

CABINET

Agenda Item:

Ward: Berkley

Portfolio: Neighbourhood Services

Report Author(s): Portfolio Holder
Neighbourhood and
Community Health Services
and Portfolio Holder
Transformation

Meeting Date:
13 November 2017

SUBJECT: Proposed Public Spaces Protection Order (“PSPO”) for Berkley Marsh

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Report Sign off	Seen by:	Name	Date
	Chief Executive/ Deputy Chief Executive(s)	Donna Nolan	10/11/17
	Legal	Lesley Dolan	10/11/17
	Finance	Duncan Moss	
	Group Manager	Elizabeth Dawson	10/11/17
	Portfolio Holders	Cllrs Nigel Taylor & Phillip Ham	10/11/17
	Ward Member(s)	Cllr Clive Mockford	09/11/17
Summary:	<p>This report follows the publication of the Agenda as prior to preparing the report attempts have been made to seek a mutually agreeable final position with the key objectors to the proposed PSPO. Under paragraph 16.2.3 of the Council’s Constitution, where reports are prepared after the Agenda has been sent out, they will be made available to the public as soon as they have been sent out to Members.</p> <p>The purpose of this report is to agree to seek approval to implement a Public Spaces Protection Order (PSPO) under the Anti-social Behaviour, Crime and Policing Act 2014 for Berkley Marsh in an attempt to curb fly tipping in the area. Consultation on the proposal to make a PSPO has been carried out in accordance with the Statutory Guidance issued by the Home Office in 2014 and guidance issued by the Local Government Association in May 2017.</p> <p>Notice of the Council’s proposal to make a PSPO in respect of Berkley Marsh together with a copy of the proposed PSPO has been published and has appeared on the Council’s website. Notice of the</p>		

	<p>proposal and the draft PSPO has been sent to all relevant consultees.</p>
<p>Recommendation:</p>	<p>Cabinet is asked to RECOMMEND</p> <ol style="list-style-type: none"> 1. The making of a PSPO for Gypsy Lane and Berkley Lane, Berkley Marsh for a period of 3 years as set out in Appendix A using a concrete barrier solution, subject to a safety audit by the Highways Authority. 2. That the position in relation to Dark Lane be reviewed by Cabinet after 6 months to consider whether the PSPO should be extended or varied. 3. That a licence to do works is entered into with Somerset County Council (the Highway Authority) to permit minor works on or adjacent to the highway. 4. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services, authority to take any action necessary to implement the PSPO. 5. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services, authority to take steps necessary to implement the safety audit recommendations. 6. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services and the Section 151 Officer, authority to identify an appropriate budget to implement the PSPO, which will include costs associated with compliance with the safety audit recommendations.
<p>Direct and/or indirect impact on service delivery to our customers and communities:</p>	<p>Businesses and residents in the proposed restricted area along with other statutory agencies have been consulted in regard to the proposal to make a PSPO in Berkley Marsh as a means of tackling anti-social behaviour in the form of fly-tipping.</p> <p>13 local residents responded to the consultation with 12 responses being in favour of the PSPO on the basis that it will enable the community to continue to enjoy a safer, healthier environment. 1 local resident was against the proposed restriction to vehicular access. Options have been offered to this objector with a view to attempting to reach a compromise. A further response has been received from the National Farmers' Union which is contrary to the proposed PSPO.</p>

<p>Contribution to Corporate Priorities:</p>	<p>The proposal in this report directly supports the Council's vision of:</p> <ul style="list-style-type: none"> • Working together to make Mendip a great place to live and work – helping our communities and businesses thrive. <p>Fly-tipping applies to all residents and visitors alike. Taking pro-active steps to stop the activity has a tremendous positive affect on the residents and communities, contributing to their wellbeing and the environment.</p> <p>The proposal also links to the Corporate Strategy 2017 – 2020, and in particular its transformation priority. Transformation in this context means finding better ways of working together, and making better use of our assets, resources and skills to deliver the best possible outcomes for our communities.</p> <p>The recommendations in this report are as a result of a multi- agency approach, involving in particular the Police, Somerset County Council and the local Parish Council. We have worked together with our partners to make best use of our resources to deliver the best possible outcomes for our communities.</p>
<p>Legal Implications:</p>	<p>In October 2014, the Government implemented the Anti-social Behaviour Crime and Policing Act 2014 (“the Act”). The purpose of the Act is to give Local Authorities and the Police more effective powers to tackle anti-social behaviour, providing better protection for victims and communities.</p> <p>New tools and powers afforded by the Act include Public Spaces Protection Orders (PSPO's), which are designed to stop individuals or groups committing anti-social behaviour in a public space. It is for each individual Council to determine what behaviour(s) they want to make the subject of a Public Spaces Protection Order.</p> <p>Public Spaces Protection Orders will provide Councils with a flexible power to implement local restrictions to address a range of anti-social behaviour issues in public places in order to prevent future problems.</p> <p>Local Authorities can make an order as long as two conditions are met:</p> <p><u>First condition:</u></p> <ul style="list-style-type: none"> • Activities carried out in a public space within the local authority's area have a detrimental effect on the quality of life of those in the locality, or • It is likely that activities will be carried out in a public place within the area that will have such an effect. <p><u>Second condition:</u></p>

	<p>The effect or likely effect of the activities:</p> <ul style="list-style-type: none"> • Is, or is likely to be, of a persistent or continuing nature; • Is, or is likely to be, such as to make activities unreasonable; • Justifies the restrictions imposed by the notice. <p>Before a PSPO can be made, the Act and accompanying statutory guidance sets out a process of consultation that is required to be followed.</p> <p>A Public Spaces Protection Order can be made for a maximum of three years. The legislation provides they can be extended at the end of the period, but only for a further period of up to three years. However, orders can be extended more than once.</p> <p>Local Authorities can increase or reduce the restricted area of an existing order, amend or remove a prohibition or requirement, or add a new prohibition or requirement. They can also discharge a PSPO but further consultation must take place in the event of a variation or discharge of a PSPO.</p> <p>Any interested person can challenge the validity of a PSPO in the High Court but the challenge must be made within six weeks of the PSPO being made by the Local Authority. An “interested person” means an individual who lives in the restricted area or who regularly works or visits that area.</p> <p>Once made the PSPO can be enforced by Police Officers, authorised Police and Community Support Officers, Council Officers.</p> <p>The Act introduces a new type of order, and it is believed we are the first Council in the country to use a PSPO for the purposes of combating fly-tipping. In view of this Counsel’s Advice has been sought to ensure that the Council is interpreting the legislation in a lawful and proportionate manner.</p>
<p>Financial Implications:</p>	<p>On the 11 April 2016 following consultation between the Council and Somerset County Council, the County Council as Highway Authority made a Temporary Traffic Regulation Order (“TTRO”) under the Road Traffic Regulation Act 1984 effecting a temporary road closure in respect of Berkley Lane: from the northern side of the Pines Residential Site to the junction with Dark Lane and Dark Lane: from the junction with Berkley Lane to the junction with Pot Lane for a distance of approximately 992 metres. This temporary road closure runs through an area of the Council where fly-tipping was prolific. The TTRO was put in place for 18 months and from the table below it can be seen that the incidents of fly tipping and the clearance costs have significantly reduced since the TTRO has</p>

been in place. The TTRO has now expired and the Department for Transport has confirmed that the TTRO cannot be extended.

Below is a table of incidents and clearance costs in respect of the Gypsy Lane area of Frome (incorporating Berkley Land and Dark Lane.

YEAR	TOTAL OF INCIDENTS (DISTRICT)	NO. OF INCIDENTS – JUST GYPSY LANE AREA	COST OF GYPSY LANE CLEARANCE	TOTAL COST FLY-TIPPING (DISTRICT)
2013-2014	1834	123	£42,276.00	£88,762.63
2014-2015	2026	250	£40,840.48	£90,430.22
2015-2016	2078	324	£64,346.39	£114,279.77
2016-2017 ¹	1757	83 ²	£10,261.40	£63,485.88

There has been a saving of **£50,793.89³** with a reduction of **321 fly-tips.**

It is accepted that there has been a minor displacement to villages in the surrounds of Berkley – but the figures are self-explanatory.

(The original cost of implanting the TTRO cost the District Council £10,740.53.)

Without a PSPO it is anticipated that incidents of fly-tipping and the resultant costs of clearance will rise to levels that were evident before the TTRO was put in place and more.

Impact on Service Plans:

The introduction of a PSPO will support and enhance existing enforcement practices.

The process has taken longer than initially anticipated, and has required considerable engagement from legal services. Whilst this was not anticipated in terms of service delivery other priorities have been moved because the initiative has the potential to provide clear benefits to the community of Berkley Marsh and save a substantial amount of tax payers' money.

¹ The stated figures are for the 12-month period 01.04.2016 – 31.03.2017. Additional statistics and break down of figures will be available at the Cabinet meeting if required.

