

Guildhall Gainsborough

Lincolnshire DN21 2NA

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AGENDA

This meeting will be recorded and the video archive published on our website

Licensing and Regulatory Committee

Thursday, 27th April, 2017 at 6.30 pm

Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA

Members:

Councillor Mrs Jessie Milne (Chairman)
Councillor Owen Bierley (Vice-Chairman)
Councillor Mrs Gillian Bardsley
Councillor Mrs Sheila Bibb
Councillor David Cotton
Councillor Paul Howitt-Cowan
Councillor Mrs Angela Lawrence
Councillor Mrs Pat Mewis
Councillor Richard Oaks
Councillor Mrs Judy Rainsforth
Councillor Mrs Diana Rodgers
Councillor Lewis Strange

1. **Apologies for Absence**

2. **Public Participation**

Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each

3. **Minutes of Previous Meetings**

Minutes of the Licensing and Regulatory Committee held on 26 January 2017

(PAGES 1 - 4)

4. **Declarations of Interest**

Members may make declarations of Interest at this point or may make them at any point in the meeting.

5. **Matters Arising Schedule**

Setting out current position of previously agreed actions as at 19 April 2017

(PAGES 5 - 6)

6. **Public Reports**

a) Public Space Protection Order

(PAGES 7 - 16)

M Gill
Chief Executive
The Guildhall
Gainsborough

19 April 2017

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Licensing and Regulatory Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 26 January 2017 commencing at 6.30 pm.

Present: Councillor Mrs Jessie Milne (Chairman)
Councillor Owen Bierley (Vice-Chairman)

Councillor Gillian Bardsley
Councillor Sheila Bibb
Councillor Mrs Pat Mewis
Councillor Judy Rainsforth
Councillor Lewis Strange

In Attendance:

Dinah Lilley Governance and Civic Officer
Andy Gray Housing and Communities Team Manager
Kathryn Hearn Senior Community Safety Officer

Apologies:

Councillor David Cotton
Councillor Paul Howitt-Cowan
Councillor Angela Lawrence
Councillor Richard Oaks
Councillor Mrs Diana Rodgers

Membership: There were no substitutions

19 PUBLIC PARTICIPATION

There was no Public Participation.

20 MINUTES OF PREVIOUS MEETINGS

RESOLVED that the Minutes of the Licensing and Regulatory Committee held on 13 December 2016 be confirmed as a correct record and signed.

RESOLVED that the Minutes of the Taxi and General Licensing Sub-Committee held on 13 December 2016 be confirmed as a correct record and signed.

21 DECLARATIONS OF INTEREST

As per the previous meeting Councillors Bardsley, Rodgers, Mewis and Bierley all noted that they had dogs but as responsible owners would not be affected by the Orders.

22 PUBLIC SPACE PROTECTION ORDERS

The Housing and Communities Team Manager and the Senior Community Safety Officer attended the meeting to outline proposals relating to three Public Space Protections Orders, and to seek consent from the Committee to consult in line with the proposed consultation plan.

A number of Public Space Protection Orders (PSPOs) on land in the District were proposed. These Orders could be made on any land open to the air that the public had a right or entitlement of access to. This meant that the legislation could apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.

The report had been presented for Committee consideration at the previous meeting on 13 December 2016, following which a number of questions had arisen, for which the answers were not immediately available. It was proposed that the item be deferred pending that additional information being received. Minute extract below.

“It was proposed that the entire report and consultation be deferred until such time as further information be available, to clarify the legislation and the authority held by Parish Council Wardens. The proposal was seconded and subsequently voted upon.

RESOLVED that the report be deferred until clarification has been sought and provided to the Committee to ensure that the correct decisions be taken.”

The information and answers to questions requested by Councillors had now been established, and were set out in the report.

