



Regulatory Committee

Thursday 15th June 2023

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

Report by:

Director – Change Management, ICT and Regulatory Services

Contact Officer:

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Purpose / Summary:

To seek approval for an extension of the District Wide Dog Fouling Public Space Protection Order.

RECOMMENDATION(S):

Elected Members are asked to:

- a) Approve that the Dog Fouling PSPO, be extended for a three-year period from 6th June 2023 to 5th June 2026.

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/22/24/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:

None noted.

Climate Related Risks and Opportunities:

None noted.

Section 17 Crime and Disorder Considerations:

This legislation and approach allows the Council to take enforcement action in the form of a fixed penalty against any persons found to be in breach of the PSPO.

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.

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 2020 the Council designated its “Dog Fouling Public Space Protection Order”, which is in place until the 5th of June 2023. This PSPO focused on dog fouling and disposal and applied across the whole district. It also included a provision for individuals to carry and have available a means to remove dog fouling.
- 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. The existing order and information on dog fouling can be found here:

<https://www.west-lindsey.gov.uk/communities-safety/community-safety/dog-fouling>

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 the local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any) before extending the period for which a PSPO has effect.
- 3.2 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; the owner of land within the restricted area.

- 3.3 Consultation has been sent directly to the Police and to all Parish and Town Councils seeking their views on the matter.
- The Police Inspector for the area supports the schemes extension.
 - The Police and Crime Commissioner supports the schemes extension.
 - Market Rasen Town Council and the three Market Rasen area District Councillors support the schemes extension.
- 3.4 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.

4 Context

- 4.1 A list of frequently asked questions is shown in appendix 1.
- 4.2 Dog fouling goes relatively unreported to the Council and there were only 20 reports of incidents between July 2020 and April 2023. No offences were witnessed, however with every incident reported patrolling was carried out and signage added to the location. There is no specific pattern to reporting, although five of the reports were from within the Gainsborough area.
- 4.3 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.
- 4.4 The dog fouling PSPO is seen as a very effective deterrent across the district and enables the Council to enact formal powers as required to deal with the issue. Whilst there is still a real challenge in regard to catching individuals who are in breach of the PSPO, it is still deemed to be necessary in order to combat the issue given the impact that it has or is likely to have on the quality of life for our residents.
- 4.5 The Council has recently, through the approval of its Environmental Crime Commitment, agreed to consider whether a more direct approach to enforcement through the use of a civil enforcement agency for offences such as dog fouling could be required and this matter will be subject for discussion at a future meeting of the Council's Prosperous Communities Committee.

5 Proposed Order

- 5.1 It is proposed that Members approve the extension of the order for a further three-year period. Members must be satisfied that the conditions within the Act are met as referred to in 2.3 above.
- 5.2 There is general acceptance that the Council should take enforcement action in relation to dog fouling, and it is clear that the PSPO acts as a deterrent for this.

5.3 A copy of the proposed order including the extension and variation is shown in Appendix 2. The original order along with the extended and varied order will be made available on the Council's website.

6 Enforcement

6.1 Officers will continue to patrol the district and respond to reports of dog fouling where they are made to seek to identify the perpetrators.

6.2 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.

6.3 Alongside the PSPO, at Prosperous Communities Committee in March 2023, Councillors approved the Environmental Crime Commitment, which includes dog fouling as one of the key areas to address.

END