² The 12 months of the TRC has resulted in no fly-tips beyond the hard road closures. The costs accrued are for clearances on Gypsy Lane from Bath Road to The Pines Residential Site and the junction of Dark Lane and Pot Lane.

³

<p>Value for Money:</p>	<p>The PSPO has the potential to reduce resources deployed by the Council while creating opportunities for enhancing enforcement practices in regard to anti-social behaviour and environmental crime, and for the Police and other partners in tackling anti-social behaviour within this area of the district.</p>											
<p>Equalities Implications:</p>	<p>An Equality Impact Assessment has been produced in relation to the effect of a permanent road closure for the residents of The Pines Residential Site. This has been endorsed off by Tom Rutland the Equalities Officer and may be viewed at Appendix B.</p> <p>Throughout the period of the TTRO, the case officer has had regular contact with the residents of The Pines Residential Site.</p> <p>There has been no negative feedback and the residents of the Pines Residential Site welcome the continued restrictions along the Berkley lanes.</p>											
<p>Risk Assessment and Adverse Impact on Corporate Actions:</p>	<table border="1" data-bbox="512 927 1469 1713"> <thead> <tr> <th data-bbox="512 927 754 1003"><u>Risks</u></th> <th data-bbox="754 927 991 1003"><u>Uncontrolled Risk</u></th> <th data-bbox="991 927 1230 1003"><u>Controls</u></th> <th data-bbox="1230 927 1469 1003"><u>Controlled Risk</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="512 1003 754 1713"> <p>Legal Challenge to the PSPO process</p> </td> <td data-bbox="754 1003 991 1713"> <p>Reputational damage to the Council, potential Court costs</p> </td> <td data-bbox="991 1003 1230 1713"> <ul style="list-style-type: none"> •Public consultation on PSPOs •Cabinet to decide on strategic PSPOs •Initial review of PSPO after 6 months •Continued liaison with the key objectors to try and find a mutually acceptable solution </td> <td data-bbox="1230 1003 1469 1713"> <p>Low</p> </td> </tr> </tbody> </table> <p>In addition to the above, as a PSPO is a new statutory tool to combat the anti-social behaviour of fly-tipping as previously advised, the Council has sought independent legal advice from Counsel as to its interpretation of the legislation and statutory guidance.</p>				<u>Risks</u>	<u>Uncontrolled Risk</u>	<u>Controls</u>	<u>Controlled Risk</u>	<p>Legal Challenge to the PSPO process</p>	<p>Reputational damage to the Council, potential Court costs</p>	<ul style="list-style-type: none"> •Public consultation on PSPOs •Cabinet to decide on strategic PSPOs •Initial review of PSPO after 6 months •Continued liaison with the key objectors to try and find a mutually acceptable solution 	<p>Low</p>
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By virtue of s.59 of the Act order may be made if the Council is satisfied on reasonable grounds that two conditions (previously referred to in the *Legal Implications* section above) are met.

The first is that activities carried on in a public place in the Council's area have had a detrimental effect on quality of life of those in the locality or that it is likely that such activities will be carried on and have that effect.

This is a wide and open definition which is apt to cover a wide range of anti-social behaviour. No doubt it was so drafted and approved by Parliament in order to enable Authorities to apply it to a range of activities, some of which may be peculiar and unusual, without being bound by over prescriptive definitions and requirements. Counsel's states that in his view,

"there is no reason why fly tipping should not be regarded as an activity which has had a detrimental effect on those in the locality. Indeed, it is properly arguable that it has precisely that effect. In this case, I am instructed that the fly tipping has been persistent in this location and there is little reason to think it would stop if the barriers were not there. In my view, the first condition is therefore met"

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 imposed by the notice.*

Points (a) and (b) are uncontroversial. The fly tipping has been persistent and continuing and, as noted above, there seems no reason to think it will not remain so without intervention. Fly tipping would obviously be unreasonable. Whether the PSPO is justified as required by point (c) is perhaps less clear cut but, noting that various measures including the installation of CCTV have been tried and failed, Counsel's view is that there is,

'a properly arguable case that closure to vehicles is indeed justified, particularly given the apparently minor nature of the road as a thoroughfare'.

This is of course subject the positions of any objectors.

Section 59(5)) is also engaged and provides as follows:

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—

- (a) to prevent the detrimental effect referred to in sub-section (2) from continuing, occurring or recurring, or*
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.*

For the same reasons put forward in regard to the second consideration above, Counsel has advised that he “considers it properly arguable that this section would be complied with”.

The temporary road closure by means of a TTRO was effected by the placement of concrete blocks.

In addition to the County Council, The Police and Crime Commissioner, the Police, the Parish Council, the Fire and Rescue Service and the Ambulance Service have been consulted (as per the legislation and Statutory Guidance), a total of 4 business and 34 residents in the locality (including 23 residencies at the Pines) have been consulted in regard to the Council’s proposal to make a PSPO. 13 consultation responses have been received, 12 of these have supported the proposal and 1 is positively against it. A response has been received from the National Farmers Union who oppose the proposal. The objectors have stated that their legitimate business interests are currently being unacceptably interfered with by the TTRO as they are unable to access their fields which are adjacent to the closed roads. The position will remain so if the Council proceeds with its’ proposal to make the PSPO in similar terms to the TTRO.

During the period of the TTRO, the objector was advised that concrete blocks could be lifted by the Council’s contractor upon 48 hours’ notice. Only one such request was received from the objector during the 18 months of the TTRO.

In order to mitigate the ongoing position, the Council has arrangements in place with local contractors who would be able to move the blocks at shorter notice (2 hours) and it is proposed to provide the objector and local residents with direct contact to the Council’s local contractor who will move the blocks upon request up to an agreed number of times.

A further objection has been received from an organisation that was not directly consulted. This is attached at Annex B.

If the Council does not exercise its powers under the Act and introduce a PSPO which will restrict vehicular access to the roads

	<p>in Berkley Marsh, such action will fly in the face of the majority of the responders who were in favour of the PSPO.</p> <p>Fly-tipping levels, both in tonnage and expense, will rise instantly and will undo all the hard work to date.</p> <p>Failure to build on the success of the initiative will almost certainly lead to negative feedback and publicity.</p> <p>The positives that will flow from implementing the proposed PSPO will be that –</p> <ul style="list-style-type: none"> • Mendip receive publicity for a successful initiative in combatting fly-tipping in one specific area • Mendip sees a reduction in complaints of fly-tipping due to positive action <p>Mendip reaps the benefit of the longer term costs saving of the initiative.</p>
<p>Scrutiny Recommendation (if any)</p>	<p>This paper has not been submitted to the Policies and Strategies Group as the initiative predated their formal implementation.</p>

INTRODUCTION

Fly-tipping is defined as the '*illegal deposit of any waste onto land that does not have a licence to accept it*'. Tipping a mattress, electrical items, green waste or a bin bag full of rubbish on land causes a local nuisance and makes an area look unattractive and run down.

Councils have been given new powers to fine those who are found to be fly-tipping up to £400⁴. It has left Local Authorities with the challenge of having to consider new ways to clamp down and deal with those who illegally dump their waste, or try to persuade them not to do it in the first place.

The cost of clearing fly-tipping in the Mendip area, especially at Berkley Marsh reached totally unsustainable and unacceptable levels. In the autumn of 2015 a multi-agency initiative resulted in the decision to try a new initiative of restricting relevant roads to vehicular traffic in the Berkley Marsh area under a Temporary Road Closure (TRC).

Berkley Lane, Dark Lane and part of Pot Lane were specifically restricted to access by vehicular traffic on the 11 April 2016. However the hard road closures allowed unfettered access to walkers, cyclists, joggers and horse riders.

The initiative was reviewed and early results and savings indicated that the TRC should remain in place for its full 18-month term. The TRC ended on 10 October 2017.

BACKGROUND

Fly-tipping in the Berkley Marsh area has been ongoing for over 50 years. The problem grew when the road network was changed after the building of the by-pass.

Year on year the number of instances have grown together with the volume and tonnage of waste having to be cleared regularly.

Both overt and covert observations and surveillance have been undertaken in the area. Although some offences were captured on camera it has not been possible to identify the identity of those carrying out the fly-tipping in order that enforcement action can be undertaken.

With the costs of the clearance rising, meetings were held with the local residents and as outlined above a multi-agency initiative in the later part of 2015 resulted in a TTRO ultimately being put in place.

⁴ MDC adopted the £400 Fixed Penalty Notice in 2016.

CONSULTATION

The TTRO expired on the 10 October 2017 and in preparation for the proposal to implement a PSPO for Berkley Marsh, effectively replacing the requirements of the TTRO, consultation process a public questionnaire was prepared and placed on the MDC Website.

The consultation ran from 3rd July 2017 until 14th August 2017.

In addition Berkley Parish Council was contacted to ensure that local residents had their say in the matter.

In addition a letter and copy of the questionnaire was sent to a local farmer.

