

# Neighbourhood Services and Enforcement Committee

18 January 2024



<b>Title</b>	Dog Control Public Space Protection Order (PSPO)
<b>Purpose of the report</b>	To make a decision
<b>Report Author</b>	Tristan Gardner, Streetscene & Law Enforcement Officer Martin Cole Neighbourhoods Manager Neighbourhood Services
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	N/A
<b>Corporate Priority</b>	Environment
<b>Recommendations</b>	<b>Committee is asked to:</b> <b>Adopt the proposed extension to the Dog Control Public Space Protection Order</b>
<b>Reason for Recommendation</b>	This will allow the current Dog Control Public Space Protection Order to continue for a further three years.

## 1. Summary of the report

1.1 The current Dog Control Public Space Protection Order (PSPO) is due to expire on the 2<sup>nd</sup> of January 2024. If committee adopts an extension, it will allow the order to continue in force for a further three-year period and will allow the Joint Enforcement Team to deal effectively with complaints regarding the behaviour of dog owners/walkers.

## 2. Key issues

2.1 On 15 December 2011 the Council accepted the recommendation for the imposition of two dog control orders to come into force on 27 July 2012, these orders were made under the current legislation at the time which was ss55-58 Clean Neighbourhoods and Environment Act 2005.

2.2 The two orders made, firstly excluded dogs from sites within the Borough's parks and open spaces but only those sites that had a fenced play area, tennis courts, multi-use games area, fenced ball court and fenced spray ground. The second order dealt with the issue of dog fouling and the

responsibility of the person in charge of the dog to clear any faeces from the land immediately.

- 2.3 The Dog Control Orders under the above legislation were replaced automatically on 20 October 2017 by the introduction of the Anti-social Behaviour, Crime and Policing Act 2014 (the Act), the new Public Space Protection Order contained the same offences as the previous Dog Control Order.
- 2.4 The first renewal of the Dog Control PSPO with both new and existing offences as per **2.6 a-f** below was approved by Council and came into force on the 2 January 2021. In accordance with the legislation, this PSPO is being formally reviewed after being in place for three years. As part of the review process, two of the following conditions need to be met:
  - a. Activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
  - b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect and
  - c. Is or is likely to be, of a persistent or continuing nature,
  - d. Is or is likely to be, such as to make the activities unreasonable, and
  - e. Justifies the restrictions imposed by the notice.
- 2.5 Section 60 of the Act allows for the extension of the orders currently in force providing that the local authority who made the order, is satisfied on reasonable grounds that doing so is necessary to prevent-
  - a. Occurrence or recurrence after that time of the activities identified in the order, or
  - b. An increase in the frequency or seriousness of those activities after that time

An extension under s.60 may not be for a period of more than three years and must be published in accordance with the regulations made by the Secretary of State, meaning that the order must be published on the web site and that appropriate signage must be put in place.
- 2.6 The proposed extension of the current Dog Control PSPO, attached as **Appendix A**, includes restrictions on the following:
  - a. Dog exclusion areas
  - b. Dog fouling
  - c. Professional dog walkers limit to four dogs
  - d. Dogs on leads by direction
  - e. Dogs on leads
  - f. Carrying suitable means for proper disposal of dog faeces
- 2.7 Prior to the introduction of a PSPO the Council is required to conduct a public consultation and that consultation is required regardless of whether the Council was renewing an existing PSPO or the introduction of a new order.
- 2.8 A consultation on the above PSPO proposals was conducted between 18 September and 22 October 2023 inclusive. The consultation was widely

published through the Council's website, Twitter, Facebook, press releases to local media, posters, and emails to relevant organisations – Surrey Police, the Office of the Police and Crime Commissioner and The Kennel Club. The Consultation consisted of an online survey asking for the public's view on the proposed restrictions (the survey in full is shown at Appendix B).

