



Regulatory Committee

11th March 2021

Subject: Hemswell Cliff Public Space Protection Order

Report by:

Contact Officer:

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Purpose / Summary:

To provide an update on the Hemswell Cliff Public Space Protection Order (PSPO) and seek approval to consult upon its extension.

RECOMMENDATION(S):

Committee are asked to:

- a) Approve the proposal to consult upon the extension of the Hemswell Cliff Public Space Protection Order

IMPLICATIONS

Legal:

PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation. The Council intends to consult for its minimum 6 week period.

The Council can vary, extend or discharge a PSPO in line with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : FIN/137/21/SL

There is a cost associated with the consultation exercise (primarily staff time) and any publicity that is required. These will be met from existing service budgets.

Fixed penalty notices (FPN's) for breach of a PSPO are set at £100 with a £75 early payment incentive within fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

Staffing :

Staff time will be required to support the consultation process, however most of the responses are provided online.

The Council already has provision in place to monitor and enforce the PSPOs in place and it is not proposed that any subsequent approval will affect this as it is an extension of an existing order.

Equality and Diversity including Human Rights :

The proposed extension of this PSPO will not disadvantage any social groups over another, and the process will be applied fairly. The Councils approach to fixed penalties is outlined in its Corporate Enforcement Policy.

Data Protection Implications :

Not applicable.

Climate Related Risks and Opportunities:

Not applicable

Section 17 Crime and Disorder Considerations:

To make an order the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are 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
- Justifies the restrictions imposed

The report sets out the rational for the above in relation to Hemswell Cliff.

Health Implications:

Whilst there are no direct health implications referred to within this report, the PSPO is aimed at improving the quality of life within the designated area for its residents.

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

Regulatory Committee, 15th March 2018 item 6b. Report on Hemswell Cliff PSPO – recommendation on making an order

<https://democracy.west-lindsey.gov.uk/ieListDocuments.aspx?CIId=262&MIId=1970&Ver=4>

Risk Assessment :

Challenge in the High Court – the risk of this is reduced by following process and considering reasonableness throughout process

Consultation – in carrying out the consultation it may be that the Council has to amend its recommendation due to the responses received. The proposals for the PSPO would then be reviewed on that basis.

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

Key Decision:

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

Yes

No

1 Introduction

- 1.1 On the 4th June 2018, the Hemswell Cliff Public Space Protection Order came into effect, following on from its approval by the Council's Regulatory Committee. The PSPO is due to expire on 3rd June 2021, therefore this paper sets out the process that the Council intends to undertake to review it and determine its future.
- 1.2 The impact of the issues experienced at Hemswell Cliff have been well documented and it is still an area of the District within which the Council commits considerable resource to manage. Alongside this the Council has also invested in areas such as CCTV to assist with the overall management of the designated area.
- 1.3 This report proposes that the existing PSPO is extended for an additional three years and seek approval for consultation with the community to be undertaken to inform this.

2 Legal Position

- 2.1 PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. Orders can be extended and varied under sections 60 and 61 of the Act.
- 2.2 These Orders can be made on any land open to the air that the public has a right or entitlement of access to
- 2.3 To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:
 - Have had, or are 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
 - Justifies the restrictions imposed

3 Context

- 3.1 Hemswell Cliff is made up of mainly ex Ministry of Defence properties and the majority of land within the residential area is privately owned by a management company who are also responsible for various parts of the highway and infrastructure.
- 3.2 The area has experienced a particular issue with Anti-Social Behaviour since around 2016 and there are a number of factors that have contributed to this, namely; a relatively transient group of people who occupy private rented sector properties; poorly managed private rented sector properties; poor management of shared land and highways; a

high proportion of vulnerable persons or persons who require agency intervention.

3.3 Since its initial approval, the Council has installed (with partners) additional CCTV within the area and the Police now have a more permanent resource for the area.

3.4 The PSPO seeks to prohibit the following activities:

- No domestic or farm animals may be grazed or kept on the land, whether under tether or within a cage, or freely roaming
- Burning and bonfires are banned unless arranged by or with the written permission of the local authority
- Structures and equipment, including tents, trampolines, marquees and playground equipment, whether permanent or temporary, may not be placed on the land unless with the written permission of the local authority
- No vehicle may be parked on the designated land; for the purposes of the order 'vehicle' includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority
- No vehicle may be driven on the designated land; for the purposes of the order 'vehicle' includes any motor propelled vehicle including off road bikes and quad bikes or anything designed to be trailed by a motor propelled vehicle e.g. a trailer, horsebox or caravan. This does not apply to emergency vehicles responding to an emergency call, or vehicles used in or for an event arranged or agreed in writing by the local authority

4 Current Position

4.1 The current PSPO has been in place since 2018 and there have not been any fixed penalty notices issued in relation to breaches to date.