On 11th September 2017 a second consultation was conducted. Land Registry checks were completed and letters together with a draft copy of the intended PSPO were sent to land owners, local residents and interested parties.

On 25th September 2017 the draft PSPO was placed on the MDC website.

On 26th September 2017 the consultation and draft PSPO were sent to the Police and Crime Commissioner and to the local Policing Manager.

The Fire and Rescue Service and the Ambulance Service have also been consulted.

13 local residents responded to communication.

12 responses were positive towards the proposals.

1 local resident was against the proposed road restrictions.

The objector has stated that their legitimate business interests are currently being unacceptably interfered with by the TTRO as they are unable to access their fields which are adjacent to the closed roads. The position will remain so if the Council proceeds with its' proposal to make the PSPO in similar terms to the TTRO.

In addition the National Farmers Union were against the proposed road restrictions. This objection runs along similar lines to the local resident objector.

The police were entirely in favour of the proposed road restrictions.

See Appendix C – Maps

See Appendix D – Schedule of Consultee

See Appendix E – Consultation responses

THE LEGISLATION

The Anti-social Behaviour, Crime and Policing 2014 has repealed Section 2 of the Clean Neighbourhoods and Environment Act 2005 and Sections 129A to 129G of the Highways Act 1980 in relation to Gating Orders. The Act introduces a new type of order, namely a Public Spaces Protection Order (PSPO).

Section 59 of the 2014 Act gives the power to a local authority to make a PSPO if satisfied on reasonable grounds that two conditions, as set out in subsection (2) of s.59 have been met:

- 1) The first condition is that:
 - a) activities carried out 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.
- 2) 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 imposed by the notice.

A public spaces protection order is an order that identifies the public place referred to in subsection 2 ("the restricted area") and –

- (a) prohibits specified things being done in the restricted area,
- (b) requires specified things to be done by persons carrying on specified activities in that area, or
- (c) does both of those things.

The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order -

- (a) to prevent the detrimental effect referred to in subsection (2) from continuing, occurring or recurring, or
- (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

A PSPO may not have effect for a period of more than 3 years, unless extended.

Before the time when a PSPO is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent:

- a) occurrence or reoccurrence after that time of the activities identified in the order, or

- b) an increase in the frequency or seriousness of those activities after that time.

An extension under the act may not be for a period of more than 3 years and must be published in accordance with the regulations made by the Secretary of State.

A PSPO may be extended more than once.

Section 65 of the Act states that a PSPO may not restrict the public right of way over a highway that is:

- a) A special road
- b) A trunk road
- c) A classified or principal road
- d) A strategic road
- e) A highway in England of a description prescribed by regulations made by the Secretary of State.

Berkley Lane, Dark Lane and Pot Lane are unclassified roads and are not affected by the exclusions and so s.65 has no impact on the proposal.

Certain restrictions are however also provided by section 64. Section 64(5) provides that a public spaces protection order may not restrict the public right of way over a highway that is the only or principal means of access to a dwelling.

There are dwellings in Berkley Marsh which could be accessed by the part of the highway which it is proposed to restrict vehicular access to. One of those dwellings is Fair oak Farm. However, the part of the highway which it is proposed to restrict vehicular access to is NOT the *only* means of access to any such dwelling; all such dwellings in Berkley Marsh, including Fair oak Farm can be accessed via Rooks Lane (leading to Clink Road) and via Kemp's Lane (Leading to Berkley Street). Moreover, there is little if any basis upon which it could conceivably be argued that the affected piece of highway is the *principal* means of accessing any dwelling; Rooks Lane and Kemp's Lane provide more direct access to major roads and conurbations.

Section (4) provides that a public spaces protection order may not restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway. There is farmland (fields) which are *adjacent* to the affected parts of the highway but there are no vehicular gateways into any such fields which lead directly off the affected part of the highway. Originally the proposed order, to cover Berkley Lane and Dark Lane, will not prevent access to any such land via any existing gate, but will have the effect of requiring the occupiers of those fields, on occasions when vehicular access is required, to take a detour to reach the farthest access points to a particular field. The greatest possible detour is 1.1 miles. If however a PSPO is made excluding Dark Lane, the detour that is required will be reduced.

OPTIONS CONSIDERED

Option 1:

The implementation of a Public Spaces Protection Order to restrict vehicular access along Berkley Lane and Dark Lane. Pedestrians, cyclists and horse riders will not be affected (which has been the case for the last 18 months)

- a) Replace the concrete barriers with electric bollards fitted into the road, allowing only a vehicle with an access pass to enable the bollard to recess into the road thus enabling the thoroughfare of the vehicle in question (5 x key locations)

Pros

- Easy operation by interested parties
- Instant access
- No need to alight from a vehicle, a transponder device could be used to lower and raise
- No 3rd party agent required to seek permission

Cons

- No electricity supply nearby to facilitate the operation of the device
- Prohibitively expensive

Option 2:

The implementation of a Public Spaces Protection Order to restrict vehicular access along Berkley Lane and Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- b) Replace the concrete barriers with industrial/military strength barriers (5 x key locations)

Pros

- Easy operation by interested parties
- Instant access
- No 3rd party agent required to seek permission

Cons

- Prohibitively expensive
- Interested parties would not want the responsibility of keys or combination local codes
- Width of road (single track) would not allow the additional 1.5 metres at the side of the barrier to allow access for a horse and rider

Option 3:

The implementation of a Public Spaces Protection Order to restrict vehicular access along Berkley Lane and Dark Lane., Pedestrians, cyclists and horse riders will not be affected

- (c) Retention of the existing concrete blocks to minimise further fly-tipping (5 x key locations)

Pros

- No additional expense – MDC already own the blocks
- The blocks allow unfettered access to pedestrians, cyclists, horse riders, motor cyclists and quadbikes

Cons

- 3rd party required to raise the blocks
- No instant access – there has to be an agreed time scale to do so (originally 48-hours' notice, this is to be lowered)

Option 4:

The implementation of a Public Spaces Protection Order to restrict vehicular access along Berkley Lane removing the current restrictions in Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- (d) Replace the concrete barriers with electric bollards fitted into the road, allowing only a vehicle with an access pass to enable the bollard to recess into the road thus enabling the thoroughfare of the vehicle in question (3 x key locations)

Pros

- Easy operation by interested parties
- Instant access
- No need to alight from a vehicle, a transponder device could be used to lower and raise
- No 3rd party agent required to seek permission

Cons

- No electricity supply nearby to facilitate the operation of the device
- Prohibitively expensive

Option 5:

The implementation of a Public Spaces Protection Order to restrict vehicular access Berkley Lane and reopen Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- a) Replace the concrete barriers with industrial/military strength barriers (3 x key locations)

Pros

- Easy operation by interested parties
- Instant access
- No 3rd party agent required to seek permission

Cons

- Prohibitively expensive
- Interested parties would not want the responsibility of keys or combination local codes
- Width of road (single track) would not allow the additional 1.5 metres at the side of the barrier to allow access for a horse and rider

Option 6:

The implementation of a Public Spaces Protection Order to restrict vehicular access along Berkley Lane reopening Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- b) Replacement of the existing concrete blocks to minimise further fly-tipping (3 x key locations)

Pros

- No additional expense – MDC already own the blocks
- The blocks allow unfettered access to pedestrians, cyclists, horse riders, motor cyclists and quadbikes

Cons

- 3rd party required to raise the blocks
- No instant access – there has to be an agreed time scale to do so (originally 48-notice, this is to be lowered)

ANALYSIS OF THE OPTIONS

The costings for each option can be viewed at **Appendix F**.

Option 3 above appears to be the most cost effective option for the Council. However, even though the key objector could still access his land via a detour it still restricts

access to the highway and therefore open to challenge through the Court. This risk can be mitigated by the adoption of Option 6 where the key objector would be able to access his land in the north of the area via Dark Lane and Pot Lane.

RECOMMENDATIONS

Cabinet is asked to RECOMMEND

1. The making of a PSPO for Gypsy Lane and Berkley Lane, Berkley Marsh for a period of 3 years as set out in **Appendix A** using a concrete barrier solution, subject to a safety audit by the Highways Authority.
2. That the position in relation to Dark Lane be reviewed by Cabinet after 6 months to consider whether the PSPO should be extended or varied.
3. That a licence to do works is entered into with Somerset County Council (the Highway Authority) to permit minor works on or adjacent to the highway.
4. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services, authority to take any action necessary to implement the PSPO.
5. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services, authority to take steps necessary to implement the safety audit recommendations.
6. To delegate to the Interim Group Manager, Neighbourhood Services in consultation with the Portfolio Holder for Neighbourhood and Community Health Services and the Section 151 Officer, authority to identify an appropriate budget to implement the PSPO, which will include costs associated with compliance with the safety audit recommendations.

REASONS FOR RECOMMENDATIONS

To enable the council to implement the PSPO in Berkley Marsh to try to maintain the quality of life of visitors and residents.

