

Dog Public Spaces Protection Order Amendments

Overview & Scrutiny Panel 18th February 2021

Report Author	Jasmin Vickers - Secondment Director of Environment
Portfolio Holder	Cllr Steve Albon, Cabinet Member for Operational Services
Status	For Decision
Classification:	Unrestricted
Key Decision	Yes
Reasons for Key	Significant effect on communities
Previously Considered by	Cabinet - 17th October 2017
Ward:	All Thanet Wards

Executive Summary:

In 2017 Thanet District Council consulted on a new dog Public Spaces Protection Order (PSPO) for dog fouling, exclusion and dog control, this was adopted and came into force on 25 October 2017 and extended until 25 October 2023.

This report proposes Thanet District Council make minor amendments to the current PSPO which will be valid until 2023, and includes the results of recent public consultation on this matter.

Recommendation(s):

OSP Panel to make recommendations, comments or observations prior to the following;

Cabinet Member for Operational Services approves that the current PSPO is amended to last until 2023 and adopted in accordance with the Anti-Social Behaviour (ASB), Crime and Policing Act 2014.

Corporate Implications

Financial and Value for Money

There will be some budgetary impact following the amendment of the PSPO. This will include the continued provision of adequate signage, and raising public awareness through Education campaigning. This is estimated to be in the region of £5,000 and will be met from existing budgets from within both Coastal and Enforcement service.

Community Impact Statement

The purpose of the amending the PSPO is to improve the local area for the whole community who live there and those who are visiting. There will be need for some monitoring of compliance to ensure these genuinely represent the full range of diverse communities that make up the area. Any planned amendments to the PSPO should be to the benefit of all communities rather than for any particular group.

CONSULTATION

A public consultation was held from 18 November to 22 December this included;

TDC Release, Posters in Open Spaces across the District Beaches, Postal Form, Website and Online Form (frequently asked questions on an online form encouraging people to reply. During this time certain key stakeholders were consulted including; Kent Chief of Police, Parish and Town Councils, The Dogs Trust, Kennels, The Kennel Club, Kent Wildlife Trust, Local Vets, Coastal Groups, KCC, Keep Britain Tidy, Blue Flag Group.

Full results of the consultation can be found in Annex 5 (b-d) and are summarised as follows:

- i) Westbrook Bay - Currently dogs must be kept on a lead - amending to Dogs not allowed on the beach between 10am and 6pm 1 May- 30 September to maintain the Blue Flag Award : Results 42% For, 52% Against.
- ii) Pegwell Bay - amend to cover upper chalk shore to protect endangered wildlife: Results 49% For, 32% Against
- iii) The activities that could be banned to protect wildlife not in our existing PSPO; Humans and dogs interfering with, trapping or attempting to trap or snare or disturb any wildlife on council owned land : Results 75% For, 18% Against

During the consultation period we had a total of 259 responses, 244 of these were online responses and 14 email responses, 1 paper post.

The consultation responses demonstrate that there is strong evidence to support the proposed amendments of the PSPO.

Engagement, education and ultimately enforcement of the PSPO is required to ensure that it is followed. This will be undertaken by Thanet District Councils Foreshore Officers, Dog Warden Service, Enforcement Education Officer, Bay Inspectors, PCSOs and other council authorised representatives. Targeted patrolling of problem areas to take place as at present, offering leaflets and advice to dog walkers. Fixed Penalty Notices to be issued immediately to dog fouling or dog control offenders, and to repeat offenders for dog exclusion zones. Education and advice through stencils and signage district initiatives to be continued as at

present. Beach signs are clearly posted and available to view on the TDC webpage showing the PSPO Map, and are also present at every relevant bay and beach in the district.

Legal

This decision will enable Thanet District Council to issue fixed penalty notices further to powers given under the Anti-social behaviour act 2014, Part 4 Legislation. Section 68 of the Act provides that an authorised person may issue a fixed penalty notice to anyone he or she has reason to believe has committed an offence under section 63 or 67 in relation to a public spaces protection order. A fixed penalty notice is a notice offering the person to whom it is issued anthe opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to a local authority specified in the notice. The local authority specified must be the one that made the public spaces protection order.

Corporate

Without the decision Thanet District Council will be unable to update Schedule 1 and enforce against Dog related anti social behaviour on newly awarded Blue Flag beaches and protected wildlife areas.

Equality Act 2010 & Public Sector Equality Duty

Cabinet Members when making decisions on the recommendation of this report are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership. The equality statement is a continuing one and should be considered and reviewed throughout the duration of the order. The Cabinet Member is referred to the community impact statement section of the report

The report states that consultation has been carried out. The Law requires the decision maker to conscientiously take into account the outcome of consultation when taking a decision on the proposal. The Cabinet Member is referred to the consultation section of the report.

Compliance can only be achieved if we can evidence that due regard is given in substance, this means starting your assessment at the beginning of your piece of work and updating it throughout. Completing the assessment at the end or after a decision is taken will not satisfy the Duty.

Where an assessment is required please summarise the key findings here and append your full analysis to the report with any personal data redacted.

Please see the equality compliance toolkit on TOM or contact the Legal Department for assistance.

