



Regulatory Committee

Date 19 September 2017

Subject: Hemswell Cliff Public Space Protection Order – authority to consult

Report by:

Mark Sturgess
Chief Operating Officer

Contact Officer:

Kathryn Hearn
Senior Community Safety Officer
01427 675181
Kathryn.hearn@west-lindsey.gov.uk

Purpose / Summary:

To outline proposals relating to a proposed Public Space Protections Order, and to gain authority from Committee to consult in line

RECOMMENDATION(S):

Elected members are asked to:

- 1. Give authority to consult on the proposed PSPO;**
- 2. Approve the suggested consultation plan;**

IMPLICATIONS

Legal: These Orders 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.

Power to make a PSPO has been added to the Terms of Reference of this Committee

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 Ref:FIN/76/18

There will be costs associated with the consultation process, signage and publicity and resource costs. These should be relatively low and met from within existing budget provision.

Fixed penalty notices for breach of a PSPO are set at £75 with a £50 early payment incentive in fees and charges. This will increase from 1 April 2018 to £100 with a £75 early payment incentive. 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 and reporting back to Committee. Staff time will be required to deal with breaches to support the PSPOs. It is intended that multi-skilling enforcement staff will enable this with minimal impact on individual officers by sharing the load.

Equality and Diversity including Human Rights :

The PSPOs will not disadvantage any social groups over another, and the process will be applied fairly. Exemptions for fixed penalty notices for reasons of physical or mental impairment are detailed in the Fixed Penalty Enforcement Strategy.

Risk Assessment :

Challenge in the High Court – reduced by following process and considering reasonableness throughout process

Climate Related Risks and Opportunities :

Nil

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

None.

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

No

x

1 Introduction

- 1.1 West Lindsey District Council has been asked to consider making a Public Space Protection Order (PSPO) on land at Hemswell Cliff;
- 1.2 These Orders can be made on any land open to the air that the public have a right or entitlement of access to. This means that the legislation can apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company;
- 1.3 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;
- 1.4 A PSPO can require something to happen e.g. requirement to keep dogs on a lead, or ban something from happening e.g. banning drinking alcohol in a public space;
- 1.5 A PSPO lasts for three years, afterwhich it can be removed or extended. A PSPO can be removed or varied within the three year period if no longer needed;
- 1.6 Breach of a PSPO is a criminal offence, punishable by a fixed penalty notice or prosecution;
- 1.7 PSPOs, while a versatile and effective tool, have attracted some negativity nationally due to how they have been applied in some authority areas. It is therefore important to consider what activities the PSPO is aimed at stopping, whether those activities are deemed unreasonable, and whether the requirement or prohibition under the proposed PSPO is justifiable and enforceable;
- 1.8 The legislation requires that a minimum 30 days consultation is carried out prior to a decision being made to make a PSPO or not;
- 1.9 This paper is intended to outline the current proposed PSPO, the reasons behind the request and the requirements or prohibitions suggested, and to ask the Committee to agree for consultation to take place;

2 Background to the request

- 2.1 Since Autumn 2015 service requests to the council regarding Hemswell Cliff have risen, with concerns being raised about behaviours on the open spaces and roads that are affecting the community;
- 2.2 Hemswell Cliff has a complex ownership situation, with the roads and much of the open space being managed by a resident owned management company, and other areas owned by the Parish Council, plus a business park with areas in different ownership. This has led to some difficulty in tackling some issues, and has highlighted the need for a solution that applies to the area as a whole, rather than multiple minor interventions which only move a problem on;
- 2.3 The type of service request regularly received at the council has included:
- Burning waste/bonfires on public areas
 - Grazing of horses or other domestic animals on public land
 - Parking of vehicles on grassed areas, causing damage
 - Quad bikes and other vehicles being raced or driven over green spaces causing damage
 - Erecting structures on public land;
- 2.4 In 2017 there has also been work around vulnerability of residents and higher level crime and anti-social behaviour in Hemswell Cliff, including a piece of work by Pioneer to scope out wider proposals relating to the regeneration of the area, community safety, partnership working and economic development. Whilst a PSPO will not address more serious concerns in the village, it is a fact that a clean and maintained public space reduces fear of crime and anti-social behaviour, and by tackling low level environmental issues we can prevent escalation;
- 2.5 The Parish Council have formally requested that West Lindsey District Council consider a PSPO for the area. Given the number of concerns raised over the years about the public spaces, we can be satisfied that the land is used, or likely to be used, for activity detrimental to the quality of life of those in the area. This activity is likely to be persistent having gone on for a number of years, is unreasonable and would justify the restrictions imposed, safeguarding the public spaces for the community;
- 2.6 This is also a current priority area for the council and therefore action is required to support the regeneration and safety of Hemswell Cliff;

3 Proposal

- 3.1 The proposed conditions of the PSPO are as follows:

3.2 That on the land in figure 1:

- The grazing of horses and other domestic animals is banned
- The use of motor vehicles including quad bikes is banned, unless an emergency vehicle, or a vehicle acting on behalf of the Parish Council or resident owned management company (this will not apply to the roads or car parks)
- The parking of vehicles including quad bikes, caravans and trailers is banned, unless an emergency vehicle, or a vehicle acting on behalf of the Parish Council or resident owned management company (this will not apply to the roads or car parks)
- Burning or bonfires are banned, unless authorised or arranged by the Parish Council
- The erection of any type of structure is banned unless with the permission of the Parish Council;

3.3 This will apply to Parish Council and Management Company land, including green areas, but will not include private parking spaces or any private land that the public has no right or entitlement of access to.