Contact Officer: Ian Glover
Extension: 41532
e-mail: ian.glover@mendip.gov.uk

[NB: Statistics, figures of tonnage and areas of minor displacement will all be available at the Cabinet meeting if required.]

DRAFT PUBLIC SPACE PROTECTION ORDER

Mendip District Council Public Space Protection Order (Gypsy Lane and Berkley Lane) 2017

This Order is made by Mendip District Council (“the Authority”) under Section 59 of the Anti-social Behaviour Crime and Policing Act 2014, because it appears to the Authority that a Public Space Protection Order would reduce crime and anti-social behaviour taking place either on, or facilitated by the existence of, the public highway. This Order may be cited as the Mendip District Council Public Space Protection Order (Gypsy Lane and Berkley Lane) 2017.

BY THIS ORDER

- 1) The public rights of way, specified in the **Annexe 1** being public space within the Council’s area to which the Act applies and relevant highways, will be restricted at all times for all classes of public user except pedestrians, cyclists and horse riders and other specifically exempted purposes approved in writing by the Council, and will be enforced by the erection of barriers or gates shown on the annexed plans of the highway depicted by a thick black line.
- 2) The Council is satisfied that:
 - a. Premises adjoining or adjacent to the highway are likely to be affected by crime or anti-social behaviour which is detrimental to the quality of life of the local community
 - b. The existence of the highway is likely to facilitate the persistent commission of criminal offences or anti-social behaviour.
 - c. The antisocial behaviour is unreasonable.
 - d. It is in all circumstances expedient to make the Order for the purposes of reducing crime or anti-social behaviour.
- 3) Police, Fire and Ambulance emergency services, statutory undertakers with equipment situated under, over, along or in the highway, council officers and other persons authorised in writing by the District Council for the purposes of carrying out works of repair or maintenance to the highway or adjoining premises shall be exempt from the provisions of this Order.
- 4) The person responsible for erecting and maintaining gates or barriers is Mendip District Council (Neighbourhood Services – Enforcement), Cannards Grave Road, Shepton Mallet. Somerset. BA4 5BT.
- 5) This Order will remain in force for a period of 3 years from the date it is made, unless extended by further Orders or revoked by the Council in accordance with its statutory powers.

PENALTIES

- 6) A person who is guilty of an offence of failing to comply with a requirement of this Order will be liable, on summary conviction to a fine not exceeding Level 3 on the standards scale (currently £1000) or if in receipt of a Fixed Penalty Notice to a penalty of £100.

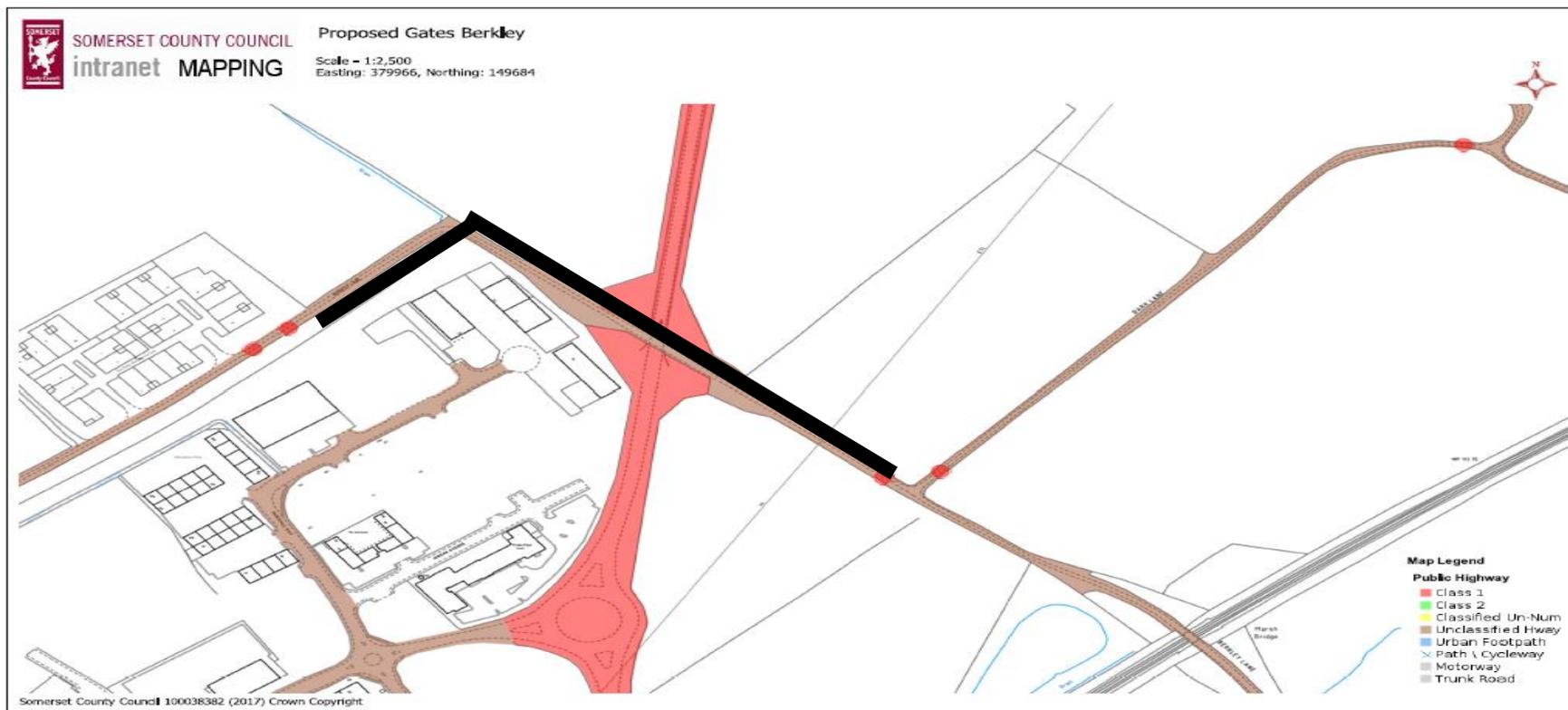
Given under the Common Seal of Mendip District Council on the _____ day of _____ 2017

**The COMMON SEAL of
MENDIP DISTRICT COUNCIL**
Was hereunto affixed in the presence of:-

.....
Authorised Signatory

ANNEX 1 Public Spaces Protection Order (Gypsy Lane and Berkley Lane) 2017

The Order applies to the public highway known as Berkley Lane leading from Gypsy Lane to its junction with Dark Lane, and comprising the entire length of the aforementioned highway depicted by a thick black line on the plan below. The locations of the barriers restricting access are marked on the plan below.



Appendix B

Equality Impact Assessment Form and Action Table (Expand the boxes as appropriate, please see guidance to assist with completion)	
Team/Service Area	Mendip District Council Neighbourhood Services (Enforcement).
Name of what is being assessed	The Pines Residential Site, Frome. BA11 2NJ
Risk Rating	Medium
Section 1 – Description of what is being impact assessed – this could be the Policy Aims and Objectives or what is being changed.	
<p>Permanent road closure of Berkley Lane, Dark Lane, Frome. The hard closure will be adjacent to one of the entrances to the residential gypsy site.</p> <p>A Temporary Road Closure (TRC) was implemented on Monday 11th April 2016. The TRC was sought to stem the level of criminality and anti-social behaviour of the illegal dumping of waste (fly-tipping) in that specific area. The problem was costing Mendip District Council over £75,000 per annum for that area alone.</p> <p>Overt and covert operations had been conducted over many years in an attempt to stem the level of tipping. There was no evidence to suggest who was responsible.</p> <p>The TRC was a necessary, legal and proportionate measure to combat the problem.</p> <p>The initiative has been hailed a success. It stemmed the anti-social behaviour of fly-tipping in the area and saved the local tax-payers a substantial amount of money.</p> <p>The next stage of the initiative is to apply for a Public Space Protection Order to permanently restrict the roads already temporarily closed under the TRC to vehicular traffic. (Cabinet on 13th November 2017).</p> <p>There was a full public consultation as part of the PSPO process.</p> <p>There were 2 objections, one from a local farmer and an accompanying objection from the National Farmers' Union.</p>	
Section 2A – People or communities that are targeted or could be affected (for Equalities - taking particular note of the Protected Characteristic listed in action table)	
<ol style="list-style-type: none"> 1) The residents of The Pines Residential Site felt that they were being blamed for the illegal dumping. There has never been any direct evidence to bring offenders to justice and no evidence that the occupants of the residential site were blameworthy. 2) Checks have been made and there are no children from the site attending the local school at Berkley. Therefore introducing a 2-mile detour rather than use the shortcut of ¾ mile is not discriminatory. All residents of Berkley parish and those from the 'Clink Estate' will have to endure the detour. 3) The TRC was monitored and reviews have been built in to ensure that the measure is necessary, legal and proportionate. 4) There has been regular interaction with the residents of The Pines and they have welcomed the road closure. They understand the reasons for doing so and it has not caused any detriment to their community. 	

