

PAPER NO. 4

REPORT TO THE EXECUTIVE MEETING OF 9th May 2016

Meeting: Executive

Date: 9th May 2016

Subject: Public Spaces Protection Order – Enhanced Dog Control Powers

Report of: Christine Zacharia – Team Leader Planning Enforcement

Portfolio Holder: Councillor Neil Banister - Portfolio Holder for Environment and Regulation

Status: Decision

Relevant Ward(s): All

1 Purpose of the Report

- 1.1 That Committee note the outcome of the public consultation held between 16 November to 29 December 2015 on enhanced dog controls, and that Committee approve the adoption of a Public Spaces Protection Order (PSPO).
- 1.2 The new PSPO will provide authorised officers with new and enhanced powers to tackle dog fouling and other forms of irresponsible dog ownership, in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act).

2 Recommendations:

- 2.1 It is recommended that, having regard to the conditions within s.59 of the Antisocial Behaviour, Crime and Policing Act 2014, a Public Spaces Protection Order (PSPO) is made to provide new and enhanced powers to tackle dog fouling and other forms of irresponsible dog ownership.
- 2.2 That the new PSPO includes the following offences (as set out in Appendix 1):
- Dog Fouling
 - Leads by Order
 - Means to pick up
- 2.3 That a budget of £3,000 be allocated for new and replacement signage from the corporate contingency budget to be erected advertising the new measures.

3 Key Facts

- 3.1 On the 27 October 2015, the Regulatory Committee approved the commencement of the consultation process on a proposed PSPO for new and enhanced powers on dog controls.
- 3.2 The consultation process ran from 16th November to the 29th December 2015. The results of the consultation have informed the development of the PSPO, a draft of which is provided at Appendix 1.
- 3.3 The consultation findings regarding enhanced dog controls are summarised in Appendix 2. A map showing dog consultation responses by postcode is provided at Appendix 3.
- 3.4 Approval is now sought to bring the PSPO into force.
- 3.5 There are a number of byelaws that currently deal with the exclusion and restriction of dogs from certain areas whilst fouling is addressed through use of the Dogs (Fouling of Land) Act 1996 (DFLA). Part 6 of The Clean Neighbourhoods & Environment Act 2005 (CNEA) brought in new powers to deal with dogs through the introduction of Dog Control Orders (DCOs). Such orders allowed local authorities to create a more convenient and consistent method of addressing dog related issues.
- 3.6 On 20 October 2014 the power to make DCOs was repealed by the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act). Section 59 of the Act provides local authorities with powers to make PSPOs within their administrative area. These orders are intended to address activities carried out in public spaces which have a detrimental impact on the quality of life of those in the locality. The existing Dog Control Order remains in force until a PSPO is approved.
- 3.7 The proposed PSPO will cover:
 - Fouling
 - Direction to put a dog on a lead
 - Provision of a means, or a suitable receptacle to pick up dog faeces
- 3.8 Unless specified, the PSPO will cover any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission (s 74(1) of the Act). This means that the measures will also apply to agricultural land where the public have a right of way.
- 3.9 Any person found guilty of an offence under the Order, involving a dog control offence, is liable on summary conviction to a fine not exceeding level 3 which is currently £1000. However, depending on the behaviour in question, the authorised person could decide that a fixed penalty notice (FPN) of £100 would be the most appropriate sanction. In making the decision to issue a FPN, the officer should consider that if issued, payment of the FPN would

discharge any liability to conviction for the offence. Where the FPN is not paid within the required timescale, court proceedings can then be initiated.

- 3.10 The PSPO will cease to have effect after 3 years; however, that period can be extended for a further 3 years if it continues to be necessary.
- 3.11 The enhanced dog control measures do not apply to registered blind people, deaf people or other people with disabilities who require trained assistance dogs and lack the physical ability to comply with the requirements of the Order.
- 3.12 If Executive agrees the adoption of the PSPO, there is a further requirement for publicity within the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations. The Regulations require that where a Local Authority has made a PSPO, they must publish it on its website and erect such notices as it considers sufficient to advise members of the public that the PSPO has been made and the effect of such an order.
- 3.13 For a period of one month after the introduction of the PSPO officers will use their discretion and adopt an informal/educational approach to the enforcement of the new legislation. During this period a campaign will run aimed at alerting the public to the new laws and to engage with the parishes, particularly on the issue of replacement signage and patrolling of hotspots.

