

## POLICY AND RESOURCES COMMITTEE – 4 SEPTEMBER 2018

### PART I - DELEGATED

#### 6. PUBLIC SPACES PROTECTION ORDER (VARIATION TO ORDER REQUIRING DOGS TO BE KEPT ON A LEAD) - OUTCOME OF PUBLIC CONSULTATION (DCES)

##### 1 Summary

- 1.1 To advise on the outcome of the consultation taken regarding making a variation to the existing Public Spaces Protection Order (PSPO) relating to dogs in accordance with the Anti-Social Behaviour, crime and Policing Act 2014 (“the Act”). The variation would be to include the public rights of way that run through land owned by the Grove, Watford in the ‘dogs must be kept on a lead’ restriction already in place for the area directly surrounding the café at The Aquadrome.

##### 2. Details

- 2.1 There is currently a PSPO in force in Three Rivers relating to dog control in public spaces. At the time of the original report Members were advised that in the previous three months there had been four separate incidents involving dogs injuring a person reported to Hertfordshire Police. All had taken place on the public rights of way that run through the land owned by The Grove.
- 2.2 The footpaths are used by a variety of the general public including joggers, walkers and bird watchers, as well as being a popular area for dog owners to take their dog(s) for exercise.
- 2.3 Guests staying at The Grove also have access to, and frequently use, the grounds during their stay.
- 2.4 As advised in the original report, by virtue of section 72, before introducing a PSPO or variation to an existing order, the Council is obliged to carry out consultation with the Chief Officer of Police, the local policing body, community representatives and owners/occupiers of land covered within the order.
- 2.5 As a full consultation with the mentioned agencies was undertaken at the time the original order was proposed in 2015, Officers suggested a consultation to the public only was carried out for this variation because the local policing body and the land owners had given a verbal agreement to the proposal. The suggested time for the consultation was 4 - 6 weeks.
- 2.6 The Statutory Guidance accompanying the 2014 Act was updated in December 2017. The guidance document states: “This updated guidance emphasises the importance of ensuring that the powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social”.

##### 2.7 Relevant Extracts

- 2.7.1 “The legal tests that govern the use of the anti-social behaviour powers are focused on the impact that the behaviour is having, or is likely to have, on victims and communities. When considering the response to a complaint of anti-social behaviour, agencies are encouraged to consider the effect that the behaviour in question is having on the lives of those subject to it recognising, for example, the

debilitating impact that persistent or repeated anti-social behaviour can have on its victims, and the cumulative impact if that behaviour persists over a period of time.”

- 2.7.2 “Public Spaces Protection Orders are intended to deal with a particular nuisance or problem in a specific area that is detrimental to the local community’s quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour.
- 2.7.3 “Given that these orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focussed on the specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.”
- 2.7.4 “When deciding what to include, the council should consider scope. The broad aim is to keep public spaces welcoming to law abiding people and communities.”
- 2.8 The Council launched a consultation on the proposal to vary the current PSPO to include the public footpaths that run through The Grove.
- 2.8.1 The footpaths referred to in the variation are:
- (i) Footpath Sarratt 050 and
  - (ii) Footpaths Sarratt 070, Sarratt 071, Sarratt 074, Sarratt 076, Sarratt 077, Sarratt 077A and Sarratt 078 (map included on the front page of the survey attached as Appendix 1 of the report).
- 2.9 The consultation ran from 17 May until 22 June 2018. It was publicised through the Council’s website, Facebook and Twitter, and local Councillors’ newsletters. Laminated Notices were placed at entry/exit points of the footpaths, hard copies were posted to all the properties within and around the restricted area and Sarratt Parish Council were sent a copy for their information and to put on their website.
- 2.9.1 135 respondents completed the survey, (attached as Appendix 1 of the report). The results show that the majority of the respondents opposed the Council’s proposal but agreement levels differed depending on what respondents used the footpaths for.
- 2.9.2 Although the majority opposed the proposal, it is worth noting the comments from those supporting it about the issues they have experienced with dogs and their owners on the footpaths, (found on page 7 of Appendix 1).
- 2.9.3 Officers feel these comments justify the proposal and that it falls within the guidelines for introducing restrictions. The comments show dog owners are not acting responsibly in this area. 58% of respondents use the footpaths for walking dogs.

