

Waverley Borough Council

Report to: Executive
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Ward(s) affected: All Wards
Report of Director: Dawn Hudd, Strategic Director - Place
Author: Richard Homewood,
Executive Head of Regulatory Services
Tel: 01483 523411
Email: Richard.homewood@waverley.gov.uk
Executive Portfolio Holder: Cllr Tony Fairclough
Email: tony.fairclough@waverley.gov.uk
Report Status: Open

Public Space Protection Orders Dog Fouling and Dog Controls

1. Executive Summary

- 1.1 Public Space Protection Orders relating to Dog Fouling and Dog Controls were made by the Council in 2019 and 2020 respectively. These Orders must be reviewed every three years to determine if they are still required and relevant.
- 1.2 Public consultation has been carried out to assist this assessment and this report reviews the feedback from the public consultation and makes recommendations for the proposed replacement Public Spaces Protection Orders.

- 1.3 To seek Executive support for the draft Public Spaces Protection Orders relating to dog fouling and dog controls and a recommendation from the Executive to the Council to make the Orders as set out in Annexes to this report.

2. Recommendation to Executive

The Executive is asked to recommend:

That the Council approves:

- 2.1 making the updated Public Spaces Protection Order No.1 relating to dog fouling.
- 2.2 making the updated Public Spaces Protection Order No.2 relating to dog controls.
- 2.3 the FPN level to be set at £100 for breach of the order, where offered as a disposal.

3. Reason(s) for Recommendation:

- 3.1 To afford Members of the Executive the opportunity to comment on feedback from the public consultation and the draft updated Public Spaces Protection Orders.
- 3.2 To recommend that Council makes the updated Public Spaces Protection Orders so that there are adequate controls in place to address issues caused by irresponsible dog owners, reduce harm to the environment and enable the whole community to enjoy the use of the local public space.

4. Exemption from publication

- 4.1 No

5. Purpose of Report

- 5.1 To review feedback from the public consultation and consider the draft Public Spaces Protection Orders.
- 5.2 To seek Executive support for the draft Public Spaces Protection Orders relating to dog fouling and dog controls and a recommendation to the Council to make the Orders as set out.

6. Strategic Priorities

- 6.1. The proposed Public Space Protection Orders will help support the Corporate Strategy's aims to 'improve the health and well-being of our residents and communities' and 'taking action to protect the environment.'

7. Background

- 7.1 Dog fouling and issues with lack of control of dogs by irresponsible owners have historically featured as high on the list of concerns from the general public.
- 7.2 In 2018 following extensive consultation which revealed unanimous support for controls on dog fouling, the Council made Public Spaces Protection Order No.1 (Dog Fouling), requiring all dog owners (with limited exemptions) to clear up dog faeces deposited by their dogs. That Order took effect from 1 January 2019.
- 7.3 That consultation in 2018 also included consultation on other dog controls such as dog exclusion areas, dogs on leads requirements, possible seasonal restrictions, and possible limits on the number of dogs one person should be in control of at any one time. The feedback on these proposals was mixed and further work was carried out to evaluate the feedback and determine what controls were appropriate.

- 7.4 A further period of consultation on the dog control proposals was carried out between July and August 2019. As a result, the Council made an Order in December 2019 introducing three categories of controls:
- Dogs on lead by direction.
 - Dogs on lead zones.
 - Dog Exclusion zones.
- 7.5 Public Spaces Protection Order No.2 (Dog Control) took effect from 1 January 2020.
- 7.6 These Orders have been in place for over three years and need to be reviewed to consider if the controls remain appropriate and make new Orders to replace them if they are.

8. Consultations

- 8.1 The public consultation strategy was developed with the Communications Team and the public consultation ran from 14 January 2023 to 24 February 2023. All Waverley Members and all town and Parish Clerks were emailed directly, along with Surrey Police, Surrey County Council, Environment Agency, and a wide range of other agencies. Organisations associated with dog and animal welfare were also written to.
- 8.2 An online survey was posted on the council's website and the community and organisations were encouraged to complete an online survey or to email Regulatory Services directly. Comments could also be submitted to a dedicated email address dogpspo@waverley.gov.uk
- 8.3 There were 608 responses to the online survey. The responses to these questions are summarised in graphic form in Annexe A. There were also a number of written responses to question 7 of the online

survey. These are summarised on the website at [PSPO Survey Comments -website.pdf \(waverley.gov.uk\)](https://www.waverley.gov.uk/pspo-survey-comments-website.pdf)

