk of detection. If the location continues to attract fly tipping without a meaningful intervention then it will effectively provide support to local criminal activity.

Fly Tipping on Private Land

This data above only captures the number of reports made to South Derbyshire District Council. In reality the frequency of fly tipping incidents is thought to be significantly greater. It is well recognised that most incidents of fly tipping on private land do not get reported to the Council because the duty to remove the waste falls to the landowner. This has anecdotally been confirmed by owners and occupiers of the private land either side of Lowes Lane.

South Derbyshire District Council has actively sought to work with land owners along Lowes Lane and the Shooting Ground to identify offenders, to design out access opportunities for offenders and to take all other reasonable measures to prevent fly tipping at this location without any tangible success.

Images of some recent fly tipping incidents are shown below.





Other Anti-social Behaviour

Both the District Council and Derbyshire Constabulary have received repeated reports of anti-social behaviour on Lowes Lane. The Lane is well used as a recreational route by ramblers, dog walkers, horse riders, joggers and cyclists.

The forms of anti-social behaviour reported to the authorities and witnessed first-hand by recreational users has caused upset and distress and a number of witnesses report feeling intimidated.

Anecdotal reports suggest that the location is being actively promoted on social media as a site for anti-social behaviour and it is South Derbyshire District Council's opinion that as a result of this behaviour the recreational use of Lowes Lane is being significantly adversely affected.

3.0 Proposals

South Derbyshire District Council are proposing a Public Spaces Protection Order to either restrict unauthorised vehicle access along Lowes Lane, north of the gated junction with Moor Lane or to impose any other alternative intervention which deals with the detrimental effects described in section 2.

To enable the Order to be enforced, it is currently proposed to install a lockable gate at a point a few meters north of the Moor Lane Junction north of the bridge over the A50. However, the Council welcomes views on any other equally effective measures.



It is proposed to exempt authorised vehicles to access Lowes Lane north of Moor Lane. It is anticipated that exempt vehicles will include those operating on behalf of land owners and occupiers served by Lowes Lane, patrons of the shooting club and those for the purposes of cleaning, maintenance and emergency access.

It is currently proposed that the design of the gate will be similar to that installed at the junction with Moor Lane. It is proposed to specify the exact design and location of gate to enable access for relevant authorised vehicles and to enable free passage of pedestrian, cyclist and equine traffic. It will also need to be specified to provide a sufficient turning circle for vehicles which do not have permitted access under the Order.

