



Item

Extension and variation of

Public Spaces Protection Order (Dog Control) 2017

To:

Councillor Nicky Massey, Executive Councillor for Transport and
Community Safety

Environment & Community Scrutiny Committee 16/01/2020

Report by:

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Wards affected:

All

Not a Key Decision

1. Executive Summary

- 1.1. The Public Spaces Protection Order (Dog Control) 2017 (“Order”) is due to expire on the 19 October 2019. At any point before expiry of the Order, the Council can vary or extend it by up to three years if they consider it is necessary to prevent the original behaviour from occurring or recurring.
- 1.2. This report revisits the terms of the sealed Order (Appendix A), and asks the Executive Councillor to approve, in principle, the proposal to extend and vary the Order in respect of dog control (including dog fouling, dog exclusion, dogs on leads and restriction on number of dogs requirements) within Cambridge, in the form set out at Appendix B and the locations set out in Appendix C; and to authorise officers to publicise the proposed orders and to consult, as required by the Anti-Social Behaviour, Crime and Policing Act 2014 (“The Act”).

2. Recommendations

The Executive Councillor is recommended to:

- a. To approve, in principle, the proposal to extend and vary the Order for dog control within Cambridge in the form set out at Appendix B and the locations set out in Appendix C;
- b. To authorise officers to publicise the proposed orders and to carry out consultation as required by the Act.

3. Background

- 3.1. This report revisits the terms of the Order, reviews its impact and considers the case for varying and extending it for a further three years, as permitted by the Act.
- 3.2. Prior to the current Order, Dog Control Orders were made by the council in July 2013 and created offences of:
 - Failing to remove dog faeces;
 - Not keeping a dog on a lead in designated areas;
 - Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer; and
 - Permitting a dog to enter land from which dogs are excluded
- 3.2. The introduction of Dog Control Orders created transparency and consistency within the City Council boundary and gave authorised officers the ability to issue fixed penalty notices for offences that were previously not enforced. The power for local authorities to make Dog Control Orders was granted under the Clean Neighbourhoods and Environment Act 2005.
- 3.3. Where a Dog Control Order was currently in force, it continued to be valid for a period of three years following commencement of the Act. At this point it then is to be treated as a PSPO (with effect from October 2017). Home Office guidance¹ identified that there was not the need to wait and local authorities could decide to review the need for orders ahead of the transition. The council opted to review areas of dog control ahead of October 2017, and an early review allowed for new areas of

¹ Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers: Statutory guidance for frontline professionals

dog control to be considered and consulted on, for public spaces protection order signage requirements to be completed and for a smooth transition that allowed fixed penalties to continue to be issued for offenders that breached the orders.

- 3.4. In seeking to address the issues presented by dog control issues, the Executive Councillor approved the Order which came into effect on 19 October 2017.
- 3.5. The Activities prohibited by the Order are:
 - Failing to remove dog faeces immediately;
 - Not keeping a dog on a lead in a designated area;
 - Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer; and
 - Permitting a dog to enter land from which dogs are excluded.
- 3.6. The Order was not put forward as a means of unduly restricting the exercising or recreation of dogs across the city. The reason for making the Order was to address the detrimental effect on the quality of life of those in the locality caused by the irresponsible behaviour of a small minority of dog owners; and to set out a clear standard of behaviour to which all dog owners were required to adhere.
- 3.7. The City Council currently has 7.5 authorised officers (Dog Warden (1 FTE) and Public Realm Enforcement Officers (6.5 FTE) who undertake public realm education and enforcement, including of the Order and responsible dog ownership, in line with the Council's Enforcement Policy.
- 3.8. The penalty for committing an offence contained in the Order is a maximum fine of level 3 on the standard scale (currently £1000) which can be made by the Magistrates Court, following successful prosecution of an offence. Alternatively the opportunity to pay a fixed penalty (currently £75) is offered in place of prosecution. A fixed penalty notice (FPN) is an 'on the spot' fine for committing criminal offences such as breach of the Order. Payment of a FPN means that no further action will be taken for that particular offence, it doesn't constitute an admission of guilt by the offender, but it does mean that such cases are diverted away from the Magistrates Court which may lead to the court imposing a larger penalty of up to £1000 and a criminal record.

