

## EREWASH BOROUGH COUNCIL

Report of the Director of Community Services to the  
Council Executive

24 February 2021

### **Public Spaces Protection Order**

#### 1 Purpose of report

- 1.1 To seek the support from the Council Executive for a Public Spaces Protection Order under the Anti-Social Behaviour, Crime and Policing Act 2014, to support tackling nuisance behaviour from motorised vehicles on Brackley Gate, Morley/Moor Lane, Little Eaton.

#### 2 Recommendations

- (a) That the Council Executive authorises the making of a Public Spaces Protection Order (PSPO) to install gates at either end which are closed:
- (i) at all times (on all days through the week); or
  - (ii) part-time (closed from approximately 12.00 noon on Friday until approximately 7.00 am on Monday).
- (b) To approve the amount of the Fixed Penalty Notice (FPN) for offences of the Order under section 63 or 67 of the Anti-social Behaviour, Crime and Policing Act 2014 as set out in paragraph 3.30.

#### 3 Information, issues and options

- 3.1 The council has been dealing with a long-standing anti-social behaviour (ASB) complaint regarding a lane known as Brackley Gate at the Morley end, which runs into Moor Lane at the Little Eaton end (as shown in Appendix 1).
- 3.2 The area is very rural and green, with a limited number of landowners bordering the lane; two residential properties on the north side, and Breadsall Priory Hotel and Golf Course, and Drum Hill Scout Campsite on the south side. There is also Severn Trent Plant Works at the Morley end and a footpath from the lane over Breadsall Priory land close to the boundary with Drum Hill land. The private land bordering the area is reasonably well defined from the lane, with either 'Private land, keep off' signage, or with stone walling along some of the land. The area is very natural, with a wide variety of birds and animals reported in the vicinity including deer. Local residents note that it has been and remains a popular area enjoyed by many for leisure activities including walking, dog walking, running, cycling and horse riding due to its natural habitat.

- 3.3 Brackley Gate is recorded as a publicly maintainable 'Non-Classified Highway' by the Highways Authority, Derbyshire County Council. This status does not precisely define what public rights exist over the route, including vehicle access. However the County Council is currently processing a claim to modify the Definitive Map and Statement (the Definitive Map), under the provisions of the Wildlife and Countryside Act 1981, by adding Brackley Gate as a Byway Open to All Traffic (BOAT). If the evidence shows that public motorised vehicular rights exist then the route will be added to the Definitive Map as a BOAT. If not, it is likely that the route will be added to the Definitive Map with a status that represents the discovered public rights i.e. Restricted Byway, Public Bridleway or Public Footpath. At this time, the County Council is unable to provide a timescale for this to be determined and any public rights, owing to the current pandemic and a significant number of similar applications currently being processed. Full details of the application are available on the County Council website ([derbyshire.gov.uk](http://derbyshire.gov.uk)).
- 3.4 The surface of the lane is composed of hardcore, but is not tarmac beyond the last residential property's driveway at either end of the lane. Some minor work was undertaken to the road surface in August 2019 with additional hardcore added, following consideration of major maintenance work on Breadsall Priory land requiring lorry access. Up until this point, the road surface was very 'green' with little defined surface, uneven with large pot holes, muddy and unsuitable for most cars. Following the work in 2019, the lane has been easier for vehicles to use, however it is gradually deteriorating again with use and weather conditions.
- 3.5 Informal feedback from local residents has reported that very few people use the lane as a through route. Residents who live on the immediate roads surrounding the lane already find alternative routes, and report that this is as a result of the lane surface being unsuitable for cars and also the concerns about ASB in the area. Information was also provided to the council identifying the alternative routes that most local residents use (shown in Appendix 2). The alternative routes are maintained roads and locally are not considered to be an inconvenience or a major detour to the majority of users.
- 3.6 The ASB reported pre-dates 2016, with both Morley and Little Eaton Parish Councils receiving a significant amount of evidence and information (emails and photographs) from local residents experiencing a range of persistent ASB in the area. Along with reporting these to appropriate organisations, the incidents have been collated by one of the Neighbourhood Watch Co-ordinators/member of Morley Parish Council. The information shows a variety of problems occurring in the area including:
- ASB from a variety of vehicles including 4x4s, motorbikes, scrambler bikes and quad bikes, either behaving anti-socially on the lane by driving inconsiderately, revving engines inappropriately and doing spins on the lane, or accessing the private land either side from the lane to drive through the woodland;
  - ASB from mountain bikers using the private land either side of the lane for trails;

