

Item

Extension and variation of Public Spaces Protection Order (Dog Control) 2017

To:

Councillor Alex Collis, Executive Councillor for Open Spaces, Food Justice and Community Development and Statutory Deputy Leader
Environment & Community Scrutiny Committee 01/12/2022

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 2023, having been successfully reviewed and extended for three years in 2020. 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 (for which it was introduced) from occurring or recurring.
- 1.2. This report revisits the terms of the current 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, seasonal dog on leads requirements, means to pick up faeces, 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 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; and
- b. To authorise officers to publicise the proposed Order, as set out in Appendix B and C, and to carry out consultation as required by the Anti-Social Behaviour, Crime and Policing Act 2014.

3. Background

- 3.1. This report revisits the terms of the current Order (Appendix A), reviews its impact and considers the case for varying and extending it for a further three years, as permitted by the Act.
- 3.2. The council reviewed the areas of dog control and created a Public Space Protection Order for dog control (“the Order”). The Executive Councillor approved the Order which came into effect on 19 October 2017 and was approved for variation and extension on 19 October 2020.
- 3.3. The dog control activities currently 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.
 - Permitting a dog to enter land from which dogs are excluded; and
 - Taking more than the stated maximum number of dogs onto land where restrictions are in place.
- 3.4. 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.

- 3.5. The City Council Public Realm Enforcement service is responsible for undertaking public realm education and enforcement, including of the Order and responsible dog ownership, in line with the Council's Enforcement Policy.
- 3.6. The penalty for committing an offence contained in the Order is a maximum fine of Level 3 on the Standard Scale¹ (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 offence, it does not constitute an admission of guilt by the offender, but it does mean that such cases are diverted away from the Magistrates Court, thereby avoiding the risk of the offender receiving a larger penalty fine of up to £1000 and a criminal record.
- 3.7. 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 (for which it was introduced) 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.
- 3.8. 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:

¹ Level 3 of the Standard Scale is currently set at £1000

- 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 3.15.

3.9. The Council has reviewed the current Order (Appendix A) in accordance with the above conditions; and identified the following proposed variations, which are reflected in the proposed varied Order in Appendix B:

- a. Introduction of dog exclusion areas in following areas which are fenced: Hampden Gardens (expansion to wider green area where play area is to ensure users of the whole of the park can enjoy it without dogs); new exclusion areas at Shelly Row recreation ground (which has been fenced and has a play area for children), and fenced Coldham's Common Astro turf pitch and MUGA (multi use games area) – both of the latter are designated sports areas and not suitable for dogs.
- b. 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: Coldham's Common marked sports pitches.
- c. Introduction of seasonal dogs on leads restrictions (for the bird nesting season 1st March to 31st July) in following areas where complaints have been received regarding lack of dog control or dogs straying without owner control, and associated risk to of nesting birds being disturbed: Local Nature Reserves - Barnwell West, Barnwell East, Bramblefields, Limekiln Pit, Logan's Meadow (part), Paradise and West Pit as well as sites with nesting birds at Hobsons Park, and Mill Road Cemetery.
- d. 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: Coldham's Common marked sports pitches, and Hobsons Park.

- e. Introduction of a requirement to always carry a means to pick up faeces across the whole of the city, and to require a person in control of a dog to produce the means when requested to do so by an authorised officer.

3.10. Most dog owners are responsible and clean up after their dog - however, a minority of irresponsible dog owners fail to do so, by not carrying the correct means to do so. It is therefore recommended that there is a new requirement introduced to the Order which requires those in charge of a dog being walked/exercise to have suitable means to collect and dispose of dog faeces. Those in control of a dog would be required to produce the means of disposal upon request of an authorised officer. The means to collect and dispose of dog faeces can be bags which are readily available (they do not have to be expensive pet shop brands) and examples of suitable means could be nappy sacks, dog poo bags, carrier bags, poop a scoop. Unacceptable examples include using your hands and leaves/twigs collected once the requirement to produce has been made.

3.11. Dogs off leads have the potential to significantly disturb nesting birds, as depending on the habitat type, many species nest at ground level or low down in vegetation. Repeated disturbance by dogs can reduce the number and diversity of species able to use the site to breed. This in turn reduces bird song and encounters for members of the public, with corresponding reduction in the well-being benefits offered. An independent biodiversity audit of the reserves and larger green spaces in 2020, revealed recreational pressure, and particularly disturbance by dogs, as a key impact limiting their habitat condition. The Council adopted a Biodiversity Strategy in 2022 to help combat the declared Biodiversity Emergency this included commitments to review all Local Nature Reserve management plans and consider appropriate dog control orders for key sites. It is therefore recommended that dogs on leads during the bird nesting season (1st March to 31st July) are introduced at the key sites identified in 3.9 c) above.

