

WAVERLEY BOROUGH COUNCIL

COUNCIL

11 DECEMBER 2018

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**Title:**

**PROPOSED PUBLIC SPACE PROTECTION ORDER – DOG FOULING  
RESPONSE TO PUBLIC CONSULTATION**

**[Portfolio Holder: Cllr Kevin Deanus, Cllr Jenny Else]  
[Wards Affected: All]**

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**Summary and purpose:**

This report informs the Executive of the feedback to the public consultation on the proposed Public Space Protection Order (PSPO) in relation to dog fouling and recommends that the Council proceeds to make the Order as proposed.

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**How this report relates to the Council's Corporate Priorities:**

The proposal will contribute to the Council's Place priority theme, enabling the Council to deal with environmental crime which impacts on residents' enjoyment of public spaces.

**Equality and Diversity Implications:**

An Equalities Impact Assessment has been carried out and it is recognised that the proposed PSPO has to balance the rights and responsibilities of dog owners against those of the rest of the community who do not wish to be adversely affected by indiscriminate dog fouling and the offensive and potential health impacts caused by a minority of irresponsible dog owners.

The Order therefore provides exemptions for those with disabilities such as visual impairment, and other disabilities which affects his/her mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise, move everyday objects or where they have an assistance dog. It also provides for those instances where 'reasonable excuse' can be proved by the person whose dog has fouled.

**Financial Implications:**

Work undertaken will be carried out within current approved resources. Enforcement will be carried out under the current contract with East Hants DC for litter enforcement at no additional cost to Waverley. A small implementation cost will be incurred for signage which will be met from within existing resources.

**Legal Implications:**

The legal implications are dealt with in the body of the report.

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## **Background**

- 1.1 Members will be aware that the council has consulted on making two Public Space Protection Orders (PSPOs).
  - Firstly in relation to dog fouling
  - Secondly in relation to dog controls including dog exclusion areas, dogs on lead by direction, dogs on lead, dogs on leads seasonal restrictions and limits on the number of dogs one person may be in control of in a public place at one time.
- 1.2 This report confines itself to the first of the proposed PSPOs, dog fouling. A copy of the draft PSPO No.1 is attached as Annexe 1.

## **Pre – Consultation**

- 1.3 Public Space Protection Orders (PSPOs) were introduced under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014, and the previous provisions for controlling dog-fouling were implemented in October 2017. Since then officers have been working with Surrey Police and other colleagues to develop proposals and review the evidence supporting the need for these orders. Draft orders were prepared and pre-consultation with a wide range of agencies and groups was undertaken. In line with formal requirements, comment was invited from the Chief Officer of Surrey Police, the local police and the County Council (as Highways authority).
- 1.4 All Waverley councillors, all town and parish councils, all borough and district councils in Surrey and Surrey County Council were written to along with local Chambers of Commerce, a number of agencies (including the National Trust, Natural England and the Environment Agency) and a number of organisations (including the Kennel Club and Dogs Trust).
- 1.5 Whilst there were some limited concerns raised there was general support from those consulted for controls in relation to dogs. Further work was then carried out on the PSPOs in relation to dog controls in response to the feedback to the pre-consultation in preparation for the public consultation.

