

HAMBLETON DISTRICT COUNCIL

Report To: Cabinet
15 January 2019

Subject: PUBLIC SPACE PROTECTION ORDERS

**Exelby, Leeming and Londonderry and Thirsk Wards
Portfolio Holder for Leisure: Councillor Mrs B S Fortune**

1.0 PURPOSE AND BACKGROUND:

- 1.1 To consider a proposal to implement a Public Space Protection Order at Leeming Bar and Thirsk Industrial Estates to help address persistent anti-social behaviour.
- 1.2 Over the last three years concerns have been raised by local residents and businesses about the persistent anti-social behaviour displayed predominately overnight by lorry drivers in the Leeming Bar and Thirsk Industrial Estates. The anti-social behaviour that has been reported is stated to be having a detrimental effect on the quality of life of those in the area which includes littering, early morning engine noise, criminal damage, refrigeration noises through the night, inappropriate parking, road safety concerns and human excrement left on premises including children's nurseries and residents gardens. Recent late evening spot checks on both estates evidence that between 15 and 40 vehicles continue to be parked on each estate or surrounding area on most weekday evenings.
- 1.3 As a result of this behaviour consideration is being given to introducing a Public Space Protection Order. Public Space Protection Orders were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and are intended to deal with a particular nuisance or problems in a particular area that is detrimental to the local community's quality of life. Unitary and district councils are responsible for making Public Space Protection Orders although Hambleton District Council has not previously implemented such an order.
- 1.4 A Public Space Protection Order imposes conditions on the use of the area over which it is introduced. Home Office statutory guidance states that proposed restrictions should focus on specific behaviours and be proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring. Orders can be introduced for up to three years, and may be extended beyond this for a further three years where certain criteria are met. The proposed length should reflect the need for an appropriate and proportionate response to the problem issue.
- 1.5 Previous multi agency discussions have not identified a suitable long term solution and a recommendation to introduce Public Space Protection Orders over both Leeming Bar and Thirsk Industrial Estates with the following restrictions is proposed:
 - 1.5.1 All persons shall not be permitted to remain overnight in any vehicles including a HGV or campervan or motorhome or a temporary structure that is designed or intended to provide shelter or accommodation.
 - 1.5.2 If instructed to do so by an authorised officer a person shall clear away any vehicles, temporary structure and/or associated paraphernalia without delay
- 1.6 Prior to a Public Space Protection Order being made the Council is required to consult key stakeholders including the Police, parish/town councils, North Yorkshire County Council, the community and land owners. The purpose of the consultation is to help identify the issues that need to be included in the Public Space Protection Order, as well as to provide the opportunity to discuss the practicalities of introducing a Public Space Protection Order with other agencies. Between 27 June 2018 and 25 July 2018 a public consultation was

held in the form of a survey (paper and on-line – see Appendix 1) with information published in the media (including social media and the council’s website). Leaflet drops to residents and businesses were also made and 4 consultation events were held in Leeming Bar and Thirsk for face to face discussions to take place.

1.7 Below is a summary of the key results of the consultation:

Do you agree with the proposed Public Space Protection Order for the areas identified on the maps?	Leeming Bar		Thirsk	
	YES	NO	YES	NO
All responses	158 (53%)	138 (47%)	83 (38%)	136 (62%)
Community and business responses only	158 (75%)	52 (25%)	83 (61%)	51 (39%)

1.8 When “all responses” are taken into account there is a small majority in favour of the proposal at Leeming Bar and a majority against it at Thirsk. “All responses” include 93 from lorry drivers who were against a Public Space Protection Order for both areas (regardless of which area they park). When consideration is taken of just the responses from the community and businesses 75% are in support of the proposals at Leeming Bar and 61% in support of the proposals at Thirsk. A full copy of the survey response is at Appendix 2.

1.9 In addition, the Council has engaged with North Yorkshire County Council Highways Authority who have expressed views on enforcement, displacement, signage and joint working. The Council is mindful of these matters and is addressing them in a constructive and reasonable manner, whilst not losing sight of the primary issue of anti-social behaviour. North Yorkshire County Council Highways comments are included in Appendix 3.