- Fly-tipping from vehicles onto the private land; and
- Other incidents including criminal damage to signage, walls and fencing, air rifles being used in the area and theft of wood from the woodland.

3.7 More recently, the evidence shows that from January to November 2019, 61 incidents were logged, occurring on 55 separate days. 42 incidents (69%) occurred over weekends from Friday to Sunday, at varying times during the day and/or evening. The other 19 incidents were spread out over the weekdays, but almost half (9) occurred on a Wednesday. The incidents reported included:

- 23 involving 4x4s or vehicles witnessed being driven anti-socially on the lane, private land or the footpath, or evidence of the behaviour;
- 5 reporting skid marks or tyre tracks on the lane or private land showing vehicles being used anti-socially in the area;
- 3 involving quad bikes being driven anti-socially on the lane, private land or on the footpath;
- 15 including motorbikes/scrambler bikes being driven anti-socially on the lane, private land or the footpath, or heard in the area;
- 2 incidents of mountain bikes being used on the private land (not all incidents logged); and
- Other incidents such as the theft of wood; 2 incidents of air rifles being used in the woodland; and alleged drug dealing or inappropriate activities in vehicles.

3.8 Incidents were not recorded from the middle of November to early January 2020 as the individual co-ordinating the log felt they needed a break from the situation.

3.9 There were similar levels of incidents reported during 2020, with 121 incidents recorded on 85 separate days. 59% of incidents were logged as occurring from Friday to Sunday. Incidents were also logged on each day of the week and at least 10 incidents each day over the year. The COVID-19 pandemic will have had an impact on the number of people using the lane and changed behaviours, for example road use reduced as a result of the ban on travel unless on essential business and not all incidents witnessed were logged by residents during 2020. The type of incidents reported included:

- 37 involving 4x4s or vehicles witnessed being driven anti-socially on the lane, private land or the footpath, or evidence of the behaviour;
- 4 involving quad bikes being driven anti-socially on the lane, private land or the footpath;
- 31 including motorbikes/scrambler bikes being driven anti-socially on the lane, private land or the footpath;
- 10 fly-tipping incidents on public or private land in the area;

- Numerous reports of litter left on the lane and the private land;
- 5 involving people riding mountain bikes on private land (not all incidents were logged); and
- There were other incidents reported including alleged drug dealing, drug use or inappropriate activities in vehicles. There was also criminal damage reported to walls and signage.

3.10 Considering the types of incidents noted, it is clear that the majority have a common theme of behaviour being perpetrated either on the lane itself, or using the lane to access the private land either side. It is also clear that this behaviour causes significant damage to the area.

3.11 The impact of this ongoing ASB has been consistently reported by local residents as:

- detrimental to their enjoyment of their properties from the noise and revving from the motorised vehicles being used in an anti-social manner, including during evenings and overnight;
- detrimental to their enjoyment of the local area for leisure activities due to the speed of vehicles and inappropriate use of the lane and local area;
- a reduction in the use of the local area for leisure activities due to the behaviour witnessed and experienced;
- significant and extensive damage to the natural habitat in the area and disturbance of wildlife;
- significant cost to clear the fly-tipping from private land, at landowners expense; and
- damage to signs, stone walls and fencing.

