



**Cabinet**

**Tuesday, 8 March 2022**

**PSPO - Dog Control**

## **Report of the Director – Neighbourhoods**

### **Cabinet Portfolio Holder for Environment and Safety, Councillor R Inglis**

#### **1. Purpose of report**

This report provides the evidence required to apply a PSPO (Public Space Protection Order) for Dog Control.

#### **2. Recommendation**

It is RECOMMENDED that the proposed Public Space Protection Order for the control of dog related anti-social behaviour as set out in Appendix 1 be endorsed and recommended for approval by Full Council.

#### **3. Reasons for Recommendation**

The Council has completed extensive consultation, which overwhelmingly supports the adoption of a PSPO for the control of dogs within the Borough.

#### **4. Supporting Information**

- 4.1. The Dogs (Fouling of Land) Act 1996 enabled the Council to make designation orders to make dog fouling an offence on certain land. The Clean Neighbourhoods and Environment Act 2005 revoked the Dogs (Fouling of Land) Act 1996; however, the 1996 Act continues to apply to any land designated prior to that until such time as the designation is superseded by a dog control order made under the 2005 Act. Whilst these powers have been helpful, they importantly do not cover unadopted land such as that found on the many new housing estates across the Borough. The effect of this means that enforcement is not currently possible in these areas.
- 4.2. Other local arrangements exist for the control of dogs in certain areas, for example churchyards and the banning of dogs on playing fields etc. However, it is important to note that these are not enforceable.
- 4.3. At its meeting on 28 January 2021, the Communities Scrutiny Group requested that officers assess the feasibility of a PSPO for dog control.
- 4.4. The Anti-Social Behaviour, Crime and Policing Act 2014, provides powers for local authorities to introduce measures to address anti-social behaviour in

public places. PSPOs' are flexible enforcement tools which apply to a broad range of issues and are designed to control individuals or groups from committing anti-social behaviour in a public space. To utilise the powers the Council must be satisfied on reasonable grounds that activities carried out in a public space will have or are likely to have:

- A detrimental effect on the quality of life of those in the locality
- Are persistent or continuing in nature
- Are unreasonable
- And justify the restrictions imposed.

4.5. A PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. There is no limit on the number of times an Order may be reviewed and renewed.

4.6. Failure to abide by the order may result in the issue of a fixed penalty of £100 with an early repayment reduction to £60, which if not paid may result in prosecution (maximum fine £1000 for most offences). It should be noted that revised statutory guidance was issued in 2018 which specifically states that:

*“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, by imposing conditions on the use of that area which apply to everyone. They are designed to ensure that the law-abiding majority can use and enjoy public spaces safe from anti-social behaviour”.*

4.7 The Council undertook two consultations, the first involved a preliminary consultation with town and parish councils and took place in June 2021. A summary of the responses can be found in Appendix 2. The second was the formal consultation which ran from 1 November 2021 to 16 December 2021, it received 703 responses. A summary of the formal consultation can be found in Appendix 3 but in essence was overwhelmingly supportive of the additional controls proposed.

4.8 Responses from both the Police and Crime Commissioners office and the local neighbourhood Police inspector are supportive.

4.9 Response from Tollerton Parish Council provided within Appendix 2 requests that land under the parish councils ownership, that is to say the open space on Lothian Road be excluded from the PSPO. However, further dialogue is in progress with Tollerton Parish Council to explore if this remains their final position on the matter.

- 4.10 Following the consultation it is proposed that the PSPO includes the following controls:

#### 4.10.1 Dog Fouling

- (a) The proposed PSPO largely reinforces the previous dog fouling order but importantly covers all land in the Borough to which the public have access.
- (b) The proposed PSPO creates a new offence requiring a person in charge of a dog on land (described above) to have with them an appropriate means to pick up dog faeces deposited by that dog (subject to certain exemptions).

