



LR.26 15/16

**Licensing and Regulatory  
Committee**

**Date 15 March 2016**

**Subject: Public Space Protection Order for closure of footpath at  
Enderby Crescent**

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

Proposal to close the footpath between Enderby Crescent and 'Rec Hill' by use of a Public Spaces Protection Order, under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014.

**RECOMMENDATION: for Members to consider the contents of the report and taking into account the views expressed by members of the public and organisations that no action is taken to close the footpath.**

## IMPLICATIONS

**Legal:** see section 4

**Financial :** if the public space protection order is granted there will be a financial implication as the footpath will need to be gated. At this stage, there have been no costings completed. If this is to be agreed, Finance would need to cost this up. FIN/135/16 issued based on no financial implications at this stage.

**Staffing :** no implications

**Equality and Diversity including Human Rights :** see section 5

**Risk Assessment :** see section 5

**Climate Related Risks and Opportunities :** not applicable

**Title and Location of any Background Papers used in the preparation of this report:**

### Call in and Urgency:

**Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?**

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

**Yes**

**No**

**x**

### Key Decision:

A matter which affects two or more wards, or has significant financial implications

**Yes**

**x**

**No**

## **1 Introduction**

### **Public Space Protection Orders (PSPOs)**

Public Space Protection Orders were introduced in October 2014 by the Antisocial Behaviour, Crime and Policing Act 2014 and are designed to deal with a particular nuisance or problem in a particular area (a public space) that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

A Public Space Protection Order can cover multiple restrictions, so one order can prohibit activities such as the drinking of alcohol and dog fouling. Enforcement will be undertaken by council officers, with the support of police officers.

If anyone breaches the requirements of the Public Space Protection Order, or fails to comply with a request from an Authorised Council Officer or Police Officer to cease activity, they would be committing a criminal offence and could be issued a Fixed Penalty Notice of £75 or prosecuted.

## **2 History**

Due to incidents of antisocial behaviour occurring in the area of Ravendale Road/Enderby Crescent the police contacted West Lindsey District Council to determine whether it would be possible for a Public Space Protection Order to be considered to close the footpath on Enderby Crescent as the evidence suggests that the antisocial behaviour is being perpetuated by the ease of movement from Ravendale Road/Enderby Crescent to the recreation ground and vice versa. Appendix 1 is a report that the police have issued that indicates that the anti-social behaviour is worse on the streets that are on the route from the footpath onto the main road, than the anti-social behaviour experienced on other roads in the estate. The initial suggestion was that the footpath should be closed between the hours of 19:00 and 04:00, however this raised a logistical question as to who was going to be responsible for opening and closing the gate and therefore the decision was made that the consultation proposal would be in relation to the permanent closure of the footpath for a period of three years and this was agreed with the local residents' group and the police. Appendix 2 is the proposed public space protection order.

## **3 Consultation**

A consultation exercise was held with those likely to be affected by the closure of the footpath and this consultation ended on the 15<sup>th</sup> January 2016 and the responses are shown in Appendix 3. Gainsborough Town Council hosted a meeting on Wednesday 6 January that gave the local residents an opportunity to voice their opinions about the proposal. Many local residents turned up to the meeting and the issues that were raised at this meeting were also raised on the consultation returns as documented in Appendix 4.

Consultation on a proposal to close the footpath between Enderby Crescent and 'Rec Hill' by use of a Public Spaces Protection Order, under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

Consultation took place with both residents and organisations which might be affected with this proposal.

162 surveys were returned from residents and 20 received from organisations.

#### **Resident consultation:**

1. Would you support using gates to close the footpath between Enderby Crescent and 'Rec Hill' for a minimum of three years?  
16 (9.9%)            Yes  
146 (90.1%)        No
2. In the past year have you been victim of crime or anti-social behaviour at your property that you believe is caused by people using the footpath?  
6 (3.8%)            Yes - on more than 5 occasions  
28 (17.6%)        Yes - on 1 to 5 occasions  
125 (78.6%)        No

#### **Organisation consultation:**

1. Would you support using gates to close the footpath between Enderby Crescent and 'Rec Hill' for a minimum of three years?  
3 (16.7%)            Yes  
15 (83.3%)        No
2. Have you been involved in or affected by crime or anti-social behaviour activity in the area?  
15 (83.3%)        No  
3 (16.7%)        Yes - please give details:  
2 (100.0%)        Issues included: Windows vandalised. Cars vandalised. Outside area of home vandalised. Rubbish continually thrown outside house. Constant shouting and swearing in street.

As can be seen from the consultation responses there is little support for the closure of the footpath from residents or organisations.

Some of the issues that were raised at the public meeting are:

- that the footpath is well used and that any detour would be very large and may encourage residents to use their cars rather than walk.
- How would emergency services attend any incidents that occurred recreation ground.
- Would it reduce the anti-social behaviour and could anti-social behaviour increase because of people going through gardens.

When determining whether a Public Space Protection Order should be considered for closure of a footpath the relevant highway authority must be consulted. The response from the highway authority was that they are strongly opposed to the closure of the footpath.

