



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Cabinet

13 October 2020

Report of: Councillor Dr Peter Moseley

Cabinet Member for Commercial
and Operations



Review of Public Space Protection Orders

The Council is required to review the Public Space Protection Orders which apply in the district every three years. This report considers whether the existing Orders should be extended and an additional Order implemented.

Report Author

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Corporate Priority:	Decision type:	Wards:
Competitiveness	Key	All Wards

Reviewed by:	Ian Yates, Assistant Director, Commercial and Operations	16 September 2020
Approved by:	Gary Smith, Strategic Director, Commercial and Operations	16 September 2020
Signed off by:	Councillor Dr Peter Moseley, Cabinet Member for Commercial and Operations	25 September 2020

Recommendation (s) to the decision maker (s)

- Notes the results of the public consultation on the extension of the existing Public Space Protection Orders and proposed Public Space Protection Order to control dogs at The Spinney, Market Deeping Cemetery.
- Approves the Public Space Protection Orders relating to dog fouling and the requirement for dogs to be placed on leads on order of an officer for a 3 year period from 20 October 2020.
- Approves the Public Space Protection Order relating to alcohol control for a 3 year period from 20 October 2020.

4. Approves the Public Space Protection Order excluding dogs from enclosed children's play areas for a 3 year period from 20 October 2020.
5. Approves the implementation of a new Public Space Protection Order requiring dogs to be kept on leads of no more than 1 metre in length in The Spinney, Market Deeping Cemetery for a period of 3 years from 20 October 2020.

1 The Background to the Report

- 1.1 Public Spaces Protection Orders (PSPOs) were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 to deal with nuisance or problems in specific areas that are detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone. They are intended to help ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. They can apply to any public space. The definition of public space is wide and includes any place to which the public or any section of the public has access.
- 1.2 A PSPO can be made by the council if they are satisfied on reasonable grounds that the activity or behaviour concerned, carried out, or likely to be carried out, in a public space:
 - 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; and
 - justifies the restrictions imposed.
- 1.3 When assessing what is 'unreasonable' activity, guidance advises that councils will need to balance the rights of the community to enjoy public spaces without antisocial behaviour, with the civil liberties of individuals and groups who may be affected by any restrictions imposed.
- 1.4 Orders must be reviewed every three years and can be extended by up to three years if it is considered that they are necessary to prevent the original behaviour from occurring or recurring. The current Orders for the district expire on 20 October 2020 and cover the following:
 - Dog Control
 - Fouling of land by dogs. This applies to any public space within the district and makes it an offence to fail to pick up dog faeces if a dog, which an individual is in charge of, defecates (district wide)
 - The requirement for a dog to be put on a lead at the direction of an authorised officer. An authorised officer can request an individual in charge of a dog in any public space within the district, to put (and keep) the dog on a lead, if such restraint is considered reasonably necessary (district wide)
 - The exclusion of dogs from specified areas. An offence is committed if a person in charge of a dog takes it onto or permits it to enter or remain in an enclosed children's play area covered by the Order.
 - Anti-social behaviour caused by drinking alcohol in a designated public space
 - It is an offence for a person to continue to drink alcohol in a designated place after being asked not to do so by a police officer or other designated person. The police

also have the power to require the surrender of opened alcohol containers. Those who fail to comply with the confiscation are liable to arrest and may be fined £500 if convicted. The PSPO does not prohibit responsible drinking in public spaces, only problematic drinking causing a nuisance to others (the four main towns).

1.5 Should the Orders be extended, it is proposed that the requirements of the Orders remain unchanged, however, the following variations are proposed;

- Alcohol Control – that the Ward boundaries are amended to reflect changes.
- Dog Exclusion – that the list of enclosed children’s play areas is updated to incorporate new areas which have been constructed since the original Order was made.

1.6 In addition to reviewing the exiting Orders, a request has been received from Market Deeping Town Council to consider the implementation of a new PSPO to require dogs to be kept on leads in an enclosed area of Market Deeping Cemetery known as The Spinney. This area is used for the scattering of cremated remains which are covered with a thin layer of soil. The letter requesting this is at Appendix 1.

Evidence (pre consultation)

1.7 The appearance of the district is important to residents and the Council’s commitment to a higher street standard enforces this. Dog fouling, in particular, continues to prompt complaints and patrols are carried out in hotspot areas. The presence of officer’s and signage does act as a deterrent and as a result no breaches of the PSPO have been identified, although existing fouling is observed. The number of dog fouling complaints received by South Kesteven District Council are shown below.