1.10 As part of the statutory consultation and long term problem solving to the issues being reported, the Council has engaged with and consulted with North Yorkshire Police. Responsibility for consideration of a Public Space Protection Order is delegated to the Neighbourhood Policing Inspector. Through detailed discussions and assessment of the consultation documents, the Hambleton Neighbourhood Policing Inspector fully supports the consideration of a Public Space Protection Order in both areas. The local North Yorkshire Police Neighbourhood Teams have been dealing regularly with complaints of the anti-social behaviour occurring and have worked alongside the Safer Hambleton Hub to try and tackle this issue in other ways – issuing educational leaflets, speaking with drivers etc. The Inspector fully recognises the detrimental impact this issue has on the local community as well as recognising that there are limited powers available to Police Officers to tackle this ongoing, persistent concern for residents and businesses. The Inspector acknowledges that any Public Space Protection Order would need careful and detailed evaluation within a suitable timeframe following introduction to assess the impact of the conditions.

1.11 There must be enforcement of the conditions if the Public Space Protection Order is to have any tangible impacts. Reliance upon CCTV provision would not be sufficiently effective given the widespread layout of the Industrial Estates. It is possible for delegation to be given to North Yorkshire Police to enforce the conditions through the use of a Fixed Penalty Notice payable to Hambleton District Council as per the legislation. The Hambleton Neighbourhood Policing Inspector has indicated that he would be happy for the local Neighbourhood Policing Teams to play a part in an effective and collaborative enforcement strategy. In order to ensure effectiveness of the enforcement powers, Hambleton District Council would need to consider all options. This could include engaging with Scarborough Borough Council to provide an enforcement service – subject to their agreement and the amendment to the North Yorkshire County Council deed of commitment, and amendment to Hambleton District Council’s agreement. Similarly the Director for Leisure and Environment could delegate authority to an authorised person(s) from within the council (or contract in) to undertake the enforcement role based on public reports or police statements.

- 1.12 Taking account of consultation results and views from North Yorkshire County Council and North Yorkshire Police it is proposed that a Public Space Protection Order is implemented at Leeming Bar Industrial Estate and surrounding area (Appendix 1) for up to the maximum 3 year period as set out in the Anti-Social Behaviour, Crime and Policing Act 2014, with a built in review at 6 months. Sufficient time also needs to be given to obtain any necessary planning permission for signage, effective implementation and advance warning to drivers and the community. This decision has taken into account that Hambleton District Council has previously provided planning permission for two lorry parks to meet demands and that the Leeming Bar Motel provides 24 hour toilet facilities at their lorry park. Lorry parks in the immediate area charge between £13 and £19 per night which can include a meal vouchers and access to facilities including Wi-Fi.
- 1.13 The 6 month review would include engagement with North Yorkshire County Council Highways, North Yorkshire Police and other key stakeholders. If the order has not worked and has just moved the problems elsewhere then the Public Space Protection Order could be discharged. If the order is proven to work, consideration will then be given to implementing a Public Space Protection Order at Thirsk Industrial Estate that addresses the specific issues encounter at this site.

2.0 LINK TO COUNCIL PRIORITIES:

- 2.1 In addition to underpinning the Council's "Enhancing Health and Wellbeing" priority this proposal contributes to the Council's Community Leadership purpose to lead, engage and support all residents, businesses and communities across the district to enable everyone together to make a difference. The proposal is being made in response to the needs of the community, residents and businesses, and will result in the council working with partners to make best use of its devolved powers for local decision making.
- 2.2 This proposal also contributes to the Council's "Providing a Special Place to Live" priority by reducing crime and disorder (anti-social behaviour).

3.0 RISK ASSESSMENT:

3.1 Risks in approving the recommendations:-

Risk	Implication	Prob*	Imp*	Total	Preventative action
Lorry displacement	Other areas then becoming affected by lorry drivers' anti-social behaviour	4	3	12	Ensuring that lorry parking facilities have capacity for more vehicles; clear signage for where lorries can park
Ineffective enforcement (or lack of)	The Public Space Protection Order is non-effective and the problems persists	4	3	12	A procedure will be agreed with clear performance measures to ensure that enforcement is carried out as required

3.2 The key risk in not approving the recommendations as shown below:-

Risk	Implication	Prob*	Imp*	Total	Preventative action
Continued anti-social behaviour from lorry drivers	Continued complaints from residents and businesses, resulting in reputational damage to the Council	5	3	15	Action could continue to be managed through the Safer Hambleton Hub but with less of an impact without powers to remove people from the area

