

STATEMENT OF REASONS PUBLISHED

Statement of Reasons for Public Space Protection Order No 1 of 2021 - **Yateholme**

This statement is not part of the statutory requirements but is intended to be an informative narrative

Summary

It is intended that the order will go live when the gates are installed so the physical restrictions and the legislative controls come on stream concurrently. The order is aimed at exclusion of 4 wheeled vehicles excluding disabled access causing harm and annoyance. Proposals of the order will be in the local newspapers with a 21 day period for objections/representations, this being an additional notification requirement for PSPO affecting a highway. Following such consultation, the order will be made and a notice of making published.

The only formal mechanism to object is to the High Court. However, the council will be available to answer any queries or concerns that the order has caused. Furthermore, the council has a review criteria policy in place to assess the effect of the order eg whether there is displacement activity; whether restriction could be seasonal; duration of the order ie whether it should be extended, varied, or discharged.; any unintended consequences eg any adverse effects on vulnerable people

Effect of the Order

The order is intended to manage and restrict anti-social use of the route by means of 4x4 and similar type vehicles ie damaging recreational off-road driving to and other anti- social behaviour activity, such as fly tipping, by means of physical exclusion. This exclusion will not impact on the other user types - trail riders, mountain bikers, horse riders and walkers who will still be able to access the route. The route will be a managed by physical exclusion (barriers). Such access will be permitted by licence to vehicles under control of GLASS within conditions defined by the Council. This exclusion is for the Yateholme area not just Ramsden Road.

Challenge to the order

The implementation of the order can be challenged by any interested person within 6 weeks of the making of the order and the challenge is made at the High Court. A challenge can be made on the order by

- Anyone directly affected by the making of the order

on the basis that

- The council does not have the power to make the order
- That the prohibitions or requirements are unnecessary
- That the order is procedurally defective
-

Specifically, those who wish to challenge a local authority's decision to introduce a PSPO, ASBCPA s.66 created a specific statutory appeal route, which must be followed by 'interested persons' (those who live in, work in or regularly visit the relevant area). The deadline for issuing a challenge is six weeks from the date the PSPO is made, and the relevant venue is the High Court. There is no permission stage. The grounds for such a challenge can be: (a) that the local authority did not have power to make the order or variation, or to include particular prohibitions or requirements imposed by the order; or (b) that a requirement under the statute was not complied with in relation to the order.

The Act explicitly prohibits interested persons from challenging a PSPO by any route other than the s66 procedure, but the standard judicial review jurisdiction is not ousted for those who do not have interested person status

Reason for making the order

The area (known in the order as the Restricted Area) is subject to an increase in anti-social behaviour by some drivers of 4x4 vehicles and similar recreational vehicles who take access onto the route and who cause damage to the route itself, and also off-route damage ie causing streams to be blocked, walls damaged and other damage due to access being taken during inappropriate ground conditions. Much of this activity is facilitated by the current access points for the routes that are designated for vehicular traffic either BOATS (Byway Open All Traffic) or unclassified roads within the highway network.

The police have been asked on numerous occasions to deal with this anti-social behaviour, as has the Council.

To address this anti-social behaviour, the Council considers that the most appropriate legislation is that which is designed to deal with anti-social behaviour, namely a Public Space Protection Order (PSPO).

In order to use this legislation the council must meet certain conditions, set out in the Antisocial Behaviours Crime and Policing Act 2014

Legislation and Guidance

The council must be satisfied on reasonable grounds that activities carried out in a public space will have or are likely to have

- A detrimental effect on the quality of life of those in the locality
- Are persistent or continuing in nature
- Are unreasonable
- And justify the restrictions imposed

The conditions must be supported by robust evidence base and controls reviewed on the completion of agreed remedial work to Ramsden Road.

The Council considers that the numerous police and public reports, and its own evidence, indicate that the behaviour does reach the legislative standard and that the council's response is proportionate and reasonable

The council has also considered, and rejected, other possible legislation, for example TRO, since it considers that the main nuisance to be addressed is the anti- social behaviour , rather than the overall use of the route, and to impose a ban on all vehicular traffic on the route would be less than proportionate and targets the wrong nuisance.

The council considers that the use of a PSPO as a mechanism to deliver this control is the best way to address anti- social behaviour because of

- the comparative speed it can be introduced given the nature of the damage
- the flexibility within the legislation – if the measures proposed are not effective then the order can be varied to look to address any issues
- the more targeted approach aimed at the precise nuisance identified within a tightly drafted order, focussing on the precise harmful behaviour identified.

within conditions defined by the Council. This exclusion is for the Yateholme area not just Ramsden Road.

The Agreed conditions are set out below

Agreed conditions of use by licence holders

- 1) Access to be restricted to GLASS members and members of affiliated clubs - Glass to provide this list to Kirklees Council (KC)
- 2) All users and their vehicles to be road legal, tax, MOT and Insurance.
- 3) No access between 1st November and 31st March unless by prior agreement with KC
- 4) no access when an amber or red warning for rain or snow is in force and no access when advised by the council
- 5) No use after sunset or before sunrise or between 6pm and 8.00am whichever is the later
- 6) Limit of 4 vehicles per group. And no more than 2 groups / day to a maximum of 8 groups per week- this will allow a total number of 32 vehicle movements per week
- 7) Access numbers will be reviewed every 6 months in light of surface conditions and other user feedback.
- 8) All users must stay on the legal route
- 9) All users must ensure that gates are closed and locked behind them and to not allow any tailgating
- 10) Any infringements of the above requirements will result in a fixed penalty notice being issued by KC's Greenspace Action Team to each driver within that group.
- 11) Any users who become aware of damage, unauthorised use and such like, to report findings to GLASS who will then advise KC.
- 12) PSPO to be reviewed regularly at the discretion of the making authority.

Other Guidance

Local Government Association (LGA) guidance (in respect of TRO/PSPO).

Page 6 ...“Early engagement with partners and stakeholders can be useful in understanding the nature of the issue, how best to respond – and, if an Order is proposed, how it might be drafted. This is likely to require involvement, and pooling of information, from a variety of sources, including councillors and officers from across council departments (including, for example, community safety, environmental health, parks, equalities, legal), police colleagues and external agencies. It is useful for local areas to seek early contact with interest groups when scoping their proposals, to help identify how best to approach a particular issue, before the formal statutory consultation takes place”

The council has followed this to both meet the guidance, and the statutory requirements in this respect:

- formulative conversations to allow the order to be drafted with the group representing the impacted stakeholders, Green Lane Association
- discussions with Yorkshire Water
- other landowners,
- the representative body for the farming community (NFU)
- The Peak Park Authority access section
- the Police
- local Councillors
- Friends of Ramsden Road asking that it is further circulated into their networks.

Statutory Consultees

- West Yorkshire police - in favour
- The Office of the Police and Crime Commissioner
- Owner and occupiers of land within the affected area- in favour
- Appropriate community representatives- see above – definition of which is “any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area” - see above

Statutory Notification

- Holme Valley Parish Council –in favour, and have requested an update post introduction

Additional requirements for PSPO restricting access over highways (SI 2014 no 2591) for publication

- Notify those affected potentially
- Where a copy of proposed order can be viewed
- When they need to submit responses/objections/representations

EQUALITY Impact Assessment

Before the making of the order the Council will carry out Equality Impact Assessments against the Equality Act 2010.

Human Rights

Before the making of the order the Council will consider Human Rights implications of the proposed PSPO.