Year	Number of fouling complaints
2016	312
2017	197
2018	188
2019	211

1.8 In respect of alcohol control, from April 2019 to May 2020, high level data from Lincolnshire Police shows they received 162 reports of drunken behaviour and 12 reports of street drinking across the district.

1.9 No records are held relating to complaints of issues with dogs in The Spinney, Market Deeping prior to the request from Market Deeping Town Council.

1.10 Before extending, varying or implementing a new PSPO there is a requirement to consult the public, police, landowners and any other community representatives that are considered appropriate.

2 Consultation and Feedback Received, Including Overview and Scrutiny

2.1 The Environment Overview and Scrutiny Committee considered the Orders at their meeting on 21 July 2020. The Committee endorsed the request from Market Deeping Town Council to implement a Public Space Protection Order to control dogs at The Spinney, Market Deeping Cemetery and recommended to the Cabinet Member for Commercial and Operations that public consultation was undertaken in respect of the existing and proposed Orders.

2.2 As required by the Act, a four-week public consultation was undertaken from 14 August 2020 to 11 September 2020. The draft Orders which were subject to consultation are at Appendix 2 and include the variations to the Ward boundaries and additional enclosed children's play areas.

2.3 The consultation took the form of a questionnaire on the council's website. This was promoted through social media and press release. Parish councils were provided with posters to display. Materials were provided to Market Deeping Town Council for display at The Spinney. Statutory consultees were contacted directly.

Consultation Results

2.4 Full details of the consultation, a list of consultees and breakdown of responses is at Appendix 3. In total, 242 responses were received. A summary of responses is detailed below.

Existing Orders

- Over 83% said that dog fouling was an issue that bothered them; 99% agreed with the proposal to extend the current PSPO for dog fouling.
- Over 51% were concerned about, or had experienced dogs behaving badly off the lead; 87% agreed with the proposal to extend the current PSPO for dogs to be placed on a lead when requested.
- 32% had experienced or were concerned about dogs being off the lead in enclosed children's play areas; 91% agreed with the proposal to extend the current PSPO excluding dogs from specific enclosed play areas.
- 47% had experienced or were concerned about drinking alcohol in public places; 95% agreed with the proposal to extend the current PSPO relating to alcohol control.

Whilst it is recognised that many dog owners act responsibly, the evidence shows that dog fouling is still an issue within the district and that this causes the greatest concern to residents. The consultation has demonstrated wide support with the extension of the existing Orders, with dog fouling causing the greatest concern.

The Spinney, Market Deeping Cemetery

To assess the local impact respondents were asked to give their postcode. 17 respondents reported living within the PE6 postcode area which includes The Deepings. Their responses to the questions relating to the proposed PSPO for The Spinney are shown below alongside responses from all respondents.

To what extent do you agree or disagree with the proposal to introduce a new public space protection order which will require a person in charge of a dog to put and keep a dog on a lead of less than 1 metre?

From all respondents			From respondents in PE6	
	Number	%	Number	%
Strongly agree	106	56.1	16	94.1
Agree	29	15.3	0	0
Neither agree or disagree	46	24.3	0	0
Disagree	4	2.1	1	5.9

Strongly disagree	4	2.1	0	0
TOTAL	189	100	17	100

Are you concerned about, or have experienced issues with the behaviour of dogs being off their leads within the Spinney?

From all respondents			From respondents in PE6	
	Number	%	Number	%
Yes	25	14	7	43.8
No	154	86	9	56.2
TOTAL	179	100	16*	100

*one respondent did not answer

Will the introduction of a public space protection order for the area in the Spinney have a significant negative impact on you?

From all respondents			From respondents in PE6	
	Number	%	Number	%
Yes	5	2.7	2	11.8
No	180	97.3	15	88.2
TOTAL	185	100	17	100

Although relatively low numbers of respondents reported living in this area, there is local concern about the issue of dogs being off the lead in an area used for the scattering of ashes and wider agreement with the proposal to implement of an Order requiring dogs to be kept on a 1 metre lead in this area.

- 2.5 Lincolnshire Police and the Police and Crime Commissioner were contacted directly for their comments. The following response was received from Inspector Gary Stewart “I would support the PSPOs it is important that we have the tools readily available to deal with Alcohol Related ASB. We have used the PSPO previously in Grantham when we had an issue with ASB related street drinking. It was very effective”.

Respondents were given the opportunity to make free comments. Stakeholder feedback is detailed in the consultation report at Appendix 3. Throughout the survey, respondents have used the opportunity to raise areas of concern in their locality. Where details have been provided and where appropriate individual comments will be responded to.

