



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 02/07/2020

Report by:

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Wards affected:

All

Not a Key Decision

1. Executive Summary

This report considers the statutory consultation exercise conducted by the Council during March and April 2020 in relation to the proposal to extend and vary the Public Spaces Protection Order ('PSPO') for Dog Control 2017 in respect of dog control (including dog fouling, dog exclusion and dogs on leads requirements) within Cambridge.

The responses to consultation and main substantive issues raised during the consultation process are examined. Recommendations are made for the Executive Councillor to approve in section 2 of this report.

The Council received 267 responses to the consultation, during March and April 2020, which were analysed by MEL Research. The report produced by MEL can be found in Appendix D. In addition, fuller details on the consultation methodology can be found in section 5 of this report.

The Council has given careful consideration to the responses to the consultation exercise. The PSPO, as varied and extended, is not put forward

as a means of unduly restricting the exercising or recreation of dogs across the city. The reason for the PSPO is 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 are required to adhere.

2. Recommendations

The Executive Councillor is recommended to:

- To approve the PSPO, as set out in Appendix A
- To approve the area of the PSPO, as indicated in the maps at Appendix B;
- To delegate to officers' the authority to install, update and/or remove signage appropriate to any PSPO that may be agreed.

3. Background

- 3.1. Prior to the current proposals, the Dog Control PSPO was made by the council in October 2017 and created offences of:
 - Failing to remove dog faeces immediately;
 - 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. Creation of dog orders came about with the introduction of Dog Control Orders in 2013, which 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 in force, it continued to be valid for a period of three years after which time it was 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 dog control to be considered and consulted

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

on, for PSPO 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 current Order which came into effect on 19 October 2017 for a period of 3 years.
- 3.5. The Activities prohibited by the current 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 council opted to review current areas of dog control ahead of October 2020 (when the current order would lapse), as an early review would allow for: new areas of dog control to be considered and consulted on; for PSPO signage requirements to be reviewed; and for a smooth transition that allows fixed penalties to continue to be issued to those that breach the Order. In line with legislation if the current Order was to be extended it is required to be done before the time when the Order is due to expire, on 18 October 2020. In the event of the current Order not being extended, it would lapse on 18 October 2020 at which point there would be no restrictions on dog control in Cambridge.
- 3.7. PSPOs are designed to place controls on the use of public space and everyone within it. The orders have effect for up to three years and can be extended and varied. Only local authorities can make PSPOs. ‘
- 3.8. PSPOs are designed to place controls on the use of public space and everyone within it. Public place’ means 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.
- 3.9. Section 61 of the Anti-social Behaviour, Crime and Policing Act 2014 (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 3.17 and 3.18

- 3.10. The only prohibitions, or requirements, that may be imposed are ones that are reasonable to impose, in order to prevent or reduce the risk of the detrimental effect continuing, occurring or recurring.
- 3.11. Prohibitions can apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.
- 3.12. The order can specify the times at which it applies and the circumstances in which it applies or does not apply.
- 3.13. Breach of a PSPO, without reasonable excuse, is a criminal offence. The Police, or a person authorised by the Council, can issue FPN. A person can also be prosecuted for breach of a PSPO and, on conviction; the Magistrates' Court can impose a fine not exceeding Level 3 on the Standard Scale (currently £1000).
- 3.14. A FPN is an 'on the spot' fine for committing a criminal offence, such as breach of PSPOs. 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 and the risk to offenders of the Court imposing a larger penalty and a criminal record.
- 3.15. On 16th January, 2020, the Executive Councillor approved, in principle, the proposal to vary and extend the current PSPO in respect of dog control (including dog fouling, dog exclusion and dogs on leads

requirements) within Cambridge. Authorisation was given for the necessary statutory consultation to be carried out, prior to any decision being made on whether or not to extend and vary the PSPO.

