

EXTENSION OF EXISTING PUBLIC SPACES PROTECTION ORDER WITH RESTRICTIONS FOR DOGS - PERMISSION TO CONSULT

(ADE)

JLT - 7th October 2024

CCLH Committee – 16th October 2024

1. Summary

- 1.1 The report requests that the Committee approve public consultation on the proposed 3 year extension of the Public Spaces Protection Order (PSPO) with restrictions for dogs currently in place throughout the District.

2. Background

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) repealed all other legislation and byelaws relating to dog control in public places other than the Dangerous Dogs Act 1991. Local Authorities looking for measures relating to dog control were advised by the Department of Environment, Food and Rural Affairs (DEFRA) to introduce Public Spaces Protection Orders (PSPOs) under the Act.
- 2.2 The Council implemented a PSPO relating to the control of dogs which first came into effect on 1st April 2016. The PSPO was introduced to enable restrictions to be put in place to control antisocial behaviour caused by irresponsible dog owners and their dogs and to keep certain areas such as children's play areas and sports courts dog free.
- 2.3 The level of the Fixed Penalty Notice (FPN) is £75.00 to be paid within 14 days (reduced to £50.00 if paid within 7 days);
- 2.3 The principal objective of the PSPO is to secure long term behavioural change and to make parks and open spaces enjoyable for all. FPNs are a tool to be used if a dog owner refuses to engage with an authorised officer and are not intended to be a source of income
- 2.4 The PSPO and its requirements have had a significant impact in tackling dog-related anti-social behaviour and encouraging responsible dog ownership. There is a marked increase in dog ownership nationally which impacts on all parks and open spaces. If the PSPO is not extended the Council will in effect lose its most effective enforcement tool to tackle dog fouling and other dog-related anti-social behaviour
- 2.5 Under the Act a PSPO may have effect for no more than 3 years unless extended and/or varied in accordance with the provisions of the Act. The council last agreed to extend the PSPO in 2022.
- 2.5 The current PSPO expires on 1 April 2025. To extend it for a further 3 years, a public consultation is required.

- 2.6 Under the current PSOP puts in place the following restrictions relating to dog control:
- 2.6.1 Failing to remove dog faeces – district wide;
 - 2.6.2 Failing to put a dog on a lead – currently applies only to the area surrounding the café at the Aquadrome;
 - 2.6.3 Failing to put a dog on a lead if directed to do so by an authorised officer – district wide;
 - 2.6.4 Permitting a dog to enter or remain on specified land from which dogs are excluded - children’s play areas, sports courts, outdoor gyms, skate areas, fenced picnic areas - district wide;
 - 2.6.5 Permitting a dog to enter or remain on land used for the grazing of animals on Chorleywood House Estate – a seasonal exclusion between 1st June and 30th September inclusive;
 - 2.6.6 Restrict the number of dogs one person can be in charge of to a maximum of four - district wide.
- 2.7 The level of the fixed penalty notice is £75.00 to be paid within 14 days (reduced to £50.00 if paid within 7 days);

3. Details

- 3.1 Officers propose to consult with the public on the extension of the current PSPO for a further 3 years and as part of that to consult on potential variations to the PSPO to include:
- 3.1.1 Failing to have a dog on a lead on land that is in active use for the grazing of animals. This variation reflects the changes to grazing on council land since the initial introduction of the PSPO and would replace the restriction details at paragraph 2.6.5
 - 3.1.2 Failing to put a dog on a lead within the Aquadrome. This variation reflects consultation feedback received as part of the development of the Aquadrome Management Plan and the adoption of the Aquadrome Asbestos Management Plan and would replace the restriction detailed at paragraph 2.6.2
 - 3.1.3 Failing to put a dog on a lead in the area surrounding the cafe at Leavesden Country Park
 - 3.1.3 Failing to put a dog on a lead on land adjacent to the highway – district wide.
- 3.2 The level of the fixed penalty notice is proposed to remain unchanged.

4. Details for Extension.

- 4.1 In order to extend a PSPO, in accordance with section 60 of the Act, the local authority must be satisfied on reasonable grounds that doing so is necessary to prevent occurrence or recurrence after that time of the activities in the order or an increase in the frequency or seriousness of those activities after that time.

