

## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### Report for Public Protection and Licensing Committee – April 2023

<b><u>HEADING</u></b>	<b>Public Space Protection Orders: Parks and Open Spaces</b>
<b><u>Submitted by:</u></b>	<b>Michelle Hopper, Mobile Multi Functional Manager</b>
<b><u>Portfolio:</u></b>	<b>Sustainable Environment and Operations</b>
<b><u>Ward(s) affected:</u></b>	<b>All</b>

#### **Purpose of the Report**

To advise members of options and to seek permission to consult residents on revised Public Spaces Protection Orders for parks and open spaces in relation to dog control and anti-social behaviour.

#### **Recommendations**

**Members are asked to approve consultation be started on a proposed public spaces protection order, as detailed in Appendix A.**

#### **Reasons**

The order is currently drafted to be as flexible as possible and enable the Authority to effectively target enforcement. The proposed controls are considered suitable for our current needs and for up to three years when they must be reviewed again.

### **1. Background**

- 1.1. Since November 2017 a number of 'Dog Control' orders have been in force, which apply in a variety of locations across the borough. These were then reviewed in 2020. The current orders are due to expire in November 2023 and we are now looking to review those in place. We are also using this 'review' as an opportunity to scope and develop the Public Space Protection Order to cover a number of community safety and anti-social behaviour related controls as these are often specific to our parks and open spaces.
- 1.2. A PSPO are intended to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. The PSPO can impose restrictions on the use of that area which apply to everyone who is carrying out that activity. The orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour.
- 1.3. Alcohol Prohibition Zones have been previously introduced on parks and open spaces to help reduce anti-social behaviour. However, these were now renewed as part of the legislative changes in 2014 and therefore we no longer have any alcohol prohibition zones in our parks and open spaces. The drafted PSPO as shown in appendix A hope to include controls for behaviours that are problematic for our parks and open spaces and assist with ensuring that these spaces are used in the correct manner.

1.4. ASB statistics:

71 reports of alcohol related asb  
242 relate to youth and intoxicating substances  
38 incidents relate to parks and open spaces.

- 1.5. The Council can make a PSPO on any public space within its own area but before doing so it must consult with the Local Police. The Council must also consult whatever community representatives it thinks appropriate. This could relate to a specific group, (for instance a residents' association), or an individual or group of individuals, (for instance, regular users of a park).
- 1.6. Before making a PSPO, the Council also has to publish the draft order in accordance with regulations made by the Secretary of State. An interested person can challenge the validity of a PSPO in the High Court on two grounds: (1) that the Council did not have the powers to make the order or to include prohibitions or requirements, or (2) that one of the requirements (for instance, consultation) had not been complied with. An 'interested person' means an individual who lives in the restricted area or who works or regularly visits that area.
- 1.7. If adopted a PSPO can operate for a maximum of three years. It may be refreshed for a further period, but only after a review and consultation exercise confirms there remains a need for the control.

## 2. **Issues**

- 2.1. Key considerations will be:
- 2.1.1. The Evidence Base for Making a PSPO.
  - 2.1.2. Finance & Resources.
  - 2.1.3. Residents' Expectations & Authority's Priorities / Capacity.

### **The Evidence Base for Making a PSPO**

- 2.2. The Authority is obliged to make proportionate and reasonable use of its powers and should reflect if there is the need to introduce a control. Our current evidence is that although there is generally a high level of compliance with present controls, dog related complaints still represent a considerable caseload for the authority with 362 complaints passed to the Council's dog wardens and 78 relating to dog fouling. In addition to this Streetscene have had 84 reports in regards to the removal of dog fouling. We also know that there are ongoing concerns around anti-social behaviour in our parks and open spaces, including graffiti, underage drinking and other types of behaviours that are likely to cause alarm, harassment and distress to users of the park. The proposed consultation will help clarify if our residents believe there is an issue which needs to be addressed.