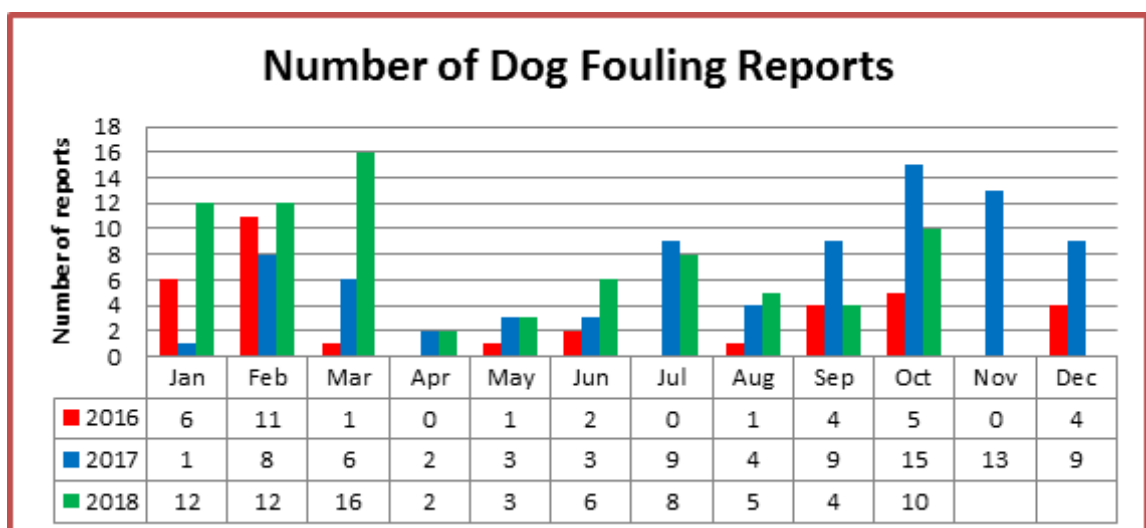
## **Public Consultation**

- 1.6 The public consultation began on 24 June 2018 and ended on 27 July 2018. The revised PSPOs were re-circulated to all those included in the pre-consultation along with media coverage through press releases and the use of social media. Posters were also displayed in parks and public open spaces directing people to the Survey Monkey questionnaire on the Council's website.
- 1.7 A significant number of responses (over 1200 on the website Survey Monkey and over forty letters / emails) were received. During the consultation period the council was approached by some Parish Councils who requested that some of their open spaces be covered by the PSPOs. The council was advised that to add these areas of land to the schedules we should publicise the proposed additions and extend the consultation period for a further four weeks to give people the opportunity to comment.

- 1.8 Given the level of response to the initial consultation period it was also felt this extension to the consultation would give opportunity to others in the community to further comment in relation to the proposed Orders.
- 1.9 The responses to the consultation on the dog fouling PSPO have been analysed but due to the extent of the responses to the consultation on other dog controls that PSPO will be the subject of a future report. The detailed responses to the dog fouling PSPO consultation are set out in [Annexe 2](#).

**Incidence of Dog Fouling and failing to clean up**

- 1.10 Recorded incidents of dog fouling are indicated in the table below. It is however recognised that there is underreporting of dog fouling and feedback from our street cleaning contractors and from the general public. Indeed the ranger service report in the Quarterly Enforcement Report attached to a separate report on this agenda that there were “Several incidences of dog fouling at Binscombe open space, Mare Hill Common, Lower Hanger woodland, Grayswood Common, Shackleford Common and Woolmer Hill Recreation Ground” and “79 bags of dog waste collected as part of litter picking at Blackheath and Summerlands Estate”.
- 1.11 In the survey 51% agreed or strongly agreed it was a problem compared with only 34% who disagreed or strongly disagreed. Almost 48% also agreed or strongly agreed that fines would be an effective way of dealing with dog fouling compared with almost 36% who disagreed or strongly disagreed.
- 1.12 When asked about cleaning up after a dog has fouled there was an overwhelming 96% who agreed that owners must clean up after their dog immediately and over 76% agreed or strongly agreed that fines of £100 should be issued to persons who failed to clean up after their dog.
- 1.13 It is clear from the consultation that the general public regard the failure to clean up dog fouling as offensive and anti-social as well as expressing concerns about the health risks.



- 1.14 Members will also be aware that the Council is able to introduce orders under the Anti-social Behaviour Crime and Policing Act 2014 where certain conditions have been met.

- 1.15 When making an order the Council must be satisfied on reasonable grounds that the activities that have taken place:
- have had or are likely to have a detrimental effect on the quality of life of those in the locality; and
  - is or is likely to be persistent or continuing in nature;
  - is or is likely to be unreasonable; and
  - justifies the restrictions imposed.
- 1.16 Whilst the majority of dog owners in the borough are responsible owners, and pick up after their dogs there are a minority of dog owners who are not and do not pick up after their dog. Dog fouling has been raised as a concern by residents.
- 1.17 Analysis of complaints received and research undertaken in preparation for this report established that there is a need to address the specific issue of dog fouling within the Borough so that we can make our public places cleaner and safer for everyone to enjoy. In proposing this PSPO it is hoped that Waverley will benefit from a more consistent approach to dealing with these issues and will allow us to deal efficiently with the minority of dog owners who behave irresponsibly whilst also encouraging a culture of responsible dog ownership.

### **Implementation**

- 1.18 Subject to the Executive's approval to make the Order, it will need to be published on the council's website, notices placed on or adjacent to land where the order applies and notification sent to Town and Parish Councils and the County Council. Notifications will also be placed through social media.
- 1.19 Any interested person, someone who regularly works or lives in the area (or a particular interest group) may challenge the making of the Order in the High Court within 6 weeks of it being made.
- 1.20 Guidance from the Local Government Association also supports the 'soft launch' approach when the Order becomes live. The Executive is therefore recommended to agree the making of the Order with effect from 1 January 2019 for a three year period with a three month soft launch period during which warnings would be given to persons failing to clear up after their dog rather than issuing Fixed Penalty Notices.

### **Conclusion**

- 1.22 Based on the evidence of the incidence of dog fouling in the borough and the feedback from the consultation it is evident that there is clear support for the introduction of the PSPO in relation to dog fouling and the Council is recommended to support its introduction.

### **Recommendation**

The Executive recommends to Council that the Public Space Protection Order No.1 (Dog Fouling) be approved.

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## Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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