- Does the Dogs (Fouling of Land) Act 1996 designation still apply? (this required dog owners to pick up after their dogs across the District)
 - o No. The 1996 Act was repealed in full by the Clean Neighbourhoods and Environment Act 2005 Part 6, Chapter 1, and this itself was repealed by the Anti-Social Behaviour, Crime and Policing Act 2014 schedule 11. This means there is currently no provision for WLDC to enforce against uncleared dog fouling in the District.
- Will the introduction of PSPOs in the District impact on any current Dog Control Orders? (Dog Control Orders were made under the 2005 Act by Parishes/Towns on their land and cover dog exclusions, dogs on leads etc)
 - o Not unless the intention is to replace the Dog Control Order with a PSPO. In the three proposals as part of our paper, Gainsborough Town Council Dog Control Orders will be replaced by a PSPO. The Dog Control Orders in Caistor and Cherry Willingham will not be affected, and these will remain in force until 20 October 2017. We will review these orders prior to that date to ensure we can bring in PSPOs to replace them (if desired) before the current orders expire.
- Can Town/Parish wardens issue fixed penalty notices for breach of a PSPO?
 - o Yes, a re-read of the legislation and confirmation from legal services indicates that

we can delegate powers to Parish and Town Wardens as we have done in the past. Officers will undertake to put these delegations in place and ensure that Wardens are trained and understand the new powers.

On receiving the information, Members then debated the matter briefly. It was asked what hours wardens worked, and clarified that resources would be directed to areas with particular issues, based on intelligence received, rather than any set out of hours patrols.

It was suggested that it would be useful to see cost comparisons of having a dedicated dog warden against the proposed scheme, over a six month period. The Housing and Communities Team Manager assured members that following a restructure of the enviro-crime team, a wider picture should be available in the summer.

The recommendations were moved en bloc, however the Housing and Communities Team Manager interjected that the position on the consultation periods had had to be reviewed, and suggested that whilst all the proposed PSPOs could be submitted to the June Committee, it would be possible to consider the Dog Fouling order earlier than that.

Therefore the consultation dates were proposed to be:-

- PSPO Trinity Arts Centre – 13 April to 15 May – then brought back to the June Committee
- PSPO land belonging to Gainsborough Town Council - 13 April to 15 May – then brought back to the June Committee
- District wide PSPO for dog fouling – 13 February to 27 March then to Committee in April.

The above timescale would necessitate an additional meeting being convened in April however, given that there were no other items of business currently programmed for the Committee, the March meeting be simply moved to April.

The revised consultation dates were agreed, and there being no further discussion the recommendations were moved en bloc, seconded and voted upon.

RESOLVED that:-

- a) authority be given to consult on Proposal 1 – PSPO on Trinity Arts Centre Grounds;
- b) authority be given to consult on Proposal 2 – PSPO on land belonging to Gainsborough Town Council;
- c) authority be given to consult on Proposal 3 – District Wide PSPO for dog fouling;
- d) the suggested consultation plan and timeline be approved.

The meeting concluded at 6.49 pm.

Chairman

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Licensing and Regulatory Committee Matters Arising Schedule

Purpose:

To consider progress on the matters arising from previous Licensing and Regulatory Committee meetings.

Recommendation: That members note progress on the matters arising and request corrective action if necessary.

Matters arising Schedule

Status	Title	Action Required	Comments	Due Date	Allocated To
Green	PSPOs	L&R 26/01/17 Minute Extract It was suggested that it would be useful to see cost comparisons of having a dedicated dog warden against the proposed scheme, over a six month period.		19/09/17	Kathryn Hearn

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**Licencing and Regulatory
Committee**

Date: 27 April 2017

Subject: Public Space Protection Orders – recommendation to make an order

Report by:

Contact Officer:

Kathryn Hearn
Senior Community Safety Officer
01427 675181
Kathryn.hearn@west-lindsey.gov.uk

Purpose / Summary:

To present the results of public consultation on the proposed order, and make a recommendation to members

RECOMMENDATION(S):

Elected members are asked to:

- 1. Note the results of the public consultation**
- 2. Approve the making of the Public Space Protection Order, with an effective date of 5th June 2017**

IMPLICATIONS

Legal: These Orders are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. The legislative consultation requirement has been met.

Power to make a PSPO has been added to the Terms of Reference of this Committee

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : Fin Ref:FIN/109/17

There will be publicity and resource costs involved in the making and enforcement of the PSPO. These should be relatively low and met from within existing budget provision.

