

LEISURE, ENVIRONMENT AND COMMUNITY COMMITTEE
24th NOVEMBER 2021

PART I

**8. PUBLIC SPACES PROTECTION ORDER WITH RESTRICTIONS for DOGS
EXTENSION
(DCES)**

1 Summary

- 1.1 The report requests Members agree to go out to public consultation in order to extend 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- 1.2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) repealed all other legislation and byelaws relating to dog control in public places other than the Dangerous Dogs Act 1991.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 runs for 3 years unless extended and/or varied in accordance with the provisions of the Act.
- 1.2.2 Following a public consultation in February 2019, Council agreed to extend the PSPO for a further 3 years and apply 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 This proposal is to extend the current PSPO for a further 3 years with no additional variations. The level of the fixed penalty notice shall remain at £75.00 to be paid within 14 days reduced to £50.00 if paid within 7 days.

2 Review of the PSPO

- 2.1 When the PSPO was originally introduced in 2016, it was 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.
- 2.2 The Covid-19 pandemic has had a significant impact on the country. Local authorities and their services faced varied challenges to address concerns of residents and focus on the need to implement measures that would reduce the spread of coronavirus.
- 2.3 The pandemic meant a shift in the Council's focus to support the Covid-19 containment effort and consequently no FPNs have been issued since the initial lockdown as enforcement and face to face initiatives were suspended.
- 2.4 However reports requesting dog fouling clear ups and reporting anti-social behaviours from dogs continue to be received on a daily basis. Residents out taking their daily exercise in our parks and open spaces have noticed these 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.

This demonstrates the need for an enforceable PSPO now the lockdown restrictions are lifted.

- 2.5 Prior to Covid-19 the majority of dog owners adhered to the request to follow PSPO requirements and restrictions and it is believed that for the most part that this has continued. Those who did not were dealt with individually by way of Community Protection Notice Warnings (CPWs) and this 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 Additional Education and Key Issues for Consideration

- 3.1 Between June 2021 and August 2021 joint operations were carried out in the Aquadrome with Officers from Hertfordshire Police Rural Operational Support Team (ROST) and Safer Neighbourhood Teams (SNT) to provide further education on the PSPO and enforce the PSPO 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.
- 3.2 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 "maximum of four dogs with one handler". This resulted in officers using the PSPO requirement "Dogs must be put on a lead when instructed to do so by an authorised officer". Officers confirm that in these instances the majority of individuals complied fully with their requests, therefore, FPNs were not issued.
- 3.3 It is envisaged to continue with these educational days at other parks throughout the district and throughout the year, but these will need careful planning to ensure all agencies are available at the same time.
- 3.4 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.
- 3.5 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.
- 3.6 Data from the last consultation showed the vast majority of respondents supported the PSPO and its restrictions. The majority agreed that **'failure to remove dog faeces from a public space'** and **'allowing a dog to enter a child play area, sport court, outdoor gym, skate area or fenced off picnic area'** should continue to be an offence under the PSPO (97%, 80% respectively).

Over half (59%) of respondents agreed that **'allowing a dog to enter on any land used for the grazing of animals on Chorleywood House Grounds between 1st June and**

30th September’ should continue to be an offence under the PSPO. It should be noted that almost a fifth (18%) of respondents simply ‘did not know’, suggesting that this might not have felt so relevant to some (e.g. those who did not use Chorleywood House Estate).

The vast majority (93%) of respondents agreed that **‘failure to put a dog on a lead if directed to do so by an authorised officer of the Council, Police Officer or Police Community Support Officer’** should continue to be an offence under the PSPO.

Two thirds of respondents agreed that **‘being in charge of more than 4 dogs in a public place’** and **‘failing to keep a dog on a lead in the area directly surrounding the Café in the Park (the Aquadrome, Rickmansworth)’** should continue to be an offence under the PSPO (72% and 67% respectively).

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.

4.1.1 It is proposed to maintain all dog related offences and the areas they are applied to as detailed below:

1. Failing to remove dog faeces - district wide.
2. Failing to keep a dog on a lead - applies only to the area directly 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.

4.1.2 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.

4.2 It is suggested that a public consultation be undertaken from 25th November 2021 and run until 22nd December 2021. Officers are mindful of the Christmas period and so suggest the consultation begin in late November to allow the results to be collated in time for further reports detailing the results to be presented to the Policy & Resources Committee on 24th January 2022 and to Council on 22nd February 2022.

Should the PSPO extension be agreed, this will mean it can commence from 1st April 2022 in order to keep continuity.

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.

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. The relevant policies are:

6.1.1 The Community Strategy 2018-2023.

6.1.2 The Strategic Plan 2018-2021.

6.1.3 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 this/these performance indicator(s) is:

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 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.

9 Equal Opportunities Implications

- 9.1 Relevance Test

<p>Has a relevance test been completed for Equality Impact?</p> <p>There is no proposed change to current policy / service</p> <p>A relevance test was undertaken at the point of originally proposing the PSPO.</p>	No
<p>Did the relevance test conclude a full impact assessment was required?</p> <p>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>	No

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

books. This is a matter that will be raised with the Police should the consultation for extension go ahead to come to an arrangement going forward. It is not proposed that any subsequent approval will effect 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 Having the PSPO will aid ensuring that all members of the community can enjoy the amenities and will assist Officers in dealing with dog related anti-social behaviour.

13 Communications and Website Implications

- 13.1 The consultation can be publicised through the Council's website, Twitter, Facebook, emailing Parish Councils and community groups.

14 Risk and Health & Safety Implications

- 14.1 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.
- 14.2 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/these plan(s).

Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
Dogs are allowed to foul anywhere without the faeces being cleared up	A resident or young person 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
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

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%))

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.

15 Recommendation

15.1 That approval is given for a public consultation to extend the current PSPO relating to dog control for a further 3 years.

15.2 That the restrictions in the current PSPO are maintained.

That public access to the report be immediate.

Report prepared by: Debra Sandling, Animal Welfare and Licensing Inspector

Data sources:

Data from Public Consultation carried out in 2019.

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, Legal

Data rating:

1	Poor	
2	Sufficient	✓
3	High	

Background Papers:

Anti-social Behaviour, Crime and Policing Act 2014.

Three Rivers District Council Animal Welfare Enforcement Policy

APPENDIX

Public Spaces Protection Order (Three Rivers District Council) 2019