### **Finance & Resources**

- 2.3. Permanent signage cost is dependent upon which controls are adopted and where they are applied. Signage must contain the date the Order becomes effective, so would have a maximum life of three years. The typical cost of placing an A5 sized permanent sign would cost £30-£35 (excluding installation)<sup>1</sup>. The cost of adding new signs purely relating to dog controls at each entrance to the key locations listed for exclusions or dogs on leads controls is to be scoped and options considered i.e.; permanent signs,

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<sup>1</sup> Price based on composite signs attached with metal clips.

temporary signs. There is an option for this information to be contained on other signage at these locations e.g. park notice boards, and officers will look if there is a more cost effective way to promote controls at these locations.

- 2.4. The level of signage required will depend on public support for proposals. Costed options in respect of signage will be produced for CLT & Members in a future report.
- 2.5. The annual cost of sign replacement will depend on the resilience of signs initially placed and the level of vandalism. Signs may need to be replaced if damaged.
- 2.6. If controls cease, there is a risk that with the removal of potential penalties, some currently compliant dog owners may adversely change their behaviour – for example opting not to remove fouling. Whilst savings on enforcement could be made, there is likely to be a net cost to the Authority with increased numbers of complaints and action needed to maintain the cleanliness of public places.

### **Residents' Expectations & Authority's Priorities**

- 2.7. Whenever any form of dog related control is considered the Authority receives considerable feedback from its residents and animal welfare charities and needs to balance the needs of its dog owning residents with the expectations of the broader community. As part of this review the PSPO's will also cover some community safety elements again taking into consideration complaints received from members of the public. Either adopting or ceasing controls will initially be contentious.
- 2.8. Key corporate priorities are currently:
  - Priority Three: healthy, active and safe communities
- 2.9. Setting and policing rules in relation to any adopted order in regards to compliance will encourage residents to make full use of them – running, walking, cycling, using play equipment etc. which aligns to priority three.
- 2.10. Rules in relation to dog control, specifically fouling and the failure to remove dog faeces also relate to priority three.

## **3. Proposal and Reasons for Preferred Solution**

- 3.1. Members are asked to approve consultation be started on a public spaces protection order for Parks and Open Spaces, as proposed in Appendix A.
- 3.2. If approval is given, Members will then be requested to consider an updated proposal, taking into account representations made through the consultation process, in summer 2023, with a view to new controls becoming operational from November 2023.
- 3.3. The proposals, as currently drafted, best match current dog controls and will benefit from additional controls in relation to community safety. Additional elements within the proposals in respect of maximum numbers of dogs in specific locations and the new requirement to carry a bag reflect complaints / pressure from residents.
- 3.4. The controls are currently drafted to be as flexible as possible and enable the Authority to effectively target enforcement. The proposed controls are considered suitable for our current needs and for up to three years when they must be reviewed again.
- 3.5. This is considered an 'invest to save' project, which should improve the cleanliness and safety of public places.

## **4. Alternative Options Considered**

- 4.1. Should Members wish to consider an alternative course of action the following options are available:
- 4.1.1. Take No Action.
- Allow the current Dog Control orders to cease in October 2023 and not be replaced. Remove all current dog restrictions and cease all dog related enforcement activity – e.g. fouling patrols, exclusions from children’s playgrounds, requirements for dogs to be on leads in cemeteries.
  - Removing controls would eliminate the need for complaint investigation and enforcement, with potential savings, however, removing the risk of enforcement may result in the standards of some public places reducing, increase conflict between dog owners and those not owning a dog, and potentially require more ‘clean-up’ resources.
- 4.1.2. Request the proposed controls be amended prior to consultation.
- Members may wish to change the proposed scope of the controls – for example omit specific controls such as requirement to carry bags, or limits to the number of dogs which may be walked in specific areas
  - Members may also to include other controls to take other behaviours that are not currently in scope for the order. These controls would need to be proportionate to the location and be based on an evidential need for these controls to be put in place.
  - Members may wish to consider if the types of locations where the controls apply should be amended. Members are reminded that they can make representations in respect of specific locations in their ward, if approval is gained, to further consult. Members will have further opportunity to amend proposals on receipt of a second report in summer 2023.

