

Public Space Protection Order for dog fouling, dogs on leads and dog exclusion area

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Purpose of the Report

1. For members to agree to the approval of two Public Space Protection Orders; one for dog fouling and dogs on leads across the district and one for dog exclusion at the fenced area at Yeovil Country Park.

Forward Plan

2. This report appeared on the District Executive Forward Plan with an anticipated Committee date of 2nd February 2017.

Public Interest

3. In May 2011 the Council introduced a Dog Control Order to allow it to deal with dog fouling. The order made it an offence to not pick up dog foul on designated land across the district. A second Order created an offence if a person did not comply with a request from an authorised officer to put and keep their dog on a lead. A third Order excluded dogs from designated land around the play area at Yeovil Country Park. Without these orders in place Council officers would not be able to take action against persons not clearing up after their dogs.
4. In March 2014 a new piece of legislation came into force called the Anti-Social Behaviour Crime and Policing Act 2014. Under this Act Councils are required to replace any Dog Control Orders with a new order called a Public Space Protection Order if they still want the control to continue. As it is still believed there is a need for the controls to remain in place, this report is seeking the authority to make the change.

Recommendations

- a. That the District Executive agree to introduce the two new Public Space Protection Orders as set out in Annex 1
- b. That the District Executive agree to setting the level of fixed penalty notices for contravening the Public Space Protection Orders at £80, reduced to £50 if paid within 10 days.

Background

5. In November 2010 Full Council considered a report on the introduction of three Dog Control Orders (DCO) under part six of The Clean Neighbourhoods and Environment Act 2005 (CNEA). The DCOs were modelled on (but extended) the provisions of the Dogs (Fouling of Land) Act 1996. The CNEA gave powers to the Council to deal with dog fouling and other dog control matters across the District. The Dog Control Orders were agreed and introduced in May 2011.

6. The DCOs allow Council Officers to take action against persons who do not clear up after their dogs if they have fouled on any designated land. This is usually done by way of a fixed penalty notice. Officers will patrol known hot spots to help prevent problems arising and most people are now aware that allowing dogs to foul is an offence. In addition the DCOs allow our enforcement officers to require dog owners to put their dog on a lead if they feel it is necessary for keeping the dog under control. The area around Yeovil Country Park is also designated as a dog exclusion area.
7. In March 2014, the Anti-Social Behaviour Crime and Policing Act 2014 (The Act) was introduced. This Act introduced a range of new powers to deal with anti-social behaviour. One of the new provisions introduced was the ability to use Public Space Protection Orders (PSPO). These are intended to deal with a particular problem in a particular area and to ensure that the majority of the public can use and enjoy public spaces safe from anti-social behaviour.
8. The Act also repealed the ability to make Dog Control Orders and required that where any existed, and were still required, that they be replaced by a PSPO.

PSPO process

9. In order to introduce a PSPO the Council must be satisfied that three tests are met, namely;
 - a) the behaviour to be restricted is having, or is likely to have, a detrimental effect on the quality of life of those in the locality
 - b) the behaviour is continuing or persistent, and
 - c) the behaviour is unreasonable
10. The existence of dog foul in an area is commonly regarded as being detrimental, both in terms of the unpleasantness of its visual appearance, its odour and the disgust if one is unfortunate enough to step in it, but more importantly its health impacts and the transmission of disease. Despite the current controls, the Council continues to receive regular complaints regarding dog fouling. Last year (2015/16) there were over 300 complaints received across the district, and there have been over 160 since April 2016. Whilst the vast majority of dog owners are responsible and clear up after their dogs, but there remain a minority who disregard the law. Whilst it is acknowledged that enforcement of the provisions is increasingly difficult, if the Control orders did not exist at all we believe it would send out the wrong message that we do not take this kind of irresponsible and anti-social behaviour seriously, and the situation would gradually deteriorate. The criteria for introducing a PSPO for dog fouling are therefore met.
11. It is recognised that allowing people and dogs to socialise together can be rewarding for all, however, it is also known that where dogs are not under proper control this can be alarming and intimidating for both adults and children. We receive 50 to 100 complaint a year regarding dog behaviour that has caused such alarm or distress, again providing evidence that this order is still required. The ability to require dogs to be put on a leads allows a targeted approach to tackle individuals who allow their dogs to run out of control, without impacting on the vast majority of responsible dog owners.
12. With regard to the exclusion area at Yeovil Country Park this has allowed safe management of a particularly sensitive area of the site. Wildfowl on the lake area have been able to flourish, with greatly reduced numbers of dog attacks. With dogs excluded the issue of fouling is almost removed, and definitely greatly reduced, thus enabling safe and clean access for people with young children, and those visitors using wheeled mobility vehicles and wheel

chairs that visit this particular area of site. There are alternative routes around the exclusion area and it is believed a continued exclusion area is justified.