3.4 That on the land in figure 2:

- The use of quad bikes is banned unless with the permission of the site manager
- Burning or bonfires are banned, unless authorised or arranged by the site manager
- The grazing of horses and other domestic animals is banned;

3.5 This will apply to the roads around the business area, the main car park and any green space that the public has a right or entitlement of access to. It will not include any private land belonging to businesses;

3.6 There is an option to extend the area covered to include the streets Gibraltar Road and Plassey Road, and to cover a wider area of the Business area, however we will have to confirm if other areas of the business park can be included or if they are classed as private land;

3.7 There is also an option to make no distinction between the residential and business areas and only have one set of conditions;

4 Consultation

4.1 Should approval be given for consulting the following is proposed:

- That consultation for the PSPO run alongside consultation for the Hemswell Cliff Neighbourhood Plan, with a start date intended for October 2017;

- That consultation will be discussed and agreed with the Parish Council, business park management and Ward Member prior to commencement;
- Statutory consultees will be notified by email where possible, and in writing otherwise (statutory consultees include elected member for the Ward, Parish Council, the Police and any other person directly affected by the proposal e.g. affected landowners);
- A Public Notice will be placed in local press;
- A press release will be sent to local newspapers and publications, and placed on the website and social media prior to consultation opening;
- Responses will be accepted in paper or electronic format. Paper forms will be made available at the school;
- The proposal will return to a Regulatory Committee, date to be confirmed, for a recommendation and decision on making the PSPO;

5 Recommendation

5.1 Elected members are asked to:

1. Give authority to consult on the proposed PSPO
2. Approve the suggested consultation plan

Figure 1 – residential area

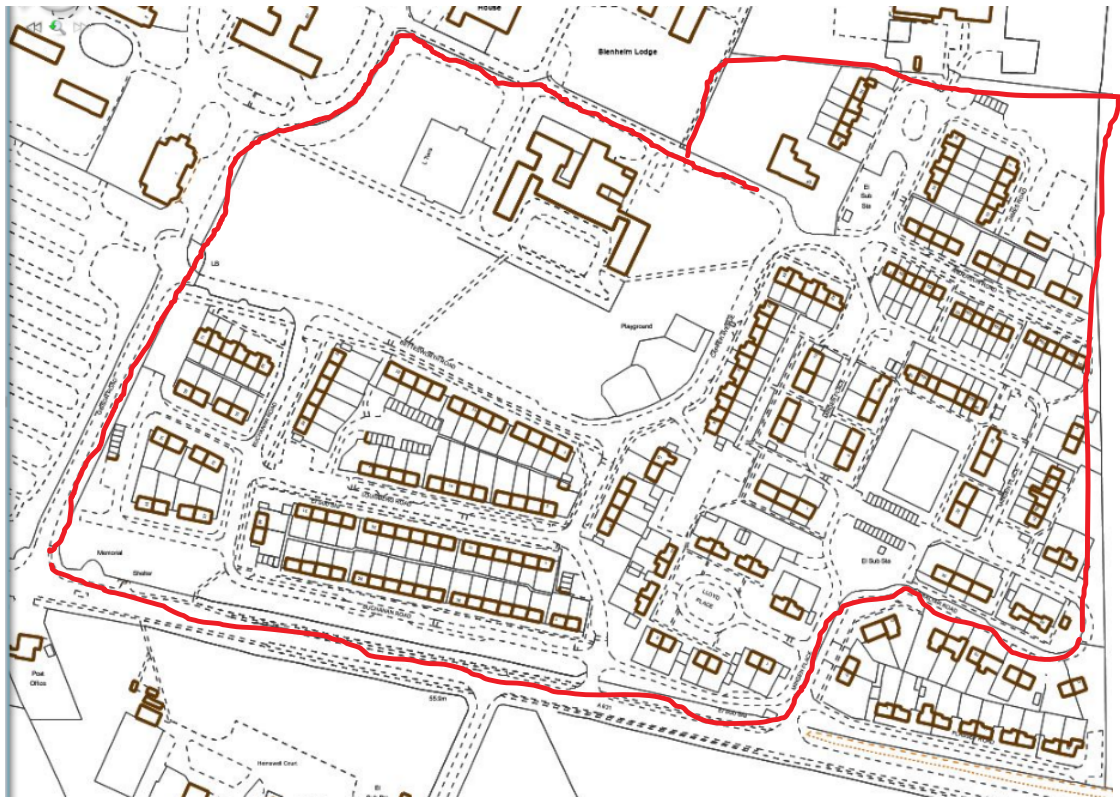


Figure 2 – business park