3.12 It is clear from the evidence provided that much of the behaviour being perpetrated can be classed as ASB and detrimental, however, not all of the reported incidents can be considered as a 'nuisance', in particular the incidents reported around mountain bikers using the area. It is acknowledged that whilst this behaviour may be an annoyance, this would not at this stage be something that could be taken forward and dealt with as ASB.

### **Solutions considered**

3.13 When looking at a PSPO and in dealing with ASB, the legislation asks that the council considers all options. A range of solutions have been identified and tried in this case over a number of years but have been unsuccessful in tackling the ASB. These have included:

(a) Taking no further action

Doing nothing was not considered to be an adequate option as it is clear that the residents are experiencing ASB and that it is having a detrimental effect on the quality of their life and the local area. The

council has a legal duty to investigate anti-social behaviour and to take action in partnership.

(b) Increased/clear signage in the area

Issues may be resolved if the individuals perpetrating the behaviour know that they are on private land. Clear signage has been in place throughout the duration of the issues being witnessed, letting people know they are trespassing on private land. This has not stopped the ASB or resolved the situation.

(c) Identifying perpetrators of ASB

Residents and Morley Parish Council did contact Derbyshire Police when the ASB first started and it was passed to the local Safer Neighbourhood Team who then included this as a Priority Profile. This involved some additional patrols and attention from patrol vehicles in the area, as well as continued contact with residents and responding to reported incidents.

Derbyshire Police note that it is an ongoing, operational challenge to actually witness and evidence the behaviour as it occurs, and also to identify perpetrators due to the lane's geography and due to the complexity of the land ownership. The lane is accessible by vehicles and the vast areas of private land are not fenced off. It is clear from photographs of damage that the lane is used to access the private land, however unauthorised use such as this is a civil matter of trespass and therefore the responsibility of the owners to effectively secure their land and take appropriate action. In addition, road legal vehicles e.g. 4x4s, or motorbikes using the lane, but not witnessed behaving anti-socially are committing no offence.

Police continue to respond to incidents reported including trying to identify and then take enforcement action against perpetrators, however the land ownership and ability for the public to access the lane with vehicles continues to hamper actions. Operationally this type of ASB is notoriously difficult and can be high risk for officer safety when on foot and trying to talk or apprehend individuals on motorised vehicles. This can often require more specialist teams who are in high demand.

(d) Identify perpetrators through CCTV

Consideration has been given to the use of CCTV in the area, however this is a very costly measure, but also one that is felt would not provide a solution to the behaviour being perpetrated. It would not be possible to cover the entire area and therefore would only place particular vehicles driving down the lane, which is not an offence. Identification of individuals would still be a problem which the use of CCTV would not solve.

(e) Restrict access to the privately owned land

A significant proportion of the incidents involve the lane being used to access the private land, particularly Breadsall Priory's banked woodland. The council has contacted the landowners to suggest that they completely fence off their land to stop trespassing. However, this option was considered by the owners to be cost prohibitive and officers also believe would not be in keeping with the natural habitat. This is a beautiful open wooded area enjoyed by many, fencing it down both sides would significantly change this natural look and would also involve removing some of the natural habitat. In 2019 Breadsall Priory received a quotation of over £100,000 to install metal fencing to secure the woodland, which extends to over 30 square metres. It is also felt that this option might displace the anti-social use of other areas of the lane itself unless all the private land was fenced.

(f) Restrict the behaviour by use of a PSPO

The Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) introduced several new tools and powers, including PSPOs, for use by councils and their partners to address anti-social behaviour (ASB) in their local areas. These tools, which replaced and streamlined a number of previous measures (including Gating Orders), were brought in as part of a Government commitment to put victims at the centre of approaches to tackling ASB, focussing on the impact behaviour can have on both communities and individuals.

The Act gives councils the authority to draft and implement PSPOs in response to the particular issues affecting their communities, provided the local authority is satisfied on reasonable grounds that certain criteria and legal tests have been met. They can be used to prohibit specified activities, and/or require certain things to be done by people engaged in particular activities. This concerns the nature of the ASB, requiring that:

- Activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect.
- The effect or likely effect of these activities:
  - is, or is likely to be, persistent or continuing in nature;
  - is, or is likely to be, unreasonable;
  - justifies the restrictions being imposed.