<p>NB: One important factor is that the gypsy families from The Pines stated that the road closures would have to be lifted to facilitate the arrival of new mobile homes onto the site. This has been positively tested on two separate occasions – mobile homes can be transported onto The Pines by coming from the Bath Road direction. There is no need to lift any of the hard road closures. The residents have been very grateful for ensuring easy access to repair and replace their mobile homes.</p>	
<p>Section 2B – People who are delivering the policy or service</p>	
<p>Mendip District Council officers with internal and external support. (ID Verde – Local contractors).</p>	
<p>Section 3 – Evidence and data used for the assessment (Attach documents where appropriate)</p>	
<p>Costs of clearance evidenced by receipts and expenditure.</p> <p>In relation to the consultation, Berkley Marsh is a small hamlet of which The Pines Residential Site is within.</p> <p>There were 13 written responses from local residents, none from The Pines Residential Site.</p>	
<p>Section 4 – Conclusions drawn about the impact of the proposed change or new service/policy (Please use prompt sheet for help with what to consider):</p> <p style="text-align: center;">Key issues to be fed into relevant Action Table</p>	
<p>The intended action is aimed to bring a permanent end to the illegal dumping of waste on public land and the highway.</p> <p>The TRC affected the whole community and not just the residents of the Pines Residential Site. All other options have been tried and failed.</p> <p>The application of the Public Space Protection Order makes the situation permanent (renewable every 3 years).</p> <p>The permanence can be justified as the initiative has stopped the blight of fly-tipping in the relevant area and has saved a substantial amount of tax payers’ money.</p>	
<p>Section 5 – After consideration please state your final recommendations based on the findings from the impact assessment. Also include any examples of good practice and positive steps taken.</p>	
<p>The TRC commenced on the stated date.</p> <p>Residents’ letters were prepared for both residential properties and local businesses. The 23 families on the site had their letters hand delivered. No-one raised any concerns.</p> <p>The author has regular contact with the residents and no complaints or objections have been received to date.</p>	
<p>Section 6 - How will the assessment, consultation and outcomes be published and communicated? E.g. reflected in final strategy, published. What steps are in place to review the Impact Assessment</p>	
<p>The EIA will be reviewed annually. The application of the PSPO will be considered at Cabinet on 13th November 2017.</p>	
<p>Completed by:</p>	<p>Ian Glover, Enforcement Officer</p>

Date	06.11.17		
Signed off by:			
Date			
Compliance sign off			
To be reviewed by: (officer name)	Tom Rutland		
Review date:	November 2018		
Version	002	Date	

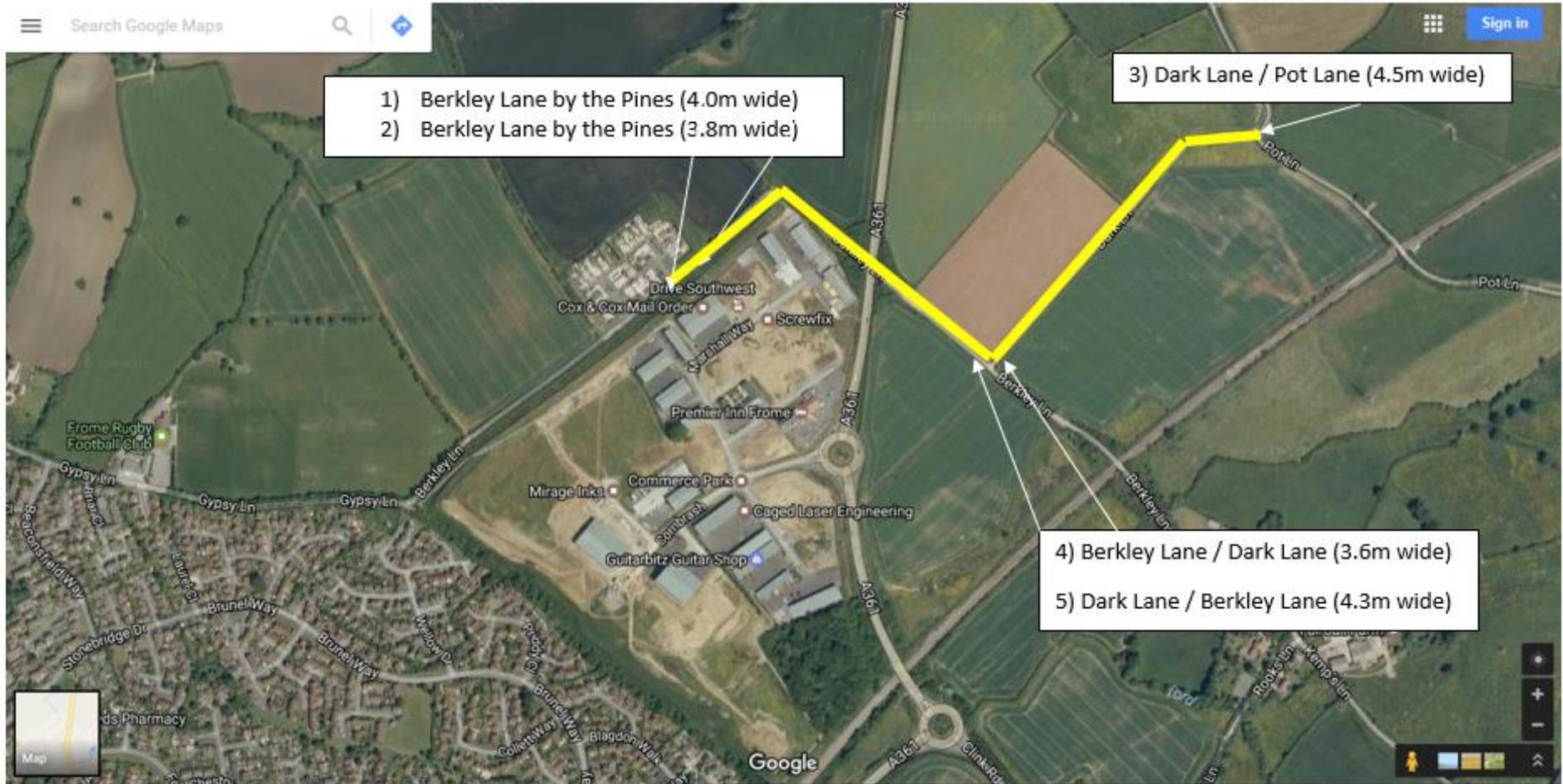
Equality Impact Assessment Issues and Action Table

Identified issue drawn from your conclusions	Actions needed – can you mitigate the impacts? If you can how will you mitigate the impacts?	Who is responsible for the actions?	When will the action be completed?	How will it be monitored?	What is the expected outcome from the action?
Age – N/A					
Disability – N/A					
Gender Reassignment – N/A					
Marriage and Civil Partnership – N/A					
Pregnancy and Maternity – N/A					
Race (including ethnicity or national origin, colour, nationality and Gypsies and Travellers) – Yes					
<p>Whether the road closure has an impact specifically against the gypsy' families resident on The Pines</p>	<p>To monitor and record concerns of any affected residents.</p> <p>There have been no concerns or complaints raised since the TRC was implemented in April 2016.</p> <p>One point was raised that there would be issues bringing in mobile</p>	<p>Case Officer – Ian Glover (Enforcement Officer. 01749 341532)</p>	<p>When the decision on whether or not to proceed is taken: Cabinet 13.11.2017</p>	<p>In consultation with Senior Council Officers and Legal Advisors: All reports signed off as appropriate</p>	<p>The permanent/cessation/reduction of illegal dumping of waste.</p>

	<p>homes to the site. That has been tested on 2 occasions and the homes were delivered from the Bath Road/Gypsy Lane direction without any problems.</p>				
<p>Religion and Belief – N/A</p>					
<p>Sex - N/A</p>					
<p>Sexual Orientation – N/A</p>					
<p>Other (including caring responsibilities, rurality, low income, Military Status etc.) – N/A</p>					

