

Report To: Charity Committee

Date of Meeting: 12 December 2022

Report Title: Response to Proposed Dog Control Public Space Protection Order

Report By: Paul Cosson

Enforcement Manger

Purpose of Report

To inform the Committee on the Dog Public Space Protection Orders (PSPOs). Advise them of the consultation results and to allow the Charity to provide feedback and views on the proposals of the PSPOs for the restrictions on Charity Committee Land.

Recommendation(s)

- 1. To invite the Charity Committee to comment on the Dog PSPO proposals and the consultation results.**
- 2. To ensure that the Charity Committees comments can be considered by the Council, prior to recommendations being made to the Cabinet.**

Reasons for Recommendations

- 1. Before making a Public Space Protection Order the council must carry out a public consultation to listen to local people's views and engage with stakeholders.**

Introduction

1. 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. Local councils are responsible for making Public Spaces Protection Orders (PSPOs). PSPOs are the nationally recognised framework for imposing dog restrictions and regulations.
3. The council can make a Public Spaces Protection Order on any public space within its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.
4. The last Dog PSPO expired on the 12 June 2020. In March of that year this item was due to be discussed at CAP to extend the PSPO. It was agreed at this time to go out to consultation on a review of the existing order. But after this the Covid pandemic took hold of the country, and the first national lockdown was imposed.
5. As a result of all the COVID response work there was no capacity to implement the decision. At one point early in the pandemic the Government was approached, and we asked them to consider allowing LAs to temporarily extend their PSPOs until after the pandemic without the need for consultation. Government refused, and our Dog Control PSPO lapsed.
6. It is important that we now make a new Dog Control PSPO. Then we will again have the option of taking enforcement action against irresponsible dog owners when the need arises. This includes being able to tackle dog fouling, dogs being off lead and dog exclusion areas such as the beach and children's playgrounds.

Background

7. The lapsed PSPO had two seasonal dog exclusion areas. The first one being the area of beach from the Harbour Arm in the East to the West of the Pier. The other being the area of beach from the East Side of Warrior Square to eastern end of the ramp outside the Royal Victoria Hotel. This exclusion operated from the 1 May to the 30 September
8. This can be seen as the areas shaded in blue in Appendix 1.
9. At the council's Cabinet Agenda Planning Meeting dated 20 June it was agreed to go out to consultation on a new dog PSPO.
10. In terms of the beach at this CAP meeting it was decided that we should consult on increasing the amount of dog controls that affected the beach during the summer. This was because it was felt that the usage of the beach had changed and increased dramatically especially through the pandemic and that the beach should be protected for the use of it by families and visitors.

Consultation

11. The consultation included the following proposal for the dog controls on the beach:

During the Summer 1 April to 30 September

1. No dogs at all on the beach from Rock a Nore to the West of Azur between the hours of 9am and 5pm
2. From the West of Azur to the western boundary of the town dogs must be on a lead to be on the beach between 9am and 5pm

During the Winter 1 October to 31 March

1. A restriction only for weekends and between 10am and 4pm during which time dogs need to be on leads to be on the beach.
12. Maps showing these proposals, and which were used in the consultation can be seen in Appendices 2, 3 and 4.

Outcome of the Consultation

13. 835 people commented and responded to the consultation and the comments that concern the beach areas are summarised below:

601 comments and responses	Specifically opposed the proposed restrictions on the beach.
114 comments and responses	Mentioned that the previous or existing beach controls seemed fair and enough.
124 comments and responses	Directly mentioned that beach controls were not needed in West St. Leonards or Bulverhythe Areas.
53 comments and responses	Specifically opposed all the proposals.
74 comments and responses	Approved or agreed with the proposals.
52 comments and responses	Mentioned that Southern Water and Sewage were bigger issues to deal with.
4 comments and responses	Felt that timed restrictions made areas unsafe for women walking dogs as they would need to walk later.
9 comments and responses	Felt that enforcement (lack of) of current restrictions was more of an issue

14. Sussex Police through Inspector Aidan Cornwall supported the proposal and comment as follows:

I have read these proposals and on behalf of Sussex Police we are in support of these new dog control measures. Although thankfully dog attacks on people are rare, they are deeply traumatic incidents which can leave lifelong physical and mental scarring on their victims. These measures if approved could go a long way to reducing such attacks locally

Legal Issues

15. The legal tests focus on the impact that anti-social behaviour is having on victims and communities. A Public Spaces Protection Order can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:
 - has had, or is likely to have, a detrimental effect on the quality of life of those in the locality
 - is, or is likely to be, persistent or continuing in nature.
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
16. 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 focused on 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.
17. 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 and not simply to restrict access.
18. When deciding whether to make requirements or restrictions on dogs and their owners, local councils will need to consider whether there are suitable alternative public areas where dogs can be exercised without restrictions. Councils should consider if the proposed restrictions will displace dog walkers onto other sensitive land, such as farmland or nature conversation areas.

Conclusions to Consultation

19. The council and lead members for this report / decision will need to review the consultation and decide how to proceed.
20. When looking at the results of the consultation it might seem appropriate to re-look at the restrictions for the beach and consider reverting to the original 2 seasonal dog exclusion areas.
21. These being the area of beach from the Harbour Arm in the East to the West of the Pier. The other being the area of beach from the East Side of Warrior Square to eastern end of the ramp outside the Royal Victoria Hotel. This exclusion operated from the 1 May to the 30 September.
22. A consideration could be given to increasing the size of the Eastern dog exclusion zone to include the beach at Rock a Nore which is seen to be one of the most popular beaches for families.

23. The views of the consultation and stake holders will need to be considered by the council before taking this to Cabinet for a decision.

Legal Challenge

24. If the restrictions imposed do not meet the legal test and are not proportional, then there is a risk that the order could be challenged in the High Court. Any interested person can make a challenge and an interested person is someone who lives or regularly works or visits the
25. Typically, PSPO's last for a maximum of 3 years however if felt necessary by the council a review of the order could take place sooner and the order can be amended within this time but there would still need to be a public consultation.

Policy Implications

Environmental Issues & Climate Change

26. Dogs not under control and especially dog faeces not being picked up can directly affect issues such as bathing quality.

Local People's Views

27. Local people's views are included from the public consultation.

Timetable of Next Steps

28. The following proposed schedule takes account of meeting dates that are currently in the corporate programme: -

Action	Key milestone	Due date (provisional)	Responsible
Report to Charity Committee Meeting	Obtain feedback from Charity on Beach Controls	12 December 2022	Enforcement Manager
Report to CAP on feedback and with proposals for final draft Dog Control PSPO	Obtain authority to report to Cabinet	20 December 2022	
Report to Cabinet on feedback and with proposals for final draft Dog Control PSPO	Obtain authority to make new Dog Control PSPO	03 January 2023	
Instruction from Cabinet to Chief Legal Officer	Make new Dog Control PSPO	During January 2023	Chief Legal Officer

Wards Affected

(All Wards);

Policy Implications

Reading Ease Score: Flesch reading ease of 54.1, and Flesch Kincaid Grade Level of 10.6

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Y
Crime and Fear of Crime (Section 17)	Y
Risk Management	N
Environmental Issues & Climate Change	Y
Economic/Financial Implications	Y
Human Rights Act	Y
Organisational Consequences	Y
Local People's Views	Y
Anti-Poverty	N
Legal	Y

Additional Information

Officer to Contact

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