

**Environment and Communities  
Committee**

**28 September 2023**

**Extension of Public Space Protection  
Orders for Responsible Dog Ownership**

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**Report of: Peter Skates, Acting Executive Director - Place**

**Report Reference No: EC/09/23-24**

**Ward(s) Affected: ALL**

**Purpose of Report**

- 1 The purpose of this report is to seek committee approval to extend the Borough wide Public Space Protection Order (PSPO) originally made in October 2017 and extended until October 2023, relating to Dog Fouling and Dog Control and the separate but related order for The Carrs Park at Wilmslow, also made in October 2020.
- 2 The extended use of these orders will allow a consistent and manageable approach in tackling irresponsible and anti-social dog ownership, promoting safe and enjoyable use of our open spaces and protecting our residents from being victims of criminal and anti-social behaviour.

**Executive Summary**

- 3 Under the Anti-Social Behaviour, Crime and Policing Act 2014, the Council can make a 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 and those at risk of causing anti-social behaviour.
- 4 A requirement of the Act is for the Council to review all of its existing PSPO's within a three-year period from them being made or before the orders expiry date if this is for less than a 3-year period. If not reviewed

the orders will expire. This is achieved through a consultation process, the outcomes of which will assist the council in determining whether to extend, vary or discharge or simply to allow to lapse, the specific Order in question.

- 5 A summary of the consultation undertaken is contained at paragraph 16 to 20, with a full report included at Appendix C. Over 75% of respondents either strongly agreed or agreed that both of the existing Orders should be extended.
- 6 The current boroughwide PSPO for Dog Fouling and Dog Control came into force on the 1<sup>st</sup> November 2017, has since been extended and will expire at midnight on 31<sup>st</sup> October 2023, unless extended.
- 7 The current Carrs Park, Wilmslow PSPO for Dog Fouling and Dog Control came into force on the 20<sup>th</sup> October 2020 and will expire at midnight on 19<sup>th</sup> October 2023, unless extended.

## RECOMMENDATIONS

The Environment and Communities Committee is recommended to:

1. Note the result of the consultation in relation to extending the current Public Space Protection Orders
2. Approve an extension for a further three years the borough wide Public Space Protection Order (PSPO), relating to Dog Fouling and Dog Control
3. Approve an extension for a further three years the Carrs Park, Wilmslow Public Space Protection Order (PSPO) relating to Dog Fouling and Dog Control

## Background

- 8 The Council currently has two applicable Orders in place across the borough, notably one which is boroughwide and the second which is specific to the Carrs Park in Wilmslow.
- 9 The current boroughwide PSPO for Dog Fouling and Dog Control came into force on the 1<sup>st</sup> November 2017 and will expire at midnight on 31<sup>st</sup> October 2023, unless extended.

- 10 The current Carrs Park, Wilmslow PSPO for Dog Fouling and Dog Control came into force on the 20<sup>th</sup> October 2020 and will expire at midnight on 19<sup>th</sup> October 2023, unless extended.
- 11 The reason that there is a separate but complimentary Order in place specifically for the Carrs Park in Wilmslow was that this was originally established under previous legislation.
- 12 The Carrs Park, Wilmslow was the subject of a Dog Control Order (DCO) which was made by the Council on 2 August 2012 and came into effect on Monday 20 August 2012. By virtue of the provisions of the Anti-Social Behaviour, Police and Crime Act 2014 (S.75) within 3 years of the commencement of the Act (that is by 19th October 2017) all existing DCO's across Cheshire East along with other orders for example, Designated Public Places Orders (DPPO's) and Gating Orders automatically transitioned into Public Space Protection Orders (PSPO's) for the maximum length of three years.
- 13 Both the boroughwide and Carrs Park PSPO's for dog fouling and dog control has led to the issue of 17 Fixed Penalty Notices (FPN's) and 1 prosecution in the Magistrates Court in the last three years and 157 FPN's have been issued since the orders commenced under PSPO legislation. In addition to the data recorded on the number of FPN's issued, the actual existence of the PSPO and supporting information made available to the public through website and signage has also provided a deterrent for some dog owners to not act irresponsibly.
- 14 Copies of the draft extension Orders for both the boroughwide and Carrs Park, Wilmslow are included at Appendix A and B respectively, which include details of the restrictions and locations.
- 15 An extension provided to the current PSPO's would not affect the amounts charged in relation to fixed penalty notices. Breach of any of the prohibitions is a criminal offence and would be dealt with either by means of a Fixed Penalty Notice of £100 in line with the fine levels for a breach of a PSPO in Cheshire East or on summary conviction, a fine not exceeding level 3 on the standard scale, namely £1000.

## **Consultation and Engagement**

- 16 The consultation relating to the potential Orders extension ran between Wednesday 26<sup>th</sup> July and 9am on Wednesday 6<sup>th</sup> September 2023.
- 17 The notice of intent consultations were promoted via media releases, some site signage and by emails issued to partner agencies via the Council's 'Multi-Agency Action Group', Cheshire Constabularies Police and Crime Commissioner, Cheshire East Members, all Town and Parish councils and Members of Parliament.

- 18 The consultation was delivered via the Council's online platform and attracted a total of 62 responses in total with the following results;
- (a) Strongly agree or agree to the extension of the existing boroughwide Order for a further 3 years – 84.8% (33 responses)
  - (b) Strongly agree or agree to the extension of the existing Carrs Park, Wilmslow Order for a further 3 years – 75.8% (29 responses)
- 19 Separate responses were received from the PCC's office and the Dogs Trust. The PCC's office confirmed receipt of the councils' intentions and confirmed that they were happy with the proposals and had no further comment. The Dogs Trust provided a letter of support of the Council's intentions with the dog related Orders.
- 20 A full report relating to the consultation outcomes for both Orders is included at Appendix C.