Fixed penalty notices for breach of a PSPO are set at £75 with a £50 early payment incentive in fees and charges. Income from fixed penalty notices may be used to support the Community Safety service.

Staffing :

Staff time will be required to deal with breaches to support the PSPOs. It is intended that multi-skilling enforcement staff will enable this with minimal impact on individual officers by sharing the load.

Equality and Diversity including Human Rights :

The PSPOs will not disadvantage any social groups over another, and the process will be applied fairly. Exemptions for fixed penalty notices for reasons of physical or mental impairment are detailed in the Fixed Penalty Enforcement Strategy.

Risk Assessment :

Challenge in the High Court – reduced by following process and considering reasonableness throughout process

Climate Related Risks and Opportunities :

Nil

Title and Location of any Background Papers used in the preparation of this report:

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

x

1 Introduction

West Lindsey District Council has held consultation on a proposal to make a Public Space Protection Order.

These Orders can be made on any land open to the air that the public have a right or entitlement of access to. This means that the legislation can apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.

To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are 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

2 Scope of the PSPO proposed

The proposed PSPO which is the subject of this report aims to reduce occurrences of uncleared dog fouling in the District by requiring fouling to be picked up in all public spaces (within the definition of public in this legislation), and by requiring dog waste to be properly disposed of in a general or dog waste bin.

As a known health hazard and a cause for regular complaint by residents across the District, we know that this activity has had a detrimental effect on the quality of life of those in the District, is of a continuing nature and is unreasonable. Given the health hazard and the ease with which it can be avoided, the restrictions imposed are justified.

3 Consultation

Public consultation was held from 13th February 2017 to 27th March 2017. This exceeded the statutory minimum consultation period of 30 days, and met the standard council consultation period of 6 weeks.

A Public Notice was placed in the local media on Thursday 9th February 2017 as required by legislation.

Articles on the consultation were placed in several local newspapers covering the District, on social media and on the West Lindsey website.

Consultation documents were available on the website, including the proposed order and the electronic consultation questionnaire, and paper

copies of both were made available in West Lindsey offices in Gainsborough and Market Rasen.

Statutory consultees were notified by direct email, including a link to the website consultation page. Those notified in this way were:

- Police and Crime Commissioner
- Local police Inspector
- Lincolnshire County Council highways
- Parish and Town Councils
- Elected members of the Council
- Church diocese

4 Outcome

The results of the consultation are as follows:

132 responses were received

Responses were made from a wide cross section of the District – a list of areas with responses can be seen at Annex A

92% of respondents (119 responses) felt uncleared dog fouling was an issue in their locality

99% of respondents (128 responses) supported the making of a PSPO

84 comments were received, with the top 5 topics being as follows:

1. How will the order be enforced
2. Great idea
3. Signage is important as part of the order
4. Publicity needs to be undertaken
5. More dog bins required in some areas

The following aims to answer some of these comments:

- Enforcement of the PSPO

At present officers within some of the enforcement functions of the council have delegated powers to enforce a PSPO. It is intended to arrange training for other officers and for interested Parish and Town council officers/wardens so that they can also issue FPNs on our behalf; we already have interest from a number of areas on this.

We aim to put out some very clear publicity on how to report and the information we need e.g. time and location of regular offending, so that we can target those areas, and to highlight that if residents will give us statements on offences they have witnessed we can take action based

on that. The intent is that the reliance isn't on us happening to come across an offence, but that enforcement can be targeted and based on communities giving us information.

Police and PCSOs are also able to issue fixed penalty notices under a PSPO.

- Publicity

The order, if made, will be publicised widely in the press and online and to Parish and Town Councils and elected members. Publicity will be carefully written to ensure it gives our communities knowledge on how and where to report problems, and we will also aim to publicise any successful issues of fixed penalties or prosecutions.

- Signage

Signage and information will be procured and drawn up, and sent to Parish and Town Councils to support the PSPO. We will be identifying hot spot areas across the District and targeting resources and signage in addition to this..