Consultation

13. As part of the formal process to designate a PSPO there is a requirement to undertake consultation with appropriate interested parties and stakeholders. This consultation took place during November, December and January, including Avon and Somerset Constabulary, Kennel Club and Town and Parish Councils. The consultation was also on the Council website. As a result comments were received from 22 parties, 18 of these from Town and Parish Councils. All comments were positive and supported the proposed PSPOs.
14. Of note were comments from the Kennel Club who did raise a concern regarding the lack of exemption for assistance dogs for the dog exclusion PSPO, as there had been an exclusion in the DCO. This was an oversight in drafting the PSPO and the proposed PSPO attached includes an exemption for assistance dogs. The Kennel Club also advocate the use of other measures for tackling dog issues alongside the PSPO, including Acceptable Behaviour Contracts, Community Protection Notices and advice and guidance on training. All these measures are available to and used by the relevant officers as appropriate.
15. Also comments from the Countryside Manager strongly support the dog fouling and dogs on lead by direction PSPO on public land owned and managed by the service. In addition to the concerns outlined above there have been issues with dog attacks on sheep resulting in 5 to 15 ewes killed each year. It is noted that '...a new PSPO would enable the ranger team and enforcement officers to better manage the few irresponsible owners utilising the sites, and ensure that the sites are safe and pleasant for everyone to access'.
16. A question was also raised by West Camel Parish Council regarding the possibility of requiring dog walkers to produce a dog-poo bag on request as part of the PSPO requirements and it becoming an offence not to do so. Officers have considered this proposal and do not wish to include it as a formal requirement at this time, however, such requests can be made informally as a part of their normal patrolling duties.

Offences

17. Non-compliance with the requirements of a PSPO is an offence, as it is with non-compliance of the requirements of the DCOs. The penalty, on conviction in a Magistrates Court, for committing an offence is a maximum fine of level 3 on the standard scale (currently £1000). As with the DCOs, the opportunity to pay a fixed penalty notice can be offered as an alternative to prosecution. The fixed penalty notice for DCO offences is currently set at £80, reduced to £50 if paid within 10 days. The statutory maximum amount that a fixed penalty can be set at, for an offence of contravening the PSPOs, is £100. It is proposed to leave the penalty at £80 reduced to £50 for early payment, as this is believed to be proportionate and reasonable.

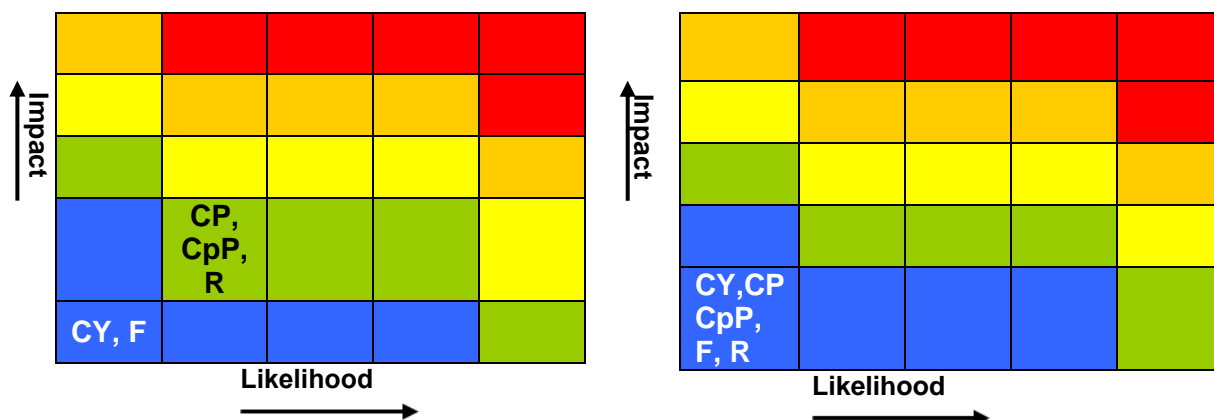
Financial Implications

18. As the enforcement of the PSPOs would be the same as enforcement of the existing DCOs, there are no financial implications to the Council.

Risk Matrix

Risk Profile before officer recommendations

Risk Profile after officer recommendations



Key

Categories	Colours (for further detail please refer to Risk management strategy)
R = Reputation	Red = High impact and high probability
CpP = Corporate Plan Priorities	Orange = Major impact and major probability
CP = Community Priorities	Yellow = Moderate impact and moderate probability
CY = Capacity	Green = Minor impact and minor probability
F = Financial	Blue = Insignificant impact and insignificant probability

Council Plan Implications

The proposals in this report support the Councils Aims :

- To protect and enhance the quality of our environment

It also supports the Councils priorities to:

- Maintain Country parks and open spaces to promote good mental and physical health
- Keep streets and neighbourhoods clean and attractive

Carbon Emissions and Climate Change Implications

No implications for carbon emissions or climate change have been identified

Equality and Diversity Implications

An equality impact assessment has been completed. This is attached at Annex 1.

Privacy Impact Assessment

No privacy implications have been identified.

Background Papers

- The Fouling of Land by Dogs (Specified land within the administrative area of South Somerset) Order 2011
- The Dogs on Leads by Direction (Specified land within the administrative area of South Somerset) Order 2011
- The Dogs Exclusion (Land at the fenced lower lake area at Nine Springs in Yeovil Country Park) Order 2011