



Regulatory Committee

4th June 2020

Subject: District Wide Dog Fouling Public Space Protection Order (PSPO)

Report by:

Chief Executive

Contact Officer:

Andy Gray
Housing and Enforcement Manager
andy.gray@west-lindsey.gov.uk

Purpose / Summary:

To provide the results of the consultation in relation to the District Wide Dog Fouling PSPO and recommend that it is varied and also extended for a further three years.

RECOMMENDATION(S):

Elected Members are asked to:

- a) Note the results of the consultation in relation to the proposed extension and variation of the PSPO**
- b) Approve that the Dog Fouling PSPO, be extended for a three year period from 5th June 2020**
- c) Approve that the Dog Fouling PSPO be varied 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).**

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/14/21/A/SSc

No financial implications arising from this report.

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 :

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 Council's approach to fixed penalties is outlined in its Corporate Enforcement Policy.

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 the 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.

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 focused 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 Consultation

- 3.1 The legislation requires that a minimum 30 days’ consultation is carried out. The Council has consulted on this proposal for 6 weeks, between the 16th of March and the 27th of April 2020.
- 3.2 It should be noted that the consultation has taken place over the period of enforced lockdown by the Government in relation to Covid – 19. It has not been deemed necessary to extend the period of consultation due to this and it is felt that the number of responses received suggest that this has not had a negative impact on it.
- 3.3 Public notices have been produced for both the extension and the variation. These have been available to view in the Guildhall, Marshall’s Yard and on the Council website. These notices were also placed in the Lincolnshire Echo. The Council also promoted the consultation on social media and it was also picked up by the local press.

- 3.4 The Council has sought the views of the statutory consultees, and it has also sought the views of interest groups specific to this area, given that the PSPO relates to dogs. Their responses are included in the overall results.
- 3.5 A predetermined list of frequently asked questions (FAQs) was also made available on the Council's website.

4 Consultation Results

- 4.1 A full breakdown of the results is shown in Appendix 1. Appendix 2 contains a summary of the comments received along with a response where appropriate.
- 4.2 In summary;
- 746 responses were received. 733 of the respondents lived in West Lindsey. (only 132 responses were received in 2017)
 - 491 (66.3%) of respondents felt that uncleared dog mess was an issue in their locality
 - 717 (96.6%) respondents supported the extension of the PSPO requiring persons to remove dog fouling
 - 720 (97%) respondents supported the extension of the PSPO requiring persons to dispose of dog fouling immediately
 - 657 (88.8%) respondents supported the variation of the PSPO to include a requirement for dog owners to carry a device to remove dog faeces
- 4.3 Statutory consultees were also directly contacted in relation to the PSPO and invited to complete the survey that was available. Alongside this, in line with good practice, the relevant dog agencies and groups were contacted in the local area to specifically seek their views and to ensure that the consultation was as widely publicised as possible.

5 Alternative Approaches

- 5.1 Whilst it is recognised that the majority of dog owners will not act in a way which will result in a breach of the order, it is clear that there is still an issue with dog fouling within West Lindsey. Any alternative approach is felt to be more effective where it does include a formal enforcement measure.

6 Proposed Order

- 6.1 As a result of the consultation, it is proposed that Members approve the extension of the order for a further three year period.
- 6.2 It is also proposed that the order is varied 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).

- 6.3 To enable this, Members must be satisfied that the conditions within the Act are met as referred to in 2.3 above.
- 6.4 It is believed that the consultation, along with the information provided within the report to Regulatory Committee on Thursday 12th March 2020 demonstrate that the above conditions are met.
- 6.5 A copy of the proposed order including the extension and variation is shown in Appendix 3. The original order along with the extended and varied order will be made available on the Council's website.

7 Enforcement

- 7.1 Officers will continue to patrol the district and respond to reports of dog fouling where they are made to seek to identify the perpetrators.
- 7.2 Signage will be placed in any hotspot areas as necessary. Signage will also be made available to Parish and Town Councils and community groups who may wish to be proactive within their area.