

Guildhall Gainsborough
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AGENDA

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

Regulatory Committee
Thursday, 12th March, 2020 at 6.30 pm
Council Chamber - The Guildhall

Members:

- Councillor Mrs Jessie Milne (Chairman)
- Councillor Mrs Angela Lawrence (Vice-Chairman)
- Councillor David Cotton
- Councillor Timothy Davies
- Councillor Mrs Caralyne Grimble
- Councillor Paul Howitt-Cowan
- Councillor Mrs Cordelia McCartney
- Councillor Mrs Judy Rainsforth
- Councillor Jim Snee
- Councillor Lewis Strange
- Councillor Jeff Summers

1. **Apologies for Absence**
2. **Public Participation**
Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. **Declarations of Interest**
Members may make declarations of Interest at this point or may make them at any point in the meeting
4. **Minutes of Previous meetings** (PAGES 3 - 5)
5. **Public Reports for approval**
6. **Consultation on Extension of District Wide Dog Fouling Public Space Protection Order** (PAGES 6 - 15)

Ian Knowles
Head of Paid Service

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio: Native Language

The Guildhall
Gainsborough

04 March 2020

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Regulatory Committee held in the Council Chamber - The Guildhall on 10 December 2019 commencing at 6.34 pm.

Present: Councillor Mrs Jessie Milne (Chairman)
Councillor Mrs Angela Lawrence (Vice-Chairman)

Councillor David Cotton
Councillor Timothy Davies
Councillor Mrs Caralyne Grimble
Councillor Paul Howitt-Cowan
Councillor Mrs Cordelia McCartney
Councillor Mrs Judy Rainsforth
Councillor Jim Snee

In Attendance:
Andy Gray Housing and Enforcement Manager
James Welbourn Democratic and Civic Officer

Apologies: Councillor Lewis Strange

11 PUBLIC PARTICIPATION

There was no public participation.

12 DECLARATIONS OF INTEREST

There were no declarations of interests.

13 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 12 September 2019 were approved as a correct record.

14 CONTAMINATED LAND STRATEGY

Members considered a report on an updated contaminated land strategy.

The Housing and Enforcement Manager introduced the report, and highlighted the following points:

- In 2018 there was a detailed audit of the food safety and environmental protection work areas. Some aspects of the subject area of contaminated land fell within environmental protection;

Having an up to date Contaminated Land Strategy was a statutory requirement and

was identified as an obligation of that 2018 audit;

- A strategy on this topic has not been updated, or seen by Regulatory Committee (or its predecessor) since circa 2010;
- There was a financial implication for this work, and there was recognition that contaminated land was a specialist area of expertise. Some authorities do have officers that specialise in this area of work;
- Some officers at West Lindsey District Council (WLDC) had been trained on prioritising Potential Contaminated Land Sites (PCLS). However, there were resourcing implications around taking this work forward;
- An external environmental consultancy firm, Delta Simons, would assist with the initial logging and prioritising of PCLS, and then WLDC would take over full control of this work;
- It was unclear at this stage what the number of identified sites would be, however any sites identified as part of this work would be fully mapped on electronic systems.

Following this introduction, Members asked questions of the Housing and Enforcement Manager. Further information was provided:

- If a site in West Lindsey was subject to the planning process or development, then any information on contamination should be available to Enforcement Officers;
- This process was trying to pull together information on contaminated sites in West Lindsey. Historic manufacturing sites, such as those in Gainsborough would be known to Enforcement;
- Contaminated land sites should be an ongoing piece of work for WLDC. It was identified in the 2018 audit that this process had stopped;
- Under usual circumstances, if contamination was identified as part of the planning process, the remediation of the site would be dealt with at this stage. In the main, the remediation of contaminated land was the responsibility of the landowner;
- Orphan sites, where the owner of a site was unknown were likely to be the responsibility of the local Council;
- Contaminated sites would be given a risk score, and this score could be distributed to people or groups that enquire about these sites;
- Community consultation had not been factored in because of the volume of sites. However, there was community consultation as part of the planning process which includes Parish Council engagement.

RESOLVED to approve the Contaminated Land Strategy Review 2019-2024.

The meeting concluded at 6.54 pm.

Chairman

Agenda Item 6



Regulatory Committee

Thursday 12th March 2020

Subject: Consultation on Extension of District Wide Dog Fouling Public Space Protection Order

Report by:

Chief Executive

Contact Officer:

Andy Gray
Housing and Enforcement Manager

andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To seek consent to consult upon the extension of the district wide Public Space Protection Order relating to dog fouling.

RECOMMENDATION(S):

Elected Members are asked to:

- 1. Agree to consult upon the proposals to extend and vary the existing Dog Fouling Public Space Protection Order (PSPO)**
- 2. Approve the suggested consultation plan and timeline.**

IMPLICATIONS

Legal:

PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation. The Council intends to consult for its minimum 6 week period.

The Council can vary, extend or discharge a PSPO in line with section 72 of the Anti-Social Behaviour, Crime and Policing Act 2014.