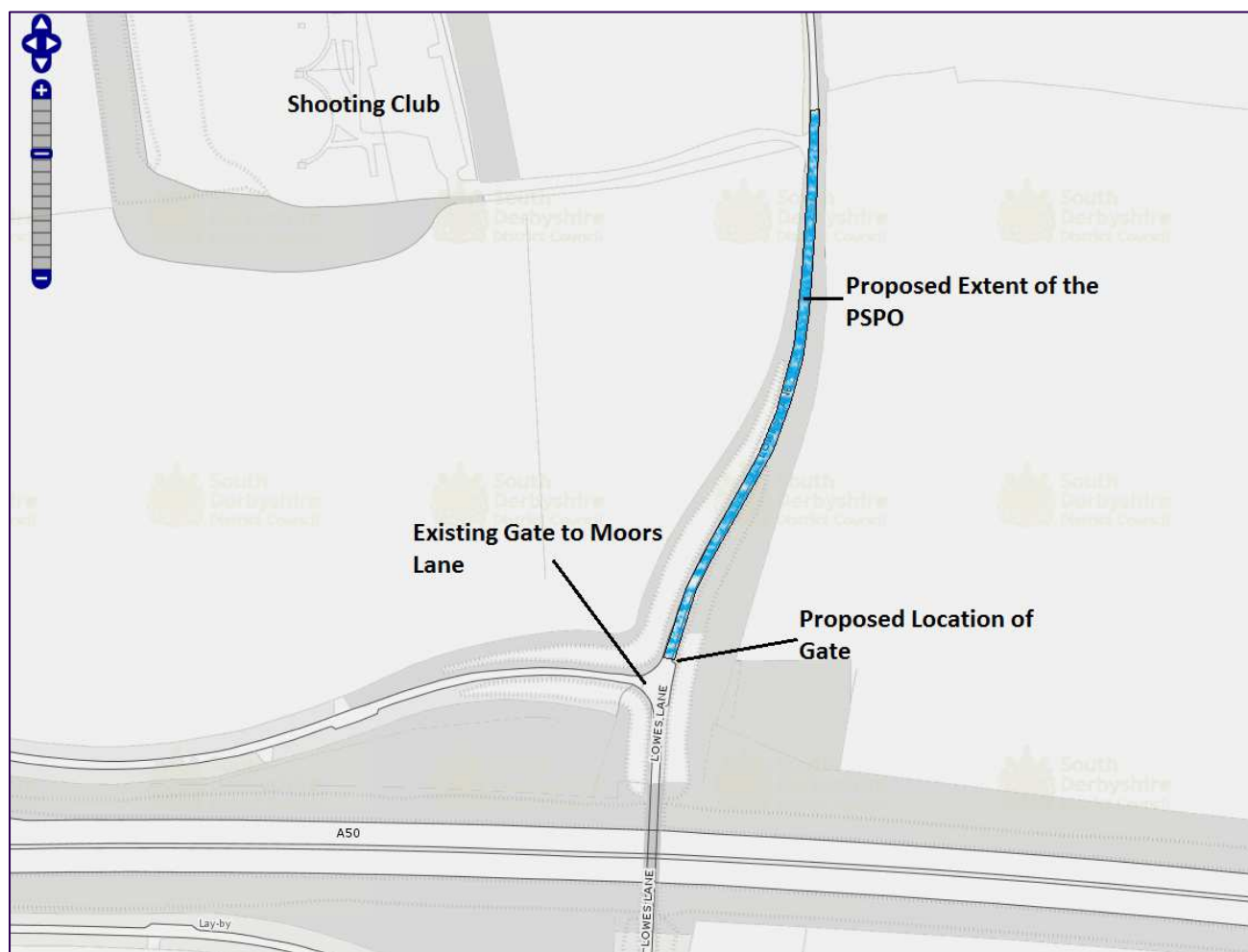
It is proposed to make it offence under the Order for unauthorised vehicles to access onto the area of Lowes Lane covered by the proposed Order and for unauthorised tampering with the locked gate. A breach of the Order may result in either a fixed penalty notice of £100 or prosecution.

It will remain an offence for anyone to fly tip anywhere on Lowes Lane, just as it is across the whole of South Derbyshire.

Responsibility for the installation and maintenance of the gate is proposed to lie with South Derbyshire District Council. The exact process for establishing authorisation for exempt vehicles and for the practical arrangements for allowing exempt vehicles access through the gated entrance will be determined through discussions with interested parties during the consultation process.

Figure 4 illustrates the proposed location of the gate and the area of the metalled part of Lowes Lane which is proposed to be covered by the Order.

