

Public Spaces Protection Order (PSPO) for Dog fouling & control

Cabinet	25 October 2017
Report Author	Trevor Kennett, Head of Operational Services
Portfolio Holder	Councillor Fairbrass, Deputy Leader and Cabinet Member for Community Safety & Environmental Services
Status	for Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
Ward:	All Wards

Executive Summary:

The ASB, Crime & Policing Act 2014 requires community feedback to ascertain public support for Thanet District Council and Kent Police to continue to enforce dog fouling and control issues within the district. The previous legislation, The Clean Neighbourhoods and Environment Act 2005 and The Dog Control Orders used by Thanet District Council to undertake enforcement expire in October 2017. The legislation also requires the Council to talk with the local police, Police and Crime Commissioner, Kent County Council and any local parish/town Council.

This report proposes the adoption of a Public Spaces Protection Order for dog fouling and control following community and agency feedback.

Recommendation(s):

To approve the Public Spaces Protection Order for dog fouling and dog control across the district as detailed in appendix 1.

CORPORATE IMPLICATIONS

Financial and Value for Money	There are no identified financial implications at this time. Any future financial implications will need to be recognised as they become known and contained within the agreed budget for this project.
Legal	<p>The Antisocial Behaviour Crime and Policing Act 2014 set out several fundamental changes to the legislation related to antisocial behaviour.</p> <p>In summary, the act aimed to simplify the legislation related to addressing antisocial behaviour, since the introduction of the Crime and Disorder Act 1998, by reducing the numbers of powers to just six:</p> <ol style="list-style-type: none"> 1. Civil Injunctions 2. Criminal Behaviour Orders 3. Community Protection Notices 4. Closure Orders 5. Public Space Protection Orders 6. Dispersal Powers <p>Section 59 of the Act requires the Council to carry out the necessary consultation and the necessary publicity, and the necessary notification before making a public spaces protection order.</p>

	<p>The necessary consultation” means consulting with the chief officer of police, and the local policing body, for the police area that includes the restricted area; whatever community representatives the local authority thinks it appropriate to consult; and the owner or occupier of land within the restricted area.</p>									
Corporate	<p>The priorities that have impact on the enforcement activities of Operational Services are: Priority 1, Clean and welcoming environment - Maintaining zero tolerance to encourage positive behaviour to help improve our environment. Priority 2, Supporting neighbourhoods - Continuing to work with partners to improve community safety and anti-social behaviour</p>									
Equalities Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <table border="1"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td>x</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table> <p>It is the author’s opinion that the Public Sector Equality Duty (PSED) is engaged in a positive way by the subject matter. In respect of the protected characteristic of age, namely children and young people. Restrictions on dogs accessing play areas (safety and public health) and enforcement of picking up dog faeces, positively effects children who are more vulnerable to the effects of coming into contact with the dogs and dog fouling (i.e. intestinal worms or aggressive dogs) and being that they are naturally unsteady on their feet and less aware of the importance of not treading in dog faeces (or picking it up with their hands), this proposal can further aim of the duty in respect of the protected characteristic of age if dog owners are forced to pick it up and fined if they don’t.</p> <p>In accordance with the continuing nature of the Duty the Council will keep the matter under review and in particular around the consultation feedback it receives as the public may offer up other equality issues.</p>		Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it	x	Foster good relations between people who share a protected characteristic and people who do not share it.	
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CORPORATE PRIORITIES (tick those relevant)✓		CORPORATE VALUES (tick those relevant)✓								
A clean and welcoming Environment	✓	Delivering value for money								
Promoting inward investment and job creation		Supporting the Workforce								
Supporting neighbourhoods	✓	Promoting open communications								

