

# Cheshire East Council

## Cabinet Member for Finance and Communities

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<b>Date of Meeting:</b>	16 <sup>th</sup> October 2017
<b>Report of:</b>	Mark Palethorpe, Acting Executive Director -People
<b>Subject/Title:</b>	Public Space Protection Order – Dog Fouling and Dog Control across Cheshire East Borough - a consistent approach
<b>Portfolio Holder:</b>	Cllr Paul Bates – Portfolio Holder Finance and Communities

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### 1. Report Summary

- 1.1. The purpose of this report is to set out the circumstances in which a Public Space Protection Order (PSPO) covering the whole of Cheshire East Borough Council should be approved. This order will allow a consistent and manageable approach going forward to tackle irresponsible and anti social dog ownership and promote the safe and enjoyable use of our open spaces.
- 1.2. This report links into the following corporate objectives as well as the team plan specific objectives:

Outcome 1 - Our local communities are strong and supportive. Enable and empower our communities to identify and report irresponsible dog ownership and support enforcement of anti social issues.

Outcome 4 – Cheshire East is a green & sustainable place. Protecting the environment from unpleasant and hazardous dog foul in our public spaces.

Outcome 5 – People live well for longer. Committed to tackling dog fouling and dog control issues that are a risk to the health of residents.

Partnerships and Communities Business Plan 2017 -2020:

Objective 1 - To deliver intelligence led and statutory enforcement activities and develop our community safety services, co-ordinated campaigns and operations.

Key Activity references:

1.3 - To ensure the integrity of all Community Safety investigations, evidence, legality and the enforcement of offenders.

1.18 - Engage, educate and enforce against Community and Environmental Crime.

1.20 - ASB priorities to be risk and cost based, tackling the issues making the biggest community impact.

## **2. Recommendation**

- 2.1. It is recommended that the Cabinet Portfolio Holder;
  - a. Agree the implementation of a Public Space Protection Order (PSPO) from 1st November 2017;

## **3. Reasons for Recommendation**

- 3.1. This report is produced in order to set out the circumstances in which a Public Spaces Protection Order (PSPO) covering the whole of Cheshire East Borough Council should be considered and approved in relation to dealing with Dog Fouling and Dog Control.
- 3.2. Under the Anti-Social Behaviour, Crime and Policing Act 2014, the Council can make a Public Spaces Protection Order (PSPO) to control certain activities in a specified area if those activities are likely to have a detrimental effect on the quality of life of people in that area. This can include many forms of anti social behaviour, including problems often associated with dogs, for example, dog fouling.
- 3.3. The current situation within Cheshire East to enforce against such issues is based upon legislation that has been repealed or amended since 1996 and in more recent enactments there was a requirement for the Council to introduce orders to cover specific areas. This has led to a complicated system, which following a recent review by Legal Services and Community Enforcement, has led to the agreement to introduce a PSPO as outlined in this report. A number of other Local Authorities have already adopted this approach or are currently within the processes to do so (some examples provided in section 9).
- 3.4. There are also a number of byelaws within some of our parks and open spaces requesting that dogs are either kept on lead or under control, but most are not enforceable and have led to persistent issues in these areas when a small minority do not act responsibly when exercising their dogs.
- 3.5. The PSPO will allow a consistent and manageable approach going forward as well as being timely for the reasons outlined in this report for the 'change over' date in October of current orders into PSPO's. It will also ensure the message can be linked with our upcoming 'Dog Watch' campaigns and continue to be linked in with the 'Keep Cheshire East Clean – No Rubbish Excuses' campaign around Engagement, Education and Enforcement.