Public Space Protection Orders should only be used where it can be shown that persistent anti-social behaviour is expressly facilitated by the use of a particular right of way. Public Space Protection Orders could be particularly important in enabling the closure of those back (or side) alleys which are demonstrably the source of anti-social behaviour.

In deciding whether to restrict access in its entirety through making a Public Space Protection Order, local councils should consider whether residents and members of the public who use the relevant highway would be inappropriately inconvenienced by its closure and gating, and whether alternative access routes exist. However, this should not prevent the gating of highways on which activities are so dangerous that gating is in the best interest of all concerned. The health implications of the order should also be considered, as gating could potentially encourage the use of cars if the alternatives are too long or lack pedestrianised sections. The closure of a route might even deter people from making trips on foot completely. This could be balanced against the health impacts facing pedestrians from the ongoing crime or anti-social behaviour in the alleyway.

Before using a Public Space Protection Order to gate a local route local authorities should consider all representations. The local council should consider these representations and should be prepared to provide a full justification to anyone who objects to a proposed Public Space Protection Order.

#### **4 Legal**

If the PSPO is granted any interested party can challenge the decision within six weeks of it being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge.

Interested parties can challenge the validity of the a PSPO on two grounds

- a) That the council did not have the power to make the order, or to include particular prohibitions or requirements,
- b) That one of the requirements (for instance consultation) has not been complied with.

When the application is made the High Court can decide to suspend the operation of the PSPO pending the verdict in part or in totality. The High Court has the ability to uphold the PSPO, quash it, or vary it.

#### **5 Equality/Risk Assessment**

See Appendix 5. There are many groups of people who could be adversely affected if the public space protection order were to be granted. This is due to any other route being longer and more difficult to navigate for the elderly, disabled and those with young children. It could lead to greater car/bus use so could also negatively impact those on lower incomes.

Reputationally there is a lot of opposition to the proposed Public Space Protection Order and it is very likely that an objection would be raised if the decision was made to close the footpath. The evidence that has been collected does not support the closure, as closure of this footpath would have a significant impact on the users of the path.

## **6 Conclusion**

The consultation process and the public meeting hosted by Gainsborough Town Council highlighted a number of impacts that the closure of the footpath would have. The closure of the path would have a negative impact on members of the public as it is a very well used path, and it may move the anti-social behaviour to a different location.

Whilst the Council has the legitimate authority to implement the use of a Public Space Protection Order, it should take into account whether this course of action is a 'proportionate response'.

## **7 List of appendices**

- Appendix 1 Police report (exempt)
- Appendix 2 Enderby Crescent – proposed public space protection order
- Appendix 3 Consultation response
- Appendix 4 Full responses (Exempt)
- Appendix 5 Equality Impact Assessment

**WEST LINDSEY DISTRICT COUNCIL**

**Anti-Social Behaviour, Crime and Policing Act 2014, section 59  
Public Space Protection Order**

This order may be cited at the West Lindsey District Council – Enderby Crescent Public Space Protection Order 2016.

West Lindsey District Council (“the Council”), being satisfied that the conditions set out in Section 59(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) have been met in relation to the highway subject to this proposed order, namely that the premises adjoining the highway and in the close vicinity have suffered from criminal activity such as damage to fences, cars and windows, and anti-social behaviour including littering, and noise and nuisance from youths and people passing through the area via the footpath. Accordingly, these activities have had a detrimental effect on the quality of life of those in the locality, or it is likely that those activities will be carried out in the area and have such an effect. The Council is also satisfied that the effect, or likely effect, of the activities is, or is likely to be, of a persistent or continuing nature, and these activities are unreasonable and justify the restrictions imposed by the notice, and that it is in all circumstances expedient to make this order for the purpose of reducing crime and/or anti-social behaviour in a public place.

The Council in exercise of its powers under Sections 59, 64 and 72 of the Act and under all other enabling powers, hereby makes the following order:

1. The public right of way over the highways described in Schedule 1 to this Order shall be restricted at all times except for those persons listed in Schedule 2. The Order authorises the installation of gates which will enforce the access restriction. The aforementioned gates shall be maintained and operated by the Council, and the correct details of the responsible officer are: Community Safety Team tel 01427 676676. The gates will be locked and unlocked when appropriate by key holders.
2. The alternative routes for pedestrian access are as detailed in Schedule 3.
3. **Any person, other than those persons listed in Schedule 2, who is found on the highway described in Schedule 1, will be in breach of the order and liable to a fine or penalty described in Schedule 4**

**Schedule 1**

The highway in question is that highlighted on the map attached to this order, being the footpath running from Enderby Crescent, Gainsborough to the area known as ‘Rec Hill’, running between 15a and 17 Enderby Crescent. Access on to the highway is forbidden at all times to all persons except those listed in Schedule 2.