Dog Fouling

- 8.4 Dog fouling complaints to the council have reduced dramatically since the introduction of this Public Spaces Protection Order (91% in 2022 compared to 2018 before the Order was introduced. 68% of respondents did however still identify dog fouling as a problem where they live or visit and 98% strongly agreed or agreed that a person in charge of a dog should clear up after the dog immediately. 75% of respondents also strongly agreed or agreed that the Orders and fines were an effective way to tackle dog fouling and dog control issues. Whilst there were a few respondents to the consultation who felt that the £100 fine was too high, 86% of respondents strongly agreed or agreed that £100 Fixed Penalty Notices should be issued to a person in charge of a dog who fails to clear up its faeces.
- 8.5 These results clearly demonstrate support for renewing the Public Spaces Protection Order in relation to dog fouling. The only contentious issue since the last Public Space Protection Order for dog fouling was made was the requirement in the Order for the person in charge of a dog 'to provide evidence of the means of a suitable device or means to pick up dog faeces when requested to do so by an Authorised Officer'. The equivalent Public Space Protection Orders made by other neighbouring councils have been reviewed and none of those reviewed include this requirement. It is therefore recommended that this requirement is removed from the proposed Public Space Protection Order No.1 (Dog Fouling).
- 8.6 There were several responses regarding the need for more bins to accept dog waste. In our parks and open spaces there are 269 litter bins which accept dog waste. On our streets there are a further 556 bins. It costs £132,500 to empty and clean them every year. Each additional bin costs between £300 and £500 to purchase and install (dependent upon the style of bin) and costs around £3 for each time it is emptied (£156 per year for a weekly empty). Given the Council's

current financial constraints and competing priorities it will be difficult to build a case for a budget for additional bins, given the ongoing revenue consequences. We will review the frequency of emptying with our contractors to see which bins might require more frequent emptying and which could be emptied less often to manage ongoing costs.

- 8.7 It is a dog owners' responsibility to dispose of dog faeces correctly and if there is not a bin available nearby, they must keep it until they find a bin or take it home. Leaving poo bags on the street or throwing them in the hedgerows etc. is a littering offence for which people can be fined.

Dog controls

- 8.8 51% of respondents strongly agreed or agreed that dog control was an issue where they live, visit or work in Waverley, and 75% strongly agreed or agreed that fines were an appropriate way to tackle dog control problems and 77% strongly agreed or agreed that a £100 Fixed Penalty Notice should be issued to a person who is in charge of a dog and fails to keep it under control.
- 8.9 Respondents were clear about dogs being on leads in the areas listed in the consultation. 90% agreed or strongly agreed that dogs should be on a lead in the cemeteries listed, and 71 % agreed or strongly agreed that dogs should be on a lead in the parks and green spaces listed.
- 8.10 There was also strong support for dog exclusion from those play areas, allotments and ponds listed. 84% agreed or strongly agreed to the exclusion from play areas, 72% in relation to Allotments and 61% in relation to the ponds listed.
- 8.11 The ability for Authorised Officers to be able to direct owners or handlers to put their dogs on a lead if they are out of control or a

threat to other people, animals, or property, was also strongly supported, with 88% agreeing or strongly agreeing.

- 8.12 Seasonal dog controls were also seen as important with 65% of respondents agreeing or strongly agreeing that dogs should be kept on a lead in the areas listed during certain months of the year to protect ground nesting birds and other wildlife during the breeding season.
- 8.13 The online survey response was overwhelmingly from people who live or work in Waverley (99%), and 55% were either dog owners, dog walkers or professional dog walkers.
- 8.14 There were several responses regarding how the PSPOs would be enforced. The Council has to work within the limited resources it can afford. Enforcement will be targeted at the most problematic areas where issues are reported or identified by the public and through other sources. Education will always be a key element of the council's enforcement regime and there is strong evidence that having the Orders in place does influence the behaviour of dog owners in a similar way to speed limits influencing the behaviour of the majority of motorists. Authorised officers have always adopted an informal enforcement approach to begin with and will only issue Fixed Penalty Notices in extreme cases or where there is non-compliance with their requests.
- 8.15 This approach has meant that the number of fines issued has been relatively low and especially during Covid when resources were diverted to work on Covid compliance monitoring and enforcement. During 2019, 19 Fixed Penalty Notices (FPNs) were issued for dog fouling, one for dog exclusion and one for dogs on lead. During the Covid pandemic between 2020 and 2021 only 3 FPNs were issued for dog fouling. In 2022, 16 FPNs were issued for dog exclusion.