- 3.6. There has been support from a number of areas to the proposals set out in the report:
- i. Discussions and advice with Legal Services undertaken before amalgamation of current designated orders into PSPO's and review of legislative framework of dog fouling and control; Legal Services support the recommendations of this report.
  - ii. Discussions with Cheshire East Community Enforcement services have been undertaken and they support the recommendations of this report.
  - iii. Senior Management (Partnerships & Communities) and the Director of Public Health have been fully briefed on the content of this report.
  - iv. Portfolio Holder received a briefing paper on the recommendations of this report and supports the actions.
  - v. Cheshire East Council Ranger Service has been consulted with and support the recommendations of this report.
  - vi. As per Cheshire East Councils "Procedures for use of Anti-Social Behaviour Criminal and Policing Act 2014 – Public Spaces Protection Order" (appendix item 1) a public consultation has been undertaken and the results are outlined in the appendix (item 3).
  - vii. As per Cheshire East Council's "Procedures for use of Anti-Social Behaviour Criminal and Policing Act 2014 – Public Spaces Protection Order" the matter was discussed as part of the Multi Agency Action Group (MAAG) who support the recommendations of this report.
  - vii. Public consultation (see 5.10 below)

#### **4. Other Options Considered**

- 4.1. Cease enforcement of dog fouling.
- 4.2. Continue with the current situation as per 3.3 and 3.4 with no potential to tackle other irresponsible and anti social issues of dog ownership as outlined in this report.

#### **5. Background**

- 5.1. Tackling Dog Fouling within the Borough of Cheshire East is currently covered under the Fouling of Land Act 1996. This Act was repealed in 2006 following the introduction of Dog Control orders under sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005 (CN&EA 2005). Any orders made under the 1996 Act continue to have effect indefinitely and enforcement through fixed penalty notices and prosecutions have continued as normal.
- 5.2. At the time of Dog Control Orders coming into effect in 2006, Cheshire East Council did not exist, but the predecessor authorities did not adopt this

power as a blanket order across their geographies to deal with Dog Fouling. Macclesfield District Council did successfully obtain one of these orders for a part of Carrs Park in Wilmslow in order to enforce “dogs on lead” and “dog control” in addition to dog fouling offences as this was a particular issue that was identified at that time. This particular order will cease to operate under a Dog Control Order on 20th October 2017 (all existing Dog Control Orders will stay in effect until 20 October 2017 unless they are replaced by PSPOs before then). This, along with any new controls on similar parks and public spaces will then be applied for under new Public Spaces Protection Orders as prohibitions.

- 5.3. This legislation (Fouling of Land Act 1996) which Cheshire East currently enforces under, also however has limitations as it does not allow enforcement in certain areas, such as woodlands and heathland for example, (such area covered by the CE Rangers) however we still have continued problems and issues in such areas and the PSPO has already been supported by the Ranger Services, so the PSPO will also extend the prohibitions and penalties to all public open spaces including countryside parks and publicly-accessible land.
- 5.4. Dog fouling is unpleasant, a nuisance and can be a hazard to health. 95% of the British population are worried about the amount of dog fouling, not just because of the mess it causes but because it can also be linked to health risks including 'toxocara canis'. Roundworm eggs are found in dog mess, which can easily be picked up by young children. This causes stomach upsets, sore throats, asthma and in rare cases blindness. The eggs can remain active in the soil for many years, long after the dog mess has weathered away. We recognise that most dog owners are responsible and clean up after their pets, but a small minority continue to cause problems.
- 5.5. The Council would introduce a PSPO across the Borough to replace and extend the existing dog controls and byelaws (some of which are currently not enforceable e.g. requests to keep dogs on leads in certain parks). This would create a more comprehensive and consistent approach when dealing with issues such as dog fouling and dogs under control.
- 5.6. The Council has a statutory duty to keep land clear of litter and refuse (including dog foul) and a duty of care on dealing with waste, this duty extends to prosecuting offenders who fail to clean up after their dogs and although there is legislation in place to tackle this behaviour, a PSPO would allow us not only to address this behaviour further but also encourage responsible dog ownership across all public spaces within our borough by requiring owners to be in control of their dog at all times whether off or on the lead.
- 5.7. A PSPO to replace all other existing legislation would also then give the Council an opportunity to further review our parks and open areas to look at amending the existing PSPO to look at further requirements to keep dogs on leads and excluding dogs from specified areas. It would give the

Council stronger powers and protect areas such as our enclosed children's play areas and cemeteries moving forward. Once a PSPO is in place, further community engagement and consultation can be undertaken as part of our "Dog Watch" campaign into further potential prohibitions for these specific areas across the Borough via amendment procedures to an existing PSPO as outlined in section 61 of the ASB Crime and Policing Act 2014.