## **5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- 5.1. The proposed PSPO sets ‘rules’ so that all residents can see what the Council expects
- 5.2. Controls of this nature are necessary if the Authority wishes to maintain the safety and cleanliness of its public places

## **6. Legal and Statutory Implications**

- 6.1. The Authority is not obliged to adopt a PSPO. If it chooses to do so it has full control over their scope. The Authority is obliged to consult on any proposals and needs to be able to defend its controls if challenged.
- 6.2. PSPOs can be challenged through the High Court if their creation is not in accordance with Statute and Regulation and due process has not been followed.

## **7. Equality Impact Assessment**

- 7.1. The recommendations in this report do not adversely affect any protected groups.
- 7.2. Those needing an assistance dog are defined in the Antisocial Behaviour, Crime and Policing Act 2014 as exempted from the PSPO requirements.

## **8. Financial and Resource Implications**

- 8.1. The Authority is obliged to publicise controls and to ensure that appropriate signs are displayed. Signage would have a maximum life of 3 years. It is envisaged that signs in some locations may need regular replacement as a result of removal or vandalism.

- 8.2. The workload of initially adding signs would be considerable. If existing staff were used this would impact on their ability to deliver normal services and therefore sites may need to be prioritised on this basis.
- 8.3. Any changes to dog related controls are likely to generate considerable interest with an increased volume of calls, emails and visits requiring a response from staff this would be dealt with by the Customer Hub.
- 8.4. There is an expectation that enhanced enforcement would follow the implementation of revised controls. This work will be undertaken under the Mobile Multi- Function Team although there would be support from Staffordshire Police in relation to the Alcohol Prohibition locations.
- 8.5. Financial implications need to be considered for the purchase and installation of signage to promote the PSPO. Options are being scoped as to what will work best including communications promotion, temporary signage and permanent signage.

## **9. Major Risks**

- 9.1. There is a risk of legal challenge if the Authority does not follow the correct process to devise, consult and adopt a PSPO, with associated reputational damage.
- 9.2. Whilst the majority of residents are likely to support pragmatic and practical controls, there is a risk that some may choose to disregard controls if they feel they are unfair.

## **10. Key Decision Information**

- 10.1. This report can be considered key in the following ways:
  - a. It requires the Council to commit existing and additional resources for the function to which the decision relates and;
  - b. It impacts on communities living or working in an area comprising two or more electoral wards in the Borough.

## **11. Earlier Cabinet/Committee Resolutions**

- 11.1. Public Protection Committee agreed the current set of Dog Control Orders on 4th February, 2013.
- 11.2. Cabinet agreed amendment to the Council's scheme of delegation adding provisions in respect of the Anti-Social Behaviour, Crime & Policing Act 2014 on 15<sup>th</sup> October 2014. This decision delegated the power to make, extend, vary and discharge public space protection orders to Public Protection Committee

## **12. List of Appendices**

- 12.1. Appendix A: Draft PSPO
- 12.2. Appendix B : List of parks and open spaces.

## **13. Background Papers**

- 13.1. Antisocial Behaviour Crime & Policing Act 2014  
<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>
- 13.2. Guidance in respect of PSPOs  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_2\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf)

- 13.3. Further details on proposals and frequently asked questions  
[www.newcastle-staffs.gov.uk/dogcontrols](http://www.newcastle-staffs.gov.uk/dogcontrols)
- 13.4. Requirements in respect of publicising public space protection orders  
[http://www.legislation.gov.uk/uksi/2014/2591/pdfs/uksi\\_20142591\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/2591/pdfs/uksi_20142591_en.pdf)
- 13.5. Amendment to scheme of delegation granting Public Protection Committee power to make public space protection orders.  
<http://moderngov.newcastle-staffs.gov.uk/documents/s13554/Cabinet%20Report%20-%20ASB%20Legislative%20changes%20-%20Oct%202014%20v18%20021014.pdf>