

SOUTH STAFFORDSHIRE COUNCIL

DECISION OF CHIEF EXECUTIVE **PUBLIC SPACES PROTECTION ORDER – GIBBETT LANE,** **KINVER, SOUTH STAFFORDSHIRE**

1. Authority

Under powers derived from Part 3 of the Constitution of the Council approved by the Council pursuant to Section 37 of the Local Government Act, 2000 the Leader of the Council is empowered to delegate certain decisions to the Chief Executive of the Council.

On 21 October 2014 the Leader (Councillor Brian Edwards) delegated authority to the Chief Executive to exercise all of the Council's functions relating to ASB under the Anti-Social Behaviour, Crime and Policing Act 2014

2. Law

- 2.1.1 This Council can make a Public Spaces Protection Order ("PSPO") if satisfied on reasonable grounds that activities carried out in a public place within the South Staffordshire area have had a detrimental effect on the quality of life of those in the locality and that the effect of the activities is of a persistent or continuing nature; is such as to make the activities unreasonable and justifies the restrictions imposed by the proposed notice.
- 2.1.2 Any order must identify the public place [the "restricted area"] and can prohibit specified things being done within that area.
- 2.1.3 Any prohibition must be reasonable to impose so as to prevent the detrimental effect referred to above from continuing, occurring or recurring.
- 2.1.4 An order can be framed so as to apply at all times.
- 2.1.5 An order must identify the activities that are being carried out; explain it is an offence to comply with the order and specify the period [initially no more than 3 years] for which the order is to have effect.
- 2.1.6 Where the Council propose to restrict the public right over a highway it must consider the likely effect of making the order on the occupiers of premises adjoining or adjacent to the highway; the likely effect of making the order on other persons in the locality and, in a case where the highway constitutes a through route, the availability of a reasonably convenient alternative route.
- 2.1.7 Before making a PSPO the Council must notify potentially affected persons of the proposed order; inform them as to how they can see a copy of the proposed order; notify them of the period within which they can make representations about the proposed order and consider any representations.
- 2.1.8 A PSPO that restricts the public right of way over a highway may authorise the installation, operation and maintenance of a barrier [here gates] for the purpose of enforcing the restriction.
- 2.1.9 A Council when deciding whether to make a PSPO and what it should include must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights now enshrined in the Human Rights Act 1988.
- 2.1.10 A Council must consult upon and publicise the proposed order before making it.
- 2.1.11 A Council must notify the relevant parish council for the restricted area and the County Council.
- 2.1.12 An interested person may apply to the High Court [within 6 weeks of the order being made] to question the validity of a PSPO.

3. HISTORY LEADING TO MAKING OF PSPO

The restricted area is isolated and has, for some time, been a destination of choice for people who wish to fly -tip. The council use public funds in removing this waste. In addition people living within the locality and Staffordshire Police [whose representations/ statements I have previously read] say that people who drive vehicles in the restricted area are a source of noise nuisance; people have also been found in possession of illegal drugs as the area being isolated provides somewhere for the consumption of said substances.

On 7 August 2015 I reviewed this matter and considered statements from the Police and local residents re the above matters. Having considered matters I was minded to make a PSPO. As such I directed that an officer (s) of Legal and Public Health Protection:

- a) notify potentially affected persons of the proposed order; inform them as to how they can see a copy of the proposed order; notify them of the period within which they can make representations about the proposed order and thereafter consider any representations and,
- b) consult the county council regarding the restriction placed upon the highway in the area the subject of the proposed restriction and,
- c) consult with the chief officer of police for Staffordshire; any appropriate community representatives and the owner or occupier of land within the restricted area and,
- d) notify the relevant parish council and the county council of the proposed order.
- e) report back to me when the required consultation etc. has taken place.

It has been reported to me that the above direction was complied with. It is reported to me that no adverse representations about the proposed Order have been received. On the contrary, I am advised that representations supporting the making of the Order have been received. It is also the case that the making of the proposed Order has been publicised on the Council's web site for a period of 2 weeks. I am advised that no further comment has been received as a result of that publicity.

5.0 Decision

- 5.1 Taking in to account the representations I remain of the view that activities carried on within the restricted area have had a detrimental effect on the quality of life of those within the locality; they are of a persistent or continuing nature; that they are unreasonable and that the restrictions imposed by the proposed Order [and use of gates to enforce the same] are justified.
- 5.2 I therefore hereby make a Public Spaces Protection Order in the terms of the attached draft marked "SW1".
- 5.3 I direct that:

- a) this Order (with plan) be publicised on the Council's website and,
- b) that sufficient notices to draw the attention of the existence of the Order to any member of the public using the aforementioned public place are erected on or adjacent to the public place.

STEVE WINTERFLOOD
CHIEF EXECUTIVE

A handwritten signature in cursive script that reads "S. Winterflood".

21st DAY OF OCTOBER 2015

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

SECTION 59 PUBLIC SPACE PROTECTION ORDER-

GIBBETT LANE, KINVER, SOUTH STAFFORDSHIRE

This Order is made by SOUTH STAFFORDSHIRE DISTRICT COUNCIL

The Council is satisfied on reasonable grounds that the following activities have been carried out in the above public space (located within the Council's area) and that they have had a detrimental effect on the quality of life of those in the locality:

Fly-tipping; littering; noise nuisance from vehicles being driven; music played at unacceptably loud levels from vehicles; possession and consumption of illegal drugs.

Restriction

The driving of any motor vehicle on Gibbett Lane, Kinver as shown on the attached photograph from a point (identifiable by the presence of a red line on the photograph) just west of its junction with Whittington Hall Lane, Kinver. The restriction will be enforced by a 'horse' gate at the point identified by way of the red line on the photograph.