- 5.8. Decisions on the application of this order have been made in line with Cheshire East Councils "Procedures for use of Anti-Social Behaviour Criminal and Policing Act 2014 – Public Spaces Protection Order" (appendix item 1).
- 5.9. An initial PSPO is to be considered and approved to include prohibitions around the Dog Fouling of Land and requirement under provisions to keep a Dog under Control which would apply to all pieces of land within the Borough as described in the draft order (appendix item 2).
- 5.10. The public consultation for the order commenced at 12 noon on Tuesday 12 September to 12 noon on Tuesday 10 October 2017 in relation to the attached draft prohibition and suggested area of implementation. Feedback to date (6<sup>th</sup> October) is outlined in appendix item 3, but indicates strong support for the proposal to introduce the PSPO. An update report on the consultation feedback will be tabled for consideration at the Decision Making meeting.
- 5.11. Advertisement of our proposals has taken place via our website, intranet, and released in local press within the first week of the consultation opening. In addition to this a last minute push has been released in this week's Chronical and also via our social media and intranet. Our Community Enforcement Officers have placed 200 posters within our open spaces and parks across the Borough which have included links to the survey and further information on our proposals.
- 5.12. Additionally the following contact groups have received electronically our "consultation poster" in order for them to circulate with their members/residents/members of public:
  - Community Grants (615)
  - Congleton Assembly (156)
  - Crewe Assembly (133)
  - Macclesfield Assembly (101)
  - Knutsford Assembly (25)
  - Nantwich Assembly (173)
  - Newsletter Mailing List (338)
  - Poynton Assembly (37)
  - Town and Parish Clerks (104)
  - Wilmslow Assembly (41)
  - Valley Park Group (20)
  - Sandbach Partnership (12)

- Multi-Agency Action Group Partner agencies
- Plus the full Communities team list.
- All Cllrs/members via Cllr Bates
- Cheshire Association of Local Councils – NEWS Roundup

5.13. The draft order has been reviewed by partners of the MAAG (Multi Agency Action Group) as per Council's procedure. The group have agreed with the recommendations of this report and that more tailored (such as no dogs, dogs on lead at all times, restrictions on number of dogs per owner, produce means of dispose on request) prohibitions for certain parks and areas would need further consultation time and variations applied.

5.14. A breach of any of the prohibitions would be dealt with by means of a Fixed Penalty Notice of £100 in line with the fine levels for a breach of a PSPO in Cheshire East. Cheshire East has been enforcing against dog foul for some time, yet there continues to be complaints and issues raised and the continued need for behaviour change, hence under a PSPO we can tackle the continued issue by raising the FPN to £100 which we cannot do under the 1996 legislation, which is the consensus of many other Local Authorities who have moved to this approach. Upon implementation, relevant Enforcement Officers will be delegated with the powers via the Council's Constitution and Schemes of Delegations. Offenders who do not discharge their liability through the payment of the notice will be considered for prosecution in line with our Enforcement Policy

<http://www.cheshireeast.gov.uk/business/enforcement/enforcement-policy.aspx>

5.15. Following the approval and implementation of the PSPO, further reviews and consultation will take place for consideration of amending/variating the PSPO to include further prohibitions such as;

a) Prohibition of dog owners not having on their person provision to dispose of dog foul with an FPN provision (produce means of dispose on request).

b) Excluding dogs in outdoor children's enclosed play areas and/or cemeteries with an FPN provision.