Draft Public Spaces Protection Order No.1 (Dog Fouling) 2023

- 8.16 The draft updated Public Spaces Protection Order No.1 (Dog Fouling) 2023 is attached as Annexe B.

- 8.17 The only change to the Order from the previous one is the removal of the requirement in the Order for the person in charge of a dog 'to provide evidence of the means of a suitable device or means to pick up dog faeces when requested to do so by an Authorised Officer.
- 8.18 As recommended in 8.5 above this requirement has been removed from the draft Order in Annexe B.

Draft Public space Protection Order No.2 (Dog Controls) 2023

- 8.19 The draft updated Public Spaces Protection Order No.2 (Dog Controls) 2023 is attached as Annexe C.
- 8.20 The overall controls in the order remain the same as in the previous Order but there are proposed changes to the schedules and the Plans to amend the restriction in a few areas or add new areas as follows:
- To add the Lion Green play area and the artificial grass sports pitch as 'dog exclusion zones' and the remainder of Lion Green as Dogs on lead by direction.
 - To add the following areas to schedule 3 as 'Dog Exclusion Areas'
 - Play Area, Mardens Recreation Ground, Farnham
 - Trim Trail Farnham Park, Farnham
 - MUGA Sandyhill Topfield, Farnham
 - MUGA & Trim Trail Holloway Hill Recreation Ground, Godalming
 - Wildlife and Ornamental ponds Phillips Memorial Park, Godalming
- 8.21 There were a few requests to make Canon Bowerings in Farncombe a dog exclusion zone. Prior to the PSPO being introduced in 2019 there was a byelaw prohibiting dogs from the area but in the PSPO only the Play area and the Basketball Court are dog exclusion zones, and the remainder of the area was 'dogs on lead by direction'. Whilst the Green Spaces Manager advises that compared to our other sites, Canon Bowerings does not stand out as being particularly bad for

dog behaviour or dog fouling, there were strong local views that dogs should be kept on a lead in this area and therefore it is proposed to include it in schedule 2 as a 'dogs on lead' area.

- 8.22 There were also requests for tighter restrictions around Broadwater Park. Dogs are excluded from the playground, Multi-Use Games Area and the cricket nets and squares. The remainder of the park is covered by the 'dogs on lead by direction' requirement. Having checked the records, the council has not received complaints from the angling club or residents about dogs in the park and no additional restrictions are proposed.
- 8.23 There were several comments and queries regarding the restrictions in Farnham Park. The Adventure Play Area, Cricket squares and nets, the Play area and the two ponds are included in schedule 3 (dog exclusion areas), and the rest of the park is covered by schedule 1 (the 'dogs on lead by direction' requirement). Having considered the feedback and evidence of offending it is felt these restrictions remain appropriate. It is agreed, however, that clearer signage may be of benefit in relation to the proposed restrictions.
- 8.24 In the Bramley parks the play areas and basketball court are included in schedule 3 (dog exclusion areas) and the remainder of the parks are included in schedule 1 ('dogs on lead by direction' areas). There were requests for the whole of these parks to be dog exclusion areas, but this is considered too restrictive when striving to achieve a balance between the rights of dog owners (with a need to exercise their dogs) and the rights of other users of parks and open spaces.
- 8.25 There were several comments about seasonal dogs on lead restrictions in heathland and common land to protect wildlife and ground nesting birds in particular. Local authorities can impose a Public Spaces Protection Order (PSPO) to either exclude dogs from a certain area or require them to be on lead. Whilst local authorities can establish PSPOs specific to their area, there are some UK-wide laws that impact off-lead dog walking.