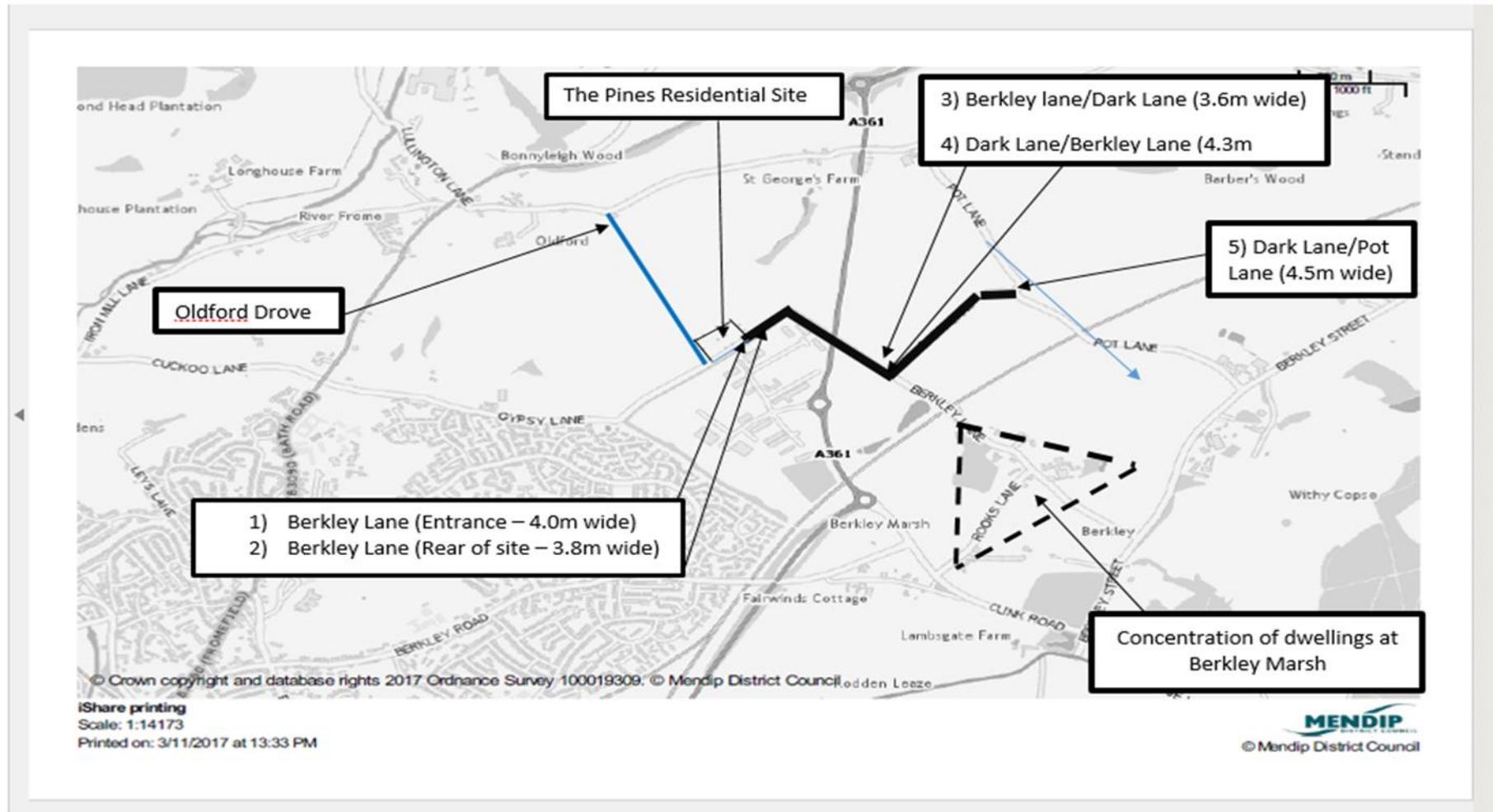
Appendix C

Plan of Locations for Hard Road Closures at Gypsy/Berkley/Dark/Pot Lane, Frome. BA11 2NJ (Total Length 990m)



Appendix C

Map of Berkley Marsh and its Surrounding Area



Appendix D

Properties consulted during the second public consultation period

Somerset County Council	County Hall		Taunton	TA1 4DY
Business One	Fairoak Farm	Berkley Marsh	Frome	BA11 5JF
Business Two	Unit K12, The Courtyard, Jenson Avenue, Commerce	Commerce Park	Frome	BA11 2FG
Business Three	C/O Core Law Group LLP	1 Beacon Road	Crowborough	TN6 1AF
Business Four	The Clubhouse	Gypsy Lane	Frome	BA11 2NA
	11 Berkley Marsh	Berkley Marsh	Frome	BA11 5JE
	Greystone Cottage, 12 Berkley Marsh	Berkley Marsh	Frome	BA11 5JE
	13 Moss Meadow Cottage	Berkley Marsh	Frome	BA11 5JE
	14 Berkley Marsh	Berkley Marsh	Frome	BA11 5JE
	15 Berkley Marsh	Berkley Marsh	Frome	BA11 5JE
	21/22 Berkley Marsh	Berkley Marsh	Frome	BA11 5JE
	41 Walford Road		Uxbridge	UB8 2NG
	Ladymead, Berkley Lane	Berkley Marsh	Frome	BA11 5JE
	Glebe Cottage	Berkley Marsh	Frome	BA11 5JD
	Myddelton & Major	49 High Street	Salisbury	SP1 2PD
	Limerick Farm, Beckington, Frome, Somerset.	Beckington	Frome	BA11 6TH
	1 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	2 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	3 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	4 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	5 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	6 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	7 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	8 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	9 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	10 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ

	11 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	12 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	12A Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	14 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	15 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	16 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	17 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	18 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	19 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	20 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	21 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	22 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
	23 Pines Residential Site	Berkley Lane	Frome	BA11 2NJ
ASC Police PCC	Police HQ	Valley Road	Portishead	BS20 8JJ
Inspector Mark Nicholson	Mendip Policing Manager	Valley Road	Portishead	BS20 8JJ
PC Victoria Ward	Local Beat Manager	Valley Road	Portishead	BS20 8JJ
Station Manager Bird	Frome Fire Station	Keyford	Frome	BA11 1JG
Resilience Team	SWAST (Ambulance)	Eagle Way	Exeter	EX2 7HY

Consultation Responses

Resident A

Further to the letter we received regarding the official consultation PSPO dated 12th September 2017, we would like to share with you some of our experiences of living in Berkley Marsh over the last 28 years.

We moved to the hamlet 7th September 1989 and whilst waiting to get into our cottage were welcomed at 8.30 that morning by the local dairy herd going past out gate out to pasture having just been milked and the local milkman delivering milk to the doorstep. At that time the lane was closed to traffic as the Frome bypass was under construction. We believed we were moving into a delightful rural hamlet.

In the early years the lanes were fairly quiet and it was a pleasure to live here. In more recent times, we have endured an increase in traffic and much anti-social driving. A number of our neighbours have had cats killed due to speeding vehicles and we have had to put up with horns blasting, loud music from passing traffic both day and all times of the night, ponies and traps racing down the lanes - often at dusk with no high visibility markers or lights and verbal abuse from passing traffic as we tried to get in and out of our own drive. Inconsiderate driving by some has also meant residents having to take evasive action to avoid collisions on numerous times and we have also had to put up with deliberate driving at speed on grass verges and tended grassy areas outside our properties to deliberately 'carve up' our roadsides.

We have over the years also seen a significant increase in fly tipping. On a daily basis from our windows we have observed unmarked vans and vehicles driving through our hamlet loaded with vegetation. They would all return a short time later minus the vegetation but leaving the lanes full of greenery, builders' rubble, white goods, tyres, gas cylinders etc. We have been powerless to do anything about it because of potential repercussions. On a number of occasions we and some of our neighbours have had our wheelie bins stolen and the contents tipped over driveways preventing us from leaving our properties until we have cleared up the mess. We have then had to order and wait for replacement bins. The cost of clearing the fly tipping has been quite staggering over the years but sadly as we have witnessed, no sooner were the lanes cleared then more rubbish was dumped, usually within hours of the JCB leaving.

We have been aware that we and our neighbours have had prowlers on our properties. Some have had outbuildings broken into and items stolen.

Moving on to current times...

The lane closure last year was a relief for us all in the hamlet. In March this year, having made arrangements for its collection, a group of residents got together to do a sweep of the hedgerows and banks to clear items the council have not cleared for years. It was back breaking work gathering tyres, wheels, gas cylinders, bags of tiles, rubble, clothing etc. and it took many hours. It was immensely satisfying to see a litter free environment and it has been appreciated by many who live here and those who use our lanes. We have seen a significant increase in cyclists, horses and riders, runners and walkers including families with young children enjoying our lanes.

As residents we are now able to access our properties safely. We have a disabled neighbour who goes out on his mobility scooter daily. It has been reassuring to know he is safe to drive in the lanes. The banks and hedgerows are greening up nicely, wild flowers regenerating and residents and locals are once more enjoying the peaceful surroundings. A number of residents have pets. Their dogs can be walked safely and cats can roam freely and with a degree of safety.

The council have made significant savings not having to clear our lanes over the past 18 months. The residents and locals are now enjoying the freedom and pleasures of a rural setting which enhances their quality of life. In our opinion there can be absolutely no justification in reopening the lanes. For the safety, enjoyment and well-being of residents and locals we fully support the permanent closure of the lanes in Berkley Marsh.

Resident B

I am emailing you today because I understand the lane closure at Berkley Marsh is up for review. I would like to express our wish for the road closure to remain in place, as I have previously written to Mr Glover, the closure has made a massive positive impact on our lives.

I work shifts for the ambulance service, and this includes working nights, therefore sometimes having to sleep in the day, before the road closure my sleep would very often be interrupted by traffic sounding their horns as they sped through Berkley Marsh. It would also interrupt the enjoyment and peace of sitting out in the garden, as it has not been like the odd car or train that passes, it became a nuisance, and has had a negative impact on our well-being.