Consideration was given to seek a PSPO to restrict access of the lane by motorised vehicles by way of a notice only i.e. not closing (gating) the lane. However, it was felt that trying to restrict the behaviour in this manner would not successfully deal with the issues being reported for a number of reasons:

- The behaviour is continuing, despite it already being illegal and inappropriate in the area. Signage is already up that states that the land is private property and yet the perpetrators have little regard for this and still commit ASB.
- The issues around identifying and catching the individuals committing the ASB as it happens are problematic as stated earlier in the report. It creates quite a high risk situation for officers on foot to stop and challenge individuals using motorised vehicles, and it is likely that it would require specialist police teams to support which would be limited due to competing demand and more serious issues.

(g) Restrict vehicle access to the lane via use of a PSPO (gating)

It is clear from the evidence base that the majority of ASB involves vehicles using the lane itself or to gain access to the private land in an anti-social manner; therefore restricting access to the lane could be a viable option. In addition, discussions with the County Council identified that only access to those groups or users of the lane/land behaving anti-socially should be restricted and that the council must maintain access for pedestrians, pedal cyclists and horse riders i.e. those other users not undertaking ASB.

Restricting vehicle access to publicly available land in this way can either be achieved through a Traffic Regulation Order (TRO) or through a Public Spaces Protection Order (PSPO) authorising gates to be installed at both ends of the lane.

Derbyshire County Council (DCC) have considered the use of a permanent TRO to restrict legal access to the lane (not physical access), however, the County Council do not feel that this is a viable option at this time, primarily due to competing demand for resources across the county area and having to prioritise consideration of TROs. DCC also felt that it would be extremely challenging to enforce a TRO, resulting in a less than adequate solution.

Officers from both the County Council and Erewash Borough Council concluded that using a PSPO is a preferable and more appropriate tool compared to a TRO for a number of reasons; PSPOs are time-limited which will facilitate changes needed some time in the future, the County Council are unable to commit resources to introduce a TRO and enforcement of a TRO would be more problematic.

- 3.14 After full consideration of all the above, it was felt that the best option was to commence actions to consider restricting access to the lane through the use of gates.

## **PSPO consultation**

3.15 Since this matter was first brought to the council's attention, informal consultation has been ongoing with local residents. This was primarily co-ordinated through representatives of Neighbourhood Watch and Morley Parish Council. The Parish Council undertook a short consultation exercise in August/September 2020 to seek information on ASB, ascertain the support for potential action, and seek views on gating off the lane (permitting access only for pedestrians, cyclists and horse riders). 37 responses were received and the results showed that:

- 89% of respondents (33) had witnessed ASB in the area in the past 12 months with a significant number reporting issues with motorised vehicles;
- 90% of respondents (35) had seen evidence of ASB including damage to the woodland and tracks;
- 64% of respondents (29) said that this affected where they exercised locally;
- 42% of respondents (22) noted that they were not concerned about their safety when walking down the lane during the day, but 72% (31) did note that they would be concerned in the evening or at night due to the vehicles using the area; and
- 4% of respondents (3) noted that they objected to the lane being closed to motorised vehicles.

3.16 In addition, as required by the legislation, interested parties including businesses and residents who have land that borders the lane were consulted on the proposals. All respondents were in favour of restricting access, but stated that they require continuing vehicular access for example to undertake maintenance on their land.

3.17 The legislation also sets out requirements for formal consultation and communication before an Order is introduced, once it is implemented and where it is extended, varied or discharged. The PSPO guidance defines a requirement for public consultation on proposed PSPOs with a range of statutory consultees, including owners and occupiers of land where reasonably practicable. There are further requirements when considering restricting access to a right of access including the effect on owners of property adjacent to the highway, other people in the locality and whether a reasonable alternative route is available. Statutory consultees include the police, Police and Crime Commissioner and the County Council (where they are the Highway Authority).

