

Agenda Item No: 9.5 **Report No:** 55/17
Report Title: Public Space Protection Order – Reedens Meadows, Newick
Report To: Cabinet **Date:** 20 March 2017
Cabinet Member: Councillor Isabelle Linington
Ward(s) Affected: Newick
Report By: Ian Fitzpatrick, Director of Service Delivery
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Purpose of Report:

To obtain Cabinet approval for a draft Public Space Protection Order in relation to Reedens Meadows, Newick, for consultation with the local community.

Officers Recommendation(s):

- 1 That Cabinet agree the draft Public Space Protection Order (PSPO) for Reedens Meadows, Newick, set out at Appendix 1, as the basis for statutory consultation.
- 2 That Cabinet grant delegated authority to the Director of Service Delivery –
 - (i) to carry out statutory consultation on the draft PSPO;
 - (ii) if necessary, to amend the content of the Order in light of consultation responses;
 - (iii) to make and publicise the Order in accordance with relevant legislation; and
 - (iv) to keep the Order under review; and to cease, renew or amend it at the end of its term, as appropriate.

Reasons for Recommendations

- 1 To deal effectively with the risk of anti-social behaviour at Reedens Meadows Newick

Information

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- 2.1** Reedens Meadows is an 11.8ha parkland site on the edge of Newick approximately 6km from the Ashdown Forest. The site features areas of open countryside and areas of dense and scattered trees and scrub. It has been purchased by Thakeham homes to be used as mitigation to offset the impact of new development on the Ashdown Forest Special Protection Area (SPA).
- 2.2** Thakeham Homes purchased the site for their development at Newick Hill. Upon completion of the required landscaping works at the Reedens Meadows Site of Alternative Natural Greenspace (“SANG”), it is being passed to Lewes District Council (in accordance with the Leader’s decision of 17 October 2016) who will manage it thereafter in accordance with the Management Plan agreed between the Council and Thakeham Homes. It is estimated the transfer will happen during the summer of 2017. The SANG will be marketed to all the new development in the area to encourage people to use the site as an alternative to Ashdown Forest.
- 2.3** As the site is coming from private ownership into public ownership, there are no existing Byelaws covering the site. The Council needs an effective means of dealing with antisocial behaviour on the SANG. The most effective way of dealing with this is by the creation of a Public Space Protection Order (PSPO). The activities prohibited under the Order are those at risk of occurring at Reedens Meadows, based on those the Council has encountered on similar sites in the District. The Order will cover:
- (a)** Protection of plants and wildlife
 - (b)** Camping
 - (c)** Fires
 - (d)** Horse Riding
 - (e)** Motor Vehicles
 - (f)** Overnight Parking
 - (g)** Dogs

- 2.4** A PSPO enables local authorities to act early at a location where anti-social behaviour is likely to occur.

To create the Order, LDC must be satisfied on reasonable grounds that the two conditions in s. 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 are met, namely:

- (i) that it is likely that activities will be carried on in a public place and that they will have a detrimental effect on the quality of life of those in the locality; and
- (ii) that the likely effect of the activities –

- a. is of a persistent or continuing nature,
 - b. is such as to make the activities unreasonable, and
 - c. justifies the restrictions imposed by the notice.
- 2.5** The Order can last up to three years, after which it has to be reviewed in line with the Act. At any point before expiry, the council can extend a PSPO by up to three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring. They should also consult with the local police and any other community representatives they think appropriate.
- 2.6** Enforcement of the PSPO can be carried out by a police officer, police community support officers, council officers or other person designated by the council. It is our intention to work with the police should enforcement be required.
- 2.7** Breach is a criminal offence. Enforcement officers can issue a fixed penalty notice of up to £100 if appropriate. A fine of up to £1000 can be issued on prosecution.
- 2.8** The Council must carry out a consultation exercise in accordance with Section 72 of the Act. Consultees will include: local Police, Newick Parish Council, local groups and representatives from the local community. The consultation will be advertised in the local Press and on the District and Parish Council websites.

Financial Appraisal

There are no significant financial implications arising as a direct result of the recommendations in this report. The cost of making the PSPO can be met from existing budgets. With a PSPO in place, early action can be taken in the event of anti-social behaviour, minimising potential costs to the Council.

Legal Implications

- 3** A Public Space Protection Order (“PSPO”) is designed to stop individuals or groups committing anti-social behaviour in a public space. The statutory framework for PSPOs is part 4, chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (“the Act”); this legislation specifies, among other matters, local authority powers to make PSPOs where certain criteria are met, duration of the Order, consultation requirements and enforcement.

A PSPO is a useful alternative to a byelaw where the area to be protected is quite specific in nature, requiring its own form of protection. Also, being limited to a maximum term of 3 years, the PSPO will be subject to formal review within that timespan to check whether it is still necessary and proportionate, by re-application of the tests under section 59 of the Act (as referred to in the body of the report).

In deciding whether to make a PSPO and what it should include, the Council must have particular regard to the rights of freedom of expression and freedom

of assembly set out in articles 10 and 11 of the European Convention on Human Rights. It is not considered that either of these Convention rights will be infringed by the proposed PSPO. Although the prohibition on camping could engage the right to freedom of assembly, it is lawful to place a restriction on this right for the protection of the rights and freedoms of others. The purpose in prohibiting camping is to enable all local people full and free access to the Meadows, and to protect the habitat from camping activity.

A PSPO must be publicised in accordance with regulations laid down in statutory instrument no. 201/2591.

The Order includes information about how its validity may lawfully be challenged.

Based on Land Registry's register of title to Reedens Meadows, there do not appear to be any legally held land interests which conflict with any part of the proposed PSPO.

Date of legal advice: 20 February 2017. Legal ref: 005833-LDC-OD

Risk Management Implications

- 5** The use of the Public Spaces Protection Order, in any capacity, is subject to rules governing applicability and consultation. As long as these are met, there is no risk to the Council risk is relatively low to the Council.

Equality Screening

- 6** An Equality Impact Assessment will be carried out if deemed to be necessary but it is anticipated that there will be no impact.

Background Papers

Newick SANG Ownership Proposal – Leader Decision

<https://lewes.cmis.uk.com/cmis5/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/505/Meeting/720/Committee/201/Default.aspx>

Appendices

Appendix 1: Draft Public Space Protection Order (PSPO) for Reedens Meadows, Newick