Exemptions

The Police, Fire and Ambulance emergency services and statutory undertakers with legitimate cause to be on Gibbett Lane, Kinver shall be exempt from the provision of this Order. The owners/ occupier (and anyone present at their invitation) of Round Hill Farm, Kinver and the owners/ occupiers of numbers 1 through to 8 Whittington Hall Lane, Kinver (and anyone present at their invitation) are also exempt as are any employees of Severn Trent Water PLC and anyone present at their invitation.

Duration

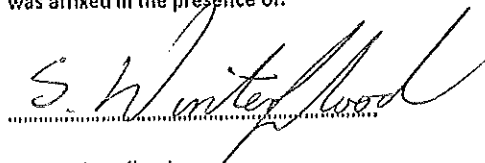
This Order is to have effect for 3 years.

IT IS AN OFFENCE FOR ANY PERSON WITHOUT REASONABLE EXCUSE TO FAIL TO COMPLY WITH THE ABOVE REQUIREMENT. A PERSON GUILTY OF SUCH AN OFFENCE IS LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 3 ON THE STANDARD SCALE

Given under the Common Seal of South Staffordshire District Council on the 21st day of October 2015.

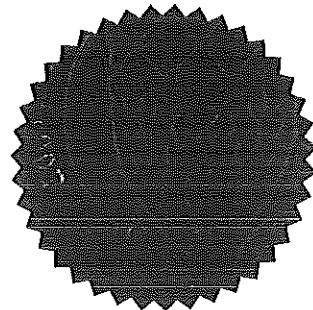
The COMMON SEAL of
SOUTH STAFFORDSHIRE DISTRICT COUNCIL

was affixed in the presence of:



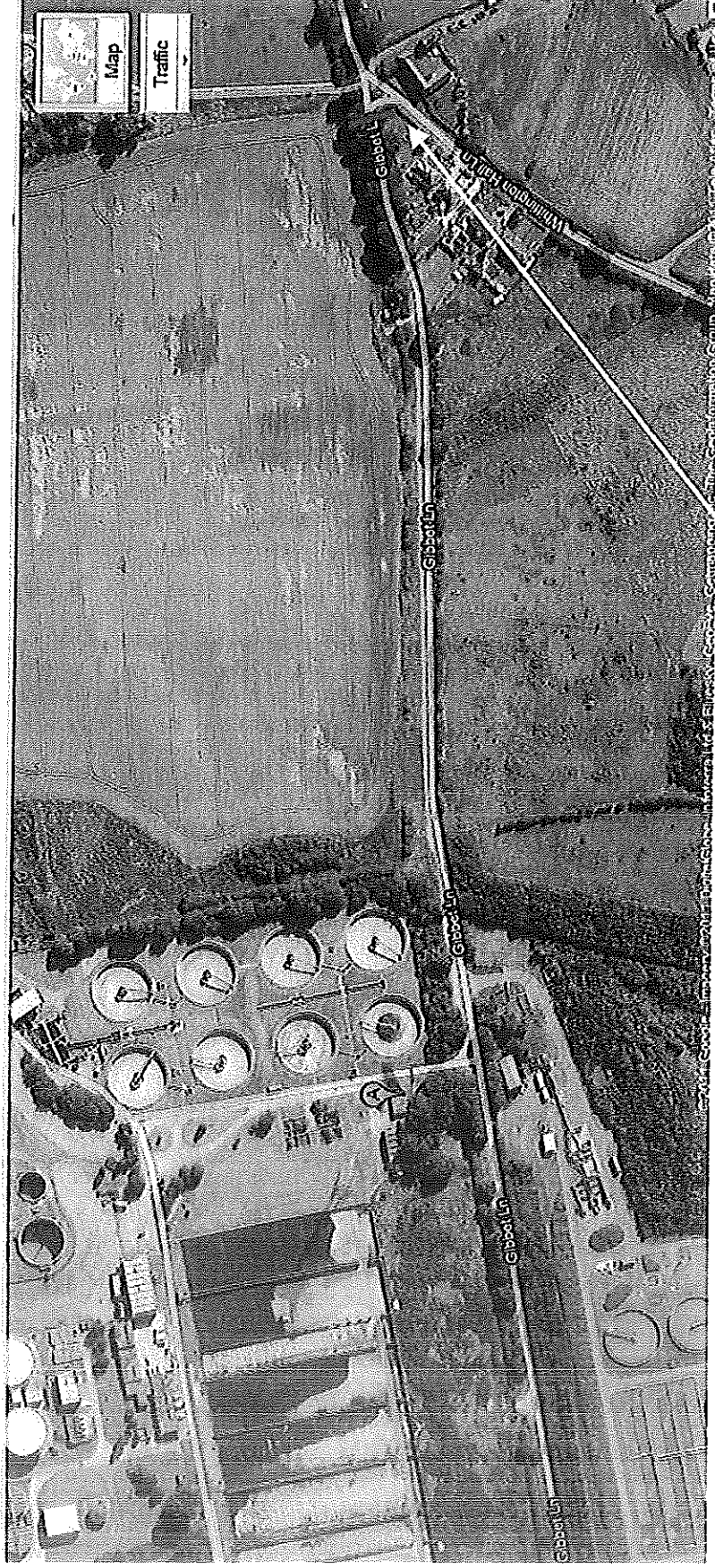
Steve Winterflood

Chief Executive



S2/2015

Gibbet Lane Gate Location



**Gate to installed at top of Gibbet
Lane to prevent access from
Dunsley Rd/Whitting Hall Lane**