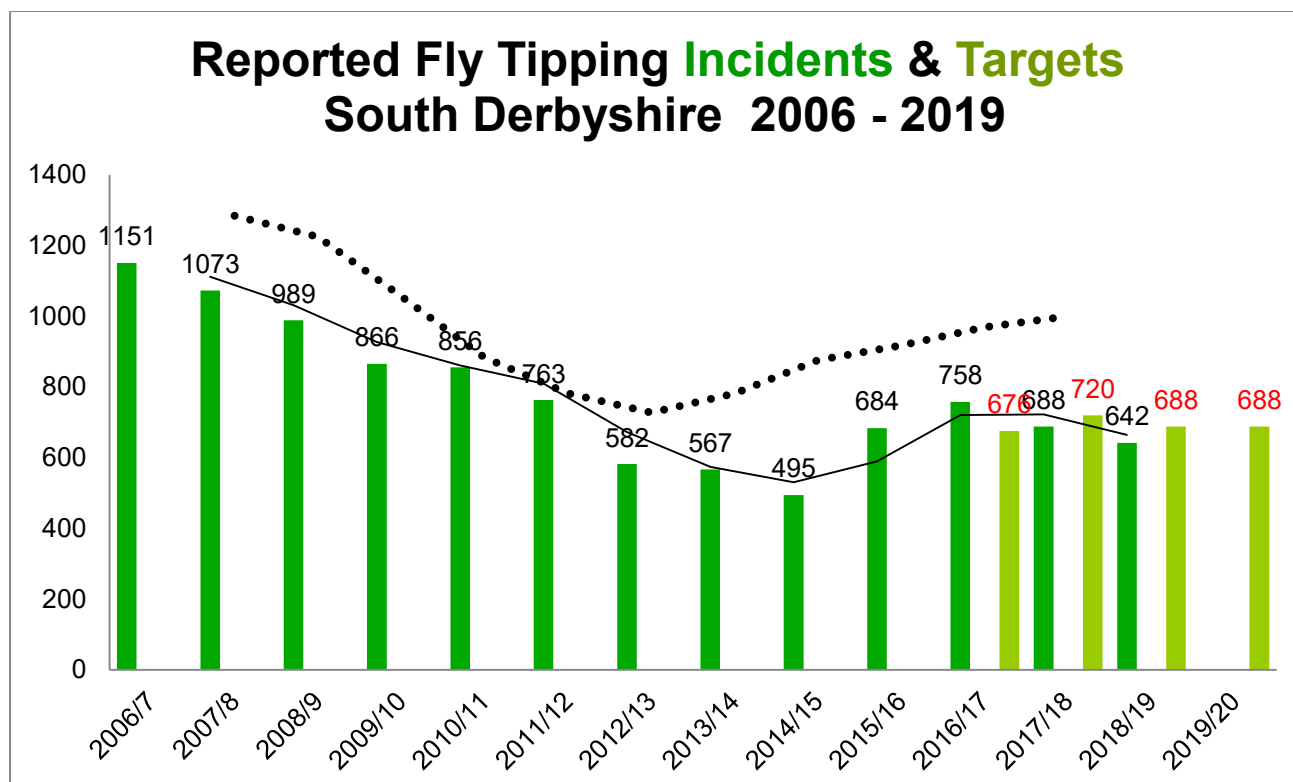
Figure 4 – Location of the Proposed PSPO and Gated Entrance



4.0 Potential Benefits

Stopping fly tipping in South Derbyshire is one of the Councils key priorities.

Incidents of fly tipping had been consistently reducing in South Derbyshire over the past decade. However, in 2015 both locally and nationally there was an observed upward trend in incidents. No clear insight about the underlying reasons for these trends has emerged.



South Derbyshire's 2019/20 Corporate Action Plan contains a target to reduce fly tipping in the District. The Councils focus to date has been on removing fly tipping as soon as possible to prevent it acting as a magnet for more tipping, and to use all of the tools and powers available to punish those caught committing the offences. This has led to some success in reducing fly tipping incidents, however more innovative interventions need to be found to build on this success.

In 2018 SDDC introduced a PSPO to limit access onto another long term hot spot for fly tipping and anti-social behaviour on Staker Lane, Findern. Since the implementation of the PSPO in August 2018 fly tipping at this location has almost entirely ceased.

This proposed PSPO therefore offers a more direct intervention to prevent fly tipping.

Based on statistics from the last two years, fly tipping incidents at Lowes Lane contributes roughly 2.6% of the reported incidents of fly tipping every year in South Derbyshire.

The proposed PSPO is expected to directly contribute to reducing fly tipping incidents in South Derbyshire. The proposed intervention is also anticipated to act as a significant deterrent to the other forms of anti-social behaviour which are being reported.