4 Legal Issues

- 4.1 At the Executive meeting of the 3rd November 2014, the resolution was approved to grant the Corporate Director of Community Services powers to take action under the relevant parts of the Anti-Social Behaviour, Crime and Policing Act 2014 and to authorise such other relevant officers to take action under the Act
- 4.2 As outlined in paragraph 3.9 of this report. Authorised officers will proceed to court proceedings where such action is considered proportionate and in line with the Council's Enforcement Policy.

5 Resource Issues

- 5.1 There will be a cost for signage and further press notices as referred to in paragraph 3.12 of this report. There will also be a cost for new and replacement signage alerting the public to the new dog controls. It is estimated this cost will be c. £3000, although under the new legislation signage is whatever the authority deems appropriate. The current dog warden contract allows for the provision of 300 signs per year. The cost of the revised signage will be funded through a virement from the corporate contingency budget
- 5.2 Resources will be required to ensure compliance with the new Order. There are resources available in the new dog warden contract for some patrolling. There are also resources available in the Council's Planning Enforcement

Team to help enforce the new Order. Resources will need to be reviewed 12 months after adoption of the PSPO to assess the impact of the new Order and of any further resources required for its enforcement.

- 5.2 Parish Council's will be also consulted with regard to assisting the Council in monitoring areas within their parish and erecting signs.

6 Equality Analysis Implications/Outcomes

- 6.1 The PSPO will have no significant implications on human rights. All of the proposed new measures are accompanied with the appropriate rights of appeal.
- 6.2 The PSPO will not apply to the owners of assistance dogs used by the blind or the deaf or by those who are unable as a result of a disability to comply with the legislation.
- 6.3 The equality analysis can be found in Appendix 4.

7. Risk Management Implications

- 7.1 There are inherent risks associated with taking any enforcement actions. The adoption of a PSPO will reduce those risks.
- 7.2 Not approving a PSPO will have an impact on the Council's ability to enforce as the existing Dog Control Order can no longer be amended to take into consideration new pieces of land not currently covered by the Order.

8 Consultation

- 8.1 A summary of Consultation is set out in Appendix 2 of this report.
- 8.2 The consultation exercise resulted in 355 responses. With exception to the proposal to require a dog to be kept on a lead at all times in specified designated areas, the responses were supportive of the new controls.
- 8.3 The results obtained from the consultation are as follows:

Table 1 Summary of Consultation Responses

Offence	% of All Consultees who agree with this as an offence to be included in the PSPO
To allow your dog to foul and then fail to pick up after it	96%
To fail to provide a receptacle for dog poo upon request	83%
To fail to put an out of control dog on a lead when directed to do so	63%
To fail to keep dogs on a lead in a	24%

specified designated area.	
To set the level of fine for offences at £100	55%

8.4 The results show support for three offences and also show that the majority of respondents are supportive of increasing fines from the current £50 to £100. The majority of responses (24%) were against it being an offence to fail to put a dog on a lead in specified designated areas. It is therefore recommended that this be excluded from the new PSPO as an offence.

8.5 The outcome of the consultation exercise was also reported to the Regulatory Committee on the 15 March 2016. The Committee endorsed the recommendation to adopt a PSPO for enhanced dog controls as detailed in this report.

9. Options

9.1 Not adopting the PSPO would mean that the Council would have restricted powers to deal with dog fouling within its District and no means to enforce against irresponsible dog owners.

10 Background Papers

10.1 Public Spaces Protection Orders - Extract from Anti-social Behaviour, Crime and Policing Act 2014 statutory guidance.

Previous report(s):

Information Issued Under Sensitive Issue Procedure: N

Ward Members Notified: N/A

Appendices:

A. Appendix 1 – Draft Public Spaces Protection Order

B. Appendix 2 – Summary of consultation responses – enhanced dog controls

C. Appendix 3 – Map showing dog consultation responses by postcode

D. Appendix 4 – Equality Analysis