



Cabinet

12 March 2024

Report of Councillor Rhea Rayside
Cabinet Member for People &
Communities

Public Spaces Protection Order - Pottergate Road

Report Author

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Purpose of Report

This report considers an additional Public Spaces Protection Order be implemented on a specific area in order to prevent and reduce the impact of fly tipping.

Recommendations

That Cabinet:

1. Notes the results of the public consultation on the proposed new Public Spaces Protection Order.
2. Approves the implementation of a new Public Spaces Protection Order for the Prevention of Vehicle Access (except for authorised vehicles) to prevent fly tipping with the installation of a gate at the north entrance to the Old A17 Pottergate Road, Fulbeck.

Decision Information	
Is this a Key Decision?	No
Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	Sustainable South Kesteven Effective council
Which wards are impacted?	Loveden Heath;

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance

1.1 There are no financial implications associated with this report, as if the order is approved the costs of installing the gate will be met by Lincolnshire County Council.

Completed by: Alison Hall-Wright, Deputy Director (Finance & ICT) and Deputy S151 Officer

Legal and Governance

1.2 The Anti-Social Behaviour, Crime and Policing Act 2014 sets out the requirements for consultation. A PSPO can be made if, on reasonable grounds, the local authority is satisfied that the required conditions are met. As stated in the report, the PSPOs can last for up to three years once approved and can be varied or extended more than once.

Specialist advice from Legal Services Lincolnshire has been sought regarding the consultation around this proposed PSPO.

Completed by: Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

Diversity and Inclusion

1.3 An equality impact assessment has been completed for the consultation process and is at **Appendix 1**.

EIA completed by: (Kati Conway- Senior Neighbourhoods Officer)

2. Background to the Report

2.1 Public Spaces Protection Orders (PSPO) were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 to deal with nuisance or problems in specific areas that are detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. They can apply to any public space. The definition of public space is wide and includes any place to which the public or any section of the public has access.

2.2 A PSPO can be made by the Council if it is satisfied, on reasonable grounds, that the activity or behaviour concerned, carried out, or likely to be carried out in a public space:

- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- is, or is likely to be, persistent or continuing in nature;
- is, or is likely to be, unreasonable; and
- justifies the restrictions imposed.

Evidence (pre consultation)

2.3 Evidence to support the proposed PSPO has been gathered and reviewed.

2.4 The Old A17 Pottergate Road between the A17 and Sleaford Road, Fulbeck is on the boundary of both South Kesteven and North Kesteven. It is a hotspot area for fly tipping on both public and adjacent private land. The land adjacent to the Old A17 Pottergate Road is privately owned by local farmers. Landowners are responsible for ensuring the illegally deposited waste is disposed of legally at a cost to themselves. Fly tipping on public land is the responsibility of the Local Authority to dispose of at their expense. Warning signage has been erected in the area in an attempt to prevent fly tipping however, continued incidents are reported. Due to the nature of deposited items, evidence has not been obtained in order to identify the perpetrators.

2.5 Table 1 shows data held by South Kesteven District Council of the numbers of reported fly tipping incidents, broken down by year from 2020 to 2023.

Table 1. Data held by South Kesteven District Council

Year	Grand Total of incidents
2020	3
2021	0
2022	9
2023	3

2.6 Reports of fly tipping on both public land and private land, have consisted of asbestos, building materials, garden waste, tyres and house waste including furniture and white goods.

2.7 Asbestos deposited on public land, requires a competent external contractor to be employed to remove at an additional cost to the local authority.

2.8 In June 2020 Pottergate Road and surrounding land in both South Kesteven and North Kesteven became victim to several large-scale fly tips consisting of part processed waste. The waste deposited on Pottergate Road weighed approximately 40 tonnes.

2.9 The Lincolnshire Environmental Crime Partnership is currently trialling a Vulnerable Land Panel and this location was brought to meetings held, with a view to discussing the potential options available. Present at the meetings were representatives from South Kesteven District Council, North Kesteven District Council, Lincolnshire County Council (LCC), Lincolnshire Police, Environment Agency, National Farmers Union. The panel recommended that a PSPO be applied to this location, with SKDC leading the PSPO and LCC funding and installing the gate.

Proposed New Order

2.10 Following incidents of fly tipping, it is proposed a new PSPO is considered to prevent the unlawful deposit of waste on the section road known locally as the Old A17, Pottergate Road, Fulbeck and land accessed off this section of road. This would include the section of road which is in North Kesteven District Council's jurisdiction.