- 4.2 The legislation requires that a minimum of 30 days' consultation is carried out. Section 72 of the Act states that, before renewing or making a variation to a PSPO, the Council is obliged to carry out consultation with the Chief Officer of Police, the local police, community representatives and owner/occupiers of land covered within the order. There are a number of ways the consultation can be publicised – on the Council's website, social media accounts, via press releases to local media, emailing Parish Councils and community groups. There is no limit on the number of times an Order may be reviewed and renewed.
- 4.3 It is suggested that a public consultation be undertaken from 4th November 2024 and run until 8th December 2024 with results and any further recommendations brought back to the Committee in January 2025.

5 Options and Reasons for Recommendations

5.1 Option 1 – The recommended option.

To approve a public consultation for the extension of the PSPO relating to dog control throughout the district for a further 3 years is undertaken. By maintaining the current powers related to dog control ensures there are deterrents in place and penalties for those who fail to behave responsibly. It aids in balancing the needs of dog owners and other members of the community in dealing with dog related anti-social behaviour as prescribed under the Anti-Social Behaviour, Crime and Policing Act 2014.

5.2 Option 2 – do not approve that a public consultation is undertaken for the extension and allow the PSPO to expire on 31st March 2022.

This would leave dog fouling and other matters covered by the PSPO uncontrolled

6. Policy/Budget Reference and Implications

- 6.1 The recommendations in this report are within the Council's agreed policy and budgets.

7. Communications Implications

- 7.1 Communications support will be required to promote the consultation via the council's Have you Say Platform and with appropriate Press Releases and social media.

8. Legal Implications

- 8.1 The PSPO requirements and restrictions for dog related ASB still meet the conditions as set by the 2014 Act in that:
- a) Dog-related ASB has a detrimental effect on the quality of life of those who experience it within the district. Any dog-related ASB is considered unreasonable and justifies the restrictions proposed.
 - b) Dog fouling is still a concern across the district

9. Equal Opportunities Implications

- 9.1 The PSPO includes an exemption that states that the order shall not apply to a person who –

(a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948

(b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance

(c) Has a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day-to-day activities, in respect of a dog trained by any current or future members of Assistance Dogs UK or any other charity registered in the UK with a purpose of training assistance dogs and upon which he relies for assistance.

9.2 The Equality Impact Assessment will be reviewed and updated alongside the public consultation and brought back to Committee with the public consultation results.

10 Staffing Implications

10.1 Enforcement of PSPO requirements and restrictions can be undertaken by a person with delegated authority. At the time of the original implementation of the PSPO, Parish Council staff, a couple of Play Rangers, Environmental Protection Enforcement Officers, Police Officers and Police Community Support Officers (PCSOs) were trained and authorised to enforce the Order along with the Animal Welfare and Licensing Inspector. However, since implementation the Parish Councils have withdrawn their staff from enforcing the Order, Play Rangers have not been involved in any enforcement or initiatives, Environmental Protection officers have been tied up with fly tipping episodes which has left just the Animal Welfare and Licensing Inspector to cover enforcement throughout the whole district. Although PCSOs and Police are also authorised to issue FPNs most do not carry the FPN

10.2 A full Sustainability Impact Assessment will be undertaken and brought back to Committee with the public consultation results.

11. Environmental Implications

11.1 If the PSPO is not extended, it would leave the District's parks and open spaces without the protection they are currently afforded. The PSPO plays an important role in securing a cleaner and safer district for all. The existence of a PSPO can improve the environment for the community by preventing behaviour that has a detrimental effect on the community from occurring or recurring. Extending the PSPO will continue a consistent approach to the control of dogs in the district

12 Public Health and Community Safety Implications

12.1 Continuation of the PSPO will ensure that all members of the community can enjoy council parks and amenity spaces and will assist Officers in dealing with dog related anti-social behaviour.

12.2 Dog faeces which is not properly disposed of represents a risk to residents and in particular young people who could fall ill through contact. The continuation of the PSPO permits officers to continue to enforce to reduce to this risk.

14 Risk and Health & Safety Implications

- 14.1 The subject of this report is covered by the Environmental Protection service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan. Key risks at this stage are identified as:
- 14.2 If the Council does not extend the PSPO then there will be limited options for officers to use in promoting and enforcing appropriate dog control in the District.
- 14.3 If a public consultation is not carried out but the PSPO remains in place and is continued to be enforced, there is a risk of a challenge in the High Court. The risk of this is reduced by following process and considering reasonableness throughout the process

15. Recommendations

- 15.1 That approval is given for a public consultation to extend the current PSPO (with variations as outlined in this report) relating to dog control for a further 3 years.
- 15.2 That the results of the public consultation to be collated and presented to this Committee in January 2025 for a decision.