

LEISURE AND ENVIRONMENT COMMITTEE

25 JANUARY 2022

PROPOSAL FOR A PUBLIC SPACE PROTECTION ORDER – CONTROL OF FLY TIPPING ON DEERDALE LANE/EAKRING ROAD

1.0 Purpose of Report

For Committee to consider the case for a Public Space Protection Order to control the extensive fly tipping on Deerdale Lane and Eakring Road and to open a consultation exercise for the making of an Order

2.0 Background Information

- 2.1 The depositing of unwanted waste (fly tipping) has been a long term problem within Sherwood Forest and particularly on the immediate area adjacent to Deerdale Lane/Eakring Road. This is a designated highway that links the A60 from close to the Limes Café to Oak Tree Lane in Mansfield. Although classed as a highway the road is unmade for the majority of its length and is virtually impassable in places without the use of an off road vehicle. The nature of the road surface leads to very little traffic using the road and that, along with its isolated location, lends itself to fly tipping. A map showing the location of the road is attached as Appendix One
- 2.2 The fly tipping that takes place ranges from small deposits of household waste to large deposits of trade waste. This is also a location for the dumping of abandoned and/or stolen vehicles. In order for Members to understand the nature of the problem a number of photographs taken along the road are attached as Appendix 2. These photographs were taken on two separate occasions and they demonstrate the level of fly tipping.
- 2.3 It can be seen from some of the photographs that burning of the fly tipped waste is a common occurrence. It is not known whether this is carried by those responsible for tipping the waste or as secondary fires. Either way it adds to the destruction of the local environment and adds another level of antisocial behaviour that requires control.
- 2.4 The problem is a challenge, due both to the level of fly tipping and the inaccessible nature of the tipping. As stated above the road is in really poor condition and that makes access for the council's vehicles to remove the fly tipping a real problem.
- 2.5 The area around Deerdale Lane /Eakring Road is used by many visitors to the Sherwood Forest and the level of fly tipping detracts from the natural beauty of the area but also poses a risk to walkers, horse riders and cyclists.
- 2.6 As Members will be aware the 'Not in Newark and Sherwood' campaign is a multifaceted approach to flytipping using a range of actions and interventions to address this problem. Each problem area or issue is assessed and the most appropriate course of action is then implemented. This can range from the use of CCTV, publicity campaigns, fixed penalty notices and land use restrictions.

3.0 Public Space Protection Orders

- 3.1 Public Space Protection Orders are designed to promote responsible behaviour and restrict behaviour that is Anti-social, in parks and other public open spaces. Any behaviour can be restricted on any land, which is publically accessible with or without payment. There is no prescribed wording for a Public Space Protection Order, allowing a flexible approach to their declaration, which must aim to address specific antisocial behaviours in a geographically defined area.
- 3.2 The power to make an Order rests with local authorities, in consultation with the Police and other relevant bodies who may be affected.
- 3.3 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 sets out the basis on which local authorities may make a PSPO. It provides as follows:
- (1) A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.
 - (2) The first condition is that:
 - (a) Activities carried out 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.
 - (3) The second condition is that the effect, or 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 notice.
- 3.4 When making a PSPO due regard must be taken so as to ensure that every proposed restriction in the PSPO meets the statutory criteria. The restrictions proposed must be proportionate having regard to the legitimate aim of preserving the quality of life for everyone who lives or works in or who visits the proposed areas.
- 3.5 It is important to note that any all PSPOs need to be supported by evidence that show that the controls are required and that the level of control and the geographical area in which it is proposed is appropriate and proportionate. Initial information from Council and Police in relation to the number of incidents in each area, would support Orders being made.
- 3.6 The majority of land around Deerdale Lane/Eakring Road is managed by the Forestry Commission. A number of meetings have taken place between officers of the Council and the Forestry Commission. Detailed discussions concerning the implementation of a PSPO have taken place and the Forestry Commission have expressed their support for the proposals.
- 3.7 Discussions have also taken place with Nottinghamshire police and the local beat sergeant has expressed his support for the PSPO.
- 3.8 Members may recall that 'Gating Orders' have been used to close access to certain public rights of way where the behaviour of some has been anti-social. A Public Spaces Protection

Order can be used to restrict access to a public right of way. However, when deciding on the appropriateness of this approach, the council must give consideration to the following:

- Should access be restricted? A number of rights of way may not be restricted due to their strategic value.
- What impact will the restriction have? For instance, is it a primary means of access between two places and is there a reasonably convenient alternative route?
- Are there any alternatives? Previously gating was the only option, but it may be possible under a Public Spaces Protection Order to restrict the activities causing the anti-social behaviour rather than access in its totality.

3.9 As set out in the detailed proposals below a full consultation exercise with all relevant parties will be undertaken and the questions posed above will be considered.