In order to satisfy the legal requirements, an online survey was undertaken by the council to collect the views of residents, users of the space and partners. The survey was open for six weeks from 17 November 2020 until 3 January 2021, and received 114 responses. A copy of the survey can be found at

Appendix 3, along with details of the two alternative routes for users of the lane as a through route.

- 3.18 The survey was promoted through the council's social media platforms, on the council's website, through signage in the local area and an invitation sent personally to:
- the local residents acting as co-ordinators;
  - Derbyshire Police;
  - Derbyshire County Council;
  - Amber Valley Borough Council;
  - Local Parish Councils – Morley and Little Eaton;
  - Derbyshire's Police and Crime Commissioner; and
  - local land owners bordering the area proposed to be restricted including Drum Hill Scout Camp, Breadsall Priory Hotel and Golf Course, Severn Trent and residential properties.
- 3.19 Overall the consultation feedback was in favour of the PSPO to gate the lane, with some 83% of respondents stating that they agreed with the proposal and 71% of respondents did not feel that there were any other options available. 84% reported that closing the lane would not have a detrimental impact on them or their household. Those who disagreed with the proposal felt that the issues caused by mountain bikers would not be addressed, or expressed that they wished to continue using the lane legitimately for vehicular access. There were also comments regarding the responsibilities of landowners; suggestions on how to evidence offenders; and some respondents who wished to continue to use the area for mountain biking.
- 3.20 As outlined in paragraph 3.5, informal feedback from local residents and the formal consultation suggests that most do not use the lane as a through-route as it was completely unsuitable for vehicles until mid-2019 when some work to the road surface was undertaken. It is acknowledged that the alternative routes identified are longer, however the majority of respondents did not consider this to be too much of an inconvenience, mainly due to the fact that they already regularly use them.
- 3.21 The council also received representation from the Green Lane Association (GLASS) representing 4x4 owners, and the Trail Riders Fellowship (TRF). Both organisations represent individuals who want to be able to use 'green, local lanes' like Brackley Gate/Moor Lane for their enjoyment, their members signing up to a code of conduct requiring them to respect the natural habitat of areas they use.
- 3.22 It is unclear how much GLASS and TRF members use this area, but it is believed that it is unlikely that their members are the ones causing the anti-social behaviour. Both organisations were contacted and they asked that the council should permit their members to have the code/key to any gate erected

to allow vehicular access. The Highways Authority (Derbyshire County Council) (DCC) have informed us that the council (EBC) does not have the authority to sanction any vehicle access over this route.

- 3.23 There is some uncertainty by DCC as to the classification of the lane. In England and Wales, a byway open to all traffic (BOAT) is a highway over which the public have a [right of way](#) for vehicular and all other kinds of traffic but which is used by the public mainly for the purposes for which footpaths and [bridleways](#) are used (i.e. walking, cycling or horse riding (United Kingdom [Road Traffic Regulation Act 1984](#), section 15(9)(c), as amended by Road Traffic (Temporary Restrictions) Act 1991. The council cannot sanction vehicle access to the lane until the County Council have concluded their investigations, however it can look to restrict access (and not grant access) under its duty to tackle ASB in the area. When the determination of public access is concluded through the BOAT application, the council will take advice in consultation with the County Council to assess the validity of the PSPO. It would be inappropriate at this time to allow any concession within the proposed PSPO to allow any motorised vehicle user groups to access the lane even on application as this may be tantamount to encouraging an illegal activity if motorised vehicular rights are not proven to exist.
- 3.24 In summary, when considering all of the available evidence, the consultation results, the persistent and detrimental impact on local residents and users of the area, and the options considered to stop the behaviour, it is clear that this case meets the legislative tests and requirements for consideration of a PSPO. A draft example of such an Order can be found at Appendix 4.