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/180/20/SSc

There is a cost associated with the consultation exercise and any publicity that is required. These will be met from existing service budgets.

Fixed penalty notices (FPN's) for breach of a PSPO are set at £100 with a £75 early payment incentive within fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

Staffing :

Staff time will be required to support the consultation process, however most of the responses are provided online.

The Council already has provision in place to monitor and enforce the PSPOs in place and it is not proposed that any subsequent approval will affect this as it is an extension of an existing order.

Equality and Diversity including Human Rights :

The proposed extension of this PSPO will not disadvantage any social groups over another, and the process will be applied fairly. The Councils approach to fixed penalties is outlined in its Corporate Enforcement Policy.

Data Protection Implications :

There are no data protection implications.

Climate Related Risks and Opportunities :

Section 17 Crime and Disorder Considerations :

Health Implications:

Dog fouling has a detrimental impact on health, with the main concern being Toxocariasis
<https://www.nhs.uk/conditions/toxocariasis/prevention/>

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

Guidance on preparation of PSPOs : <https://www.local.gov.uk/public-spaces-protection-orders-guidance-councils>

Risk Assessment :

Challenge in the High Court – the risk of this is reduced by following process and considering reasonableness throughout process

Orders relating to dogs can be controversial and may lead to negative publicity. To be mitigated at consultation stage with careful publicity, reasoned grounds for suggested Orders and multiple options for responding provided.

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

Key Decision:

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

Yes

No

1 Introduction

- 1.1 In June 2017 the Council designated its “Dog Fouling Public Space Protection Order”, which is in place until the 5th of June 2020. This PSPO focussed on dog fouling and disposal and applied across the whole district.
- 1.2 The impact of dog fouling on both the natural environment and on public health is well known. It is essential for the Council to promote responsible dog ownership and to ensure that where this is not the case there is provision, in law, for addressing it.
- 1.3 This report proposes that the existing PSPO is extended for an additional three years and varied to include a requirement for dog owners to carry dog bags with them at all times.

2 Legal Position

- 2.1 PSPOs are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. Orders can be extended and varied under sections 60 and 61 of the Act.
- 2.2 These Orders can be made on any land open to the air that the public has a right or entitlement of access to
- 2.3 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

3 Proposed Extension

- 3.1 The current PSPO has been in place since 2017 and during this time the Council have received 27 reports of dog fouling from a variety of geographical areas. 2 fixed penalty notices have been issued during this period.
- 3.2 Targeted patrols have been undertaken in 10 of the locations, with advice and guidance being provided to dog owners during these patrols. Anecdotally, the visibility of these patrols does seem to reduce the level of reporting.
- 3.3 Alongside this there have been 161 reports of dog fouling made to street cleansing. These are referred on as there is no evidence available to enable the issuing of an FPN and this figure alone demonstrates that this is still a problematic issue within the district.

- 3.4 It is believed that dog fouling is under reported generally as it is not seen as something that the Council will address. In certain circumstances it is also something that if observed in a more rural or natural setting is less likely to be reported or seen (i.e. on grass verges).
- 3.5 Based on the above it is proposed that the PSPO be extended for an additional three years. The Authority is not required to consult on this matter, however it is deemed that consultation on the extension and variation together would be helpful in regards to establishing the level of support in relation to this.
- 3.6 The PSPO will apply to all land within the boundary of West Lindsey District Council, with the exception of exempt areas.

4 Variation of the PSPO

- 4.1 The PSPO in its current form has restrictions for :
- 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.
 - Dog fouling must be properly disposed of in a general waste bin or dog waste bin
- 4.2 The second restriction enables the Council to ensure that persons are disposing of the dog waste appropriately, should their dog foul. However it does not enable the officer to establish whether the person is able to do this should they be required to.
- 4.3 Therefore it is proposed to vary the PSPO to include a requirement to produce a device or other suitable means of removing dog faeces and transporting it to a bin (whether or not the dog has defecated).
- 4.4 In order to introduce this variation, under the Act the Council must be satisfied that the conditions within it 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 such 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

- 4.5 Given the level of reports the Council receive after the event of fouling occurring it is deemed that this additional restriction is needed in order to further address irresponsible dog ownership
- 4.6 The intention of this variation is to enable officers to address responsible dog ownership, regardless of whether dog fouling has occurred or not and will enable officers to request evidence of this when carrying out their targeted patrols.

5 Consultation

- 5.1 The legislation requires that a minimum 30 days consultation is carried out. It is proposed, in line with the Council's standard to consult on this matter for 6 weeks, a period greater than the requirement.
- 5.2 Should approval be given to consult, the following timeline will apply:
- 12th March – agreement to be sought from Regulatory Committee
 - 16th March – Commence consultation
 - 27th April – Consultation closes
 - 11th May – Final proposal to Management Team
 - 4th June – Final proposal to Regulatory Committee
 - June (tba) – PSPO to come into effect (if approved)
- 5.3 Public notices will be produced for both the extension and the variation of the order. These will be displayed in the Council Offices and made available on request. The public notice will also be advertised in the local press, who will also receive a press release.
- 5.4 A draft of the proposed order and a list of frequently asked questions will be made available online during the consultation period. The FAQs are shown in appendix 2.
- 5.5 There are a wide range of statutory consultees, including Parish Councils that will be advised of the consultation. Alongside this, information will be sent to organisations that have a specific interest in dogs to ensure that their views are represented.
- 5.6 The consultation forms themselves will be online and paper copies will be made available as required.

