

POLICY AND RESOURCES COMMITTEE - 24 JANUARY 2022

PART I – NOT DELEGATED

7. EXTENSION OF EXISTING PUBLIC SPACES PROTECTION ORDER WITH RESTRICTIONS FOR DOGS (DCES)

1 Summary

1.1 The report requests that the Committee recommend the extension of the Public Spaces Protection Order (PSPO) with restrictions for dogs currently in place throughout the District for a further 3 years.

1.2 Background

1.2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) repealed all other legislation and byelaws relating to dog control in public places other than the Dangerous Dogs Act 1991.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. The Council implemented a PSPO relating to the control of dogs which came into effect on 1st April 2016. 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.

1.2.2 Council agreed to extend the PSPO in 2019 and also applied a variation by adopting the definition of Assistance Dogs. This variation in wording was in response to observations raised in a submission received from the Kennel Club.

1.2.3 The current PSPO expires on 1 April 2022. To extend it for a further 3 years, a public consultation is required. A report was presented to the Leisure, Environment and Community Committee at the meeting of 24 November 2021, who agreed to a public consultation to extend the PSPO, maintaining the current restrictions; that the level of the fixed penalty notice remains at £75.00 to be paid within 14 days (reduced to £50.00 if paid within 7 days); the results of the public consultation to be collated and presented to this Committee on 24 January 2022 and, in order for it to commence on 1 April 2022, to Council on 22 February 2022.

1.2.4 The public consultation ran from 25 November 2021 to midday 24 December 2021.

2 Details

2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) repealed all other legislation and byelaws relating to dog control in public places other than the Dangerous Dogs Act 1991. DEFRA advised Local Authorities looking for measures relating to dog control to introduce Public Spaces Protection Orders (PSPO's) under the Act.

2.1.1 On 1 April 2016 the Council implemented a PSPO with restrictions relating to dog control. The restrictions were: **1** Failing to remove dog faeces – district wide; **2** Failing to put a dog on a lead – applies only to the area surrounding the café at the Aquadrome; **3** Failing to put a dog on a lead if directed to do so by an authorised officer – district wide; **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; **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; **6** Restrict the number of dogs one person can be in charge of to a maximum of 4 - district wide.

- 2.1.2 This proposal is to extend the current PSPO for a further 3 years with no additional variations. The level of the fixed penalty notice to remain at £75.00 to be paid within 14 days reduced to £50.00 if paid within 7 days.

3 Review of the PSPO

- 3.1 The PSPO was introduced to enable restrictions to be put in place to control anti-social 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.
- 3.2 The Covid-19 pandemic meant a shift in the Council's focus to support the Covid-19 containment effort. Consequently, no FPNs were issued as enforcement and face to face initiatives were suspended during the initial lockdown.
- 3.3 However, reports requesting dog fouling clear ups and reporting anti-social behaviours from dogs and their owners continue to be received on a daily basis. Residents out taking their daily exercise in our parks and open spaces have both observed and experienced issues and reported them. These observations would certainly be as a result of the pandemic issues we have faced as a local authority and the national increase in dog ownership, and demonstrates the need for an enforceable PSPO now the lockdown restrictions are lifted.
- 3.4 Prior to Covid-19 the majority of dog owners adhered to the request to follow the PSPO requirements and restrictions and it is believed, that for the most part, this will be continued. Those who did not were dealt with individually by way of Community Protection Notice Warnings (CPWs) which will continue provided the PSPO can be extended in its current form for a further three years. It should be noted that the principal objective of the PSPO was to instigate long term behavioural change and to make parks and open spaces enjoyable for all. FPNs were a tool to be used if a dog owner refused to engage with an authorised officer and were never intended to be a source of income.
- 3.5 Joint operations were carried out with Officers from Hertfordshire Police Rural Operational Support Team (ROST) and Safer Neighbourhood Teams (SNT) to provide further education on the PSPO and enforce if necessary. The key element of this was to encourage behavioural change of dog walkers rather than enforcement, to ensure parks and open spaces can be enjoyed by all.
- 3.6 The PSPO requirements that needed the most additional education were: "dogs must be kept on a lead around the area directly surrounding the café at the Aquadrome" and "a maximum of four dogs with one handler". This resulted in officers using the "dogs must be put on a lead when instructed to do so by an authorised officer" PSPO requirement. Officers confirm that in these instances the majority of individuals complied fully with their requests, therefore, FPNs were not issued.
- 3.7 It is envisaged to continue with these educational days at parks throughout the district and throughout the year, but these will need careful planning to ensure all agencies are available at the same time.

3.8 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.

4 Results of the Public Consultation

4.1 The consultation showed the vast majority of respondents supported the PSPO and its restrictions. 95% of respondents agreed that failure to remove dog faeces should remain an offence; 75% agreed it should be an offence to allow a dog into children's play areas, sports courts and fenced off picnic areas; 65% agreed the restriction of 4 dogs to a person should remain an offence; 89% agreed it should remain an offence to fail to put a dog on a lead if directed to do so by an authorised officer; 60% agreed it should be an offence to fail to keep your dog on a lead around the café in the Aquadrome (although 33% did not agree this should remain an offence) and over 50% agreed it should be an offence to enter the fields seasonally used for grazing animals at Chorleywood House. The analysis is attached in Appendix A.