4.0 Proposals

4.1 The options for controlling fly tipping in this location are limited. The ability to monitor the area and to catch fly tipping taking place is difficult due to the nature of the terrain and the isolated nature of the area. In the vast majority of cases there is no evidence of where the waste has originated from, therefore no follow up investigation can be undertaken.

4.2 As set out above, a PSPO can be used to restrict access and therefore, it is proposed that a PSPO both limiting the use and physically restricting access to Deerdale Lane/Eakring Road should be implemented. It is proposed that there will be a physical barrier blocking vehicle access. Provision will be made for cyclist, horse riders and pedestrians. The location of the proposed physical barrier is shown by the X on the map at Appendix one.

4.3 The proposed wording of the PSPO is set out below:

Except as provided in exemptions below, any person travelling by motor vehicle or motor cycle, as defined under section 185 of the Road Traffic Act 1988, quad bike or mini moto, shall cease to have the right to use as public right of way at all times on each and every day any part of the highway in the restricted area.

This order authorises the installation, operation and maintenance of barriers for enforcing the restriction.

The responsibility for the maintenance of the barriers in the restricted area will lie with Newark and Sherwood DC

Exemptions

Nothing in the order will apply to:

- a. A person who occupies any of the premises adjoining or adjacent to the restricted area;
- b. A person whose only means of access to a dwelling is via the restricted area;
- c. A person whose only or principal means of access to premises used for business or recreational purposes is via the restricted area to be allowed access during periods when the premises are normally used for those purposes.

- d. The Police, Fire and Ambulance Service acting in pursuance of their statutory powers or duties.
- e. The council undertaking a statutory duty under or in connection with maintenance work or other function of the council.
- f. Any statutory undertaker, provider of gas, electricity, water services or communications provider requiring access to their apparatus located in the restricted area

4.4 Consultation is required to be undertaken and it is proposed that the following are part of a formal consultation process:

Mansfield District Council
NSDC ward councillors
Local Parish Council
Nottinghamshire Police
Nottinghamshire Fire and Rescue
Nottinghamshire County Council Highways
Members of the Public
Forestry Commission
Office of the Police and Crime Commissioner

4.5 In the case of Orders restricting access over public highways (eg through the installation of gates), the Act sets out specific additional requirements for the consultation process. The council must notify those who may be potentially affected by the Order, let them know how they can see a copy of the PSPO proposals and when they need to submit any responses, and is required to consider any representations made. Consideration should also be given to the effect of the restrictions on occupiers of premises adjacent to or adjoining the highway, on other people in the locality and, where this is a through route, whether a reasonably convenient alternative is available. These considerations should include, for example, access for emergency services or utility companies.

4.6 A further report outlining all the consultation responses will be brought to Committee prior to any order being finalised.

5.0 Equalities Implications

5.1 The introduction of these PSPOs should not have any impacts on any protected characteristic groups. The consultation will inform of any equality issues.

5.2 Any enforcement of the PSPOs will be undertaken in line with the Councils Corporate Enforcement Policy.

6.0 Digital Implications

6.1 None from this report.

7.0 Financial Implications

- 7.1 The PSPOs will be required to be advertised once they are made. The existing A11135 budget will be used for this purpose.
- 7.2 Signage setting out the controls in place will need to be distributed across each area. Existing budgets will be used for this.
- 7.3 A budget for the provision of target hardening works at various sites across the district has already been agreed and it is considered appropriate that this budget is used to cover the expenditure of the physical barrier.
- 7.4 PSPOs can be enforced by the use of fixed penalty notices. It is not anticipated that any significant income will be generated by this activity.

8.0 Community Plan – Alignment to Objectives

- 8.1 The objectives that this report is relevant to, they are:
- Reduce crime and anti-social behaviour and increase feelings of safety in our communities
 - Continue to maintain the high standard of cleanliness and appearance of the local environment
- 8.2 The creation and enforcement of the PSPOs as proposed will assist in the delivery of these element of the Community Plan.

9.0 RECOMMENDATION

Members are asked to:

- (a) support the proposal to consult on the PSPO for Deerdale Lane/Eakring Road;**
- (b) agree the draft terms of the PSPO as set out in Paragraph 4.3;**
- (c) agree the list of consultees as set out in paragraph 4.4; and**
- (d) a further report setting out the results of the consultation be brought back to the committee.**

Reason for Recommendation

To put appropriate controls in place to control fly tipping on land adjacent to Deerdale Lane/Eakring Road

Background Papers

Anti-Social Behaviour, Crime and Policing Act 2014.

Public Spaces Protection Orders - Guidance for councils

LGA 2020

For further information, please contact Alan Batty ext. 5467.

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