- 3.16. A consultation was carried out, which included the necessary steps required by statute. The proposals set forward for consultation were open as to what the consultation responses might be and the need to make any resulting alterations.
- 3.17. In pursuing the PSPO, the Council was required to consult with the Chief Officer of Police the Police and Crime Commissioner, the local policing body and whatever community representatives the Council thought appropriate to consult. The Council was also required to consult with the owner or occupier of land within the restricted area.
- 3.18. It was recognised that the proposed PSPO could be of interest to many sections of the community, including the public and residents' groups. Accordingly, the Council consulted widely, as evidenced by the list of consultees in the background papers. The consultation methodology used is set out in Section 5 of this report.
- 3.19. The Council received 267 responses to the consultation. To undertake and analyse the responses to the online consultation and the other methods of response the consultation, the council commissioned M-E-L Research. The report can be found in Appendix D.
- 3.20. The Council was also required to publish the text of the proposed Order on its website. The draft Order was published on the Council's website between 9th March to 19th April 2020.

Summary of consultation responses

- 3.21. In response to the consultation, a total of 267 responses were received, just over half (52%) were dog owners and a small proportion were professional dog walkers (3%). Respondents to the consultation ranged in age from 18 years to 65 years and over.
- 3.22. The consultation responses from statutory consultees were received from Cambridgeshire Police and Crime Commissioner (PCC). Despite communications sent to Cambridgeshire Police and Cambridgeshire County Council, no responses were received. A copy of the full response from the PCC is included as Appendix F.

PSPO proposal

3.23. This sections sets out the PSPO proposal, including a summary of the related consultation responses and any proposed alterations, by offence type.

Dog fouling

3.24. The PSPO is to continue the requirement that on land, open to the air, to which the public are entitled or permitted to have access (with or without payment) across Cambridge, that if a dog defecates, at any time, the person who is in charge of the dog, at the time, must clear up the dog faeces immediately.

3.25. Responses to the consultation indicated very high support for this power to continue (92% strongly agreed, and 6% fairly agreed) and comments received indicated clearance of dog mess should be done anyway, that dog owners leave mess in bags in a number of areas of the city; and comments around the number of bins and the frequency of emptying of these bins.

Dogs on leads by direction

3.26. The PSPO proposal is to continue with the requirement that on land, open to the air, to which the public are entitled or permitted to have access (with or without payment) across Cambridge, a person in charge of a dog must comply with a direction given to them by an authorised officer to put and keep the dog on a lead. Situations when dogs appear to be 'out of control' include, but are not limited to the following:

- Where animals, or birds, or wildlife, are, or could be, threatened;
- Where the public, particularly children or vulnerable adults, are at threat, or feel threatened;
- Where dogs are posing a risk to the safety of pedestrians and/or cyclists and/or motorists;
- Where dogs are causing damage to public property, including trees and plants; and
- In case of emergency situations.

3.27. Over 97% of respondents agreed that authorised officers should have the ability to use the power in given situations.

Dogs on leads at all times

- 3.28. In reviewing the PSPO, the proposal is to retain dogs on leads at all times for some open play areas and cemeteries and to remove restrictions for others. Land subject to the proposed PSPO will continue to have signs using the words “dogs on leads area”; or words and/or symbols having a similar meaning displayed.
- 3.29. Under the proposed PSPO, existing restrictions are to be retained at the following locations:
- Histon Road Cemetery
 - Newmarket Road Cemetery
- 3.30. From the consultation, 89% of respondents agreed with the requirements to keep dogs on leads at all times at Histon Road and Newmarket Road Cemeteries.
- 3.31. Under the proposed PSPO, existing restrictions are to be removed at the following locations:
- Kings Hedges "Pulley" recreation ground (partially fenced play area)
 - Molewood Close play area (unfenced play area)
 - Velos Walk play area (unfenced play area)
- 3.32. The majority of respondents disagreed that existing dogs on leads requirements at the above children’s play areas should be removed. The disagreement at each location was 57% for Kings Hedges Recreation Ground, 39% for Molewood Close and 39% for Velos Walk.
- 3.33. Following the fairly equal response regarding removal of previous restrictions at the play areas set out in 3.31, officers recommend that the areas detailed should not have the existing restrictions removed and the areas continue to be locations in which dogs are required to be on leads at all times.
- 3.34. Under the proposed PSPO, new restrictions were proposed at the following locations:
- Hanover and Princess Court green space
 - Tenby Close play area