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

4.0 FINANCIAL IMPLICATIONS:

- 4.1 If a Public Space Protection Order is granted, there will be costs incurred for signage, enforcement of the orders and general operations.
- 4.2 It is recommended that the Fixed Penalty Notice should be set at £100 and all revenue from issued Fixed Penalty Notices would be payable to Hambleton District Council and used to off-set any expenditure associated with implementing and managing the order.
- 4.3 Overall the estimated annual indicative revenue effects of implementing and policing a Public Space Protection Order at Leeming Bar will be as follows:-

Revenue Effects (for 6 months)	2019/20 £
Cost of: <ul style="list-style-type: none">• Signage• Fixed Penalty Notice booklets• Training of authorised persons• Enforcement (2 hours per night x 5 nights x 6 months)	£1,000.00 £500.00 £100.00 £5,200.00
Financed by: Income from fixed penalties (indicative) at £100 each x 68 penalties (this has been estimated on a sliding scale over the period)	<u>£6,800.00</u>

- 4.4 Further consideration will be needed after completing the 6 month review should the Public Space Protection Order be discharged and/or the Public Space Protection Order at Thirsk be introduced. The future intention is that the financial implications of the exercise will be cost neutral.

5.0 LEGAL IMPLICATIONS:

- 5.1 The Crime and Policing Act 2014 has been introduced and designed to put victims at the heart of the response to anti-social behaviour and give professionals the flexibility they need to deal with any given situation through six powers, of which Public Space Protection Orders are one. District/Unitary Councils are responsible for making new Public Space Protection Orders although enforcement powers can be much wider. The process which has been followed to date of taking the land category into account, consulting all parties and the content and terms of the proposed Public Space Protection Order meets the requirement of the Act. Any interested party (who lives in, regularly works in or visits the restricted area) can challenge the Public Space Protection Order when it is made or varied. They must challenge within 6 weeks of the order being made or varied to the High Court. The High Court can suspend operation of the Public Space Protection Order whilst it is appealed and ultimately uphold, quash or vary the Public Space Protection Order.
- 5.2 The Convention rights of the Human Rights Act 1988 provided for in Article 8 (which provides for the right for the respect for one's home, private and family life), Article 10 (which provides for freedom of expression) and Article 11 (which provides for freedom of assembly and association) have been considered. These state that there shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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. Following the consultation undertaken it is not believed that any of these Convention rights are contravened by the proposed Public Space Protection Order in either area.

- 5.3 Should the Council agree to employ Scarborough Borough Council to enforce the Public Space Protection Order North Yorkshire County Council will be required to change their deed of commitment with Scarborough Borough Council to allow them to enforce the order when vehicles are parked on the highway, and Hambleton District Council will need to change its agreement with Scarborough Borough Council to allow for enforcement on public land.
- 5.4 Any signage related to the Public Space Protection Order does not fall within permitted signage within the Traffic Signs Regulations and General Directions 2016; therefore all associated signage will have to be located on land not in control of the Highway Authority for which planning permission may therefore be required.

6.0 EQUALITY/DIVERSITY ISSUES

- 6.1 A full Equality Impact Assessment has been completed but there are no equality impact concerns. The Equality Impact Assessment is attached at Appendix 4.

7.0 RECOMMENDATIONS:

- 7.1 It is recommended that Cabinet approves and recommends to Council:
- (1) the implementation of a Public Space Protection Order and an effective enforcement regime on the Leeming Bar Estate and surrounding area as identified in paragraph 1.12.;
 - (2) a detailed review of the Leeming Bar area Public Space Protection Order following the initial 6 month period;
 - (3) following the outcome of the initial 6 month review of the Leeming Bar Public Space Protection Order and the specific circumstances in relation to Thirsk Industrial Estate, consideration of implementing a Public Space Protection Order at Thirsk Industrial Estate, with decision making authority delegated to the Chief Executive in consultation with the Leader; and
 - (4) that Fixed Penalty Notices are set at £100, with authority delegated to the Chief Executive to review these as appropriate.

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Background papers: Public Spaces Protection Orders: Guidance for Council, Local Government Association 1 Feb 2018

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