### **Designs of gates**

- 3.25 In looking to restrict access, a number of different designs for the gates have been considered by officers resulting in the proposal to create a bespoke gate for each end of the lane. At the Morley end, the land is on a significant slope, but is quite wide. The proposed barrier would incorporate a horse stile at the side and two swing gates with an integrated 'K' barrier in the middle. The swing gates would be wide enough to get emergency services or utility companies through, and secured into the ground when closed to reduce possible damage through excessive force and would be locked with a coded or key lock provided to those local residents/businesses etc who are exempt under the PSPO. This part of the lane also provides natural barriers either side which limit easy access by unauthorised vehicles
- 3.26 At the Little Eaton end, the lane is a much flatter, and narrower. The gate would be a horse hop swing gate, designed to enable emergency services and other approved vehicles to pass. It would be locked, with a pedestrian 'K' barrier to one side. Again, natural barriers either side restrict east access to by-pass the gate.
- 3.27 As mentioned above, the design of both gates enable access to be maintained by those who need it and conform to required standards, in line with guidance from the British Horse Society and from specialist officers from

the County Council. The positioning of the gates will also enable access to driveways of existing residential properties with driveways.

- 3.28 The Home Office's statutory guidance reiterates that PSPOs should be used responsibly and proportionately, only in response to issues that cause anti-social behaviour, and only where necessary to protect the public. In determining the best way to manage the ASB, consideration needs to be given as to whether the gates should be closed all of the time or only part-time. The evidence shows that the vast majority of the ASB happens at weekends, which could suggest that the gates are left open during the week. However evidence shows that some issues also occur during weekdays and over bank holidays/other holiday periods, so leaving the lane open during the week may displace and encourage people to change their behaviour to accommodate this.
- 3.29 The option to lock the gates only at weekends has also been explored with the council's Head of Green Space and Street Scene to consider the practicalities and costs to open the gates early on a Monday morning, and close them around lunchtime on a Friday. It is suggested that directing an officer to do this would cost approximately £40 per week (around £2,000 per year). It would also need to be undertaken via an agency contract because of the location of the lane and the difficulties of fitting this into existing council employee's work rotas, consequently this cannot not be easily contained within existing budgets or structures.
- 3.30 Enforcement of any potential breach of the PSPO will be the responsibility of both the council and police, dependant on the reported incident(s). Primarily breaches of the Order will be dealt with by issuing an FPN. It is suggested that the amount of this is set at the statutory level of £100 with a specified lower 'early payment' amount of £80 if paid within 14 days. Direction on what actions can and cannot be done in the PSPO defined area will be made clear on any notices. The Order itself will provide clarification to enable appropriate enforcement to be taken, providing clear information on the restrictions for vehicular access on the lane. In addition, communication campaigns will be undertaken with local residents and groups to ensure that they are aware of the PSPO and also the need for incidents to be reported to allow effective enforcement.

### **Options**

- 3.31 There are three options available for members' consideration:
- (a) Option 1 – members support the making of a Public Spaces Protection Order and approve the use of gates to restrict access as defined under the Anti-Social Behaviour, Crime and Policing Act 2014 whilst ensuring that these continue to provide access to pedestrians, horses and pedal cyclists.

This is the preferred option.

Within option 1, members are asked to approve if the gates should then be closed:

- (i) at all times (on all days through the week) or,
- (ii) part-time (from approximately 12.00 noon on Friday until approximately 7.00 am on Monday).

Both options permit vehicle access to land owners bordering the lane/plant works in the area for maintenance, and for emergency service vehicles.

- (b) Option 2 – members recommend changes to the Public Spaces Protection Order and plans to erect gates to restrict access under the Anti-Social Behaviour, Crime and Policing Act 2014. Any changes would have to be proportionate and based on supporting evidence of need.
- (c) Option 3 – members do not support the Public Spaces Protection Order under the Anti-Social Behaviour, Crime and Policing Act 2014.

