

TUESDAY 14<sup>TH</sup> JUNE 2022

REPORT OF THE ASSISTANT DIRECTOR PARTNERSHIPS

ASB, CRIME AND POLICING ACT 2014 - PUBLIC SPACE PROTECTION ORDER  
CONSIDERATION

**EXEMPT INFORMATION**

None

**PURPOSE**

To consider public consultation received and support delegation to Portfolio Holder Voluntary Sector, Town Centre, Evening Economy and Community Safety for implementation of a Public Space Protection Orders (PSPO's) at Mercia Close, Tamworth

**RECOMMENDATIONS**

That the Committee:

1. Consider the results of the public consultation and recommend progression 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**
2. Recommend delegation for implementation of the PSPO to the Portfolio Holder Voluntary Sector, Town Centre, Evening Economy and Community Safety

**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

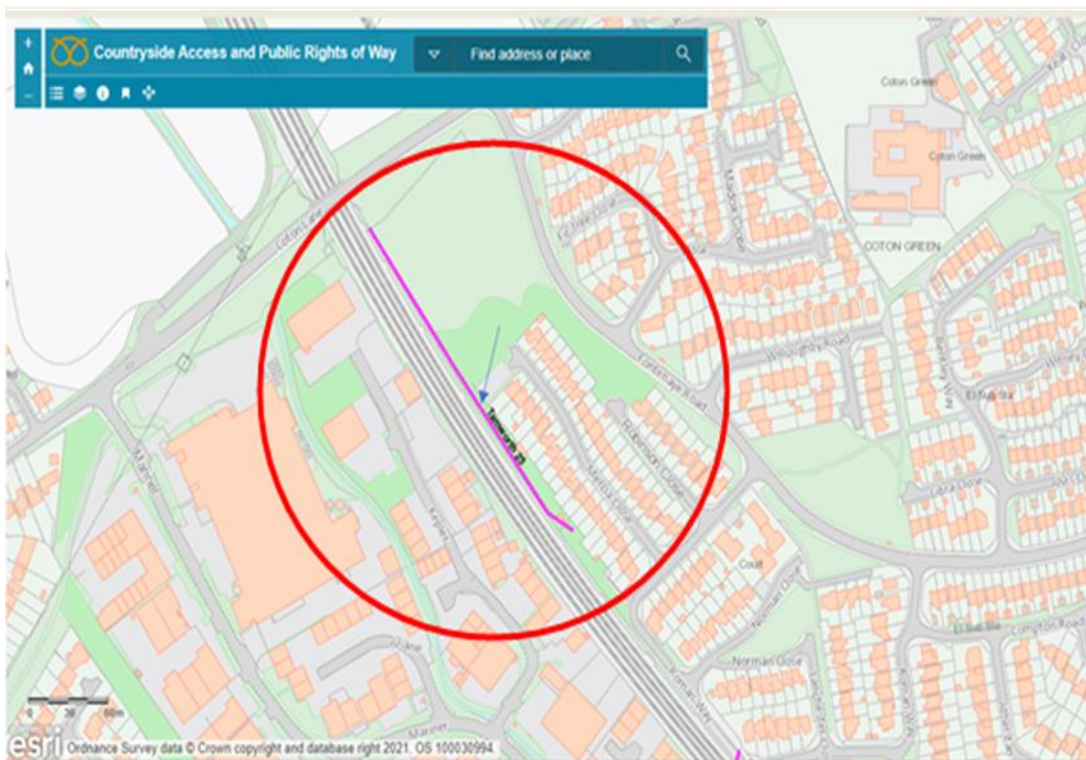
The effect, or likely effect of the activities:

- 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, Cabinet approved a statutory public consultation of 28 Days in accordance with the 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



The area has been considered due to significant waste and fly tipping issues. Network Rail have already placed a fence around the area to prevent flytipping, trespass, deliberate fires and behaviour causing alarm and distress and the consultation for PSPO to legally close the public right of way which runs across the land to prevent issue closed on 7<sup>th</sup> May 2022

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 Public Space Protection Order (PSPO) (previously a Gating Order) by use of the fencing erected by Network Rail.

## **Consultation**

All affected residents received a hand delivered letter and the consultation was open on the Council website.

The public were consulted on the following proposals:

- 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

One Email was sent in by a resident who was in favour of the proposal

One resident indicated verbal support to the Community Warden during area visit.

Verbal support has also been given by a resident who originally suggested opposition to the proposal and that they would not be making any objection.

All resident have indicated that it has been better since the area has been fenced.

Staffordshire County Council have raised no further concerns.

Delegation to the Portfolio Holder is proposed for Implementation of the attached PSPO (Appendix 1) for a period of 3 years commencing 1<sup>st</sup> July 2022, after which time appeal can only be made in the High Court

## **OPTIONS CONSIDERED**

Not to implement the Public Space Protection Order - No objections have been received; therefore the Council is able to implement the PSPO via delegation to the Portfolio Holder.

## **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.

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

Monitoring of the PSPO 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**

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 illegal entry point and one that Network rail had not given permission for them to do, therefore should not be considered as part of any mitigation or appeal against the fencing that has been installed or subsequently the PSPO proposal is approval is granted.

**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 – Draft PSPO