

Cabinet

Date of Meeting: 6th October 2020

Report Title: Public Space Protection Orders (PSPO) Consultation Results

Portfolio Holder: Cllr Mick Warren – Portfolio Holder for Communities

Senior Officer: Mark Palethorpe – Executive Director of People

1. Report Summary

- 1.1. The purpose of this report is to seek authorisation to extend the Public Space Protection Orders (PSPO's) made in October 2017, relating to Dog Fouling and Dog Control and transfer the legal status of the previous gating schemes that required a "Gating Order" (under the Cleaner Neighbourhoods and Environmental Act 2005) across the borough to a consolidating PSPO.
- 1.2. 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.

2. Recommendation

- 2.1. It is recommended that Cabinet:

Agree the extension of the existing Public Space Protection Orders, in accordance with s.60 (2) of the Anti-Social Behaviour Act 2014 for a further period of 3 years from 20th October 2020 relating to the boroughwide Dog Fouling and Dog Control, Carrs Park, Wilmslow and transfer the legal status of the previous gating schemes that required a "Gating Order" (under the Cleaner Neighbourhoods and Environmental Act 2005) across the borough to a consolidating PSPO.

3. Reasons for Recommendation

- 3.1. On the 5th February 2020 The Portfolio Holder for Communities authorised the commencement of necessary consultation on three Public Space Protection Orders (PSPO's) two of which relating to dog fouling and dog control and one relating to Gating Orders within the borough. This was carried out in accordance with Section 72 of the Anti-Social Behaviour Crime and Policing Act 2014. The consultation ran from 29th June 2020 for a period of 6 weeks until the 10th August 2020. The normal process for consultations of this nature would run for a 4 week period but due to the circumstances relating to the Covid Pandemic, the above dates allowed for a 6 week period to provide a longer time period for people to respond. Comments received have been taken into consideration and approval is now sought In line with the above recommendations.
- 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 and those at risk of causing anti-social behaviour.
- 3.3. A requirement of the Act is for The Council to review its existing PSPO's within a three year period. This is achieved through a consultation process, the outcomes of which will determine whether to extend, vary or discharge or simply to allow to lapse, those orders.
- 3.4. The current PSPO for Dog Fouling and Dog Control came into force on the 1st November 2017 and states "if a dog defecates at any time on land to which this part of the Order applies, and the person who is in charge of the dog at that time fails to remove the faeces from the land forthwith", that person shall be guilty of an offence of breaching the order. The Carrs Park, Wilmslow was the subject of a Dog Control Order 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 Ant-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.
- 3.5. The PSPO relating to the Carrs Park, Wilmslow created 4 offences, including Dog Fouling, Total number of dogs a person can take on the land

is 4, a person needs to keep a dog on a lead and a person does not comply to a direction by an authorised officer to put or keep a dog on a lead.

- 3.6. The terms of the DCO / Interim PSPO relating to the Carrs Park, Wilmslow created 4 circumstances in which the order would be breached, including dog fouling, total number of dogs a person can take on the land is 4, a person needs to keep a dog on a lead and a person does not comply to a direction by an authorised officer to keep or put a dog on a lead.
- 3.7. Cheshire East Council made a total of 11 Gating Orders which were established between 2008 and 2010. 9 of these gating orders in Crewe, with a further scheme in Middlewich and Macclesfield. Full details of these gating orders are available on the Cheshire East Website. As noted at paragraph 3.5 above, by virtue of the provisions of the Anti-social Behaviour Police and Crime Act 2014, (S 75) within 3 years the commencement of the Act (that is by 19th October 2017) all existing Gating Orders across Cheshire East automatically transitioned into Public Space Protection Orders (PSPO's) for the maximum length of three years.
- 3.8. A requirement within the act is for the Council to review its existing PSPO's within the 3 year lifetime of the PSPO as in accordance with s.60 of the Act, a PSPO cannot have effect for more than 3 years, unless extended under s.60 (2). This section 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.