- 2.9 In total, ninety-four people and 2 organisations, Surrey Police and The Kennel Club, took part in the consultation, 44% of whom were dog owners. The level of response means that we can be confident that we have a good understanding of the possible impact of the PSPO proposals on the local dog owning community as well as residents in general. As the results below show, there was strong support for the majority of the PSPO proposals. The full summary of responses from the public can be found at Appendix C and the full Kennel Club response at Appendix D.
- 2.10 Participants were asked whether they agreed or disagreed with the dog exclusion areas and the results were as follows-
- a. Ball courts – 86 strongly or fairly agreed (91%)
  - b. Children's play areas – 91 strongly or fairly agreed (97%)
  - c. Multi-games areas- 85 strongly or fairly agreed (90%)
  - d. Tennis Courts- 83 strongly or fairly agreed (89%)

The Kennel Club's written response was that they do not normally oppose such orders to exclude dogs providing alternative arrangements are made for dog walkers. In all the proposed exclusion areas such provision has previously been made.

- 2.11 The proposed dog exclusion areas are shown in the proposed order at **Appendix A, Schedule 1** and contain all the previous exclusions from the current PSPO and two new additions.
- 2.12 Participants were then asked about restricting the number of dogs walked by any one person at any one time to four. In total, eighty-five either strongly or fairly agreed with the proposal (91%).
- 2.13 In relation to the number of dogs a person can walk, the Kennel Club's response was that they felt that an arbitrary number of dogs that a person can walk depended on several factors relating to the dog walker, the dogs being walked, whether leads are used and the location where the walking is taking place. They go on to recommend using the proposed dogs on lead by direction. They go on to say that if implemented then the Council should have some form of accreditation scheme in place specifically aimed at professional dog walkers. The proposed areas with the numbers of dogs allowed to be walked can be found at **Appendix A, Schedule 3**.
- 2.14 Participants were then asked whether they had been affected by dog fouling in the Spelthorne area during the past 12 months and seventy-five respondents replied that they had been (80%).
- 2.15 They were then asked if they agreed with the requirements in the order that a person in charge of a dog must clear up after their dog immediately and carry with them the means to clear up after their dog. Ninety-two of the respondents agreed with these proposals (98%). The areas to which fouling of land and

having the means to pick up dog faeces can be found at **Appendix A, Schedules 2 and 5.**

- 2.16 The Kennel Club's response was that they strongly promote responsible dog ownership, believing that dog owners should always pick up after their dogs. They also wanted local authorities to increase proactive measures by providing more bins and allowing dog owners to dispose of waste in normal bins.
- 2.17 Spelthorne Borough Council currently provide approximately 550 bins in parks and public spaces. The Council also provide dog waste disposal bags in fifty of our parks and open spaces. The Council is also undertaking a program whereby specific dog waste bins are being phased out and larger bins for the use of all park and open space users installed. However, the Council would still expect dog walkers to have sufficient bags with them to deal with the removal of dog faeces in all scenarios.
- 2.18 The Kennel Club's response in relation to the requirement that a person has the means to pick up after a dog was that, whilst they support proactive measures to encourage responsible dog ownership and to ensure dog owners are picking up after their dogs, this must be fair and proportionate. They also suggest an effective local communications campaign to ensure people are aware of the requirement for them to carry a larger number of bags.
- 2.19 Officers will always use discretion when enforcing any part of the order. If a dog walker is reaching the end of their walk or have already picked up after their dog and disposed of the bagged waste, then no enforcement action is likely to result from this. Dog walkers should be encouraged, however, to carry multiple bags with them, and to be aware of their dog's toileting habits.
- 2.20 Participants were then asked whether dogs should be put on a lead if requested to do so by an authorised officer. Of the responses received, eighty-seven either strongly or fairly agreed with the proposal (93%).
- 2.21 The Kennel Club response was that they strongly welcome dogs on lead orders, as they allow responsible dog owners to exercise their dogs off lead without restriction providing that they are under control. The areas to which the dogs on leads by direction apply can be found at **Appendix 1, schedule3.**
- 2.22 Similarly, participants were asked whether dogs should always be on leads in Council maintained car parks, Council leisure centre car parks and cemeteries. The response was again high with eighty-six respondents being either strongly or fairly in agreement with the proposal (92%)
- 2.23 The Kennel Club response was that they could support reasonable dogs on leads orders particularly in cemeteries, picnic areas or pavements in proximity to cars and other road traffic. The areas to which dogs on leads apply can be found at **Appendix A, Schedule 4.**
- 2.24 Lastly in relation to the current proposal, participants were asked if they agreed with exemptions to the orders, persons with assistance dogs, disabilities, Emergency Services, Armed Forces, or other agencies in charge

