



**Regulatory Committee**

**Date 15 March 2018**

**Subject: Hemswell Cliff Public Space Protection Order –  
recommendation on making an order**

Report by:

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Purpose / Summary:

To present the results of public consultation on the proposed order, and make a recommendation to members

**RECOMMENDATION(S):**

**Elected members are asked to:**

- 1. Note the results of the public consultation**
- 2. Approve the making of the Public Space Protection Order (PSPO), with an effective date of 16<sup>th</sup> April 2018**

## **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 implementation, 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 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. An Equality Impact Assessment has been completed.**

**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 held consultation on a proposal to make a Public Space Protection Order in Hemswell Cliff village.
- 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, after which 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 The PSPO is considered proportionate given the multiple and increased reports of anti-social behaviour and crime over the last few years, with environmental issues making a large part of the reports, and the visual deterioration in the village.
- 1.8 The PSPO is part of the actions towards Priority 2: 'Address Anti-Social Behaviour issues affecting both the environment and community safety' within the Hemswell Cliff Stabilisation and Normalisation Strategy, which was approved in December 2017 by Prosperous Communities Committee. The making of the PSPO will support stabilisation, and the enforcement normalisation, over the next three years.

## **2 Scope of the PSPO proposed**

- 2.1 The proposed PSPO which is the subject of this report aims to reduce unreasonable environmental incidents in the village and business park of Hemswell Cliff, which is having a severe detrimental effect on the amenity of the area, and the residents living there.

- 2.2 These include:
- Animals being grazed or housed on public spaces;
  - Burning and bonfires in public areas;
  - Numerous parked vehicles, including cars, vans and caravans on green spaces;
  - Use of public land for personal use;
  - Quad bikes, mini motos and scooters being used on public land causing nuisance and damage.
- 2.3 A copy of the full draft order can be found at Annex B.

### **3 Consultation**

- 3.1 Public consultation was held from 11<sup>th</sup> December 2017 to 22<sup>nd</sup> January 2018. This exceeded the statutory minimum consultation period of 30 days, and met the standard council consultation period of 6 weeks.
- 3.2 A Public Notice was placed in the local media on Thursday 7<sup>th</sup> December 2017 as required by legislation.
- 3.3 Articles on the consultation were placed in local press, on social media and the West Lindsey District Council (WLDC) website. The Parish Council for Hemswell Cliff also placed information about the consultation with links to the documents on their website and social media.
- 3.4 Consultation documents were available on the website, including the proposed order and the electronic consultation questionnaire, and paper copies of both were also made available in the West Lindsey offices in Gainsborough, and at the reception of the Hemswell Cliff Primary School.
- 3.5 Statutory consultees were notified by direct email, including a link to the website consultation page. Those notified in this way included:
- Police and Crime Commissioner;
  - Representatives of Lincolnshire Police including the area Inspector and Beat Team;
  - Hemswell Cliff Parish Council;
  - Elected Member for Hemswell Ward;
  - Directors of Resident Owned Management Company;
  - Managing Director of Hemswell Cliff Antiques, representing businesses on the Industrial site;
  - Head teacher Hemswell Cliff Primary School.

### **4 Outcome**

- 4.1 A total of 35 people responded to the consultation;

- 4.2 The responses were received from a wide range of users of the site (two indicated more than one option):
- |                          |     |
|--------------------------|-----|
| Resident                 | 18; |
| Business                 | 5;  |
| Landlord                 | 2;  |
| Visitor to business park | 2;  |
| Visiting a resident      | 2;  |
| Visitor to school        | 4;  |
| Teacher at school        | 4;  |
| School Governor (Chair)  | 1.  |
- 4.3 33 respondents indicated they had witnessed anti-social behaviour (ASB) or environmental issues in the village, with the other 2 stating that though they had not seen it they knew someone who had.
- 4.4 The following were mentioned as environmental issues seen in the village:
- Waste and litter (33 respondents);
  - Grazing animals (27 respondents);
  - Inconsiderate parking/parking on green spaces (30 respondents);
  - Quad bikes (25 respondents);
  - Bonfires (5 respondents);
  - Mini motos/motorbikes/scooters (4 respondents);
  - Caravan parked in public space;
  - Damage to fencing and hedges.
- 4.5 There were other matters raised, such as drinking in public spaces and fighting, which cannot come within the remit of a PSPO so are not listed here. These comments have been collated and will be considered within the scope of the wider place based strategy to ensure any possible action can be taken to tackle these issues too.
- 4.6 34 respondents were in favour of making the PSPO, and 1 was unsure. No respondents felt the PSPO should not be made.
- 4.7 A large number of comments were made and some of those relevant to what the PSPO can cover are listed at Annex A. Comments on issues outside the remit of the PSPO will be considered as mentioned in 4.5.

## **5. Recommendation**

- 5.1 Elected members are asked to:
1. Note the results of the public consultation
  2. Approve the making of the Public Space Protection Order, with an effective date of 16th April 2018

## **Annex A – comments relating to the PSPO**

The litter and general disrepair to the site reflects badly on the entrance to Hemswell Cliff Business Centre and is not welcoming to customers.

If you issue fines make sure you follow them up! Be strong in enforcing the law, rule hard to clear up the mess and be swift!!

The grazing of animals is not such an issue as long as they are looked after in an appropriate manner and cleaned up after.