- 3.35. The majority of respondents agreed with the proposals (74% at Hanover and Princess Court, and 84% at Tenby Close), some of the comments received were around general agreement with the dogs needing to be on a lead, and with dogs needing spaces to exercise, socialize and train.
- 3.36. Following the general consensus of the respondents for Hanover and Princess Court, and Tenby Close in 3.35, officers recommend the implementation of the dogs on leads restriction at these two sites.

Dog exclusion areas

- 3.37. The proposal is to retain dog exclusion areas for some fenced children's play areas, outdoor children's paddling pools, tennis courts, some green spaces and bowling greens and to remove restrictions for others areas. Land subject to this order will continue to have signs using the words "dog exclusion area" or words and/ or symbols having a similar meaning displayed.
- 3.38. Under the proposed PSPO, the existing restrictions at the following locations are to be retained:

Bowling greens

- Alexandra Gardens
- Christ's Pieces
- Coleridge Recreation Ground
- Lammas Land
- Trumpington Recreation Ground

Paddling Pools

- Abbey Pool Paddling Pool
- Cherry Hinton Hall
- Coleridge Recreation Ground
- Lammas Land
- Sheep's Green Learner Pool

Tennis courts

- Christ's Pieces
- Cherry Hinton Hall
- Coleridge Recreation Ground
- Jesus Green
- Lammas Land

- Nightingale Avenue Recreation Ground
- Trumpington Recreation Ground

Childrens' play areas

- Aberdeen Avenue
- Ainsdale
- Alexandra Gardens
- Arbury Court (fenced play area)
- Atkins Close
- Bateson Road
- Beales Way
- Cherry Hinton Hall (fenced play area)
- Cherry Hinton Recreation Ground
- Chesterton Recreation Ground
- Chestnut Grove
- Christs Pieces
- Coleridge Recreation Ground
- Discovery Way
- Dudley Road
- Edgecombe Flats
- Flower Street
- Green End Road (fenced play area)
- Gunhild Way/Close
- Hampden Gardens
- Histon Road
- Humphreys Road
- Jesus Green (fenced play area)
- Kathleen Elliot Way
- Kingfisher Way
- Neptune Close
- Nightingale Avenue
- Nuns Way
- Pearl Close
- Petersfield
- Peverel Road
- Ramsden Square
- Ravensworth Gardens (fenced children's play area x2)
- Reilly Way
- River Lane
- Robert May Close
- Romsey Recreation Ground

- Scotland Road
- Sleaford Street/Ainsworth Street
- St Barnabas Court
- St Matthews Recreation Ground (fenced play area)
- St Thomas's Square
- Stourbridge Common (Access Land)
- The Bath House – Hector Pierson Play Area(Gwydir Street)
- Thorpe Way play (fenced play area)
- Trumpington Recreation Ground
- Whytford Close

90% of respondents agreed with the bowling greens, 90% with paddling pools and 84% with tennis courts, as the areas where dogs were to be excluded at all times; and 88% agreed with the requirements to exclude dogs at all times from the fenced play areas set out in the consultation.