#### 4.10.2 Dogs to be kept on leads in specified areas

The proposed PSPO specifies certain areas in schedule 1 where dog(s) must be kept on a lead. The only area where this is to be mandated is designated and signed areas within Rushcliffe Country Park.

#### 4.10.3 Dog Exclusion Areas

The proposed PSPO specifies certain areas where dogs are excluded (not permitted). Schedule 2 proposes that this applies to all children's play areas, multi-use games areas, skate parks and gym equipment zones which are either fenced or enclosed.

- 4.11 The overall feedback emerging from the consultation was very supportive. Some Parish Councils requested additional controls each of which has been considered in its own right. The Department for Environment, Food and Rural Affairs published specific guidance on the use of PSPOs for the control of dogs. It states that where parish and town councils wish to deal with dog control issues, they are advised to approach the relevant authority, including whether a PSPO would provide the means to address the issues being experiencing by the local community. If the principal authority (the Council) is satisfied that the legal tests for the use of the power are met and that it is a proportionate response to the level of harm and nuisance being caused it should consider consulting on putting in place a PSPO. In many cases it was considered that the legal test for additional controls was not met. Evidence of complying with that test would include number of complaints received etc.

#### 4.12 Enforcement

At its meeting on 28 January 2021, the Communities Scrutiny Group heard that the resources available to undertake enforcement of the dog fouling order was very limited. The Council employs two dog wardens who are also the Council's pest control officers. As a consequence the time available for undertaking dog fouling patrols is limited. Members will be aware that capacity to undertake a range of enviro-crime has been increased through the extended enforcement

trial with WISE. All enforcement activities are closely monitored by officers to ensure action is proportionate and in the public interest.

4.13 Enforcement of the PSPO will be undertaken by following the four E's principles:

- I. Engage - Strong communications campaign
- II. Explain
- III. Encourage
- IV. Enforce

4.14 Enforcement will be intelligence-led and proportionate and only undertaken as a last resort.

## **5. Alternative options considered and reasons for rejection**

The Council could decide not to approve a PSPO. The pre - existing dog fouling order would continue in force as would any pre-existing local arrangements.

## **6. Risks and Uncertainties**

The risk of proceeding with powers, which are beyond those which the public and key stakeholders considers are required is that those powers are seen to be unfair or unreasonable, which could be to the detriment of the reputation and effectiveness of the Council

## **7. Implications**

### **7.1. Financial Implications**

7.1.1 Implementation costs will be contained within existing budgets. This will include the requirement for additional signage which is expected to cost in the region of £1500.

7.1.2 Enforcement will predominantly be undertaken by WISE (enforcement contractor) which will be undertaken on a cost neutral basis.

### **7.2. Legal Implications**

This reports supports the use of statutory powers to deal with dog related anti-social behaviour. If approved the order will need to be reviewed every three years and a duty to consult thereafter where an extension is proposed.

### **7.3. Equalities Implications**

An Equalities Impact Assessment has been undertaken which identified no major or adverse impact.

### **7.4. Section 17 of the Crime and Disorder Act 1998 Implications**

The implications of the Crime and Disorder Act have been considered.

## 8. Link to Corporate Priorities

Quality of Life	Ensuring that appropriate controls are in place to control dog related anti-social behaviour.
Efficient Services	None
Sustainable Growth	None
The Environment	Helps to ensure an attractive and clean environment which has a positive impact on residents and business

## 9. Recommendation

It is RECOMMENDED that that the Public Space Protection Order for the control of dog related anti-social behaviour as set in Appendix 1 be endorsed and recommended for approval by Full Council.

<b>For more information contact:</b>	Geoff Carpenter Service Manager Neighbourhoods 0115 9148229 gcarpenter@rushcliffe.gov.uk
<b>Background papers available for Inspection:</b>	Report to Community Scrutiny Group 28 January 2021
<b>List of appendices:</b>	Appendix 1 – Draft PSPO Order 2022 Appendix 2 – Summary of Parish Council responses to consultation 2021 Appendix 3 – Summary of Public Consultation Responses 2021