

ARUN DISTRICT COUNCIL

REPORT TO AND DECISION OF CABINET ON 19 OCTOBER 2020

SUBJECT: Public Spaces Protection Order (PSPO) Dog Controls 2020-2023

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DATE: 17 September 2020

EXTN: 37683

PORTFOLIO AREA: Technical Services

EXECUTIVE SUMMARY:

This report informs Cabinet of the findings of a public consultation exercise to review the existing Public Spaces Protection Order (PSPO) Dog Controls which expires in October 2020 and recommends to Cabinet options for a new PSPOs to be effective from 06 November 2020.

RECOMMENDATIONS:

It is recommended that Cabinet resolve to adopt the proposed Public Space Protection Orders, to be effective from 06 November 2020.

The proposed Public Space Protection Orders are shown in **Appendix A**.

- a. The Fouling of Land by Dogs.
- b. Dogs on Leads by Direction.
- c. Dogs Exclusion.
- d. Dogs on Leads.

1. BACKGROUND:

1.1. Overview

- 1.1.1. In October 2017 The Fouling of Land by Dogs (Arun District Council) Order 2009, The Dogs Exclusion (Arun District Council) Order 2009, The Dogs on Leads (Arun District Council) Order 2009, The Dogs on Leads by Direction (Arun District Council) Order 2009 transferred into PSPOs in Arun.

- 1.1.2. PSPOs were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 (The Act) as a tool to tackle anti-social and nuisance behaviour which has a widespread, negative impact on local communities. It enables the Council to require and/or prohibit certain behaviour in defined geographical areas. Failure to comply with the requirements of an approved PSPO results in a criminal offence being committed and either a fixed penalty notice (FPN) being issued or a level 3 fine being issued on summary conviction (£1,000).
- 1.1.3. PSPOs expire after a period of 3 years. Therefore, it is incumbent on the Council to review the status of the Orders and determine whether to amend, renew, or discharge them.
- 1.1.4. A PSPO should only be used to tackle anti-social behaviour where there is clear evidence that it causes significant nuisance to a community.
- 1.1.5. By virtue of The Act, the Council is obliged to consult with the Police and Crime Commissioner, the Chief Police Officer, the owners and occupiers of land within the restricted areas, and any other community representatives the local authority thinks appropriate. In order to obtain a range of views, public consultation took place on a district wide basis from 6 July 2020 to 17 August 2020 and included seeking the views of Arun DC Members, town and parish councils, and other organisations that may have an interest in this matter.
- 1.1.6. An online survey was available for completion via the Council's website and was widely advertised via local press. Cabinet is advised that residents, community representatives, statutory partners and interested local organisations had a reasonable opportunity to consider the draft proposals as contained in the consultation and express their views.
- 1.1.7. During the term of the current PSPOs, the Council has continued to receive reports from members of the public regarding nuisance caused by dogs across Arun district.
- 1.1.8. Section 59 of The Act states that, to impose an Order, the Council must be satisfied on reasonable grounds that the following two conditions are met:
 - Condition 1
 - a. The activities carried out in a public place have a detrimental effect on the life of those in the locality, or;
 - b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.
 - Condition 2
 - a. Is or is likely to be of a persistent and continuing nature.
 - b. Is or is likely to be such as to make the activities unreasonable, and
 - c. Justifies the restrictions imposed by the notice.

1.2. Consultation

- 1.2.1. The proposed amendments to the existing PSPOs included in the consultation were based upon feedback from ADC officers and their practical experiences in managing both land and enforcement issues in relation to dog controls.
- 1.2.2. The amendments are considered relatively minor with the aim of fine tuning the existing controls which have developed from byelaws over a period of 30 years, whilst taking into account the improvements in responsible dog ownership, balancing the needs of dog owners and non-dog owners, the needs of persons with a disability and limited resources for enforcement when dog owners are not

responsible.

1.2.3. **The consultation sought views on amending the Fouling of Land by Dogs** requirement for owners to pick up after their dog, which applies to all land in the open air which the public have access to, by simplifying the definition of excluded land, to land used for agriculture or for forestry to assist clarity for dog owners and for enforcement purposes.

1.2.4. **The consultation sought views on amending the Dogs on Leads requirement:**

(i) to include Marine Park Gardens, Bognor Regis and Marina Gardens Littlehampton. Currently dogs are excluded from these gardens but it is proposed that responsible dog owners have access to the gardens with their pets under control as occurs in other gardens.

(ii) To require dogs to be kept on a short lead in cemeteries and churchyards to ensure the gravestones and grounds are treated with due respect and reflecting Cemeteries Regulations. Short lead to be defined as a fixed length or extendable lead not exceeding 2 metres in length.

(iii) Rename 'Felpham Beach Huts' as 'Felpham Beach Hut Greenswards (East & West)' for clarity.

1.2.5. **The consultation sought views on amending the Dogs Exclusion requirement**

(i) To include the miniature railway track at Norfolk Gardens/Mewsbrook Park which is not an appropriate area to exercise a dog for practical safety reasons and to enable a clear and consistent boundary for the excluded area as the railway track borders an existing excluded area.