4. Other Options Considered

- 4.1. Cease the enforcement for dog fouling and dog control covered by the boroughwide and the Carrs Park, Wilmslow PSPO.
- 4.2. Allow the current Gating Orders to lapse.

5. Background

- 5.1. The introduction of the boroughwide PSPO for dog fouling and dog control has led to the issue of 146 Fixed Penalty Notices (FPN's). 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.
- 5.2. The consultation in respect of the boroughwide PSPO resulted in 341 responses, overwhelmingly a high percentage of the respondents either agree or strongly agree with the extension of the current order until 2023.

- 5.3. Of those that chose to respond, just under 96% of the respondents were residents of Cheshire East, combined with a good balance of postcode areas in relation to survey responses.
- 5.4. The responses in general were lower than that of the 1428 obtained from the original consultation which was ran in 2017 when the order was introduced. A Summary Report of the boroughwide PSPO consultation is attached as Appendix A to this report. The reduction in responses could partly be due to the Covid lockdown period, but likely that this is not a new order and the Council are not looking to add or take anything away from the current order.
- 5.5. A total of 42 responses were received in relation to the Carrs Park, Wilmslow PSPO. (A copy of the Summary Report is attached as Appendix B). Overwhelmingly, a high percentage of the respondents either agree or strongly agree with proposal for the Public Spaces Protection Order (PSPO) at the Park with many of the responders from the SK9 area, relevant to the Parks location.
- 5.6. The responses in general were low, however the council do not have any statistics to compare this to when the original Dog Control Order was introduced in 2012. Again, the Covid period may be a contributory factor but also that this order although being proposed as a “new order” did not change or amend anything that were in the 4 separate orders in relation to this area.
- 5.7. Since November 2017 (up until 31 July 2020) patrols have issued 78 Fixed Penalty Notices for breach of PSPO within the Wilmslow area. Although the council cannot confirm that every Fixed Penalty Notice (FPN) issued is in relation specifically to Carrs Park, it is highly likely that the majority of these are.
- 5.8. There is support for the Council to consider, more enhanced prohibitions on the Order to control other issues relating to dog control. The highest response with regards to the boroughwide PSPO for Dog Fouling and Dog Control was in relation to a condition requiring those people with a dog in their control being able to supply on request evidence of means by which they intend to clear the dogs foul up with, of which just under 86% of responses were in favour.
- 5.9. An extension to the current Dog Fouling and Dog Control Orders would also give the Council an opportunity to further review our parks and open areas to look at amending the existing PSPO's. Further community engagement and consultation can be undertaken to 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.

- 5.10. The consultation relating to the current Gating Order PSPO's was consistent with the time period applied to the Dog Fouling and Dog Control consultation (6 weeks) similarly to account for the Covid lockdown, though the process used was different.
- 5.11. A total of 630 Resident letters (Appendix C) were hand posted to properties affected by the council's intentions to transfer the legal status of the previous gating schemes that required a "Gating Order" (under the Cleaner Neighbourhoods Environmental Act 2005) to a consolidating Public Spaces Protection Order (PSPO) under the provisions of the 2014 Anti-social Behaviour, Crime and Policing Act'.
- 5.12. A copy of the draft Order (Appendix D) which includes details of the restrictions, locations and barrier numbers was attached to the correspondence with links to the Council website address for further information relating to Gating Orders.
- 5.13. As part of the consultation, the Council invited residents who 'Do Not Agree' with the provisions of the draft consolidated PSPO to respond using either a unique council consultation e-mail address or writing to the Council with their reasons.
- 5.14. No objections were received during the consultation period to the Council in relation to the proposals set out in the Residents Letter from the responders residing in any of the areas involved in the consultation process.
- 5.15. There are indeed other barriers in the borough which have not been included in the draft order for consultation. The reason for this is that, there not being available, copies or any other documents indicating the existence of an order covering these sites.
- 5.16. Given the forthcoming expiration of the order the subject of the consultation and the added difficulties posed by Covid 19, the council has had to concentrate on, those sites known to be currently regulated.
- 5.17. The result of this is that those gated sites not listed in the draft consolidated PSPO do not have the benefit of the provisions of a statutory PSPO and its associated enforcement powers to prevent use of this stretch of highway.
- 5.18. That said, if when reviewing the future of these unregulated sites, officers can be satisfied that it the grounds set out in the draft of the PSPO out for consultation, also exist at the sites of these unregulated barriers, then it is

entirely possible for the Council to consider making a new PSPO governing these sites.