of an assistance dog. Of the respondents, eighty-one either strongly or fairly agreed (86%).

- 2.25 The Kennel Club response was that they encourage orders to include exemptions for those with disabilities.
- 2.26 The response from the Kennel Club has been fully considered during the review of the PSPO and the conditions therein. At this stage, we are satisfied that the conditions are fair and justified and the exemptions provided are adequate.

### **3. Options analysis and proposal**

- 3.1 The following decision options are available for consideration by the Committee:

#### **Option 1 Preferred option**

The Neighbourhood Services and Enforcement Committee adopt the extension to the proposed PSPO, which will allow the JET team to deal with complaints regarding anti-social behaviour by dog owners/walkers for a further three years.

#### **Option 2**

The Committee do not adopt the proposed PSPO which would mean that no powers would be available to Spelthorne Borough Council officers to deal with dog control issues.

#### **Option 1 is recommended for the following reasons:**

The Dog Control PSPO grants Council officers' powers to deal with all aspects of anti-social behaviour by dog owners/walkers. These powers are an important and effective tool in promoting responsible dog ownership within the Borough.

- 3.2 All of proposals that have been put forward seek to ensure that the Council's parks and open spaces are welcoming and safe for all residents, visitors, and other park users.
- 3.3 Dog fouling continues to be an issue to residents and the Council receives several complaints during a year, which are dealt with by members of the JET team.
  - a. 2021 - 86 incidents
  - b. 2022 - 68 incidents
  - c. 2023 (until October) - 81 incidents

A full monthly breakdown of dog fouling incidents can be found at **Appendix E**.

- 3.4 Of the complaints received, only a tiny fraction result in a fixed penalty notice being issued. The main reason for this is a lack of evidence and/or witnesses being unable or unwilling to provide a statement. It also is the case that when uniformed officers patrol the parks and open spaces people are more aware of their presence and tend to comply with the requirement to clear up after their dogs.

3.5 Surrey Police have also produced some data to support the proposed PSPO. During the period of the 2<sup>nd</sup> of January 2021 until the date of this report, they received:

- a. Twenty-six reports relating to “animal problems”.
- b. 141 reports relating to “pets/domesticated animals”.
- c. Ninety-three reports relating to a dog dangerously out of control.

Due to the long timeframe and the amount of data being requested, Surrey Police were unable to provide any more detailed analysis or information in relation to these reports. This includes whether the incidents in question took place on public or private land, and the nature of the incident.

3.6 One of the issues with enforcement is that there is a tendency to be reactive to events and situations which does not capture the full extent of what is happening in the Borough in relation to dog control. The Council needs to be proactive in its approach to dog control.

3.7 The additional listed proposals over and above dog fouling and dog exclusion areas will be a useful tool for Council officers to deal with wider ASB issues in a more proactive manner. Most of these issues are being caused by a tiny minority of irresponsible dog owners.

3.8 The proposed measures will hopefully go some way to address all the issues identified and make people seriously think twice about their actions or risk the real possibility of prosecution or being issued with a fixed penalty notice as outlined below.