- 2.11 The order will include the installation of a gate by Lincolnshire County Council at the north entrance to the Old A17, Pottergate Road to prevent unauthorised vehicles accessing the restricted area.
- 2.12 The South Entrance from the A17 on to the Old A17 is already inaccessible to vehicle users.
- 2.13 The installation of a gate at the North Entrance of the Old A17 ensures that authorised vehicles can access the area. Authorised vehicles which need to access to this area will be able to obtain access details by contacting the Neighbourhoods Team at the Council.
- 2.14 Emergency services will be provided with access information at the point of installation of the gate.
- 2.15 **Appendix 2** attached to this report is the draft Order and Map which shows the area etched in red which would be covered by the PSPO. It is proposed that this Order be in effect for a period of three years.

3. Key Considerations

- 3.1 PSPOs are a useful tool in local authorities, working in partnership with the Police, being proactively able to tackle specific issues occurring in particular public spaces. The prohibition of certain activities acts as a deterrent and gives authorised officers the tools in which to tackle the behaviours which are affecting the wider community.
- 3.2 The consultation has demonstrated broad support for the implementation of the proposed Order to ensure an effective enforcement mechanism is in place.
- 3.3 If the new Order is not put in place; this would prevent ability to enforce against the matters covered by the proposed Order.
- 3.4 Cabinet may determine that the legal test has not been met in the Orders. In this case the Order(s) should not be approved.
- 3.5 If as a result of the consultation, changes to the draft order are proposed, further consultation will be necessary.
- 3.6 If approved, in accordance with The Anti-social Behaviour Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, the Orders will be published on the Council's website. Signage will be erected/refreshed on or adjacent to the area(s) the Order relates to, setting out the effect of the Order.

Where the Orders apply to the entire district area, signage will be focused on populated areas.

3.7 If the order is approved Lincolnshire County Council (LCC) will be contacted to arrange the installation of the gate. It is important to note that LCC have agreed to pay for and install the gate at this location.

4. Other Options Considered

4.1 If the proposed PSPO is not approved, South Kesteven District Council will have a reduced ability in which to prevent incidences of fly tipping in this area.

5. Reasons for the Recommendations

5.1 To ensure an effective mechanism is available to prevent fly tipping as detailed in the Order.

6. Consultation

6.1 Under s72 of the Anti-social Behaviour, Crime and Policing Act 2014, a local authority must carry out the necessary consultation before extending, varying or making a PSPO. Necessary consultation means consulting with the Chief Officer of Police, the local policing body whatever community representatives the authority deems appropriate and the owner or occupier of land within any of the restricted area.

6.2 A four-week public consultation was undertaken from 11 December 2023 to 8 January 2024, the responses to the consultation is attached within **Appendix 3**. Any personal details from those completing the consultation has been redacted. The draft Order which was subject to consultation is at **Appendix 2**.

6.3 The consultation took the form of a questionnaire on the council's website. This was promoted through social media and press releases. Relevant parish councils were contacted directly and provided with the link to the questionnaire and a copy of the poster to display should they wish. Statutory consultees were contacted directly via email.

6.4 Full details of the consultation, a list of consultees and breakdown of responses is at **Appendix 3**. In total, 10 responses were received. A summary of responses is detailed below.

6.5 Consultation Results - Proposed Order

- 80% said that they agree or strongly agree with the proposed Order.
- 70% of respondents said they had experienced or are concerned by vehicles accessing, anti-social behaviour or fly tipping at the location.

- 70% of respondents did not consider the council to have any other options to prevent fly tipping in the area. 20% of respondents suggested the use of CCTV as an alternative. 10% requested the Council consider the use of Byelaws or Traffic Regulation Orders.
- 90% said the Order would not have a significant impact on them. 10% who stated the order would have a significant impact on them used the section of road as a cycle route.

Additional Information from the Survey

6.6 As part of the consultation respondents were given the option to provide further information about issues, they had experienced in relation to vehicles accessing, anti-social behaviour or fly tipping at the location. 60% of respondents took the opportunity to comment and all highlighted fly tipping as the key issue. One respondent stated, '*The fly tipping is unbearable, the cost to the adjoining landowners in terms of financial cost, environmental damage and blocked access is unsustainable*'.

7. Appendices

- 7.1 Appendix 1: Equality Impact Assessment
- 7.2 Appendix 2: Draft proposed Order and associated map
- 7.3 Appendix 3: Consultation Report.