5 Options and Reasons for Recommendations

5.1 There are 2 options available: Option 1 - Approve the extension of the PSPO relating to dog control throughout the district for a further 3 years. Maintaining the current powers ensures there are deterrents in place and penalties for those who fail to behave responsibly. It aids 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.

Option 2 – Do not approve to extend the PSPO and allow it to expire on 31st March 2022. This would leave all dog related anti-social matters covered by the PSPO uncontrolled throughout the district.

6 Policy/Budget Reference and Implications

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

6.1.1 The Community Strategy 2018-2023;

6.1.2 The Anti-Social Behaviour Policy.

6.2 The recommendations in this report relate to the achievement of the following performance indicators.

6.2.1 EP13 - Manage the behaviour of dogs in our parks and open spaces.

6.2.2 CP01 - Satisfaction with 'keeping public land clear of litter and refuse'

6.2.3 LL34 - To maintain accreditation for Green Flag.

6.2.4 CP47 - Perception of ASB as a problem in the local area.

- 6.2.5 CP07 – Perception of the extent to which public services are working to make the area safer
- 6.2.6 CP02 - Satisfaction with parks and open spaces.
- 6.2.7 CP05 - Satisfaction with Three Rivers District Council.
- 6.3 The impact of the recommendations on these performance indicators are:
 - 6.3.1 EP13 – To improve the management of the behaviour of dogs in our parks and open spaces.
 - 6.3.2 CP01 – To increase satisfaction with ‘keeping public land clear of litter and refuse’.
 - 6.3.3 LL34 – To help maintain accreditation for Green Flag.
 - 6.3.4 CP47 – To reduce the perception of ASB as a problem in the local area.
 - 6.3.5 CP07 – To increase the perception of the extent to which public services are working to make the area safer
 - 6.3.6 CP02 – To increase satisfaction with parks and open spaces.
 - 6.3.7 CP05 – To increase satisfaction with Three Rivers District Council.

7 Financial, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

7.1 None specific.

8 Legal Implications

- 8.1 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.
- 8.2 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.

9 Equal Opportunities Implications

9.1 Relevance Test

<p>Has a relevance test been completed for Equality Impact? There is no proposed change to current policy / service. A relevance test was undertaken at the point of originally proposing the PSPO.</p>	<p>No</p>
<p>Did the relevance test conclude a full impact assessment was required? The Council’s enforcement policy takes into consideration protected characteristics such as age and disability. This alleviates any potential adverse impact of the PSPO on these protected groups.</p>	<p>No</p>

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, 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 involved with fly tipping episodes; leaving only the Animal Welfare and Licensing Inspector to cover enforcement throughout the whole district. Although PCSOs and Police are also authorised to issue FPNs it has come to light that they are unaware of it and do not carry the FPN books. Should the extension be agreed, this matter will be raised with the Police to come to an arrangement going forward. It is not proposed that any subsequent approval will affect this as it is an extension of an existing order.

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 Community Safety Implications

- 12.1 The PSPO will aid ensuring that all members of the community can enjoy the amenities and will assist Officers when dealing with dog related anti-social behaviour.

13 Risk and Health & Safety Implications

- 13.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.
- 13.2 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.

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Dogs will be able to foul anywhere without the requirement to clear up	A resident or visitor to the district falls ill through contact with dog faeces.	PSPO Use of FPNs and CPNs	Publicise the enforcement powers of the Council and restrictions of the PSPO.	6

deposited faeces There will be reduced control of dog-related Anti-social behaviour.	Residents, visitors to the locality become the victim of anti-social behaviours	PSPO Use of FPNs and CPNs	Publicise the enforcement powers of the council and restrictions of the PSPO.	6
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13.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- Likelihood ----- Remote	Low 4	High 8	Very High 12	Very High 16
	Low 3	Medium 6	High 9	Very High 12
	Low 2	Low 4	Medium 6	High 8
	Low 1	Low 2	Low 3	Low 4
	Impact			
	Low -----> Unacceptable			

Impact Score

4 (Catastrophic)

3 (Critical)

2 (Significant)

1 (Marginal)

Likelihood Score

4 (Very Likely (≥80%))

3 (Likely (21-79%))

2 (Unlikely (6-20%))

1 (Remote (≤5%))

13.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

14 Recommendation

- 14.1 That the Committee recommend that approval is given to extend the existing PSPO for a further 3 years and that the current restrictions in the PSPO are maintained.

Report prepared by: Debra Sandling Animal Welfare and Licensing Inspector

Data Quality

Data sources:

Data from Public Consultation carried out in November 2021.

Dealing with Irresponsible Dog Ownership: Practitioner's Manual, Department for Environment Food & Rural Affairs, October 2014.

Guidance on Dog Control and Welfare for Police and Local Authorities, Department for Environment Food & Rural Affairs, January 2018.

Anti-social Behaviour, Crime and Policing Act 201: Anti-social behaviour powers, Statutory Guidance for Frontline Professionals, Home Office, Revised in January 2021.

Data checked by:

Jayne La Grua, Principal Lawyer & Deputy Monitoring Officer

Data rating: Tick.

1	Poor	
2	Sufficient	✓
3	High	

Background Papers

Anti-social Behaviour, Crime and Policing Act 2014.

Three Rivers District Council Animal Welfare Enforcement Policy.

APPENDICES

Appendix A - Results of Public Consultation Survey

Appendix B - Public Spaces Protection Order Dogs (Three Rivers District Council) 2019