- 3.39. In considering whether to keep the proposal for the green area at Ravensworth Gardens, officers sought advice from the Dog Warden service as the number of respondents agreeing with the restriction was not particularly high (45%). Based on this advice, the officer recommendation is to continue to designate Ravensworth Gardens green space as a dog exclusion area under the PSPO.
- 3.40. New sites for areas of dog exclusion were proposed at the following locations:
- Bean Tree Green (Rialto Close)
 - Huntsman Road play area
 - Kingsway flats green area
 - Lichfield Road play area
 - Searle Podium (Dobson Way)
- 3.41. There was strong agreement for the creation of dog exclusion areas at Huntsman Road (75%) and Lichfield Road (77%) but less agreement for creation of dog exclusion areas at Bean Tree Green (60%), Kingsway flats (58%) and Searle Podium (61%).
- 3.42. Officers are therefore recommending that dog exclusion areas be created at Huntsman Road and Lichfield Road, but not the other three locations.
- 3.43. Respondents were also asked about their views for the removal of the dog exclusion area at Brooks Road as the area is no longer fenced.

There was only a 33% agreement with the removal of the requirement at this site, but officers are recommending it is removed given that it is not possible to clearly designate the boundary of where the dogs are excluded and are permitted following removal of the fencing.

Transition from dogs on leads to dog exclusion areas

- 3.44. Two sites, Coldhams Lane and Abbey Pool fenced play areas, currently have dogs on leads restrictions on them and officers proposed that that these be changed to dog exclusion areas in line with all other fenced play areas. The agreement with the proposals was met with agreement of 69% for Coldhams Lane and 70% with Abbey Pool from respondents. Officers are therefore recommending that these two sites are changed to dog exclusion areas.
- 3.45. Ditton Fields recreation ground has currently a dog on leads order in place for the whole of the park, and the proposal was to remove the current restrictions for dogs on leads, and create a new dog exclusion area just for the small fenced play area. In essence to return the majority of the area to being a location in which both dogs can be freely exercised and children can play. Respondents agreed 50% with the removal of the dogs on leads restriction, and 77% with the dog exclusion area. Officers therefore recommend that Ditton Fields play area is redefined as a dog exclusion area for the fenced play area only.

Byron's Pool

- 3.46. For Byron's Pool, the consultation proposal was to restrict the number of dogs that can be walked but a person at any one time to a maximum of four.
- 3.47. The results of the consultation showed that 74% of respondents agreed with the proposal, a number of comments in agreement identified that the area needs protection and that a large number of dogs can be intimidating. Of those that disagreed, comments focused on that there were no other open spaces or open spaces as good as the site, and that it should be on a case by case basis with more enforcement / presence of officers.
- 3.48. It is therefore recommended that Byron's Pool is set as an area where the number of dogs that can be walked at any time is four per person.

Cherry Hinton Hall

- 3.49. For the pond area and brook area at Cherry Hinton Hall, the proposal was to continue to require dogs to be on leads at all times.
- 3.50. The results of the consultation showed that 70% of respondents continue to agree with the restriction proposal. Of those that agreed comments were around protecting wildlife and children, of those that disagreed, comments focused on the majority of dogs being allowed in the water and needing space for dogs.
- 3.51. It is therefore recommended that the area of Cherry Hinton Hall by the pond / brook remains as a dog on leads area to balance the interests of the wildlife and users of the parks with dogs.

Exceptions

- 3.52. It was proposed, that exceptions as previously included within the current PSPO, to ensure that the restrictions placed on dog owners / handlers were reasonable and take into account conditions where it is not possible to comply continued.
- 3.53. 89% of respondents agreed with the proposed exceptions whereby the orders do not apply to a person in control of a working assistance dog which has been trained to assist a person who has a disability.

4. Implications

a) Financial Implications

The Council has already incurred the cost of carrying out the consultation. When the PSPO is varied and extended, in accordance with Anti-social Behaviour, Crime and Policing Act, 2014, 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:

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

The signage required will cost approximately £10 each. Approximately the total cost is in the region of £1000, which will be met from within existing departmental cost centres.

The dog fouling and dogs on leads by direction aspects of the order are city-wide offences and therefore advisory warning signs will be placed in hotspot areas. Such hotspot areas may change over time as targeted education / enforcement has an impact. Dog exclusion, restricted number of dogs and dogs on leads areas are small fixed geographical areas, and will have advisory signs placed at entrances and exits to the designated areas under these orders.