1.0 Introduction

- 1.1 The ASB, Crime & Policing Act 2014 requires community consultation to ascertain public support for Thanet District Council and Kent Police to continue to enforce dog fouling and control issues within the district. The previous legislation, The Clean Neighbourhoods and Environment Act 2005 and The Dog Control Orders used by Thanet District Council to undertake enforcement to ensure responsible dog ownership in the district, will expire in October 2017. The legislation also requires the Council to consult with the local police, Police and Crime Commissioner, Kent County Council and any local parish/town Council.
- 1.2 Consideration is therefore needed at this time under the Anti-Social Behaviour, Crime and Policing Act 2014, if the Council is to continue to enforce responsible dog ownership the authority is required to adopt and implement enforcement utilising a Public Spaces Protection Order. There is a need to enforce dog control across the district to ensure public spaces are clean and safe for all to enjoy. Responsible dog ownership enforcement via a public spaces protection order will aid the reduction of risk to the general public such as toxocariasis from dog faeces; freedom from potential animal attacks and safeguarding the public and wildlife via the 'dogs on a lead' elements.
- 1.3 The Council can make a Public Spaces Protection Order if it is satisfied that two conditions are met: -
- First condition – Activities carried out on a public place within the local authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and they will have such an effect.
 - Second condition – That the effect of the specified activities is or is likely to be of a persistent or continuing nature, is or is likely to be unreasonable and justifies the restrictions imposed by the notice.
- 1.4 The order identifies the area that the restriction applies and prohibits specific things from being done, and/or requires specific things to be done by persons carrying out specified acts in that area. The breach of the order is an offence, discharged by the Council through a fine. These will be issued through the Council's Enforcement Service and can also be issued by Police and Police Community Support Officers.
- 1.5 Any order approved by the Council is for a period of no more than 3 years. However, there is provision to extend the order, both in terms of the time and the area that it covers.

2.0 Context

- 2.1 In relation to dogs and their owners, the proposed Public Spaces Protection Order (PSPO) would in summary:
1. Exclude dogs from designated areas, such as blue flag or awarded beaches, which is a mandatory requirement of that award, not allow dogs within fenced children's play areas and control dogs in cemeteries.
 2. Require dog faeces to be picked up by owners or any person in charge of the animal on any land which is open to the air to which the public have access, with or without payment.
 3. Require dogs to be kept on leads; or placed on a lead if considered to be out of control upon request by authorised officers.

4. Require persons in control of dogs in a public place to have a suitable receptacle on their person to pick up their dogs faeces.

2.2 Any PSPO approved and implemented by the Council needs to be evidenced based, that is we have evidence to show that such activities carried out on a public place within the local authority's area have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will be carried on in a public place within that area and they will have such an effect.

2.3 We also need evidence to demonstrate that the effect of the specified activities is or is likely to be of a persistent or continuing nature, is or is likely to be unreasonable and justifies the restrictions imposed by the notice.

3.0 Community & Partner Agency Feedback

3.1 Community feedback on the proposed Public Spaces Protection Order was carried out between 10 August and 2 September 2017. The Council received a total of 74 community submissions with the majority of responses broadly supportive of the Council making the order.

3.2 The key areas raised during this community feedback gathering exercise were:

- Individual suggestions on minor alterations to the PSPO – 35 responses (these were taken into account within the draft order)
- How the PSPO will be enforced – 17 responses
- The provision of more dog fouling bins – 8 responses
- Better signage for the PSPO – 7 responses
- Consider creating fenced off dog areas – 7 responses

3.3 Public agency feedback was received from Kent Police, the Kent Crime Commissioner, Kent County Council and Keep Britain Tidy Group all supported the PSPO and the Council making the order. The Kennel Club made positive suggestions to the PSPO, which we have taken on board, and generally supported the provisions of the order and the Council's approach. We will publish a list of restriction free alternative locations for dog walkers on our website, and will review the way we communicate with local dog owners, addressing this in the coming months.

Contact Officer:	Trevor Kennett, Head of Operational Services
Reporting to:	Gavin Waite, Director of Operational Services

Annex List

Annex 1	The Public Spaces Protection Order – (Thanet District Council) 2017
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Background Papers

Title	Where to access copy
None	N/A

Corporate Consultation

Finance	Ramesh Prashar, Head of Financial Services
Legal	Sophia Nartey, Interim Head of legal Services