- 5.19. Full details of all consultations were published on the Councils website with circulation provided via e-mail to all Local Elected Members. A press release was also provided giving information on each of the consultations and incorporated the appropriate links to encourage responses. Details of the Dog Fouling and Dog Control consultation was circulated to town and Parish Councils and details of the Gating Order PSPO's placed on the Crewe Town Council website and social media platforms across Crewe Town.
- 5.20. Details of the Consultation processes for each PSPO have been shared with partners of the MAAG (Multi Agency Action Group) as per Council's procedure. Partner agencies within the group membership also agreed to share the information on their own social media platforms to encourage their customers and service users to respond.
- 5.21. An extension provided to the current PSPO's would not affect the amounts charged in relation to fines. 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.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. 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.
- 6.1.2. The Council will erect new signage once approval for the extension of the Orders has been approved.

6.2. Finance Implications

- 6.2.1. The consultation process in relation to Dog Fouling and Dog Control has received several requests for signage to be reviewed and/or refreshed to make sure that relevant signage is in place to support the Orders, (if extended).
- 6.2.2. This process will also need to be adopted in respect of the Dog Control Order and Gating Orders at the appropriate sites across the borough.
- 6.2.3. Quotations for the costs associated with the signage have been calculated at approximately £2000.

6.2.4. Representatives of the Safer Cheshire East Partnership (SCEP) including The Police and the Police and Crime Commissioners office (PCC) have approved the use of SCEP funding to support the provision and installment of signage.

6.3. Policy Implications

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

6.3.2. The elements of this report are being fed into the current enforcement review being carried out internally by the Council.

6.3.3. All enforcement actions and decisions will be taken in accordance with Cheshire East Council's Enforcement Policy (also currently under review).

6.4. Equality Implications

6.4.1. Equality Impact Analysis/Assessments have been completed and approved by the Head of Service. It will be necessary to review the outcomes of the consultation process to identify any actions arising from the initial analysis/assessments. (Appendix E)

6.5. Human Resources Implications

6.5.1. Training and guidance has already taken place for operational staff involved in the enforcement of PSPO's.

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

6.5.3. Officers are delegated with the powers via the Council's Constitution and Schemes of Delegations.

6.6. Risk Management Implications

6.6.1. The current resource provision for the Council to issue Fixed Penalty Notices (FPN's) is provided by 5 Community enforcement Officers, one Senior Community Enforcement Officer and 2 externally contracted environmental enforcement officers who are authorised to prosecute on those who breach PSPO's.

6.6.2. The Council as part of its commissioning arrangements has extended the contract for the external environmental enforcement delivered by LA Support (part of the Kingdom Group) be extended to the 31st December 2020. Commissioning are currently working to provide an 'Exit Strategy' to de-commission the service beyond this time.

6.7. Rural Communities Implications

6.7.1. 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.

6.8. Implications for Children & Young People/Cared for Children

6.8.1. 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. 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.

6.9. Public Health Implications

6.9.1. Refer to 6.8.1.

7. Ward Members Affected

7.1. All Ward and Ward Members

8. Access to Information

8.1. Appendix A – Consultation report Dog Fouling and Dog Control

8.2. Appendix B – Consultation report – Carrs Park, Wilmslow

8.3. Appendix C – Gating Orders – Residents Consultation Letter

8.4. Appendix D – Draft Consolidated PSPO Gating Order

8.5. Appendix E – Equality Impact Assessment – Gating Order Consultation

8.6. Appendix F – Equality Impact Assessment – Dog Fouling Consultation

9. Contact Information

9.1. Any questions relating to this report should be directed to the following officer:

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