- 3.9. At any point before expiry of the Order, the Council can extend it by up to three years if they consider it is necessary to prevent the original behaviour from occurring or recurring. According to section 60(2) of the Act, before the time when a PSPO is due to expire, the local authority that made the PSPO may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent-
1. Occurrence or recurrence after that time of the activities identified in the Order, or
 2. An increase in the frequency or seriousness of those activities after that time.
- 3.10. Section 61 of the Act makes provision for the Order to be varied by increasing or reducing the affected area, or by altering or removing a prohibition or requirement included in the Order or by adding a new one. For an order to be able to be varied, the Council must be satisfied that, on reasonable grounds, the following two conditions are met. The first condition is that:
- a. Activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality; or,
 - b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect or likely effect, of the activities:

- a. Is or is likely to be, of a persistent or continuing nature;
- b. Is, or is likely to be, such as to make the activities unreasonable; and,
- c. Justifies the restrictions imposed by the notice.

Any such variations will need to be subject to public consultation as set out in section 3.14.

- 3.11. Listed below are the proposed variations to the current Order (appendix A), and are reflected in the proposed varied Order in Appendix B:
- a. Introduction of dog exclusion areas in following areas which have been fenced: – Ditton Fields (removal of the dogs on leads area for the whole recreation area to increase access for local dog walkers, and restriction to only the fenced children's play area – since the original Order was created in 2017 the children's play area has been

- fenced off); Bean Tree Green (Rialto Close) and Huntsman Close, the latter two of which are new development parks which are fenced.
- b. Removal of dogs on leads restrictions in following areas where residents and officers have found restrictions impractical or unsuitable: - former fenced area where Kings Hedges Recreation Ground paddling was located;
- c. Introduction of dogs on leads restrictions in following areas where complaints have been received regarding aggressive dogs, lack of dog control or dogs straying without owner control: - Hanover and Princess Court green areas, Tenby Close play area and Lichfield Road recreation area
- d. Revision of following play area name: – change The Bath House to include additional description of the play area - Hector Pieterseon play area
- e. Introduction of dog exclusion areas in the following areas where complaints have been received regarding aggressive dogs, lack of dog control or dogs straying without owner control: - Kingsway flats fenced green area and Searle Podium at Dobson Way
- f. Introduction to restrict number of dogs (maximum of four) to be walked by a person at any one time in following areas where complaints have been received regarding aggressive dogs, lack of dog control or dogs straying without owner control: - Byron's Pool

3.12. The current Order does not apply to a person in control of a working assistance dog which has been trained to assist a person who has a disability. For the purposes of the Order, a “disability” means a condition that qualifies as a disability for the purposes of the Equality Act 2010. It is proposed that the same exemptions continue to be applied within the proposed extended and varied Order to ensure that the restrictions placed on dog owners / handlers are reasonable and take into account conditions where it is not possible for the person to comply.

3.13. If the Order is to be extended this must be done before the time when the Order is due to expire, on 18 October 2020. In the event of the Order not being extended, it will lapse on 18 October 2020 at which point there will be no restrictions on dogs in Cambridge. Officers consider it reasonable to assume that anti-social behaviour in regards to dog control in the restricted areas would reoccur and/or increase in the frequency and/or seriousness if the Order is not extended.

Consultation

- 3.14. In accordance with the Anti-social Behaviour, Crime and Policing Act 2014, if the recommended proposed extension and variation of the Order is approved in principle the Council is then required to consult the Chief Officer of Police, the local policing body, and appropriate community representatives.
- 3.15. In addition, Government guidance recommends that a community survey is undertaken to see if people support the introduction of the extended and varied Order. Subject to the Council approving the principle of the proposed Order, it is recommended that a survey be undertaken between February and April 2020 asking people if they would support the extension and variation of the Order, as detailed in Appendix B. Such a survey would include a web survey, survey forms made available on request and at key locations (i.e. community centres and council offices), posters positioned at local parks and dog walking locations and relevant stakeholders notified as set out in 3.16.
- 3.16. In addition to Cambridge residents, visitors and businesses, the following specific stakeholder groups will also be consulted:
- All residents groups / associations
 - Ward councillors
 - Friends of Groups for land subject to proposed Order
 - Dog welfare organisations including Wood Green, the RSPCA and the Dogs Trust
 - Organisations associated with assistance dogs including Guide Dogs for the Blind
 - Organisations associated with the homeless including Wintercomfort and the Street Outreach Team
 - Local Access Forum for Access Land subject to Order
- 3.17. In addition the Council must publish the text of the proposed extended and varied order on its website.
- 3.18. Officers will report the outcome of the consultation to the Executive Councillor at the Environment and Community Scrutiny Committee meeting in June 2020, including any proposed amendments to the order, together with a recommendation for the order's formal agreement.