3 Available Options Considered

- 3.1 The existing Orders could be allowed to expire. This would remove the ability to enforce against the matters covered by the Orders.
- 3.2 Cabinet may determine that the legal test has not been met in respect of some or all of the Orders. In this case the Order(s) should not be extended/approved.

- 3.3 If as a result of the consultation, changes to the draft Orders are proposed further consultation will be necessary.

4 Preferred Option

4.1 Existing PSPOs

The consultation has demonstrated broad support for the continuation of all the existing Orders. It is likely that the existing PSPOs and associated sanctions have had a deterrent effect and should be extended to ensure an effective enforcement mechanism is in place.

New PSPO

The majority of respondents across all areas, and particularly in the PE6 postcode area were in support of the proposal, with 25(no.) from all areas reporting that they have experienced or were concerned about issues associated with dogs off leads in the Spinney. This area is enclosed and used for the scattering of ashes. While large numbers of people may not be directly impacted, it is likely that dogs that are not kept under control on a lead could disturb areas causing distress to relatives and visitors. This behaviour is considered unreasonable and the provisions of the draft Order are therefore justified and proportionate.

5 Reasons for the Recommendation (s)

- 5.1 To ensure an effective mechanism is available to deal with issues detailed in the Orders.

6 Next Steps – Communication and Implementation of the Decision

- 6.1 If approved, in accordance with The Anti-social Behaviour Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014, the Orders will be published on the Council's website. Signage will be erected/refreshed on or adjacent to the area(s) the Order relates to, setting out the effect of the Order. Where the Orders apply to the entire district area, signage will be focused on populated areas.

7 Financial Implications

- 7.1 There will be minor budget implications in enforcing any extension of existing or new Orders. A new Order will require signage and signage for the existing areas will need to be refreshed and reviewed. It is anticipated that some additional minor spend will be required for the signage. This will be identified from existing budgets and therefore does not require additional financing being sought.

Financial Implications reviewed by: Richard Wyles, Interim Director of Finance

8 Legal and Governance Implications

- 8.1 The Anti-Social Behaviour, Crime and Policing Act 2014 sets out the requirements for consultation. A PSPO can be made if, on reasonable grounds, the local authority is satisfied that the required conditions are met. As stated in the report, the PSPOs can last for up to three years once approved and can be varied or extended more than once.

Legal Implications reviewed by: Mandy Braithwaite, Legal Executive

9 Equality and Safeguarding Implications

- 9.1 An Initial Equality Impact Assessment has been undertaken and is at Appendix 4. The consultation has not highlighted any additional areas of concern.

10 Risk and Mitigation

- 10.1 PSPOs can be challenged under the Act by an individual who lives in, regularly works in or visits the restricted area on the grounds that the local authority did not have the power either to make the Order or include particular prohibitions or requirements, or that proper processes had not been followed as prescribed by the legislation. To mitigate against this, government guidance in respect of the process has been adhered to and legal services have been involved in the drafting of the proposed Orders.

11 Community Safety Implications

- 11.1 PSPOs were specifically introduced as a tool to deal with antisocial behaviour which is detrimental on the local community's quality of life. Given that these Orders can restrict what people can do and how they behave in public spaces, it is important that the restrictions imposed are focused on specific behaviours and are proportionate to the detrimental effect that the behaviour is causing or can cause, and are necessary to prevent it from continuing, occurring or recurring.

12 How will the recommendations support South Kesteven District Council's declaration of a climate emergency?

- 12.1 The existence of Public Spaces Protection Orders means that Officers will need to visit these areas for educational and enforcement purposes. Officers travel on foot where possible and have access to electric pool car vehicles.

13 Other Implications (where significant)

- 13.1 No other significant implications have been identified.

14 Background Papers

- 14.1 [Report and minutes of the Environment Overview and Scrutiny Committee, 21 July 2020](#)
- 14.2 [Non-Key Decision - Review of Public Space Protection Orders - Public Consultation, 5 August 2020](#)

15 Appendices

- 15.1 Appendix 1 – Letter from Market Deeping Town Council
- 15.2 Appendix 2 – Draft Public Space Protection Orders – hard copy will be available for Members on request
- [Alcohol Control](#)
- [Dogs on Leads](#)
- [Dog Exclusion Areas](#)
- [Dogs on Leads, The Spinney, Market Deeping Cemetery](#)
- [Dog Fouling](#)
- 15.3 Appendix 3 – Consultation response report
- 15.4 Appendix 4 – Initial Equality Impact Assessment

Report Timeline:	Date of Publication on Forward Plan (if required)	20 July 2020
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	Previously Considered by: Environment Overview and Scrutiny Committee	21 July 2020
	Final Decision date	13 October 2020