Consistency, intent information distribution & formal sanctions for repeat offenders.

The rubbish/scrap metal and general waste in the area is an eyesore.

## **Annex B - RECOMMENDED ORDER**

### **WEST LINDSEY DISTRICT COUNCIL**

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

This order may be cited as the West Lindsey District Council – Hemswell Cliff Public Space Protection Order 2018.

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 this order in that the activities set out below have occurred in the vicinity and have had a detrimental effect on the quality of life of those in the locality, and it is likely that those activities will be carried out in the area and have such an effect in future without the order. 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:

- That within the area shown in the attached map, all land which to which the public has a right or entitlement of access will have the following prohibitions attached:
  1. No domestic or farm animals may be grazed or kept on the land, whether under tether or within a cage, or freely roaming
  2. Burning and bonfires are banned unless arranged by or with the written permission of the local authority
  3. 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
  
- That within the area shown in the attached map, all land to which the public has a right or entitlement of access with the exception of roads and car parks will have the following prohibitions attached
  1. 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
  2. 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

- Exemptions are listed at Schedule 1
- A map of the area is contained at Schedule 3

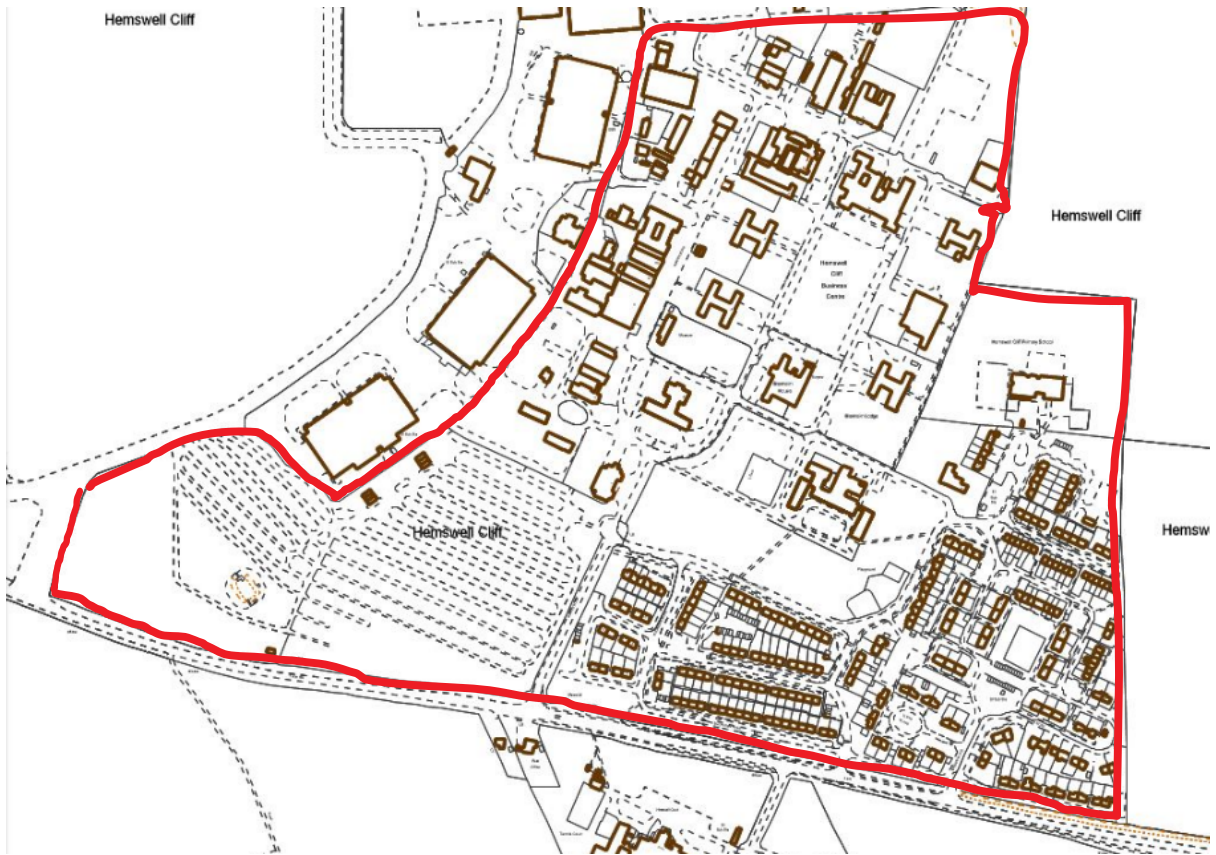
#### **Schedule 1**

1. There are no exemptions to this order further to those contained in the wording of the order.
2. The order will not apply to private land that the public have no right of access to, including gardens

#### **Schedule 2**

1. It is an offence for a person without reasonable excuse to fail to comply with this order.
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 up to £100.
3. Fixed penalty notices may be issued by an authorised officer. An authorised officer will be an officer of the District council, or any other suitably trained person, to whom the council has delegated powers under this legislation to issue fixed penalty notices. Warranted police officers and PCSOs in Lincolnshire are also authorised officers under this legislation.

#### **Schedule 3 – area to be covered by the PSPO**



The Order shall come in to operation on 16<sup>th</sup> April 2018 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 ..... 2017

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

**Authorised Officer**