

Bolsover District Council

Executive

7th September 2015

Proposed Public Space Protection Order for Footpath 18, Shirebrook

Report of the Portfolio Holder for Community Cohesion, Audit, Legal and Governance

This report is public

Purpose of the Report

To ask members of Cabinet to authorise the making of a Public Spaces Protection Order in relation to a section of Footpath 18 to the rear of part of Sookholme Road, Shirebrook. The proposal is to gate off the section of the footpath between points A and C on the attached plan (Appendix 1). A copy of the draft Bolsover District Council (Sookholme Road, Shirebrook) Public Spaces Protection Order No.1 of 2015 is appended to this report (Appendix 2).

1 Report Details

This report concerns problems on a stretch of Footpath 18, approximately 280 metres long. The footpath runs from Long Lane to the west along the rear of properties on Sookholme Road where it joins Sookholme Road itself at point B. The south side of the footpath borders onto Brook Park with trees and undergrowth next to a chainlike fence. The footpath leading north to point C is bordered to the east by a damaged chain link fence and on the Town Council allotment side by trees and undergrowth. There are concrete drainage pipes approximately 2 metres in diameter which had been positioned to stop nuisance motor bikes and which over time have been filled with litter.

Background.

Comments from Councillor Murray-Carr, local Member and former portfolio holder for Community Safety provide a useful background to the problems

For many years I have been actively involved in trying to resolve the problems with Footpath 18.

Problems first started to occur in this area following EMDA's Shirebrook Colliery reclamation scheme. The open nature of the area with the embankment to the rear was an issue until the vegetation at the bottom of the embankment was allowed to grow to form a screen.

Despite this residents continued to experience problems. In my role as Cabinet Member for Community Safety I have been Chair and Vice Chair of the Community Safety Partnership. At partnership meeting problems on Footpath 18 arose on a regular basis.

Further at Bolsover District Council tasking meeting problems were raised on a weekly basis. About 2 years ago the Police expressed concerns due to increased complaints from the public. Further problems were discussed regularly at the Community Cohesion Group of the Community Safety Partnership due to the level of anti-social behaviour by people using the footpath and the number of incidents requiring a police presence. The types of behaviour reported include drug and substance abuse, consumption of alcohol and related litter dog fouling, human excrement and damage to fence panels. Police have had to deal with incidents such as attempted break-ins and disturbances particularly late in the evening .

The Community Safety Partnership tried to tackle this by displaying notices at a number of locations along Footpath 18 in both Polish and English.

Further I made an approach to Derbyshire County Council to see whether they would consider closing off the footpath. They advised that the best way to do this way by a Public Space Protection Order under the new legislation.

Public Spaces Protection Orders (PSPOs) are new powers introduced by the Anti-social Behaviour, Crime and Policing Act 2014 ("the Act"). These are orders that may be imposed where activities are taking place in areas that are or are likely be detrimental to the local community's quality of life.

PSPOs impose conditions or restrictions on people using that area. This includes the ability to restrict public right's way over highways including footpaths. This replaces the former Gating Order power in the Highways Act 1980

PSPO Legal Requirements

Section 59 of the Act requires that before a local authority makes a PSPO it must be satisfied on reasonable grounds that two conditions are met.

The first condition is that either:

(a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or

(b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—(a) is, or is likely to be, of a persistent or continuing nature, (b) is, or is likely to be, such as to make the activities unreasonable, and (c) justifies the restrictions by the notice

Evidence of anti-social behaviour on Footpath 18.

Problems with a section of the footpath to the rear of a number of properties on Sookholme Road— the properties between the allotment gardens and number 12 Sookholme Road- has been experienced by the residents for many years. In order to obtain an accurate picture of the problems experienced by the residents they have been asked to complete a questionnaire. The completed questionnaires (redacted) are attached (Appendix 3) and a summary of the responses are set out below.

Resident 1-

Lived at property for 32 years. Experienced problems for last 9 years

Problems experienced:

People camping out making fires; Shouting; Using it as toilet; Climbed over back; Tipped pots over; Thrown beer cans over, bags of rubbish and even a full loaf of bread; You can not say anything to them- it is not safe; Would feel safer if the footpath was fenced off.

Resident 2-

Lived at property for 29 years. Experienced problems for last 10 years and problems are getting worse.

Problems experienced:

Drinking 24 hours a day; Sleeping; Using it for drugs and for toilet; Hiding stolen goods; Throwing all kinds of things onto our gardens- beer cans, food a garden fork missed our dog by inches; Garage broken into a number of times so we bricked it up; We ask them to move on and the put two fingers up to our faces; We cannot sit in the garden without trouble from the back lane.

