

Extension to the Public Space Protection Order for Dog Control

Cabinet	19 October 2023
Report Author	Eden Geddes, Enforcement & Multi-agency Task Force Manager
Portfolio Holder	Cllr Keen, Cabinet Member for Neighbourhoods
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
Previously considered by:	Overview and Scrutiny Panel on 26 September 2023
Ward:	All

Executive Summary:

The purpose of this report is to recommend that the Council exercises its powers as contained within the Anti Social Behaviour Crime & Policing Act 2014 to extend the current Dog PSPO for a further 3 years.

Recommendation(s):

Cabinet is being asked to agree:

1. That the Current PSPO is extended for a further 3 years until 2026;
2. To delegate any minor amendment of the PSPO to the Chief Executive.

Corporate Implications

Financial and Value for Money:

Costs associated with the management of the dog PSPO will be contained within current budgets. Mechanisms in relation to breaches of this PSPO are already adopted.

There may potentially be future legal costs for enforcement of breaches via court process however this will also be covered within the existing budgets.

Legal:

Section 59(1) of the Act empowers local authorities to make a PSPO if they are satisfied, on reasonable grounds, that any activity carried out or which is likely to be carried out in a public space within their area:

- 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;
- justifies the restrictions imposed

Section 59(5) of the Act provides that the only prohibitions or requirements that may be imposed are reasonable to impose in order-

- To prevent the detrimental effect referred to above from continuing, occurring or reoccurring; or
- To reduce the detrimental effect or to reduce the risk of its continuance, the occurrence of reoccurrence

Section 59(8) of the Act requires that a PSPO must be published in accordance with regulations made by the Secretary of State. Section 60 of the Act provides that a PSPO may not have an effect for a period of more than 3 years unless extended.

Section 61(4) of the Act provides that a PSPO may be discharged by the local authority that made it. Section 61(6) of the Act provides that where a PSPO is discharged, a notice identifying the PSPO and stating the date when it ceases to have effect must be published in accordance with regulations made by the Secretary of State.

Section 72 of the Act requires that, in extending or varying a PSPO, the local authority must consult 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;
- the owner or occupier of land within the restricted area

Risk Management:

The council operates a robust process around the enforcement of PSPO related issues which include the issue of penalty notices.

The issue of Penalty notice is a remedy offered as an alternative to prosecution There is a low risk of error in the issue of these types of penalty notices which may have a disproportionate impact upon different groups within society. Legislative guidance around the issue of penalty notices of this type allows for a mechanism for appeal and an ability to challenge the issue at a judicial level if the issue of an FPN is either believed incorrect or issued in error.

There are a range of educational resources available including online, in a written format and delivered in person in schools. All bays/ parks and areas covered by the PSPO have clear understandable signage in place as well as wide use of pictographs for those unable to fully understand the written word.

The continuation of this PSPO reduces risk as to the councils ability to maintain the standards of beaches required to achieve blue flag status and the protection of wildlife in the district areas of special scientific interest.

Corporate

The recommendations support The Council's Core Business Objectives in areas of

- Growth: Clean beaches free of dog fouling support our blue flag and seaside award status.
- Environment: Protect and enhance where possible our parks, beaches and open spaces for the benefit of current and future residents.

- Communities: Work with our partners to deliver a range of community safety initiatives across the District, taking tough action to tackle anti-social behaviour.

Equality Act 2010 & Public Sector Equality Duty

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.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To foster good relations between people who share a protected characteristic and people who do not share it.

It is not felt that the continuation of the dog PSPO has any negative impact in respect of protected characteristics and the public sector equality duty.

There have been no previous complaints in relation to equalities since the PSPOs inception.

A customer Impact screening exercise has been undertaken and there are no matters arising from this proposal at this time.

This will be kept under review.

Corporate Priorities

This report relates to the following corporate priorities: -

The recommendations support The Council's Core Business Objectives in areas of

- Growth: Clean beaches free of dog fouling support our blue flag and seaside award status.
- Environment: Protect and enhance where possible our parks, beaches and open spaces for the benefit of current and future residents.
- Communities: Work with our partners to deliver a range of community safety initiatives across the District, taking tough action to tackle anti-social behaviour.

1.0 Introduction and Background

1.1 A Public Spaces Protection Order (PSPO) is an order made by the Local Authority if it is satisfied on reasonable grounds that two conditions are met. These are:

- That activities being carried out within a public place have had a detrimental effect on the quality of life of those in the locality or it is likely they will.
- That the effect, or likely effect, of these activities is, or is likely to be, of a persistent or continuing nature, such as to make the activities unreasonable.

- These orders identify public places and prohibit specific things from being done in that area or require specific things to be done in that area for a maximum of three years.
- Breach of the order would constitute a criminal offence.
- A PSPO may be extended as many times as required.

1.2 The dog PSPO was first enacted in 2017 after dog control order legislation was transferred to legislation governing the application of PSPOs. The dog PSPO was the first to be enacted in Thanet. The original order was extended in 2020.

2.0 The current situation

The current PSPO is due to expire on the 23rd October 2023.

2.1 The impact of the original order and subsequent orders around PSPO restrictions have had a positive impact and helped prevent some of the detrimental effects on the quality of the district's coastal water, the quality of cleanliness on Thanets blue flag beaches and seaside award winning beaches, and protection of our coastline, cemeteries and playgrounds. The order has helped protect the diversity of bird populations and wildlife at Pegwell Bay upper chalk shore, mudflats and saltmarsh. The order has protected the quality of public health and welfare through enforcement which has been helping promote cleaner beaches, parks, churchyards and fenced playgrounds.

2.2 Residents and visitors have understood the traffic light system which controls dog exclusion areas, and the maps have been published on-site, on social media, websites and newspapers to show where you can walk your dog. Signage is instated across all bays and more recently with a QR code linking users to the most up to date information. Continuing with the current traffic light system will keep consistency of understanding and continue the clear message. Various residents and groups have shared the dog code and it has been used positively.

2.3 Every season dog code leaflets and signs are distributed to dog walkers, bay inspectors, tourist offices, beach shops, cafes and restaurants. The process is now mainstream and the majority of dog owners understand the systems that are in place.

2.4 The council continues to receive a number of complaints annually in relation to dogs

2.5 It should be noted that this PSPO does not include enforcement requirements in relation to "Banned Dog Breeds" as this is covered by primary legislation contained within the Dangerous Dogs Act 1991.

2.5. The content of this report was reviewed at Overview and scrutiny on the 26th September 2023 and agreed to progress to cabinet for approval.

2.6 Representatives from Kent police have been consulted with and have agreed the rationale for the extension.

2.6 We are recommending that the PSPO will continue unchanged for the next 3 years and that the authority to approve any further minor amendments to the order be delegated to the chief executive.

3.0 Options

3.1 To approve the recommendations.

3.2 To amend the recommendations and then approve them.


3.3 To reject the proposed order and recommendations.


Contact Officer: Eden Geddes (Enforcement & Multi Agency Task Force Manager)


Reporting to: Penny Button (Head of Neighbourhoods)

Annex List

Annex 1: Customer impact assessment -

 Sept 2023 Dog PSPO Customer Impact Assessment.docx .docx

 PSPO extension Overview & Scrutiny 26th September 23

 Beach+Criteria+and+Explanatory+Notes.pdf

Background Papers

Web pages counting current public list of exclusions

<https://www.thanet.gov.uk/info-pages/dog-public-space-protection-order-pspo/>

Corporate Consultation

Finance: Greg Dungan (Finance Manager)

Legal: