

North East Derbyshire District Council

Cabinet

3 August 2016

Powers under the Anti-Social Behaviour, Crime and Policing Act 2014

Report of Councillor J Lilley, Portfolio Holder with Responsibility for Community Safety, Equality & Diversity and Health

This report is public

Purpose of the Report

- To request that NEDDC designate Rykneld Homes as an authorised person to issue Community Protection Notices under section 43 of the Anti Social Behaviour, Crime and Policing Act 2014.
- To request that NEDDC designate Rykneld Homes as an authorised person to issue fixed penalty notices in relation to Community Protection Notices under section 52 of the Anti Social Behaviour, Crime and Policing Act 2014.
- To request that NEDDC designate Rykneld Homes as an authorised person to issue fixed penalty notices in relation to areas subject to Public Space Protection Orders in North East Derbyshire under section 68 of the Anti Social Behaviour, Crime and Policing Act 2014.

1 Report Details

Community Protection Notices

- 1.1 Community Protection Notices can be served on persons whose behaviour is having a detrimental effect on the quality of life of those in the locality. The behaviour must be persistent or of a continuing nature; and be unreasonable.
- 1.2 A Community Protection Notice can include a requirement to stop things, do things or take reasonable steps to avoid further anti social behaviour.
- 1.3 In relation to tenancies, it is likely that they could be served on tenants who fail to keep their gardens to an acceptable standard, nuisance vehicles, unreasonable use of DIY equipment, use of premises for unauthorised businesses, dog fouling, graffiti and noise nuisance.
- 1.4 Prior to serving a Community Protection Notice, the tenant must be issued with a written warning informing the perpetrator of problem behaviour, requesting them to stop, and the consequences of continuing.

- 1.5 If the tenant did not comply with the Notice then Rykneld Homes could carry out works in default on behalf of the perpetrator, issue a fixed penalty notice (the Council have agreed to fine £100) and/or prosecute.
- 1.6 The fixed penalty notice is a chance for tenants to avoid prosecution. If they fail to pay the fine then Rykneld Homes could prosecute in the Magistrates Court for the original offence of failing to comply with the notice.
- 1.7 If found guilty then the defendant will be subject to a maximum fine of £2500, however it is unlikely that this would be awarded. The fine amount is entirely discretionary and dependant on income.
- 1.8 In relation to breaches of tenancy agreement, Rykneld Homes usually send letters, issue possession proceedings (as a last resort) or issue injunction proceedings.
- 1.9 Issuing Community Protection Notices would be a quicker and more efficient way to seek compliance. It would also be cost effective as it would not have to pay Court fees which are currently £280 per matter for injunctions and £325 for possession proceedings.
- 1.10 The powers contained in the Anti Social Behaviour, Crime and Policing Act 2014 were introduced in part to deal with the issues faced by social housing providers and therefore it would be beneficial to use them. Rykneld Homes may be criticised for taking alternative court action where it could have used the powers contained in the Act.

Public Space Protection Orders

- 1.11 Public Space Protection Orders are designed to stop individuals or groups from committing anti social behaviour in a public place. Councils are able to issue Orders after consultation with the Police and other relevant bodies. The Council has recently implemented an Order in Mickley.
- 1.12 The restrictions and requirements contained in the Order can be targeted against certain behaviours by certain groups at certain times; can restrict access to public spaces where that route is being used to commit anti-social behaviour.
- 1.13 It is envisaged that Rykneld Homes officers may witness a breach when they are visible on the estate where a Public Space Protection Order is in place and could issue a fixed penalty notice as an 'on the spot fine'.

2 Conclusions and Reasons for Recommendation

- 2.1 The spectrum of harm caused by ASB is wide. From littering, noise nuisance and dog fouling to persistent targeted harassment and abuse, ASB blights neighbourhoods, families and the lives of the most vulnerable in our communities.
- 2.2 The powers contained within the Act would equip officers with a more streamlined and flexible range of powers to deal with low level problems before they escalate. It gives officers the tools they need to take swift action against those individuals and those areas which have the most corrosive effect upon the quality of life in North East Derbyshire.

- 2.3 NEDDC Community Safety Partnership tackles crime and disorder within the District and uses powers contained within the Anti Social Behaviour, Crime and Policing Act 2014 to deal with any issues in private housing and the community generally. They have issued injunction proceedings in relation to owner/occupier properties and have implemented a PSPO in Mickley to deal with such issues. They may also issue Community Protection Notices for private neighbour disputes. Although the Partnership work with Rykneld Homes, it would not usually be involved in issues which are entirely Council housing related such as tenancy breaches as this would fall within the remit of Rykneld Homes to deal with.
- 2.4 Environmental Health also use the powers contained in the Act to issue Community Protection Orders where they believe there to be an issue relating to their function, i.e.- rubbish causing a statutory nuisance, noise complaints and pest control. This can either be for Council housing or private housing.
- 2.5 Derbyshire Constabulary also work in partnership with all Council departments to assist in tackling crime and disorder and regularly issue Fixed Penalty Notices in relation to PSPO's.
- 2.6 Rykneld Homes officers will, by utilising these additional powers which NEDDC also use to ensure they continue to be able to deal with ASB in the most effective way.

3 Consultation and Equality Impact

- 3.1 Any action taken using the powers contained in the Act would comply with Rykneld Homes Equality duty.
- 3.2 Rykneld Homes would consider whether any action was proportionate and complied with both the Equality Act 2010 and Human Rights Act 1998.

4 Alternative Options and Reasons for Rejection

- 4.1 To not designate Rykneld Homes as an authorised person to issue Community Protection Notices and fixed penalty notices.
- 4.2 This option was not felt to be in the best interests of Rykneld Homes, tenants and inhabitants of NEDDC as it would not be utilising the powers provided under the Anti Social Behaviour Crime and Policing Act 2014.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Where fines are paid as a result of Rykneld Homes issuing fixed penalty notices for garden breaches it is envisaged that they would be paid into its Neighbourhood Improvement budget which would be used to fund community projects.
- 5.1.2 Where fines are paid as a result of Rykneld Homes issuing fixed penalty notices in relation to anti social behaviour it is envisaged that they would be paid in the Community Safety Partnership budget.

5.2 Legal Implications including Data Protection

5.2.1 As contained in the report.

5.2.2 The Anti Social Behaviour (Authorised Persons) Order 2015 makes provision for a local authority to authorise a housing provider, as defined by section 20 of the Anti-Social Behaviour, Crime and Policing 2014 Act (the 2014 Act), to issue community protection notices (section 43) and fixed penalty notices (section 52).

5.3 Human Resources Implications

5.3.1 None

6 Recommendations

That Members:-

- (1) Designate Rykneld Homes as an authorised person to issue Community Protection Notices under section 43 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (2) Designate Rykneld Homes as an authorised person to issue fixed penalty notices (£100 as previously approved by NEDDC) in relation to Community Protection Notices under section 52 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (3) Designate Rykneld Homes as an authorised person to issue fixed penalty notices (£100 as previously approved by NEDDC) in relation to areas subject to Public Space Protection Orders in North East Derbyshire under section 68 of the Anti Social Behaviour, Crime and Policing Act 2014.

7 Decision Information

Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Affected	
Links to Corporate Plan priorities or Policy Framework	

8 **Document Information**

Appendix No	Title
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
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AGIN 16(a) (CAB 0803) ASB, Crime & Policing Act/AJD