#### 4 Risk and financial implications

- 4.1 Morley Parish Council have agreed to be responsible for applying for funding to cover the full cost of buying the gates which may be in the region of £6,000. Erewash Borough Council would take on future responsibility for their general maintenance which, it is anticipated, can be incorporated within existing budgets.
- 4.2 There is a risk to the council in restricting all vehicular access (excepting any exemption for emergency services etc.) on the lane. However, the County Council are unable at this time to confirm whether there is a public right of way over the lane. Should this be determined, consultation and advice will be sought as to how to proceed and the PSPO dealt with appropriately. In addition, it is not within the council's jurisdiction to sanction any vehicle access over this lane without public rights being confirmed.
- 4.3 There is also a risk in restricting access when it is clear that not all users of the lane are behaving in an anti-social manner including those members of local or national groups or organisations. However, as evidenced in this report, it is believed that the PSPO is justified and that the majority of those directly affected by the proposed gates are in favour of the Order.
- 4.4 The Order can be challenged by application to the High Court and the council has a duty to ensure that any such Order is a proportionate response to the behaviour being perpetrated. Whilst the evidence shows the majority of the problems happen at weekends, it is acknowledged that the operational cost and difficulties of opening and closing the gates if option 3.31 (a) (ii) is approved may be disproportionate and/or unrealistic.

## 5 Legal implications

5.1 Under the Anti-Social Behaviour, Crime and Policing Act 2014, there are a number of requirements to fulfil as part of the process to consider a new PSPO. These include utilising data and evidence available and consultation in identifying why a PSPO is required and the nuisance it intends to deal with. As a minimum, each PSPO must set out:

- what the detrimental activities are;
- what is being prohibited and/or required, including any exemptions;
- the area covered;
- the consequences for breach; and
- the period for which it has effect.

It is suggested to members that this report sets out how all of the legal and statutory requirements have been fulfilled.

5.2 The council has the ability to make changes to the Order in response to issues raised in paragraph 3.23 above. Section 61 of the Act states that where a PSPO is in force, the local authority that made that order may vary it:

- (a) by increasing or reducing the restricted area; and
- (b) by altering or removing a prohibition or requirement included in the Order, or adding a new one.

5.3 PSPOs can also be legally challenged at the High Court under the 2014 Act on certain grounds. Any such application must be made within the period of six weeks beginning with the date on which the order or variation is made.

5.4 Under Section 17 of the Crime and Disorder Act 1998, the local authority has a duty to do all that it reasonably can to prevent crime and disorder.

## 6 Personnel implications

6.1 There are no personnel implications associated with this report as the enforcing officers of the council (primarily the Neighbourhood Wardens and Community Safety Team) and the police would be briefed through normal processes. Employees are already well versed in providing help and advice and where necessary dealing with enforcement and possible breaches.

## 7 Alignment to council priorities

7.1 The detrimental impact of anti-social behaviour and disorder and taking action(s) to reduce this are a priority for local residents. Approval of the PSPO will help to support achievement of the Corporate Plan priority of providing 'a clean, safe and welcoming borough'.

### Background papers

None.

### Contact officers

Lorraine Poyser, Director of Community Services

Telephone: 0115 907 2241

Email: lorraine.poyser@erewash.gov.uk

Katherine Thornhill, Community Safety Officer

Telephone: 0115 907 2244, ext 3584

Email: kat.thornhill@erewash.gov.uk

### Key decision status

881.

### Appendices

Appendix 1 - Map showing location of Brackley Gate/Moor Lane

Appendix 2 - Location of alternative routes

Appendix 3 - PSPO Survey questions

Appendix 4 - Draft Public Spaces Protection Order

Note: In preparing this report due regard has been had to human rights, prevention of crime and disorder, environmental, efficiency and health considerations as appropriate. An Equalities Impact Assessment has been completed or is not required. Relevant officers have been consulted in relation to any legal, financial, personnel or property implications and comments received are reflected in the report.