3.9 Section 67 of the Act makes it an offence for a person without reasonable excuse-

- a. To do anything that the person is prohibited from doing by a public space protection order, or
- b. To fail to comply with a requirement to which the person is subject to under a public space protection order.
- c. A person guilty of an offence under this section is liable to a fine not exceeding level 3 on the standard scale currently £1000.

3.10 Section 68 provides the power for a constable or authorised person to issue a fixed penalty notice to anyone whom he or she has reason to believe has committed an offence under s.63 or s.67 in relation to a public space protection order. The current fixed penalty amount is £100.

3.11 Section 67 is reproduced above, and s.63 deals specifically with the consumption of alcohol in breach of prohibition of an order, so not relevant in these circumstances.

There is nothing within these proposals that indicates any risk. All requisite signs will be affixed to entrances and/or exit gates/fences or securely attached to purpose-built poles.

#### **4. Financial implications**

4.1 Most Spelthorne Borough Council’s parks and open spaces currently have the requisite signage as required by law. There are a small number of areas that

will require additional signage, and the cost for this will be met out of existing budgets.

4.2 There would be no resource increase for the JET Team who would continue enforcing within their existing areas and patrols.

4.3 There is the possibility of a small increase in revenue depending on the number of fixed penalty notices issued for non-compliance.

## **5. Risk considerations**

5.1 There are no specific risks associated with the extension of this PSPO. It is, however, important for the reputation of the Authority that this formally reviewed as required by the legislation.

5.2 During any enforcement activity, there is a risk to the officers involved. This risk is mitigated by full risk assessments detailing necessary training and Personal Protective Equipment (PPE) to be carried by officers. These risk assessments have been approved by Health and Safety.

## **6. Procurement considerations**

6.1 There are no procurement implications directly arising from this report.

## **7. Legal considerations**

7.1 Legal considerations are contained within the body of the report. The proposed extended Dog Control PSPO has been reviewed by Spelthorne Borough Council's legal team and they are satisfied with its content and legal basis.

## **8. Other considerations**

8.1 There are no other matters to be considered arising from this report.

## **9. Equality and Diversity**

9.1 The Council aims to be consistent and even-handed in all regards. The taking of any enforcement action to deal with members of the public for offences under the dog control PSPO is not intended to have either a positive or negative impact upon equality or diversity or apply differently to any group.

9.2 The Council has a public sector equality duty under the Equalities Act 2010 to have due regard to tackle discrimination and victimisation of persons that share the characteristics protected under s.4 of the Act. The Equality Impact Assessment in Appendix F sets out the protected characteristics.

9.3 Nothing in this Order shall apply to a person who is-

- a. A disabled person within the meaning of the Equality Act 2010 whose disability restricts their ability to comply with this Order and where the dog is their guide dog or assistance dog, which they rely on or has been trained by an appropriate registered charity;
- b. Training an assistance dog in an official capacity; or
- c. In charge of a dog used by the police, emergency services, Armed Forces or other agencies permitted by the Council for official purposes.

## **10. Sustainability/Climate Change Implications**

10.1 There are no sustainability or climate change implications directly arising from this report.

## **11. Timetable for implementation**

11.1 If the committee agree to adopt the extended dog control PSPO, it will be uploaded to the Council website as soon as possible and published on all social media channels. The PSPO will remain in force for a further 3 year period.

## **12. Contact**

12.1 Tristan Gardner, Streetscene & Law Enforcement Officer – 01784 444267  
**Neighbourhood Services**

### **Background papers:**

Anti-social behaviour, Crime and Policing Act 2014, Chapter 2 Public Space Protection Orders -

<https://www.legislation.gov.uk/ukpga/2014/12/part/4/chapter/2/enacted>

Equalities Act 2010

Human Rights Act 1998

### **Appendices:**

Appendix A – Proposed Dog Control PSPO

Appendix B – Consultation Survey Questions

Appendix C – Consultation Summary of Responses

Appendix D – Full response from The Kennel Club

Appendix E – Council dog fouling reports – January 2021 – October 2023

Appendix F – Equality Impact Assessment