- Dog bins

Additional dog waste bins can be requested via customer services, and our waste team will then consider the need for additional bins in that area. We will also be highlighting in our publicity that dog waste can be disposed of in a general waste bin as well as a specific dog waste bin.

4 Recommendation

It is recommended that

- the Public Space Protection Order should be made and come in to effect as of 5th June 2017
- the relevant publicity be put in place to raise awareness of the PSPO. Fixed penalty notices for breach may be used from the date of commencement. The level of fine will be reviewed annually as part of the fees and charges setting process and are already agreed for 2017/18

Annex A

Responses were received from the following areas of the District:

Bishop Norton	Lissington
Bleasby Moor	Market Rasen
Blyton	Marton
Brattleby	Middle Rasen
Broadholme	Moortown
Brookenby	Morton
Caistor	Nettleham
Cherry Willingham	Nettleton
Claxby	Newton on Trent
Corringham	Normanby by Spital
Dunholme	North Greetwell
East Stockwith	North Kelsey
Faldingworth	Northorpe
Fenton	Osgodby
Fillingham	Saxilby
Gainsborough	Scothern
Glentworth	Scotter
Greetwell	Scotton
Hackthorn	Spridlington
Keelby	Stainton le Vale
Kettlethorpe	Sudbrooke
Kexby	Torksey
Knaith Park	Upton
Laughterton	Welton
Lea	Willingham by Stow
Legsby	Willoughton
Linwood	

Annex B – Final version of proposed PSPO

WEST LINDSEY DISTRICT COUNCIL

Anti-Social Behaviour, Crime and Policing Act 2014, section 59 Public Space Protection Order

This order may be cited as the West Lindsey District Council – Dog Fouling Public Space Protection Order 2017.

West Lindsey District Council (“the Council”), being satisfied that the conditions set out in Section 59(2) of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) have been met in relation this order, namely that failure to remove dog fouling, and incorrect disposal of dog foul bagged or otherwise, is an issue in West Lindsey frequently reported and seen across the District. Accordingly, this behaviour has had a detrimental effect on the quality of life of those in the locality, or it is likely that the behaviour will be carried out in the area and have such an effect. The Council is also satisfied that the effect, or likely effect, of the behaviour is, or is likely to be, of a persistent or continuing nature, and these activities are unreasonable and justify the restrictions imposed by the notice, and that it is in all circumstances expedient to make this order for the purpose of reducing crime and/or anti-social behaviour in a public place.

The Council in exercise of its powers under Sections 59, 64 and 72 of the Act and under all other enabling powers, hereby makes the following order:

1. Dog fouling occurring on any land which is open to the air, and to which the public have a right or entitlement of access to, whether paid or unpaid, within the District of West Lindsey, must be removed immediately by the person at that time in control of the dog.
2. Dog fouling must be properly disposed of in a general waste bin or dog waste bin
3. Exemptions to this order may be found in Schedule 1.

Schedule 1

1. The following land will not be subject to this Order:
 - a. Agricultural land, woodland, heath
 - b. Roadside grass verges along roads with a speed limit above 40mph (verges with footpaths alongside roads will not be exempt regardless of speed limit)
 - c. Private property that the public have no right or entitlement of access to
2. Exemptions will be given to persons registered blind or partially sighted, or who have physical or mental disabilities which prevent them from being able to comply with the Order

Schedule 2

1. It is an offence for a person without reasonable excuse to fail to comply with this order.
2. A person found to be in breach of this order is liable on summary conviction to a maximum penalty of a level 3 fine or to a fixed penalty notice of £75.

The Order shall come in to operation on 5th June 2017 and shall have effect for a period of 3 years thereafter, unless extended by further orders under the Councils statutory powers.

If any interested person requests to question the validity of this order on the grounds that the Council did not have the power to make the order or that a requirement under the Act has not been complied with, then he or she may apply to the High Court within six weeks from the date in which the order is made.

GIVEN under the Common Seal of West Lindsey District Council on the

..... Day of 2017

The Common Seal of
West Lindsey District Council
was hereunto affixed
in the presence of

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