

THURSDAY 7<sup>TH</sup> APRIL 2022**REPORT OF THE PORTFOLIO HOLDER TOWN CENTRE, VOLUNTARY SECTOR  
AND COMMUNITY SAFETY****ASB, CRIME AND POLICING ACT 2014 - PUBLIC SPACE PROTECTION ORDER  
CONSIDERATION****EXEMPT INFORMATION**

None

**PURPOSE**

To consider proposals for new Public Space Protection Orders (PSPO's) at Mercia Close, Tamworth

**RECOMMENDATIONS**

That Cabinet approve the progression to public consultation and submission to Infrastructure, Safety and Growth Scrutiny Committee, thereafter for a PSPO at:

- **Land running behind 1 to 35 Mercia Close, specifically the Public Right Of Way (Tamworth 25) that runs from No. 11 to No. 35**

**EXECUTIVE SUMMARY**

Processes for the consideration of Public Space Protection Orders, implemented under the Anti-Social Behaviour, Crime and Policing Act 2014, were approved at Cabinet on 18 June 2015.

The following conditions must be met before making the order:

- Activities carried out in a public place within the local authority's area have a detrimental effect on the quality of life of those living in the locality **OR**
- It is likely that activities will be carried out in a public place within the area that will have such an effect

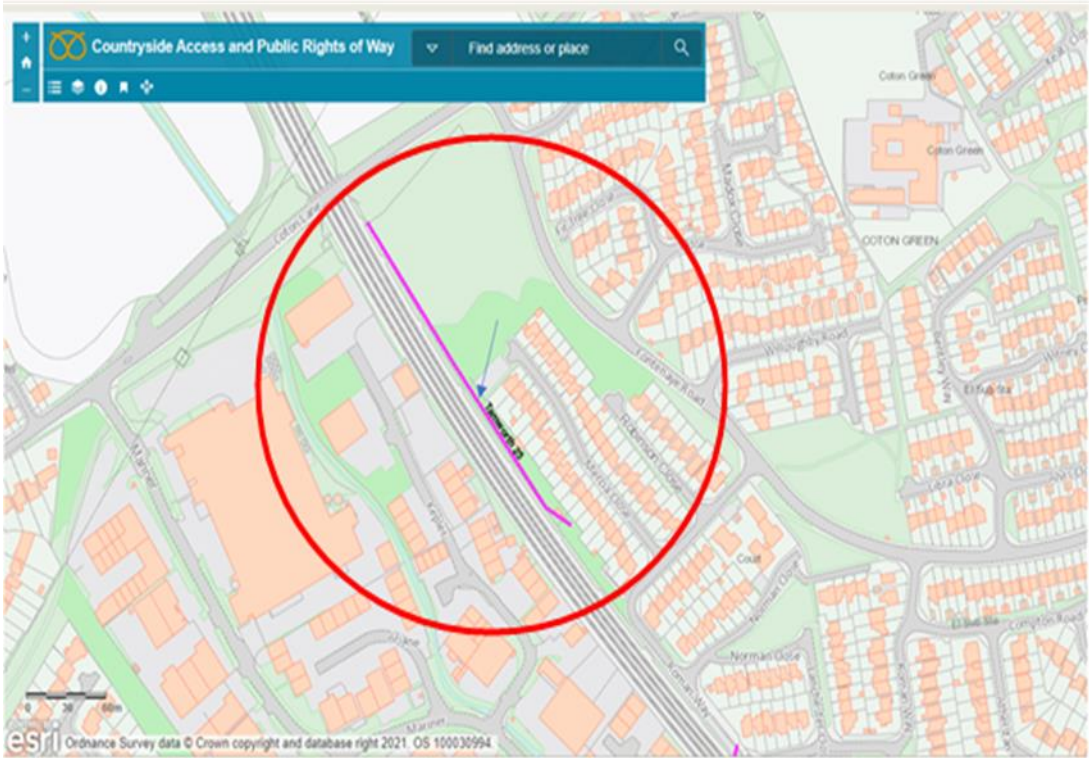
The effect, or likely effect of the activities:

- Is, or is likely to be, of a persistent or continuing nature **OR**
- Is, or is likely to be, such as to make the activities unreasonable *and* justifies the restrictions imposed by the order

In line with process, approval is sought to proceed to a statutory public consultation of 28 Days in accordance with the PSPO Guidelines for a PSPO (formerly Gating Order) at the following locations:-

- **Land running behind 1 to 35 Mercia Close in the ownership of Network Rail – specifically** land that runs behind No. 11 to No. 35 Mercia Close and which currently forms Public Right Of way:

The area at the end of No. 35 is where there is an old public right of way which only runs for around 10 houses (from No 35 to No 11). Staffordshire County Council have agreed that the public right of way can be secured



**Conditions of PSPO**

As per the process agreed, the area has been considered and all evidence gathered regarding significant waste and fly tipping issues. Reports have been received from residents, Network Rail, Staffordshire County Council and Community Wardens.

Network Rail have already placed a fence around the area to prevent flytipping, trespass, deliberate fires and behaviour causing alarm and distress and a PSPO is required to legally close the public right of way which runs across the land.