- 8.26 Under the Countryside and Rights of Way Act 2000, it states that whilst open air rights allow the public to access land mapped as "open country" (e.g., mountain, moor, heath and down) or registered common land to walk, sightsee, bird-watch, climb and run, visitors using their open access rights must keep dogs on a short lead of no more than 2 metres between 1 March and 31 July each year and at all times near livestock. In the coastal margin, dogs must be under effective control at all times. Given this national law is in place it is suggested that perhaps the use of a PSPO for this purpose is not appropriate.
- 8.27 There were several comments and calls for controls on persons walking groups of dogs. This was not part of this consultation but is clearly a matter where there are strong views both for and against. The issue is under discrete consideration and review through the Surrey Environmental Health Managers Group following the tragic incident in Tandridge.

9. Key Risks

- 9.1 A PSPO is adopted in response to anti-social behaviour and/ or environmental health on a community. Public consultation has identified the impact from dogs and their owners on people's daily lives. This information will help inform members to make decisions on how to improve the quality of people's lives.

10. Financial Implications

- 10.1 Whilst having an order in place will deter some ASB, there will be a need to enforce the restrictions.
- 10.2 The consultation with partners identified that it will not be possible to enforce all of the restrictions all of the time. It will be necessary to prioritise enforcement based on local intelligence, severity, and need, targeting those areas where the most serious issues are identified. It is acknowledged that failing to enforce the orders may result in

complaints from the public, but we will proactively enforce within the constraints of the resources we have available.

- 10.3 There will also be a requirement for the Local Authority's Legal Service to take action against non-payment of fines or persistent breaching of the restrictions.

11. Legal Implications

- 11.1 The consultation was conducted in line with the Home Office Statutory Guidance of March 2023 and the Anti-Social Behaviour, Crime and Policing Act 2014 and regulations made thereunder. The Anti-Social Behaviour, Crime and Policing Act 2014 allows the Council to make a PSPO in these circumstances.
- 11.2 The Council may make a Public Spaces Protection Order where it is satisfied on reasonable grounds that activities carried on in a public place are having or have had a detrimental effect on the quality of life of those in the locality, or that it is likely that activities will be carried on in a public place and that they will such an effect. In addition, the Council must be satisfied that the effect of the activities is of a persistent or continuing nature, that the activities are unreasonable, and that the effect justifies the restrictions imposed by the order. The order may prohibit specified things being done, and/or require specified things to be done by persons carrying on specified activities. When drafting an Order placing restrictions on dogs, Councils should consider the need for owners to exercise their dogs. If a PSPO restricts access to land used to exercise dogs it would be reasonable that there is sufficient other land available for exercise without restrictions (LGA Public Spaces Protection Order guidance for Councils).

12. Human Resource Implications

- 12.1. There are no additional human resource implications .Existing staff will enforce the Public Spaces Protection Orders

12.2. Additional training will be required for existing staff.

13. Equality and Diversity Implications

13.1 An equality impact assessment has been carried out (annexe D) based on the consultation responses and the processes associated with the implementation of the PSPOs. This identifies the protective characteristics of age and disability will benefit from these restrictions. Assistance dogs are exempt from the requirements of the PSPOs.

14. Climate Change/Sustainability Implications

14.1. There are no direct implications

15. Summary of Options

15.1 The previous Public Spaces Protection Orders have assisted in promoting and encouraging responsible dog ownership and in reducing complaints of dog fouling and complaints regarding inadequate control of dogs. There are however still reported incidents of inadequate dog control and its impact on people, the environment and wildlife, which illustrate the need for controls to be in place.

15.2 Not implementing the proposed Orders is not therefore considered a practical option.

16. Conclusion

16.1 Public consultation has confirmed the support for and continuing need for the Public Spaces Protection Orders in respect of Dog Fouling and Dog Controls

16.2 The Executive is therefore asked to recommend to the Council the making of the proposed PSPOs as set out above and in Annexes B and C to this report.

17. Background Papers

17.1 Online Consultation

17.2 Comments from question 7 and responses published on the website at [PSPO Survey Comments -website.pdf \(waverley.gov.uk\)](https://www.waverley.gov.uk/pspo-survey-comments-website.pdf)

Appendices

Annexe A – Summary or responses to online survey.

Annexe B – Public space Protection Order No.1 (Dog Fouling) 2023

Annexe C - Public space Protection Order No.2 (Dog Controls) 2023

Annexe D – Equality Impact Assessment