WEST LINDSEY DISTRICT COUNCIL

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

Notice is hereby given that West Lindsey District Council (“the Council”) in exercise of its powers under section 59, 60, 61 and 72 of the above Act and under all other enabling powers, proposes to extend and vary the following order cited as “The West Lindsey District Council – Dog Fouling Public Space Protection Order”

To require persons within the District boundary of West Lindsey District Council (see map appended) to:

1. When in control of a dog, remove dog fouling immediately where it occurs 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
2. When in control of a dog, properly dispose of dog fouling in a general waste bin or dog waste bin
3. When in charge of a dog on land, if directed by an authorised officer, produce a device or other suitable means of removing dog faeces and transporting it to a bin (whether or not the dog has defecated)

Failure to comply will be an offence with liability to a £100 fixed penalty notice or prosecution.

The draft of the proposed order is published on the Council website www.west-lindsey.gov.uk or can be viewed in reception at the Guildhall, Marshalls Yard, Gainsborough.

Consultation is open from 16th March 2020 to 26th April 2020

If you wish to make representations concerning the proposed order, you should complete our online survey, or complete a paper survey available in the Guildhall, Gainsborough or Market Rasen Area Office. Comments or queries may be made in writing to the ASB Team at WLDC, Guildhall, Marshalls Yard, Gainsborough DN21 2NA or by email to ASBTeam@west-lindsey.gov.uk.

Please note that all representations may be considered in public by the Council and could become available for public inspection.

Dated this xx day of March 2020

Appendix 2

Consultation on Extension of District Wide Dog Fouling Public Space Protection Order

Frequently Asked Questions

What is a PSPO?

Public Space Protection Orders (PSPOs) relate to activities taking place which are or may be detrimental to the local community's quality of life. The PSPO for dog fouling and dog control is aimed at preventing and reducing this anti-social behaviour and to help promote responsible dog ownership

What does the Dog Fouling PSPO involve?

The order requires people in charge of dog(s) in any public open space in West Lindsey to:

- Pick up immediately after the animal has fouled.
- Dispose of the waste appropriately - in a public bin, or at home.
- Carry something to pick up dog waste with, showing it to the enforcement officer if asked, regardless of whether the dog has fouled

How will the PSPO be enforced?

Any individual observed by an authorised officer breaching the PSPO will be issued with a fixed penalty notice of £100. Residents will be able to report issues with dog fouling to the Council, who will then carry out targeted patrols of that area.

How will the enforcement work in practice?

The PSPO is not aiming to “catch out” responsible dog owners. Any officer enforcing the PSPO will take a common sense approach and base this on the risk to the public. For example, we may choose to approach dog owners who are walking dogs in areas on the same open land as children’s play parks.

Will signs be erected across the District?

Only in problematic areas. Electronic copies of signs will be provided to all Parish Councils or community groups who will be able to put them up in any areas they wish.

How many dog bags should I carry?

There is no set limit. You should carry enough to ensure that you can clean up after your dog. We believe that most responsible dog owners carry a supply of bags. Running out of bags or forgetting to pick one up will not be deemed as a reasonable excuse for failing to comply with the Order.

What does carry a device or other suitable means to remove dog waste mean?

Usually this will mean that you carry dog bags to remove waste, however other pieces of equipment are available and may be carried by dog owners. Suggesting that you would use your hands would not be deemed a reasonable excuse for failing to comply with the order.

Where should I dispose of dog waste?

If your dog defecates on public land, the bagged waste can be placed in any public litter bin, dog waste bin or household waste bin. It is always the responsibility of the owner or person in control of the dog at the time to dispose of the waste responsibly.

I've bagged my dog's mess but there is no bin nearby. What should I do?

If there are no bins nearby you must keep hold of your bagged dog waste until you reach a public litter bin or dog waste bin, alternatively it can be taken home and put into your household waste bin.

Can I come back and clear the mess later or collect the bag I have hidden or left?

No, the mess deposited by your dog must be cleared immediately and any bag containing that mess must be removed without any delay.

I did not see my dog foul, is it still an offence?

When you are out walking your dog it will be your responsibility to watch your dog at all times and to ensure you clean up after it. Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), will not be deemed as a reasonable excuse for failing to comply with the Order.

Are there any exemptions to the order?

Certain areas of land are exempt, such as roadside grass verges where the speed limit is above 40mph. Also agricultural land and any land that is private property where there is no right of public access.

Dog owners who are registered blind or partially sighted will be given exemptions. Likewise, exemptions may be given to dog owners who have physical or mental disabilities.