It has been a pleasure not to have the constant unnecessary flow of traffic going through the village at all times of day and night, making a noise, speeding, churning up the verges and causing damage to peoples' property. We now enjoy the peace of mind that we are less likely to be the victims of crime as the escape route has been minimised, and that we have to sleep with one ear or eye open.

The dumping of rubbish has been greatly and noticeably reduced, and not only can we walk our dogs safely down the lanes without fear of them injuring themselves we see other people from outside the village come and enjoy the freedom of the lanes as well, as they walk, cycle, or ride their horses. There has clearly been a wider impact on the local community, who weren't able to or wanting to enjoy the local countryside, for fear of the unsightly, dangerous fly tipping, and those that use the lanes as a race track, with no regard for peoples' safety and well-being.

So the road closure for us, has created a less stressful more pleasurable environment to live in, and would like it to stay that way.

Resident C

With regards to the letter received about the lane closures in Berkley Marsh, my husband and I are all for them to remain closed, this last year and a half have been lovely. No speeding cars and vans through the village, no horns being blown all hours of the day, the lanes and verges are a hell of a lot cleaner, a bit of fly tipping now and again, but not as bad as it used to be. Also people we know who walk their dogs, or bike ride, or just for go walk, say how lovely clean and peaceful it is, no fear of being run down by traffic or

sworn at because they were in the way, which I know happens because it's happened to us.

Resident D

We have lived in Berkley Marsh for 35 years. When we first lived here we had beautiful country lanes that the odd car would travel down, people would walk and cycle, horses were ridden and children were taken for nature walks. It was rural and beautiful.

There was a small amount of litter through the lanes which my then children and I used to pick up on walks.

Then charging for waste at the local tip started and since then our lanes were gradually ruined by a vast array of fly tipping from kitchen, garden and builders waste, cupboards, fencing, sheds, car tyres, gas canisters, fridges and cars which were often torched. There was no limit to what was dumped. As you know thousands of £ were spent over the years on clearing this every 6 weeks or so and fewer and fewer people were able or wanted to visit the area except the local farmers and local residents who have been responsible for regularly reporting the crimes. Also at this time cars and vans speeding through the lanes became an issue, walking was hazardous.

In April 2016 a wonderful thing happened. Our lanes had a temporary road closure for a maximum of 18 months and enormous concrete blocks placed in strategic places to stop easy access to the favourite dumping areas. The residents of Berkley rallied together and cleared up the last bits of rubbish that remained, we swept the lanes of broken windscreen glass and bagged it all up for council collection. We were happy to do this so that our lanes could be used again as they had years before.

As word got out about the road closure we have seen runners return, dog walkers and cyclists too and the local riding stables doesn't have to worry about nails and glass on the lanes to damage hooves. The residents don't have to put up with hooting horns from those at the other end of Berkley Lane as they announced their route through our hamlet. Nature has returned, birds have nested and the area looks like Somerset again.

We are convinced that reopening the road would result in fly tipping and speeding returning to Berkley Marsh.

Please make the road closure permanent.

Resident E

As residents of Berkley Marsh we are in full favour of the proposed PSPO. It will not bring any issues with transport for us as the availability of alternative routes is easy. In fact it will hugely benefit the community here and keep the lanes as a clean safe nature friendly place to walk cycle or horse ride. There may be a small inconvenience for the local farmer but, to be honest, he doesn't do much farming nowadays anyway and the benefits of the PSPO, in our opinion, hugely outweigh his minor inconveniences.

The removal of a through route will mean that we will no longer have to suffer the tooting, speeding vehicles and the litter that they so blatantly discard from their car windows and van flat beds.

We welcome the closure.

Resident F

As the road closure for the above lanes is under review I would like to put forward our view as residents in Berkley Lane.

The lane prior to its temporary closure was a constant problem for dumping. The nature of the dumping was from small items of paper, bottles, cans to major household items like fridges, stoves, chairs, tables etc. The dumping of builders rubble which included, bricks, glass, tiles, doors, window frames was an even more dangerous problem for the dog walker, horse riders and runners using the Lane. The dumping of waste materials in barrels and other plastic containers was also very worrying. Tyres were along with, trailers and even cars a further worrying trend.

The garden waste often blocked gate entrances to fields and on a number of occasions it was necessary to phone the fire brigade as waste was either set alight deliberately or by accident. The cost of removing this waste has been hugely expensive and often futile as the following days further items were dumped. We have spent many hours collecting the smaller waste ourselves. We have suffered from someone stealing our waste bins, gates and dropping rubbish at the top of our drive since closure we have suffered none of this.

In addition to the dumping in the lane, the lane is used as a "rat run" with cars travelling far too fast for the nature of the single track and residential nature of the lane at the Berkley Marsh hamlet.

The Lane closure has hugely improved the residential nature of the hamlet. It has become a haven for cyclists, dog walkers, runners, horse riders and those coming from the outer parts of Frome to walk and enjoy the rural nature of the lanes. The verges are safer for small children and dogs as they are no longer covered in tins and broken glass etc.

The dumping has considerably reduced, there are still those that do come down the lane to dump. Unfortunately it is not always possible to change the behaviour of some people. Even with the road closed people that have dumped regularly still take the opportunity to dump where due to the nature of the lanes, with no houses and little risk of being caught will continue. But these offenders are hugely reduced and have to be much more brazen as they go through the hamlet with loaded trucks and vans. Perhaps CTV Cameras could be sited at the beginning of the closure so that it would be even more difficult for these individuals to openly disregard the laws on dumping?

However the improvement is dramatic and the area is dramatically back to how they should be - delightful English country lanes full of wildlife. We would be delighted for the closure to become permanent and are happy to do our bit in clearing rubbish if we see it (size permitting). The closing of the lanes has given the residents a moral boost to think that it is possible to improve their surroundings where before it was a thankless task to try and keep the lane clear. We now need perhaps to incentivise those individuals that won't change their habits to take rubbish to the local tip.

Resident G

As a resident of Berkley Marsh, Frome I wanted to extend my personal gratitude to all those involved in the assistance of tackling and ultimately reducing fly tipping down Berkley Lane.

As you are fully aware, the levels of fly tipping that existed down Berkley lane prior to the road closure was horrific. Commercial and garden waste blighted the lanes, making them unsightly, dangerous and I'm sure a costly exercise to remove said waste. At least once or twice a month the lanes became inaccessible due to the sheer volume of rubbish that was being dumped.

The road closure in place has drastically reduced the waste being dumped. The lanes have seen an increase in joggers, cyclists, horse riders and dog walkers alike all taking advantage of cleaner and safer lanes again a clear result of having the road closure in place. Having a young family we are now able to explore and use the lanes safely again without the nuisance and unsightly mess hindering our way. A reduction of general traffic down the lanes (often speeding) has also made them safer again.

Interestingly in the five years living at our property, prior to the road closure, not once had I personally witnessed any one fly tipping. This I believe shows the measures and 'skill' that individuals are will to take to dump down the lanes. They became clever and cunning in their approach very rarely (to my knowledge) being caught. My ultimate worry would be if the road was ever opened again we would see the same patterns and volume of fly tipping as we did before. The current system works and would urge that it remains indefinitely.

Thank you again for taking the time to read my views and thank you once again for your continued support in this matter.

Resident H

Following the closure of the road in Berkley Marsh I am happy to report a transformation of life in the area.

We now have more cyclists, walkers and runners than before. Traffic is, of course, considerably reduced and fly-tipping has almost disappeared.

Our neighbourhood seems safer and cleaner, evidenced by our neighbour who drives daily on his mobility scooter (the road was far too dangerous before and we don't have pavements!)

If keeping the road closed is an option, it is one that would have my support.

Resident I

We fully support the Mendip District Council's proposal to make a Public Spaces Protection Order restricting access to the public highways known as Berkley Lane and Dark Lane, Berkley.

In regards to the official consultation we provide the following comments: -

1. The principal occupiers of land adjoining and adjacent to the sections of road subject to the proposed restrictions of access are local farmers. However, there are no points of access to adjacent fields within the proposed restricted area, apart from a recently created gate onto Dark Lane. There are other gates into all adjacent fields available outside the proposed restricted area. The additional

travelling required to reach these field gates is minimal and makes little or no impact on farming activities.