Staffordshire County Council have agreed, via consultation with the Public Rights of Way Officer that old right of way can be permanently closed at this location by introduction of a PSPO (previously a Gating Order) by use of the fencing erected by Network Rail.

Under the proposed terms the following is to be considered:

- Permanent public restriction of access to the land belonging to Network Rail to the rear of No 1 – No 35 Mercia Close
- Permanent closure of the ancient public right of way over footpath No 25 Tamworth Parish (to the rear of 35 Mercia Close to No 11 Mercia Close)
- Prohibition of the following on land belonging to Network Rail in the area outlined:
  - Flytipping, littering and any other behaviour which could be considered Anti-Social Behaviour or environmental crime

Nothing in the order shall restrict access to the land identified in the order by:

- Network Rail (landowner) in exercise of their duties
- Fire brigade, police or NHS staff when in the exercise of their duties
- 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.
- Council staff and its authorised contractors when in the exercise of their duties.
- Persons using the highway with the express permission of the landowner or on the direction of a duly authorised council officer in this regard.

Location map is included as Appendix 3.

### **Recommendation**

That a PSPO is considered for area considered and that 28 day further public consultation period is commenced on Monday 10<sup>th</sup> April 2022 as per the process. This will be advertised on the Council website and by letter to residents.

Draft PSPO attached as Appendix 2 with a recommendation that the order remains in force for 3 years. This will allow for monitoring and review by the Tamworth Community Safety Partnership. A PSPO can be reviewed and amended at any time on a case by case basis.

The order will allow the Police and Council delegated officers to move offenders along and/or issue Fixed Penalty Notices. Any signage will clearly indicate the requirement and the public consultation will gauge support for this.

The results of further consultation and move to implementation will be discussed at the first Infrastructure Safety and Growth Committee in the Council year (June 2022) Where there are no substantial objections, the Committee will be asked to support delegation to the Portfolio Holder for Town Centre, Voluntary Sector and Community Safety for sign off of the public notice for implementation of the PSPO as per the Anti-social Behaviour, Crime and Policing Act (Publication of Public Spaces Protection Orders) Regulations 2014

The earliest implementation date is likely to be 1<sup>st</sup> July 2022, after which time any

person wishing to challenge has six weeks to appeal to the High Court.

## **OPTIONS CONSIDERED**

All options and evidence has been considered as per Appendix 1 and proposals contained within the executive summary and background information.

## **RESOURCE IMPLICATIONS**

The use of Public Open Space Protection Orders requires enforcement resource and can be enforced by Community Wardens, Police officers and other Council officers as designated by Tamworth Borough Council.

Any PSPOs put in place require appropriate signage and advertising as per the The Anti-social Behavior, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 to be met from existing revenue streams. There is not requirement for public notice in the local newspaper.

The area at can be enforced by the Police and Community Wardens (when patrolling) and will be monitored over the next three years. Signage will provide options for the public to call to report breaches, but the order will not have immediate call out.

All residents will be informed of the decision of the Council by letter/email.

Network Rail have agreed to purchase the necessary PSPO signage for the area if the proposal is passed at no cost to the Council

All other recommendations will be subject to continued review by the Tamworth Community Safety Partnership as issues present.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

All legal risks covered by legislation and agreed process.

## **SUSTAINABILITY IMPLICATIONS**

The order will be reviewed in May 2025 should it be successfully implemented with a view to renewal.

## **BACKGROUND INFORMATION**

Evidence of concerns and actions are listed as Appendix 1

Working with Partners at Network Rail all fly-tipping was successfully removed as we had identified the land as owned by them. Network Rail contractors cleared the entire area of this waste.

Joint warning letters were issued to all residents that have access behind their

properties to the land in question and some removed the waste themselves after this early intervention measure was taken.

Network Rail have at their cost; security fenced the land at both ends as a preventative measure to stop access to the area most effected by the fly-tipping

One resident had complained that the security fencing had effectively closed this route off and has been informed by Network rail even though there would be a Right Of Way in the area this does not give them permission to have rear access gates on to the elements of NR land.

Further to discussions with The Right Of Way Officer at Staffs County Council, it was agreed that the right of way would not run parallel to the rear gardens but is more likely to run through the centre of the land.

There was an option for Network rail to fence the area creating an alleyway to the end of the Right Of Way; however this was considered to have potential to cause more issues when creating such an area on the land and could encourage further ASB. Residents were advised this was not an option and a PSPO (previously gating order) would have been best suited and allow for the legitimate fencing of the land by Network Rail to prevent further issues.

In addition the fencing has made the residential homes much more secure as access to the parcel of land is now secured both ends. Initial consultation with residents has indicated no objections to the fencing other than the one complainant.

The complaining resident had taken away their own garden access at the front side of the property and had installed a rear gate on to the land owned by NR this is an entry point that Network rail had not given permission for them to do. Any further objections with regards to this will be considered within the consultation period.

## **REPORT AUTHOR**

Jo Sands, Assistant Director Partnerships

Lee Hughes, Community Warden

## **LIST OF BACKGROUND PAPERS**

Cabinet Report 18 June 2015

Anti-Social Behaviour, Crime and Policing Act 2014

## **APPENDICES**

Appendix 1 – Evidence of ASB and concerns

Appendix 2 – Draft PSPO

Appendix 3 – Location map

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