

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

REPORT TO LICENSING AND PUBLIC PROTECTION COMMITTEE

24 October 2023

Report Title: Public Space Protection Order – Parks and Open Spaces

Submitted by: Service Director – Neighbourhood Delivery

Portfolios: Sustainable Environment; Community Safety and Wellbeing

Ward(s) affected: ALL

<p><u>Purpose of the Report</u></p> <p>To provide the committee with the outcome of the final 6 week public consultation on the proposed Parks and Open Spaces Public Space Protection Order in Newcastle-under-Lyme.</p>	<p><u>Key Decision</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>
<p><u>Recommendation</u></p> <p>That Committee:-</p> <p>1. Consider the content of this report and give approval for a Public Space Protection Order for Parks and Open Spaces to be granted by Newcastle-under-Lyme Borough Council as per appendix A.</p>	
<p><u>Reasons</u></p> <p>The Council is seeking to use its powers to prohibit, restrict or control defined activities relating to dog control and alcohol consumption in parks and open spaces in the Borough.</p>	

1. Background

- 1.1 A Public Space Protection Order is a tool under the Anti-social Behaviour, Crime and Policing Act 2014. This legislation allows for an Order to identify a particular space or area in which it is applied, and make requirements or prohibitions, or both within that space or area. This means that the Local Authority can, by virtue of the Order, require people to do, or not to do specific things in that space or area. The Local Authority has the powers to grant the prohibitions/requirements where it believes that they are reasonable in order to reduce or prevent the unwanted issues. The order can be applied to specific people or everyone within an area and can apply at all times or within specific times. The Order can apply for a maximum of

3 years upon which the process of reviews and consultation must be repeated to check whether the issues are still occurring, and the order is having the required effect.

- 1.2 Failure to comply with either a prohibition, or requirement stated within the order is a Level 3 offence. Upon summary conviction (offences heard within the Magistrates Court) defendants can face a fine. The defendant cannot be found guilty of an offence under a prohibition/requirement where the Local Authority did not have the power to include it in the order. The authority has the option to either prosecute or issue a Fixed Penalty Notice (FPN) to discharge liability to convict (s67 & 68 of the ASB, Crime and Policing act).
- 1.3 Since November 2017 a number of 'Dog Control' orders have been in force, which apply in a variety of locations across the borough. The orders were reviewed and extended in 2020. The current orders are due to expire in November 2023 and the Council is now required to review them. Officers 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 the borough's parks and open spaces.
- 1.4 Alcohol Prohibition Zones have been previously introduced in parks and open spaces to help reduce anti-social behaviour related to alcohol consumption. However, these were not renewed as part of the legislative changes in 2014 and therefore the Council no longer has any alcohol prohibition zones in its parks and open spaces. The draft PSPO as shown in appendix A proposes to include controls for behaviours that are problematic for parks and open spaces and assist with ensuring that these spaces are used in the correct manner.

2. **Issues**

- 2.1 The Evidence Base for making a PSPO - 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 regard to the removal of dog fouling. It is also known that there are ongoing concerns around anti-social behaviour in 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 parks. The consultation has helped to clarify that our residents believe there is an issue which needs to be addressed.
- 2.2 Finance & Resources - 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)¹. 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, 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.

The level of signage required will depend on public support for proposals. Costed options in respect of signage will be produced for consideration in a future report if necessary.

The annual cost of sign replacement will depend on the resilience of signs initially placed and they may need to be replaced if damaged.

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.

- 2.3 Residents' Expectations and Authority Priorities - 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 may initially be contentious.

Key corporate priorities are currently:

- Priority Three: healthy, active and safe communities

Setting and policing rules in relation to any adopted order in regard to compliance will encourage residents to make full use of them – running, walking, cycling, using play equipment etc. which aligns to priority three.

Rules in relation to dog control, specifically fouling and the failure to remove dog faeces also relate to priority three.

- 2.4 Proposal and reasons for preferred solution

Members are asked to review the results of the final 6 week consultation for Parks and Open Spaces as shown in Appendix A and consider an updated proposal based on the results of that consultation.

¹ Price based on composite signs attached with metal clips.

The proposals, as currently drafted, best match current dog controls and will benefit from the additional controls in relation to community safety.

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 current needs and will be reviewed again in 3 years' time.

3. Consultation results

A full copy of the consultation results is attached to this report and can be found in Appendix B.