4.2 During this period there has been the following level of reporting against its restrictions:

Type	Volume
cars/vehicles parked on green space	11
Warnings attached to vehicles regarding parking on green	14
Structures left on green space (paddling pool and trampoline)	4
Animal grazing/loose animals	3
Bonfires	3
Incidents of unauthorised encampments	2

4.3 Alongside the PSPO the following reports have been made in relation to Hemswell Cliff

Type	Volume
General ASB	5
Intimidation Harassment	3
Noise nuisance	17
Fly-tipping (evidence)	2
Fly-tipping (no evidence)	23
Abandoned Vehicle reports	6

4.4 Officers have carried out proactive patrols of the designated area, generally on two occasions per week. This is interspersed with visits relating to any of the specific reports above. Other officers who do not enforce the PSPO are also aware of its requirements and report any issues for follow up to the enforcing officers.

4.5 The PSPO has presented a technical challenge in relation to parking on a green space. After its introduction, a change in regulations meant that the usual route for identifying a vehicle owner for this type of offence was prohibited. As a result, it is very difficult to issue a fixed penalty for this unless an individual is caught in the act by an officer.

4.6 During the period of time that the PSPO has been in place the following reports have been made to the Police in relation to the area:

Period	Volume of Reports to Police
1/1/18 to 31/5/18	81
1/6/18 to 31/12/18	24
1/1/19 to 31/5/19	3
1/6/19 to 31/12/19	4
1/1/20 to 31/5/20	21
1/6/20 to 26/1/21	11

4.7 There has been a significant decrease in the number of reports made to the Police since the PSPO came into effect. Whilst the PSPO alone cannot be solely responsible for this, it is clear that along with the other measures put in place it has had a positive impact.

4.8 Whilst it cannot be verified, it is likely that the increase during 2020 and into 2021 is linked to the Covid-19 pandemic.

5 Other Considerations

5.1 At its inception, the PSPO was aimed at addressing certain issues and to make clear to the residents within the area that there were restrictions in place for some of the activities that had been occurring previously. The Hemswell Residents Company (HRS), at that period in time, was

also less active than it is now in terms of its ability to respond to some of these issues.

- 5.2 The HRC has addresses issues across the designated area and will continue to do so. For example, they are taking steps to put in place a more permanent solution to address parking on grass as well as taking forward work to address the legal covenants in place for property owners. These legal covenants will address matters which the PSPO cannot, such as the repair of garages or the parking of caravans and larger vehicles such as this.
- 5.3 The installation of CCTV has been seen as a positive step for the community, however there is some conflict in relation to use of the CCTV to address PSPO matters. The targeted use of CCTV is not appropriate for fixed penalty offences of this nature, much in the same way as it would not be appropriate to use it for matters such as dog fouling. The CCTV is primarily in place to detect crime and ASB that would not be remedied using the PSPO.

6 Proposed Extension

- 6.1 Given the above information and on the basis that the PSPO has acted as an effective tool for managing some of the broader issues in relation to Hemswell Cliff it is proposed that the PSPO be extended for an additional three years.
- 6.2 The Authority is not required to consult on this matter, however it is deemed that consultation on the extension would be helpful in regards to establishing the level of support in relation to this. It will also help the Council to understand whether any improvements can be made to the PSPO.

7 Consultation

- 7.1 The legislation requires that a minimum 30 days consultation is carried out where appropriate. It is proposed, in line with the Council's standard to consult on this matter for 6 weeks, a period greater than the requirement.
- 7.2 Should approval be given to consult, the following timeline will apply:

Date	Action
11 March 2021	Agreement to be sought from Regulatory Committee
18 March 2021	Commence consultation
29 April 2021	Consultation closes
10 May 2021	Final proposal to Management Team
10 June 2021	Final proposal to Regulatory Committee
June 2021(tba)	PSPO to be extended (subject to approval)

- 7.3 Public notices will be produced for the extension of the order. These will be displayed in the Council Offices and its website and made available on request. The public notice will also be advertised in the local press.
- 7.4 A draft of the proposed order and a list of frequently asked questions will be made available online during the consultation period. The FAQs are shown in appendix 2.
- 7.5 There are a wide range of statutory consultees, including Parish Councils that will be advised of the consultation. Alongside this, information will be sent to organisations that have a specific interest in dogs to ensure that their views are represented.
- 7.6 The consultation forms themselves will be online and paper copies will be made available as required.
- 7.7 A copy of the FAQs for the consultation and the final order are shown in appendix 1 and 2.

8 **Recommendations**

8.1 Committee are asked to :

- a) Approve the proposal to consult upon the extension of the Hemswell Cliff Public Space Protection Order