2. The occupiers of other homes in Gypsy Lane have an existing access from the North and West via the Bath Road and Gypsy Lane. In addition, there is also a convenient access route from the South and East via Clink Road and the Stonebridge estate. The latter was always likely to have been the preferred route from the East for most residents of Gypsy Lane and the Stonebridge estate owing to the frequent partial or complete blockage of Berkley Lane and Dark Lane due to fly-tipping. The potential damage to vehicle tyres from metal waste, shards of broken glass, etc., a consequence of irresponsible and dangerous dumping of miscellaneous waste on these lanes, would also deter most residents from using this route.
3. The residents of Berkley / Berkley Marsh generally do not use the proposed restricted route for vehicular access owing to the issues outlined in item 2 above and the availability of convenient alternative routes.
4. The use of these lanes as a through route by travellers from outside the area has probably increased since the use of Satnavs. However, the lanes are narrow and unsuited for through traffic usage and there are much better and convenient alternative routes available for this type of traffic. Many vehicles that do attempt to use Berkley Lane from the East currently ignore the 'Road Ahead Closed' signs as they follow Satnav directions. It is likely that the installation of a 'No-Through Road' sign would more effectively deter through drivers from entering Berkley Lane.
5. Since the closure of the lanes there has been a marked reduction in illegal dumping, minimal littering from passing vehicles and an absence of danger from speeding vehicles. On the other hand there has been a noticeable increase in the use of the lanes by walkers, joggers, cyclists and horse riders owing to the virtual absence of traffic. There is no doubt that the existing lane closures have greatly enhanced the local environment to the benefit of Berkley Marsh residents and the many visitors to the area.

Resident J

The implementation of the road closure has affected my life and business. My legitimate business interests are currently being unacceptably interfered with by the Council's actions.

Inspector Mark Nicholson (Mendip Neighbourhood Manager)

We have worked in partnership on this issue for a number of years as you know, and the current solution has dramatically reduced the issue resulting in less calls for our service, and for a safer environment which the communities can finally enjoy.

You thus, very much have my support.

PC Victoria Ward (Local Beat Officer)

As stated in my statement there has been a vast improvement in the area during the last 18 months, since the road has been closed. We have seen a dramatic decrease of all types of complaint in the area, which has had a positive impact to the local community. From a policing perspective I fully support the closure of the road using a Public Spaces Protection Order.

Mrs Sue Mountstevens, Avon and Somerset Constabulary Police and Crime Commissioner (PCC)

Please accept this email as the PCC's positive response for restricting access to the highway by means of the PSPO.

Resilience Officer, South Western Ambulance Service, NHS Foundation Trust

Through some investigation and speaking with local staff, I can see no cause for concern with regards response times connected to the Berkley Lane and Dark Lane road closures that have previously been in place. Given this, I can see no reason why it would cause any issues going forward.

Mr Andrew Turner, Somerset County Council Highways

Thank you for the opportunity to comment on the proposed Public Spaces Protection Order (PSPO) at Berkley Marsh, Frome. Please find comments below.

Scope of the Restriction

The restriction of the public right of passage contained in the PSPO should be reasonably necessary to prevent the detrimental activities it seeks to address. In this respect, Mendip District Council (MDC) need to consider the geographic area covered by the PSPO and the specific activity it seeks to prohibit. In this case, I am aware that fly tipping is carried out by vehicles passing through this area, and so on that basis I would expect that only those vehicles are prevented from using the route and that other vehicular / non-vehicular highway users should be able to continue to use the road.

Consideration should also be given to vehicular access by the Councils, utility companies, emergency vehicles and owners and occupiers of adjoining premises. The need for proportionality and reasonableness in approach is contained within the two conditions which the local authority must satisfy itself on before making a PSPO (below, section 59 of the Anti-social behaviour Crime and Policing Act 2014) and is reinforced in the guidance (attached):

The first condition is that—

- (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 imposed by the notice.

Notwithstanding the above, I want to confirm I fully support the principles of the PSPO and the outcomes it seeks to secure. If I can assist in any way to develop and / or refine the current the current proposal, please do not hesitate to contact me.

Mr Matthew Uren, NFU

I am writing in relation to the proposed implementation of the Berkley Marsh Public Space Protection Order (PSPO) and associated closure of Berkley Lane, Dark Lane and Pot Lane.

The Council asked for representations on:

- (a) The likely effect of making the order on the occupiers of premises adjoining or adjacent to the land;
- (b) The likely effect of making the order on other persons in the locality;
- (c) In a case where the highway constitutes a through route, the availability of a reasonably convenient alternative.

The NFU believes it is essential that private access along these roads to agricultural land is retained. Any other recommendation will have serious implications to legitimate farm business activities that use the roads as their principal means of access to parcels of agricultural land.

When making recommendations on the nature of the type of hard road closure, we respectfully ask that all parts of section 64 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) are taken into full consideration, in particular:

- 64 (4): A public spaces protection order may not restrict the public right of way over a highway for the occupiers of premises adjoining or adjacent to the highway.
- 64 (6): In relation to a highway that is the only or principal means of access to premises used for business or recreational purposes, a public spaces protection order may not restrict the public right of way over the highway during periods when the premises are normally used for those purposes.

Retaining concrete barriers will restrict the principal access route to parcels of agricultural land, thus not complying with the abovementioned parts of the act. If barriers must be used as part of the PSPO, it is essential that the concrete barriers currently used are replaced with a type of barrier which can be easily opened by those needing to retain private access to their land.

Appendix F (Costings for Options)

Option 1: The implementation of a Public Spaces Protection Order to make the roads restricted to vehicular traffic. Pedestrians, cyclists and horse riders will not be affected (which has been the case for the last 18 months)

- (e) Replace the concrete barriers with electric bollards fitted into the road, allowing only a vehicle with an access pass to enable the bollard to recess into the road thus enabling the thoroughfare of the vehicle in question (5 x key locations)

❖ Cost of removing the current concrete barriers entirely

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenance	£38.50	8	£308.00
Loader loading/ unloading blocks	£49.50	10	£495.00
vehicle Transport	£38.50	10	£385.00
		Unit/ Week	
Storage Cost	25	51	1275
		First year costs	£2,711.00

❖ Replace barriers with electric bollards
(Awaiting quotes)

Option 2: The implementation of a Public Spaces Protection Order to make the roads restricted to vehicular traffic. Pedestrians, cyclists and horse riders will not be affected

- (f) Replace the concrete barriers with industrial/military strength barriers (5 x key locations)
- a. Choose one of the 3 companies who have been approached to quote for the barriers (quotes available at time of Cabinet)

❖ Cost of removing the current concrete barriers entirely

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenance	£38.50	8	£308.00
Loader loading/ unloading blocks	£49.50	10	£495.00
vehicle Transport	£38.50	10	£385.00
		Unit/ Week	
Storage Cost	25	51	1275
		First year costs	£2,711.00

- ❖ Replace barriers with industrial/military strength barriers
(Awaiting quotes)

Option 3: The implementation of a Public Spaces Protection Order to make the roads restricted to vehicular traffic. Pedestrians, cyclists and horse riders will not be affected

- c) Replacement of the existing concrete blocks to minimise further fly-tipping
(5 x key locations)

- ❖ Reopening the road

Cost of relocating the current concrete barriers to strategic points along the road.

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenances	£38.50	8	£308.00
Relocate Bollards	£49.50	4	£198.00
		Total Costs	£754.00

Option 4: The implementation of a Public Spaces Protection Order to make the road (Berkley Lane) restricted to vehicular traffic and reopen Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- (g) Replace the concrete barriers with electric bollards fitted into the road, allowing only a vehicle with an access pass to enable the bollard to recess into the road thus enabling the thoroughfare of the vehicle in question (3 x key locations)

- ❖ Cost of removing the current concrete barriers entirely

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenance	£38.50	8	£308.00
Loader loading/ unloading blocks	£49.50	10	£495.00
vehicle Transport	£38.50	10	£385.00
		Unit/ Week	
Storage Cost	25	51	1275
		First year costs	£2,711.00

- ❖ Replace barriers with electric bollards
(Awaiting quotes)

Option 5: The implementation of a Public Spaces Protection Order to make the road (Berkley Lane) restricted to vehicular traffic and reopen Dark Lane. Pedestrians, cyclists and horse riders will not be affected

- d) Replace the concrete barriers with industrial/military strength barriers (3 x key locations)
 - a. Choose one of the 3 companies who have been approached to quote for the barriers (quotes available at time of Cabinet)

❖ Cost of removing the current concrete barriers entirely

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenance	£38.50	8	£308.00
Loader loading/ unloading blocks	£49.50	10	£495.00
vehicle Transport	£38.50	10	£385.00
		Unit/ Week	
Storage Cost	25	51	1275
		First year costs	£2,711.00

❖ Replace barriers with industrial/military strength barriers (Awaiting quotes)

Option 6: The implementation of a Public Spaces Protection Order to make the roads restricted to vehicular traffic. Pedestrians, cyclists and horse riders will not be affected

- e) Replacement of the existing concrete blocks to minimise further fly-tipping (3 x key locations)

Cost of relocating the current concrete barriers to strategic points along the road.

Labour	Cost per unit	Unit/hours	Cost
Remove bollards	£49.50	4	£198.00
Grab Hire	£50.00	1	£50.00
Cleanse Road	£0.00		£0.00
Hedge maintenances	£38.50	8	£308.00
Relocate Bollards	£49.50	4	£198.00
		Total Costs	£754.00