Headline findings show:-

- 39 responses were received as part of the consultation;
- There is support for all of the proposals
- The highest support was for;
 - 1) Requiring a person in charge of a dog to clean up if their dog fouls in a public place
 - 2) Keeping dogs on leads in crematorium, cemeteries and churchyards and unfenced children's play areas.
- The lowest support was for:
 - 1) Requiring dogs to be kept on leads in open spaced owned by town/parish council.
 - 2) Excluding dogs from open spaces owned by parish/town councils.
- 92% in favour of restricting owners to six dogs in each mentioned location.
- 56% agreed that dogs should be kept on a lead on marked out sports pitches.

4. Recommendation

That Committee consider the content of this report and give approval for a Public Space Protection Order for Parks and Open Spaces to be granted by Newcastle-under-Lyme Borough Council as per appendix A.

5. Reasons

5.1 The Council is seeking to use its powers to prohibit, restrict or control defined activities relating to dog control and alcohol consumption in parks and open spaces in the Borough.

6. Options Considered

6.1 'Do nothing' – not making an order could lead to a potential increase in dog fouling across the Borough and an increase in complaints and requirements for additional street cleansing. Also it could lead in an

increase in incidents where residents, children and wildlife are injured due to dogs not being controlled.

6.2 Utilise other powers under the Anti-social behaviour, Crime and Policing Act 2014. All available tools are considered when there are problems of anti-social behaviour. However, where it is not possible to identify the individuals responsible other options have to be considered in order to protect the communities who are suffering from anti-social behaviour.

7. Legal and Statutory Implications

7.1 PSPOs can be challenged on the grounds that the Local Authority, under the legislation, did not have the power either to make or vary the Order or include particular prohibitions or requirements, or that proper processes had not been followed (as prescribed by the legislation). Challenges must be made to the High Courts within 6 weeks of the Order being made/varied and by an individual who lives in, regularly works in, or visits the restricted area. The High Court can quash, uphold or vary the PSPO and may decide to suspend the operation of the PSPO pending the verdict.

8. Equality Impact Assessment

8.1 The recommendations in this report do not adversely affect any protected groups.

8.2 Those needing an assistance dog are defined in the Anti-social Behaviour, Crime and Policing Act as exempted from the PSPO requirements.

9. Financial and Resource Implications

9.1 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 damage or wear.

9.2 The workload of installing additional signs could be considerable and could impact on staff capacity to deliver core services, therefore sites may need to be prioritised for signage on a phased basis.

9.3 Any changes to dog related controls may generate considerable interest and an increased volume of calls, emails and visits requiring a response from staff. This would be dealt with by the Customer Hub using an agreed and scripted response, and by providing information on the Council's website.

9.4 There is an expectation that enhanced enforcement would follow the implementation of revised controls. The work will be undertaken primarily by the Mobile Multi-Functional Team, with support from Staffordshire Police in relation to alcohol prohibition.

10. Major Risks & Mitigation

- 10.1 There is a risk of legal challenge if the Authority does not follow the correct processes to devise, consult and adopt a PSPO with associated reputational damage.
- 10.2 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.

11. UN Sustainable Development Goals (UNSDG)

11.1 The proposal contributes towards the following UNSDGs:



11.2 This project contributes to the UN Sustainable Development Goals above as follows:

- Good health and well being – this project will help to support the well being of residents across the Borough who are using parks and open spaces in a clean and safe manner.
- Peace, justice and strong institutions – this introduction will encourage responsible dog ownership and tackle those who do not comply with the prohibitions.

12. Key Decision Information

12.1 Not applicable

13. Earlier Cabinet/Committee Resolutions

13.1 <https://moderngov.newcastle-staffs.gov.uk/ieListDocuments.aspx?CId=435&MId=4078&Ver=4>

14. List of Appendices

- 14.1 Appendix A: Draft Public Space Protection Order
14.2 Appendix B : PSPO consultation results Summer 2023

15. Background Papers

15.1 Antisocial Behaviour Crime & Policing Act 2014
<http://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

- 15.2 Guidance in respect of PSPOs
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf
- 15.3 Further details on proposals and frequently asked questions
www.newcastle-staffs.gov.uk/dogcontrols
- 15.4 Requirements in respect of publicising public space protection orders
http://www.legislation.gov.uk/uksi/2014/2591/pdfs/uksi_20142591_en.pdf
- 15.5 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>