**Schedule 2**

Nothing in Schedule 1 relating to access only shall apply to:

- a) Fire brigade, police or NHS staff when in the exercise of their duties
- b) Employees, contractors or agents of statutory undertakers in relation to gas, electricity or water or telecommunications apparatus as defined in the Telecommunications Act 1994 situated in the relevant highway in connection with the laying, erecting, inspection, maintenance, alteration, repair, renewal or removal of any relevant apparatus.
- c) Council staff and its authorised contractors when in the exercise of their duties.
- d) Persons using the highway with the express permission or on the direction of a duly authorised council officer in this regard.

**Schedule 3**

The alternative routes for pedestrian access are via Pingle Hill to Middlefield Lane, or via Scouts Hill to Middlefield Lane. Plan of alternative routes is shown below.

**Schedule 4**

1. It is an offence for a person without reasonable excuse to engage in activity that is prohibited by this order, in this case to access or use the highway defined in Schedule 1.
2. A person found to be in breach of this order is liable on summary conviction to a maximum penalty of a level 3 fine or to a fixed penalty notice of £75.

The Order shall come in to operation on [            ] and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Councils statutory powers.

If any interested person requests to question the validity of this order on the grounds that the Council did not have the power to make the order or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the order is made.

GIVEN under the Common Seal of West Lindsey District Council on the ..... Day of ..... 2016

The Common Seal of  
West Lindsey District Council  
was hereunto affixed  
in the presence of

**Authorised Officer**

Map showing highway described in Schedule 1





Map showing alternative routes (in yellow) in relation to highway defined in Schedule 1 (in red)



## Appendix 3

### Consultation on a proposal to close the footpath between Enderby Crescent and 'Rec Hill' by use of a Public Spaces Protection Order, under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014

Consultation took place with both residents and organisations which might be affected with this proposal.

162 surveys were returned from residents and 20 received from organisations. On top of this a petition was received with 159 signatures of which 119 of those use the footpath.

#### Resident consultation:

1. Would you support using gates to close the footpath between Enderby Crescent and 'Rec Hill' for a minimum of three years?

16 (9.9%)	Yes
146 (90.1%)	No
2. In the past year have you been victim of crime or anti-social behaviour at your property that you believe is caused by people using the footpath?

6 (3.8%)	Yes - on more than 5 occasions
28 (17.6%)	Yes - on 1 to 5 occasions
125 (78.6%)	No

#### Organisation consultation:

1. Would you support using gates to close the footpath between Enderby Crescent and 'Rec Hill' for a minimum of three years?

3 (16.7%)	Yes
15 (83.3%)	No
2. Have you been involved in or affected by crime or anti-social behaviour activity in the area?

15 (83.3%)	No
3 (16.7%)	Yes - please give details:
2 (100.0%)	Issues included: Windows vandalised. Cars vandalised. Outside area of home vandalised. Rubbish continually thrown outside house. Constant shouting and swearing in street.

Full responses are attached as Appendix 4

## APPENDIX 5 - EQUALITY IMPACT ASSESSMENT

<b>Name, brief description and objectives of policy, procedure, function?</b>	proposal to close the footpath between Enderby Crescent and 'Rec Hill' by use of a Public Spaces Protection Order, under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014
<b>Have you consulted on the policy, Procedure, function and, if so, what were the outcomes?</b>	162 consultation papers were received
<b>What barriers may these individuals or groups face, and how can you promote equality (where possible)?</b>	
<b>Gender</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Age</b>	If the footpath were to be closed then the elderly may be impacted as any other route is further to walk, and any other path is steeper and not as easy to navigate.
<b>Disability</b>	If the footpath were to be closed then the disabled may be impacted as any other route is further to walk, and any other path is steeper and not as easy to navigate.
<b>Race</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Religion or Belief</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Sexual Orientation</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Gender Reassignment</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Pregnancy, Maternity and Paternity</b>	If the footpath were to be closed then this category may be impacted as any other route is further to walk, and any other path is steeper and not as easy to navigate.
<b>Marriage and Civil Partnership</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.

<b>Rural Isolation</b>	There is no evidence that this policy would impact on people in any way because of this characteristic.
<b>Socio-economic factors</b>	The path provides a convenient way to get from one area of gainsborough to the town centre. Any other route is further and this may lead to residents using other means of getting to town, this could have a negative impact on some who may not be able to readily afford bus or taxi fares.
<b>Other (e.g. those with dependants/caring responsibilities, asylum seeker and refugee communities, children in the care system, etc)</b>	This group may be affected as the path is used to take children to the local school. Any other route is further and therefore will have a detrimental effect.
<b>Is there any evidence or research that demonstrates why some individuals or groups are, or are not, affected</b>	This information has come out of the consultation exercise.
<b>If there is a potential adverse impact, please state why and whether this is justifiable</b>	The adverse impacts on some members of the community outweigh the benefits to be gained from closure of the footpath/
<b>Outcome of EIA</b>	No major change needed <input checked="" type="checkbox"/> Adjust the policy/proposal <input type="checkbox"/> Adverse impact but continue <input type="checkbox"/> Stop and remove the policy/proposal <input type="checkbox"/>