### **Reasons for Recommendations**

- 21 As noted at paragraph 3 above, by virtue of the provisions of the Anti-social Behaviour Police and Crime Act 2014, (S 75) within 3 years of the commencement of the PSPO (that is by 19<sup>th</sup> and 31<sup>st</sup> October 2023) all existing PSPO's have to be renewed within the 3 year lifetime, in accordance with s.60 of the Act. A PSPO cannot have effect for more than 3 years, unless extended under s.60 (2).
- 22 Section 60 of the Act permits a local authority to extend a PSPO where it is satisfied on reasonable grounds that doing so is necessary to prevent an occurrence or recurrence of the activities identified in the Order. Any extension must be agreed before the expiry of the previous Order
- 23 An extension to the current boroughwide Dog Fouling and Dog Control Order would also give the Council a period of time over which to consider options in relation to any requests for more enhanced restrictions on the existing PSPO's. This would minimise the risk of not having an Order in place to allow enforcement activity to take place, whilst such a review is undertaken.

### **Other Options Considered**

- 24 Table 1 sets out the alternative options to those presented in the recommendations of this report.

Option	Impact	Risk
Do nothing – do not extend / allow the existing Order to lapse – no replacement	The existing PSPO is no longer valid and enforcement action can't be taken	Increase in dog fouling and related anti-social behaviour with no recourse to control. Increase in complaints and correspondence as a result leading to additional draw on limited staff resource.
Do Something - do not extend / allow the existing Order to lapse – new Order with different scope	The existing PSPO is no longer valid and enforcement action can't be taken.  New Order needs to be put in place, significant resource consideration drawing staff resource away from day-to-day enforcement activities	As 'Do Nothing' but on a temporary basis.  Increased scope of Order is unlikely to be enforceable from an existing staffing resource perspective.  Likely to raise expectations which would need to be carefully managed

Table 1: Summary of alternative options to that recommended

## Implications and Comments

### *Monitoring Officer/Legal*

- 25 Extension of the PSPO's is only available to the Council if there has been a consultation on it in accordance with S.72 of the 2014 Act, and it satisfied on reasonable grounds that doing so is necessary to prevent either the occurrence or reoccurrence of the activities identified in the order, or an increase in frequency or seriousness of those activities after expiry of the order.
- 26 Members will need to be satisfied that the required consultation has taken place before considering extending the orders. Members must then be satisfied it is necessary to extend the orders to prevent occurrence of reoccurrence of dog fouling or an increase in its frequency. This is a fact specific exercise. Members must be satisfied on the evidence before them that an extension to the orders will prevent dog fouling occurring or increasing in frequency.

27 Consideration would have to be given to make sure by extending the PSPO's the Council would be legally compliant in making sure that relevant signage is put in place if not already done so.

### *Section 151 Officer/Finance*

28 The only direct costs associated with the renewal of the PSPO's will be a need to refresh several of the existing signs, alongside the professional fees associated with processing the Orders themselves.

29 The service has received several requests for signage to be reviewed and/or refreshed and this will be considered where appropriate to make sure that the relevant signage is in place to support the extended Orders.

30 Estimates for the costs associated with the extension of the Orders and any potential additional or replacement signage are already included within the Community Enforcement team service budgets.

### *Policy*

31 The proposal supports the following [Corporate Plan](#) priorities as shown below.

<b>An open and enabling organisation</b>  <i>Priority: Support a sustainable financial future for the council, through service development, improvement and transformation</i>	<b>A council which empowers and cares about people</b>  <i>Priority: Work together with our residents and our partners to support people and communities to be strong and resilient.</i>	<b>A thriving and sustainable place</b>  <i>Priority: Reduce impact on the environment</i>
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### *Equality, Diversity and Inclusion*

32 An Equality Impact Assessment has been completed and is included at Appendix D to this report, which includes consideration of the consultation feedback received.

### *Human Resources*

33 The Community Enforcement team consists of 6 Community Enforcement Officers who are deployed across the entire borough. These Officers currently look at a wide variety of potential enforcement

matters, such as fly tipping and abandoned vehicles, alongside those responsibilities which relate to the subject of this paper.

- 34 Therefore, considering the limited resource availability in this area any increased requests for patrols associated with the extension of these' Orders will have to be considered whilst taking account of the available staff resource capacity at the time.

### *Risk Management*

- 35 The key risk for consideration is the reputational impact on the Council in the event that the Orders are allowed to lapse and hence the limitations this would then place on enforcement action.
- 36 There are also risks relating to the continued resource availability with the Community Enforcement team which are set out in the previous section of this report.

### *Rural Communities*

- 37 There are no specific implications for rural communities as a result of this report, as one of the Orders being considered for extension is applicable borough wide.

### *Impact on Children and Young People*

- 38 There are no specific implications for children and young people as a result of this report, other than those set out within the Public Health section at paragraph 35.

### *Public Health*

- 39 Dog fouling is unpleasant, a nuisance and can be a hazard to health large percentage 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.
- 40 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.
- 41 We recognise that most dog owners are responsible and clean up after their pets, but a small minority continue to cause problems.

## Climate Change

- 42 There are no specific implications for climate change as a result of this report.

<b>Access to Information</b>	
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Appendices:	Appendix A – draft Extension of Order boroughwide  Appendix B – draft Extension of Order Carrs Park, Wilmslow  Appendix C – Consultation Report  Appendix D – Equality Impact Assessment (updated post consultation)
Background Papers:	NA