### **3. Options/Reasons for Recommendation**

- 3.1 The number of reported incidents in a short timeframe, coupled with the comments from the survey, indicates that this is an area of concern with regards to irresponsible dog owners. The PSPO in force does include a restriction where dog owners can be directed to put their dogs on a lead by an authorised officer if their dog is considered to be causing a nuisance or acting aggressively. However, an officer has to be present to witness these incidents as they happen.

- 3.2 Action in the form of Community Protection Notice Warnings (CPNW) and Community Protection Notices (CPN) can be taken in some cases and action may be taken in some cases using the Dangerous Dogs Act 1991, but only if the dog owner is known. In most circumstances the dog owner is unknown meaning enforcement action cannot be taken.
- 3.3 Originally, The Grove were keen to work with the Police and Local Authority as they have many high profile guests staying who have full use of the facilities including the grounds. Disappointingly, they now wish to have the restriction applied but are unwilling for their staff to be trained and authorised to enforce it by issuing Fixed Penalty Notices. There have also been no further offers from them to assist with funding for the additional signage that would be required.
- 3.4 Officers and the Police do not have the resources necessary to have a full time presence in the area to effectively police it. The Clerk of Sarratt Parish Council is also authorised but again would not be able to provide a constant presence.
- 3.5 Officers feel that without the support of The Grove it would be ineffective to go ahead with the proposal.

#### **4. Policy/Budget Reference and Implications**

- 4.1 The recommendations in this report are within the Council's agreed policy and budgets.
- 4.2 The purpose of this proposed policy was to address anti-social behaviour due to irresponsible dog owners.
- 4.3 If the variation was agreed by the Committee this would not be within Council's agreed policy and budgets and additional signage would need to be purchased and put up in the area.

#### **5. Public Health and Customer Services Centre Implications**

- 5.1 None specific.

#### **6. Financial Implications**

- 6.1 Offences under a PSPO can be dealt with by issuing a Fixed Penalty Notice (FPN) of up to £100. The current FPN penalty for the existing PSPO is £75 and it is suggested the same level is kept.
- 6.2 Signs will need to be purchased, the cost of which has not been budgeted for.

#### **7. Legal Implications**

- 7.1 The Legal Department have been consulted on the proposed variation to the order.
- 7.2 It is essential that all procedural requirements for making the variation are followed including consultation and publication to ensure the variation cannot be subsequently challenged.
- 7.3 Incidents leading to unpaid FPNs would be referred to the Legal Department.

#### **8. Equal Opportunities Implications**

8.1 Assistance dogs, while working, will be exempted as in the existing PSPO.

## 9. Relevance Test

Has a relevance test been completed for Equality Impact?	Yes
Did the relevance test conclude a full impact assessment was required?	No

## 10. Staffing Implications

10.1 Without the addition of authorised staff employed by The Grove, the footpaths cannot be effectively policed.

10.2 Existing Enforcement Officers within Environmental Protection and the Police Community Support Officers (PCSOs) have to police legislation district wide. They are unable to provide an effective enforcement presence should the footpaths be included in the PSPO and become an additional area in their daily patrol duties.

## 11. Environmental Implications

11.1 Adding the variation to include the footpaths running through land owned by The Grove to the existing order requiring dogs to be kept on a lead was suggested as a solution to help to prevent bad behaviour from dogs escalating to a situation where a person or pet may be seriously injured.

## 12. Community Safety Implications

12.1 Not implementing the variation to the existing PSPO means members of the community using the footpaths are exposed to irresponsible dog owners failing to exercise control over their dogs.

12.2 However, implementing a restriction without the number of staff necessary to effectively enforce the variation will still leave the community exposed.

## 13. Communications and Website Implications

13.1 Any Committee decision will be posted on the Council's website along with other information on the Anti-Social Behaviour, Crime and Policing Act 2014.

## 14. Risk Management and Health & Safety Implications

14.1 There is a risk to the Council in agreeing to the recommendations. Should a serious incident occur, the Council and Hertfordshire Police could be open to criticism for failing to act when the area had been highlighted as a problem area.

14.2 But Officers feel any such criticism, should it occur, can be overcome with referral to the result of the public consultation which indicated the majority of users of the footpaths were against the proposal; coupled with the lack of additional authorised personnel required to provide an effective level of enforcement.

## 15. Recommendation

- 15.1 To withdraw the proposal to introduce a variation to the current Public Spaces Protection Order requiring dogs to be kept on a lead on the public footpaths that run through The Grove.

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**Background Papers**

Anti-Social Behaviour, Crime and Policing Act 2014

**APPENDICES / ATTACHMENTS**

Appendix 1 – Dog Control at The Grove Survey with responses