The issuing of FPN for breach of a PSPO will generate additional income, which can offset the cost of signage in future years if considered appropriate. FPN receipts will be used for the purpose of exercising functions to improve street cleanliness and enforcement of offences; it is not being regarded as an 'income generator'. It is not envisaged that the revenue generated from the fines will be significant, but it will reduce the need to pursue costly prosecution in some cases and enable a more flexible approach in dealing with specific offences.

b) Staffing Implications

There are no additional staffing implications as authorised officers (enforcement officers and dog wardens) are already equipped to deal with dog fouling and nuisances.

c) Equality and Poverty Implications

An Equality Impact Assessment has been completed and is set out in Appendix C.

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 for those with 'assistance dogs' have been fully considered and included in the PSPO proposal. There is no adverse impact on any other Protected Groups from the PSPO's adoption.

d) Environmental Implications

There will continue to be a positive effect on local environmental quality with the enforcement of a PSPO for dog control and the continued enforcement against dog fouling.

e) Procurement Implications

Costs for the purchase of signage are estimated to be in the region of £1000, and best value will be demonstrated by obtaining at least one written quotation.

Any further procurement involved in delivering the proposed PSPO be undertaken in accordance with the procurement and financial regulations of the council.

f) Community Safety Implications

The introduction of a PSPO for dog control will continue to have a positive effect on community safety, reducing the risks associated with *Toxocariasis*² and nuisance dogs.

5. Consultation and communication considerations

The Council has carried out a consultation, which included the necessary consultation required by statute. The consultation was carried out at a stage when the proposal was at a sufficiently formative stage and undertaken with an open mind as to what the consultation responses might be and the need to make any resulting alterations. The council believes this is amply demonstrated by the proposed alterations made to the terms of the PSPO.

It was recognised that the proposed PSPO could be of interest to many sections of the community, including the public and special interest groups. Accordingly, the Council has consulted widely.

The consultation methodology included:

- Making the survey available on the Council's website
- Letters sent out to statutory consultees and to any individual, organisation or business on request.
- Posters were put up in the affected parks and green spaces which notified users of the consultation
- Emails were circulated with a link to the survey to residents' groups, and friends of groups
- All animal associated organisations were emailed the link of the consultation (vets, pet shops, RSPCA and Guide Dogs for the Blind)

MEL Research were originally supposed to undertake interview in Byron's Pool and Cherry Hinton Hall over the Easter weekend, speaking to those who used the target parks/ green spaces. Due to the Covid-19 outbreak and

² *Toxocariasis* is a rare infection caused by roundworm parasites. Its spread from animals to humans through contact with infected faeces and infection may cause disease that involves the liver, heart, lung, muscle, eye, and brain.

associated government restrictions, this element of the research did not take place.

Following the consultation, responses have been used to make amendments to the final PSPO that is presented to the committee (appendix A).

6. Background papers

Background papers 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 Environment and Community Scrutiny Committee Review of Public Spaces Protection Order for Dog Control in Cambridge 16th January 2020:
<https://democracy.cambridge.gov.uk/documents/s48733/PSPO%20variation%20paper%202019.pdf>
- Minutes for Environment and Community Scrutiny Committee on 16th January 2020:
<https://democracy.cambridge.gov.uk/documents/g3608/Printed%20minutes%2016th-Jan-2020%2017.00%20Environment%20and%20Community%20Scrutiny%20Committee.pdf?T=1>
- Public Spaces Protection Order (Dog Control) 2017
https://www.cambridge.gov.uk/media/1300/public_spaces_protection_order_dog_control_2017.pdf

7. Appendices

- Draft Public Spaces Protection Order (Dog Control) - Appendix A
- Draft Public Spaces Protection Order (Dog Control) maps – Appendix B
- EQIA - Appendix C
- Consultation Report – Appendix D
- List of consultees – Appendix E

- Consultation response from Police and Crime Commissioner – Appendix F

8. 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.