Stopping off the footpath would make it safer for people who live there.

Resident 3

Lived at property for 38 years. Experienced problems for approximately 11 years.

Problems experienced:

Drinking; Urinating; Defacating, Drugs- men with needles stuck in their arms; Sex; Starting fires; Breaking glass and throwing onto garden; Attempted break in of garage; Shouting; Verbal abuse; Grafitti on garage door; Hiding stolen goods in bushes and trees; Fly tipping; Verbal abuse; Something happening every week; Been told by police not to go out to them as it is dangerous; Can not sit in garden in peace

Gating off the footpath will give residents peace of mind and help us feel safer in our homes. Should be able to use the garage without feeling frightened and intimidated

Resident 4

Lived at property for 16 years. Experienced problems for "too long".

Problems experienced:

Drinking; Swearing- can't relax in garden because of foul language coming over hedges; Urinating; Defacating; Looking into windows; Putting two fingers up to daughter; Climbing trees to look into property; Sleeping on footpath; Starting fires.

They don't like to leave the property vacant for long periods of time

Resident 5

Lived at property for 38 years. Experienced problems for “too long”.

Problems experienced:

Swearing; drinking; urinating; defacating- can't relax in garden because of shouting and swearing over hedge; Looking onto property; Fire starting; Sleeping on footpath

They don't like to leave the property vacant for long periods of time

Resident 6.

Lived at property for 1½ years. Experienced problems for last 1½ years.

Problems experienced

Sleeping behind my property; Leaving food waste, old cans bottles etc; Going to the toilet behind gates leaving used toilet paper; Jumping over onto our properties from A frame; Shouting when drunk, making dogs bark; Recently saw a man with a needle sticking it in his arm; Glass bottles (broken) thrown over- we have a two year old

Resident 7

Lived at property for 36 years.

No problems experienced.

One further resident failed to return the questionnaire.

Police involvement:

The police regularly receive complaints. Below are a records of call received of incidents on the footpath between January and May 2014:

28/01/2014 – I went to work this morning at 7.15 Hrs and before I went out the dogs were going crazy as were the neighbours dogs. I didn't notice anything at the time but since I got back I have notice someone has tried to open very large heavy side gate and have pushed over fridges that were stacked two high in the back yard. Also the garage door was open. It was closed to but not locked when I went out. I cannot tell if anything has been stolen till my husband comes home.

20/02/2014 – Someone is looking through the gates and acting suspiciously.

15/04/2014 – There are 4/5 Polish males who are drinking alcohol behind the Sookholme Allotments, they are and shouting and being a nuisance, the problem is regular and it is intimidating the Local Police are aware, please can police attend and take a look.

25/04/2014 – My husband has been for a walk and come home with a big blue box full of tools including a rock breaker, the box was in a big black bag which was in an Aldi bag. It

was on the lane and I think that someone was probably going to come and pick it up. It is with us now if you want to collect it.

06/05/2014 – A neighbour has informed me that someone has been taking pictures of my house & 2 others next to each other in the last 30 mins. There is a footpath that runs at the back of my house which is also near to Sports World. There have been all sorts going on there, recently which I have reported to the police. I don't have a description of the person taking these photos and don't wish to see an officer I just want to log this incident as the local beat officers have advised me to report any suspicious activity. My husband works late and I am on my own with a one year old.

12/05/2014 – A few weeks ago I rang up as there were some Polish men drinking near where I was working on my allotment. They are back again now, there are two of them sitting under a tree. I don't know what they are doing but they keep shouting things and it is intimidating.

18/05/2014 – Gang drinking at the lane at back of Sookholme Road. It's the Polish – it's always happening. If they start a fire we are likely to go up with it.

Other Complaints.

In addition to complaints direct from residents the Council has received complaints from Shirbrook Town Council and from Dennis Skinner, M.P. Copies of these complaints are attached (Appendix 4 and 5). Also below is a text of an email from Bolsover Careline to Street Services

“Central Control received a call from Councillor Brian Murray Carr 01623 743427 at 20.45 hrs asking me to send you this email. He is requesting the clean-up of footpath 18 at the rear of garage doors as there is excrement” (human)

In addition to the general conditions for a PSPO there additional requirement for local authority wishing to restrict public use of a public highway. Section 64 of the Act requires a local authority to consider:

(a) the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway- the Council has consulted with the residents adjoining the footpath who are in support of the proposal. In any case the restrictions will not impinge on the use of their properties other than the residents at Sookholme Road who may need to use part of the footpath to gain access to garages at the rear of their properties. It is proposed that residents who require access be provided with a key to a gate that will be installed at point A. The Council has also consulted the Homes and Communities Agency who owns the land immediately to the north of the land. They have not provided a response and in any case as there are no access points to and from the HCA's land onto the footpath there should be no effect. The footpath also adjoins the Town Council's allotments which do not require access to and from the footpath;

(b) the likely effect of making the order on other persons in the locality. It is believed that due to the activities the footpath is not used as a thoroughfare and so the order will have

no effect on other persons. Nevertheless notices have been put in place asking for people's views on the proposal. No views or comments have been received; and

(c) in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route- there is a short diversion available for people wishing to walk along Footpath 18. This is from point A on the plan, down Long Lane, turning right to Sookholme Road to point B. This is considered to be a convenient alternative route.

Further, before making an order restricting use of the public highway, a local authority must notify potentially affected persons of the proposed order, give them an opportunity to make representations and consider and representations made. A copy of the proposed order is appended to this report. It is proposed that if Members approve the order a copy will be sent to affected persons, i.e. the owners of adjoining land. If no representations are made within 28 days that warrant bringing the matter back to Executive the order will be made.

Miscellaneous

Human Rights: When considering making an order a local authority must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention of Human Rights. The order does not impact on the freedom of expression. The freedom of assembly gives everyone the right to freedom of peaceful assembly and no restriction shall be placed on these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. Whereas it may be argued that preventing access to a public highway impinges on someone's rights of assembly it is clear that these restrictions are necessary to prevent disorder or crime

Length of the order: An order can be in place for up to 3 years although this period can be extended before the end of the 3 years if it is appropriate to do so. It is proposed that the Footpath 18 order will be for 3 years unless extended.

Breach and sanction: Anyone who breaches this order is guilty of an offence and is liable on conviction to a fine of up to £1,000. A person could avoid conviction if served with and pays a fixed penalty notice. The penalty imposed by such notices can be up to £100. It is proposed the penalty for breaching this order be the maximum.

2 Conclusions and Reasons for Recommendation

It is considered that the instances of ant-social behaviour justifies the making of an order i.e. the activities carried on Footpath 18 within the authority's area have had a detrimental effect on the quality of life of residents on Sookholme Road; and the activities are persistent and continuing, unreasonable, and of nature that justifies restrictions. Further the effect of the order will not adversely affect adjoining owners and there is a convenient alternative route.

3 Consultation and Equality Impact

There is a statutory requirement to consult with the Police and appropriate community representatives as well as the owner of the land before introducing a PSPO. This has taken place and a letter of support has been received from Alan Charles, Police & Crime Commissioner for Derbyshire (Appendix 6).

4 Alternative Options and Reasons for Rejection

Do nothing. Rejected as the area is deteriorating and action is needed to address this.

5 Implications

5.1 Finance and Risk Implications

To ensure that the order can be successful the Council will need to erect gates and fencing . The following quotations have been received:

At Point A – install galvanized 3D section security fencing and 1 No 1.20m wide single pedestrian gate- £1,480.00;

At Point B- install galvanized 3D section security fencing- £637.50 plus VAT

At Point C- install galvanized 3D section security fencing- £722.50 plus VAT

There will also be costs in producing notices to be erected either end of the footpath.

The Assistant Director of Community Safety and Head of Housing will identify an appropriate budget.

5.2 Legal Implications including Data Protection

As contained in the report.

In addition it is proposed that the Council's Delegation Scheme be amended to the CEO to make such an Order. There is therefore a further recommendation to recommend that Standards Committee authorises such an amendment to the Delegation Scheme .

5.3 Human Resources Implications

None

6 Recommendations

1. That Members authorise the making of the Bolsover District Council (Sookholme Road, Shirebrook) Public Spaces Protection Order No.1 of 2015 in line with the draft order appended to the report

2. That Standards Committee be recommended to amend the Officer Delegation Scheme to enable the Chief Executive Officer to authorise the making of Public Space Protection Orders under Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014

7 Decision Information

Is the decision a Key Decision? (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
District Wards Affected	
Links to Corporate Plan priorities or Policy Framework	

8 Document Information

Appendix No	Title
1	Plan
2	Draft Public Space Protection Order
3	Questionnaires completed by Sookholme Road residents
4	Letters from Shirebrook Town Council
5	Letter from Dennis Skinner M.P.
6	Letter from Police and Crime Commissioner
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	Contact Number
Jim Fieldsend	01246 242472