Part 3 of the council's constitution, allows the Leader to delegate to an individual Cabinet member or an Officer. The report confirms that the Leader delegated authority to the Director of Housing and Planning, in consultation with the Cabinet Member for Operational Services, to approve minor amendments to the policy at the cabinet meeting on the of 2020.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Environment
- Communities

1.0 Introduction and Background

- 1.1 A Public Spaces Protection Order (PSPO) is not the same as a byelaw. PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. To justify a PSPO there has firstly to be evidence of a nuisance, and secondly that the effect (or the likely effect) of the activities is of a persistent nature making the behaviour unreasonable and rendering the notice justified.
- 1.2 It does this by imposing conditions on the use of that area, which apply to everyone. Orders are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from antisocial behaviour.
- 1.3 In 2017 Thanet District Council consulted on a new dog fouling and dog control Public Space Protection Order which covered dog fouling, dog exclusion and dog control, this was subsequently adopted 25 October 2017 and extended until 25 October 2023.
- 1.4 Public Space Protection Orders are valid for 3 years after which they have to be extended.

2.0 The Current Situation

- 2.1 The impact of the original order (2017) (See Annex 1) and the three year PSPO restrictions have had a positive impact and helped prevent detrimental effects on the quality of the district's coastal water, the quality of cleanliness on Thanets 21 blue flag (See Annex 3) and seaside award winning beaches, and protection of our coastline, cemeteries and playgrounds. The order has helped protect the diversity of bird populations and wildlife at Pegwell Bay upper chalk shore, mudflats and

saltmarsh. The order has protected the quality of public health and welfare through enforcement which has been helping promote cleaner beaches, parks, churchyards and fenced playgrounds.

- 2.2 Residents and visitors have understood the traffic light system which controls dog exclusion areas, and the maps have been published on-site, on social media, websites and newspapers to show where you can walk your dog. Continuing with the current traffic light system will keep consistency of understanding and continue the clear message. Various residents and groups have shared the dog code and it has been used positively.
- 2.3 Every season dog code leaflets and signs are distributed to dog walkers, bay inspectors, tourist offices, beach shops, cafes and restaurants. Ensuring the traffic light system stays in use for a further three years will provide further consistency and ensure the understanding of the PSPO is further imbedded into the community.
- 2.4 We are suggesting that the new PSPO will be the same as that which has been in force for the last three years. We have suggested only the following changes to Schedule 1;
 - i) Westbrook Bay - Currently dogs must be kept on a lead - amending to Dogs not allowed on the beach between 10am and 6pm 1 May- 30 September in order to confidently maintain the Blue Flag Award
 - ii) Pegwell Bay - amend to cover upper chalk shore to protect endangered wildlife
 - iii) The activities that could be banned to protect wildlife not in our existing PSPO; Humans and dogs interfering with, trapping or attempting to trap or snare or disturb any wildlife on council owned land.
- 2.5 The Council Plan from 2020 sets out the commitment to 'Healthy and Inclusive communities' and to safeguard open spaces.

3.0 Options

The following options are to be discussed by the Overview and Scrutiny Panel prior to the decision being taken to Cabinet in March.

3.1 Option 1

That the current PSPO is altered to support the suggested minor amendments until 2023 and adopted in accordance with the Anti-Social Behaviour (ASB), Crime and Policing Act 2014 to include the following restriction;

District-wide (any place to which the public or any section of the public has access. On payment or otherwise, as a right or by virtue of express or implied permission):

- a) Westbrook Bay - Currently dogs must be kept on a lead change to dog ban in bathing season. As people voted against this change in the consultation, no amendment or change will be made.

b) Pegwell Bay - amend to cover upper chalk shore to protect endangered wildlife. Feedback from consultation was positive with regard to this change therefore we should amend the PSPO accordingly.

c) The activities that could be banned to protect wildlife not in our existing PSPO; Humans and dogs interfering with, trapping or attempting to trap or snare or disturb any wildlife on council owned land. Feedback from consultation was positive with regard to this change therefore we should amend the PSPO accordingly.

3.2 Option 2

Not to amend the PSPO. However this would have a detrimental effect on the issues highlighted in Option 1, items b and c which the public feedback was in support of amending.

3.3 Option 3

To amend the order for in favour of all three proposals, including item a) Westbrook Bay - amending to Dogs not allowed on the beach between 10am and 6pm, 1 May-30 September. This would be acting against the majority feedback from the consultation. However this would secure the attainment of the Blue Flag Award.

3.4 Option 4

Consult again on the Westbrook issue, explaining the Blue Flag Implications and targeting local residents more via parish council, explaining the ban is only seasonal and between set hours to ensure they fully understand this.

Contact Officer: Lisa Collingwood (Education Enforcement Officer)
Reporting to: Jasmin Vickers (Acting Director of Environment)

Annex List

Annex 1: [TDC PSPO 2017](#)

Annex 2: [TDC Website Dog PSPO](#)

Annex 3: [Blue Flag Criteria](#) Criterion 23.

Annex 4: [Section 60 of the Act](#)

Annex 5: a) [The Kennel Club response to TDC Dog PSPO October 2020](#)
[The Kennel Club 2nd response to TDC Dog PSPO amendments](#)

b) [Online responses 1](#)

c) [Email responses](#)

d) [Online responses](#)

Annex 6: [New Schedule 1](#)

Annex 7: [Beach Awards 2020](#)

Background Papers

Title: [Amended Proposal 2017](#)

Corporate Consultation

Finance: Chris Blundell (Director of Finance)

Legal: Jennifer Phillips (Law and Democratic Services)