## **6. Wards Affected and Local Ward Members**

6.1. All ward and members.

## **7. Implications of Recommendation**

### **7.1. Policy Implications**

7.1.1. Cheshire East Council is an enforcing Council and committed to tackling anti social behaviour and environmental crime.

7.1.2. All enforcement actions and decisions will be taken in accordance with Cheshire East Council's Enforcement Policy.

## 7.2. Legal Implications

7.2.1. The current situation within Cheshire East to enforce against such issues is based upon legislation that has been repealed or amended since 1996 and in more recent enactments there was a requirement for the Council to introduce orders to cover specific areas. This has led to a complicated system, which following a recent review by Legal Services and Community Enforcement, has led to the agreement of introducing a PSPO as outlined in this report. A number of other Local Authorities have already adopted this approach.

7.2.2. It is essential that due legal process is followed and that any Notice issued accords with the requirements of the Act. Appropriate legal advice would be sought prior to the publication of any Statutory Notice.

## 7.3. Financial Implications

7.3.1. Consideration would have to be given to make sure that relevant signage and publicity around the implication of this order is in place. There are currently historic signs placed on lampposts across the borough warning of dog fouling offences. These will be replaced during a programme of work giving priority to entrances of our main open spaces and parks, moving onto hotspot residential areas and then across the rest of the borough.

7.3.2. Initial quotes suggest an allocated budget of £10,000 would allow for signage and stickers. These will be in line with the Council's other PSPO's, for example;



7.3.3. The service has already positively introduced new signage around dog fouling within the 'Keep Cheshire East Clean – No Rubbish Excuses' campaign (appendix item 4) and will expand and link into the current campaign and Media Team.



7.3.4. A virement of monies within the Communities budget will provide the budget for the signage to be produced and installed.

#### **7.4. Equality Implications**

7.4.1. An Equality Impact Analysis/Assessment has been completed and approved by the Head of Service. As a result of performing the analysis/assessment there are no actions arising from the analysis/assessment.

#### **7.5. Rural Community Implications**

7.5.1. A positive impact will be made on the rural community by protecting its open spaces from dog foul and enhancing the controls of irresponsible dog ownership.

#### **7.6. Human Resources Implications**

7.6.1. Training and guidance has already taken place for operational staff involved in the implementation and enforcement of a PSPO.

7.6.2. Officers are already actively addressing dog fouling across the borough within the limits of the current legislation. The PSPO would further enhance this work and support both residents and visitors to the Borough and assist in the behaviour change of the minority who chose to offend.

7.6.3. Upon implementation relevant Enforcement Officers will be delegated with the powers via the Council's Constitution and Schemes of Delegations.

#### **7.7. Health and Wellbeing Implications**

7.7.1. As per 5.3.

#### **7.8. Implications for Children and Young People**

7.8.1. As per 5.3.

#### **7.9. Overview and Scrutiny Committee Implications**

7.9.1. There are no specific implications.

#### **7.10. Other Implications (Please Specify)**

7.10.1 There are no other implications

### **8. Risk Management**



- 8.1. To negate any negative publicity there will be a media release and campaign across both traditional and web based methods.

## 9. Access to Information

Other Local Authorities merging and changing/changed over to PSPO's;

- 9.1. Daventry District Council PSPO - <https://www.daventrydc.gov.uk/business/environmental-health/dog-fouling/>
- 9.2. Dover District Council PSPO <https://www.dover.gov.uk/Environment/Environmental-Crime/Public-Spaces-Protection-Order/Public-Spaces-Protection-Order.aspx>
- 9.3. Flintshire County Council PSPO <http://www.flintshire.gov.uk/en/Resident/Streetscene/Dog-Control-Public-Space-Protection-Order-PSPO.aspx>
- 9.4. Chesterfield Borough Council PSPO <https://www.chesterfield.gov.uk/pspo-dog>
- 9.5. Durham County Council PSPO <http://www.durham.gov.uk/article/11429/Enforcement-powers-for-irresponsible-dog-owners>

## 10. Contact Information

Contact details for this report are as follows:

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