4. Implications

a) Financial Implications

In accordance with the Act, once an Order is agreed, the Council must 'cause to be erected on or adjacent to the land in relation to which the public spaces protection order has been made such notice or notices as it considers sufficient to draw the attention of any member of the public using that land to

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- (i) the fact that a public spaces protection order has been made; and
- (ii) and the effect of that order being made.

Consequently, there will be a financial cost to revising the proposed order which will need to be met. The signs will cost approximately £10 each plus delivery charge of £15. Approximately the total cost is in the region of £3000 which will be met from within existing departmental cost centre budgets.

Dog Fouling and Dogs on Leads by direction are city-wide offences and therefore advisory warning signs will be placed in hotspot areas. Dog exclusion and dogs on leads areas will have advisory signs placed at entrances to the designated areas under these orders.

The issuing of fixed penalty notices will generate additional income, which can offset the cost of signage in future years if considered appropriate. The income from fixed penalty notices is also permitted by law to be used for functions related to street cleansing.

b) Staffing Implications

There are no additional staffing implications as officers are already equipped to deal with education and enforcement activity related to the Order, including dog fouling and irresponsible dog owners.

c) Equality and Poverty Implications

An Equality Impact Assessment (EQIA) has been completed; please see attached Appendix D.

The impact on residents, visitors and businesses is expected to be positive, as these proposals should continue to act as a deterrent to irresponsible dog ownership. Exemptions are currently in place for those with disabilities and it is recommended that the same exemptions continue to exist in the revised

and varied PSPO. There is no adverse impact on any other Protected Groups from its adoption.

d) Environmental Implications

There will continue to be a positive effect on local environmental quality with the proposed extended and varied Order and the continued enforcement against dog fouling and irresponsible dog owners.

e) Procurement Implications

Costs for the purchase of the proposed Order signage are estimated to be in the region of £3000 and fall below the threshold of £10,000 within the corporate procurement procedures. Therefore best value will be demonstrated by obtaining at least one written quotation.

f) Community Safety Implications

The proposed extension and variation of the Order will continue to have a positive effect on community safety, reducing the risks associated with Toxocariasis and nuisance dogs.

g) Consultation and communication considerations

The order will also be published on the Council's website and associated social media platforms. Further consultation will take place with the groups detailed in section 3.13.

5. Background papers

These background papers were used in the preparation of this report:

- Anti-social Behaviour, Crime and Policing Act 2014:
<http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted/data.htm>
- DEFRA Dealing Practitioner's Manual on dealing with irresponsible dog ownership:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/373429/dog-ownership-practitioners-manual-201411.pdf
- The Anti-Social Behaviour, Crime and Policing Act 2014 Statutory guidance for frontline professionals:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf
- Report to Strategy and Resources Committee Proposed Public Spaces Protection Orders for Dog Control in Cambridge 10th October 2016:

<http://democracy.cambridge.gov.uk/documents/s36153/PSPO DCO Comittee Paper 2.pdf>

- Report to Strategy and Resources Committee Proposed Public Spaces Protection Orders for Dog Control in Cambridge and 23rd January 2017: <http://democracy.cambridge.gov.uk/documents/s37453/Public Spaces Protection Order for dog control.pdf>
- Minutes for Strategy & Resources Scrutiny Committee on 10th October 2016: <https://democracy.cambridge.gov.uk/documents/g3081/Printed%20minutes%2010th-Oct-2016%2017.00%20Strategy%20and%20Resources%20Scrutiny%20Committee.pdf?T=1>
- Minutes Strategy & Resources Scrutiny Committee on 23rd January 2017: <http://democracy.cambridge.gov.uk/documents/g3082/Printed minutes 23rd-Jan-2017 17.00 Strategy and Resources Scrutiny Committee.pdf>

6. Appendices

- Sealed Public Spaces Protection Order (Dog Control) 2017 – Appendix A
- Draft Order Appendix B
- Proposed locations for Order Appendix C
- EQIA Appendix D

7. Inspection of papers

To inspect the background papers or if you have a query on the report please contact Wendy Johnston, Community Engagement and Enforcement Manager, tel: 01223 - 458578, email: wendy.johnston@cambridge.gov.uk.