5.0 Potential Adverse Effects

It is recognised that gating Lowes Lane could have potential adverse impacts. Those identified are summarised below along with the proposed mitigating factors:

Adverse Effect	Mitigation
The lane is a public right of way and installing a gate will breach the Road Traffic Act	Based on evidence to date there is no through vehicular traffic which passes along Lowes Lane to get from Barrow on Trent to Sinfen or Chellaston, or vice versa. The proposed Order will not therefore cause any meaningful inhibition of road traffic along a public highway.
The proposed gate will prevent access for legitimate use of the land to the north of the junction with Moor Lane.	Land owners, occupiers and all other relevant stakeholders will be included in this consultation. The most practical aspects of securing access for authorised vehicles will be identified through the consultation process
The proposed gate will prevent access onto land designated as public highway by both Derbyshire County Council and Highways England	DCC and HE will be exempt vehicles and will be provided with the same practical means of access as the land owners, etc. described above.
The gated access would prevent legitimate access onto public land by law-abiding members of the public	Full access along the length of Lowes Lane will continue to be provided for pedestrians, cyclists and horse riders by virtue of the design of the proposed gate.
The gate will cause fly tipping and criminality to be displaced to other locations	<p>It is the Councils opinion that this location is particularly attractive for fly tipping and criminal activity because of its location close to the main road network and because offenders are out of sight. It is therefore known and targeted as an easy location. The Council anticipates that by removing it as an easy fly tipping spot, potential offenders are more likely to seek legitimate ways of disposing of rubbish rather than fly tipping elsewhere.</p> <p>Experience following the introduction of a similar Order at Staker Lane, Findern did not result in any evidence of displacement of either fly tipping or anti-social behaviour.</p>
Offenders will continue to fly tip and cause anti-social behaviour along the unrestricted parts of Lowes Lane.	<p>Approximately 75% of offences take place in the area of Lowes Lane proposed to be covered by the Order. It is entirely possible that these offences are displaced further south to the parts of Lowes Lane not covered by the Order.</p> <p>To mitigate this potential impact SDDC intends to assess the viability of the installation of additional surveillance equipment on the higher risk parts of Lowes Lane unaffected by the proposed PSPO.</p>
The site will still be used for illegal activity by offenders accessing it on foot rather than by car	Surveillance evidence indicates that very little criminality is associated with pedestrian footfall through the land.

6.0 Consultation Process

The consultees who are being directly contacted in relation to this proposal are:

- Statutory Consultees
 - Derbyshire Police and Crime Commissioner
 - Derbyshire County Council
 - Highways England
- Statutory Undertakers and Utilities Companies
 - Derby City Council
 - Severn Trent
 - Derbyshire Fire and Rescue
 - East Midlands Ambulance Services
- SDDC and DCC Ward Councillors
- Local Parish Councils
- Rural Action Derbyshire
- Land owners and occupiers on Lowes Lane

The consultation proposals will also be published on the Councils website for public comment.

Proposed timescales:

Start of Consultation	26 th August 2019
End of Consultation	1 st November 2019
Review of consultation responses and new evidence	4 th November 2019
Report with final proposals to Environment & Development Services Committee	14 th November 2019
Proposed making of the Order (if approved)	18 th November 2019
End of Appeal Period	30 th December 2019
Proposed Commencement of the Order (if approved)	6 th January 2020

7.0 Consultation Questions

Specifically we would like to know from consultees:

Question 1	In your opinion, is fly tipping and anti-social behaviour on Lowes Lane detrimental to the local community's quality of life?
Question 2	If responding 'yes' to Question 1, are the proposals described in Part 3 of this consultation a proportionate way of controlling fly tipping and anti-social behaviour?
Question 3	Do you have any alternative or additional proposals to prevent fly tipping and anti-social behaviour on Lowes lane which could be considered as part of the PSPO?
Question 4	Do the proposals described in Part 3 of this consultation have any potential adverse impacts which have not been considered?

The consultation will be open until **1st November 2019**.

Please email your responses to environmental.health@south-derbys.gov.uk or write to us at

PSPO Consultation,
Environmental Health Department,
Civic Offices,
Civic Way,
Swadlincote,
Derbyshire,
DE11 0AH

Document Control

Version	Date	Author(s)	Brief Description of Change(s)
1	08.08.2019	MH	