3.12. Currently there is no requirement for anyone committing an offence to provide their details if requested to do so by an authorised officer i.e., it is not an offence to refuse to give information to an officer. Legislation for other environmental offences such as littering makes it an offence to fail to provide details to an authorised officer when the officer proposes to

issue a fixed penalty notice. Therefore, it is recommended to include a section requiring suspects to provide their name and address and create an offence of failing to comply with an authorised officer's request.

- 3.13. 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 (Appendix B) to ensure that the restrictions placed on dog owners / handlers are reasonable and consider conditions where it is not possible for the person to comply.
- 3.14. If the Order is to be extended this must be done before the time when it is due to expire, i.e., 18 October 2023. In the event of the Order not being extended, it will lapse on 18 October 2023, at which point there will be no legally enforceable restrictions on dogs in Cambridge. Officers consider it reasonable to assume that anti-social behaviour regarding dog control in the restricted areas would reoccur and/or increase in frequency, and/or seriousness, if the Order is not extended.

Consultation

- 3.15. In accordance with the Anti-social Behaviour, Crime and Policing Act 2014, if the recommended proposed extension and variation of the Order is approved the Council is then required to consult the Chief Officer of Police, the local policing body, and appropriate community representatives.
- 3.16. In addition, Government guidance recommends that a community survey is undertaken to see if people support the introduction of the proposed extended and/ or varied Order. Subject to the Council approving the proposed Order, it is recommended that a survey be undertaken between February and March 2023 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, posters positioned at key areas and dog walking locations and relevant stakeholders notified as set out in 3.17.
- 3.17. 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 rough sleepers and the homeless, including Wintercomfort and the Street Outreach Team
- Local Access Forum for Access Land subject to Order
- Parish Committee for closed cemeteries

3.18. In addition, the Council must publish the text of the proposed extended and varied order on its website.

3.19. Officers will report the outcome of the consultation to the Executive Councillor at the Environment and Community Scrutiny Committee meeting in June 2023, 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 –

- (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 by some new signage and amendments to existing signage. Amendments to new signage can be done by positioning of relevant wording on existing signs (i.e., permanent stickers to display wording for revised order). 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.

The city-wide offences (requirement to clear up dog fouling, requirement to be in possession of means to pick up faeces, and dogs on leads by direction) will have advisory warning signs placed in hotspot areas. Dog exclusion, seasonal

dogs on leads 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 associated continued enforcement against irresponsible dog owners.

e) Procurement Implications

Costs for the purchase of the proposed Order signage stickers and signs 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*² 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 3.15.

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 Environment and Community Scrutiny Committee Proposed Review of Public Spaces Protection Orders (Dog Control) 2017 on 16 January 2020: https://democracy.cambridge.gov.uk/documents/s48733/PSPO_variation_paper_2019.pdf
- Minutes for Environment and Community Scrutiny on 16 January 2020: https://democracy.cambridge.gov.uk/documents/g3608/Printed_minutes_16th-Jan-2020_17.00_Environment_and_Community_Scrutiny_Committee.pdf?T=1
- Report to Environment and Community Scrutiny Committee Proposed Review of Public Spaces Protection Orders (Dog Control) 2017 on 2 July 2020: https://democracy.cambridge.gov.uk/documents/s50103/PSPO_Variation_Paper_July_2020.pdf
- Minutes for Environment and Community Scrutiny on 2 July 2020: https://democracy.cambridge.gov.uk/documents/g3785/Printed_minutes_02nd-Jul-2020_17.00_Environment_and_Community_Scrutiny_Committee.pdf?T=1

² Toxocariasis is an infection caused by a type of worm found in the poo of some dogs. It's rare but can sometimes cause serious health problems.

- Report to Environment and Community Scrutiny Committee Fixed Penalty Notices Review 2018/19 on 17 January 2019: https://democracy.cambridge.gov.uk/documents/s44777/FPNS_Review_Report.pdf
- [Biodiversity Strategy 2022-2030](https://www.cambridge.gov.uk/media/11066/biodiversity-strategy.pdf) (<https://www.cambridge.gov.uk/media/11066/biodiversity-strategy.pdf>)
- Biodiversity Emergency – May 2019 - [motion-to-declare-a-biodiversity-emergency-2019-05.pdf](https://www.cambridge.gov.uk/media/11066/biodiversity-emergency-2019-05.pdf) ([cambridge.gov.uk](https://www.cambridge.gov.uk))

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.