(ii) Move the western boundary of the beach exclusion area in Bognor Regis from Park Road to the ramp at Bognor Yacht Club to reflect the practice of individuals, particularly those with limited mobility, using the ramp to access the beach and promenade.

(iii) Change Marine Park Gardens, Bognor Regis and Marina Gardens Littlehampton to dogs on leads, see 1.2.4.(i) above.

(iv) Remove specific reference to Blakes Road Leisure Gardens as it is included under the general definition of land included as it consists of a putting green and tennis courts.

1.2.6. The consultation sought views on **not** amending the **Dogs on Leads by Direction requirement**.

1.2.7. The consultation survey results are attached to this report as **Appendix B**.

1.3. Consultation Outcomes

1.3.1. A summary of responses from the public to the draft PSPO proposals are summarised in **Appendix C** (NB not all responders answered all questions). A total of 1036 responses were received, 622 were dog owners, 11 were from interested or charitable organisations.

1.3.2. The key outcomes of the consultation in relation to proposals to tackle anti-social behaviour and nuisance through dog controls are:-

- 1012(98%) respondents were in favour of the continued use of the PSPO (as amended) to require dog owners to remove dog faeces.

- 941(91%) respondents were in favour of the continued use of the PSPO (as amended) to require dogs to be kept on leads in specific areas.
- 823(82%) respondents were in favour of the continued use of the PSPO (as amended) to exclude dogs from specific areas and lengths of beach.
- 984(96%) respondents were in favour of the continued use of the existing PSPO to enable an authorised officer to require a dog owner to put their dog on a lead.

1.4. Resources Education and Enforcement

- 1.4.1. A significant number of responses (100,(20%)) to the consultation referred to the need for more and effective enforcement. The Council can authorise officers, including its own and those of partner organisations, to enforce the Orders.
- 1.4.2. The Council's dog control enforcement is delivered by way of a contract with East Hampshire District Council (EHDC) covering litter and dog control enforcement. This was piloted from May 2017, for 12 months and initially only covering dog fouling (and littering). The receipts from the fixed penalty notices issued cover the cost of the officers' time, meaning that the enforcement capacity is provided at no cost to Arun District Council. The combined contract provides a way of cross subsidising notoriously difficult dog fouling enforcement from more readily evidencable littering offences.
- 1.4.3. Following review and recommendation by the Environment & Leisure Working Group, a multi-year contract was entered into which expanded the scope of the enforcement work to include the other dog control orders (dog exclusion and dogs on leads). The fixed penalty notice "fine" levels" were also increased in 2018 to the maximum £100, though discounted to £75 if paid within 14 days. Contract management responsibility was transferred from the Licensing Team to the Cleansing team from April 2019.
- 1.4.4. Enforcement patrols are principally in high footfall areas, though to a limited extent they can be directed at areas on an intelligence-led basis. The arrangement with EHDC is such that additional patrols may also be purchased on a day-rate basis. This has been utilised during the summer seasons of 2018 and 2019 along the foreshore and coastal strip in the west of the district utilising external funding from Southern Water as part of the Bathing Water Enhancement Programme. These were principally educational patrols used to interact and inform the public about dog and litter controls, though enforcement action was taken if offences were witnessed.
- 1.4.5. Enforcement of dog controls in some parts of the district has been hampered by the adequacy of signage. If the PSPOs are adopted, signage will be reviewed and updated. This will make it clear to the public where restrictions are in place, and facilitate effective enforcement.
- 1.4.6. Previously, Town and Parish Councils have not committed resources to enforcement. However, there is scope for a fresh offer to be made to Town and Parish Councils to provide additional enforcement patrols in areas of particular concern, on a day rate basis, less any fixed penalty notice receipts, via Arun District Council's contractor.
- 1.4.7. If the PSPOs are adopted, as well as updating signage, communications will be issued in order to raise awareness amongst residents of the dog controls.

2. PROPOSAL(S):

That Cabinet resolve to adopt the proposed Public Space Protection Orders, to be effective from 06 November 2020.

The proposed Public Space Protection Orders are shown in **Appendix A**.

- a. The Fouling of Land by Dogs.
- b. Dogs on Leads by Direction.
- c. Dogs Exclusion.
- d. Dogs on Leads.

3. OPTIONS:

Alternative options available:

- 3.1. Adopt the proposed PSPOs, effective from a later date.
- 3.2. Amend the proposed PSPOs, and adopt.
- 3.3. Not to adopt PSPOs for Dog Controls. This will result in the current Orders expiring and being discharged leaving no PSPOs in place within the district and not have any dog controls to tackle anti-social behaviour and nuisance.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council	✓	
Relevant District Ward Councillors: All ADC Members were informed the consultation and consulted prior to the public consultation.	✓	
Other groups/persons (please specify): Public questionnaire was made available online and advertised via the press, views invited from Sussex Police and Crime Commissioner, Sussex Police, Highways England, WSCC members for Arun, RSPCA, The Dogs Trust, Kennel Club, Local Dog Training Organisations, Turning Tides, Town and Parish Councils,	✓	
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	✓	
Legal	✓	
Human Rights/Equality Impact Assessment	✓	
Community Safety including Section 17 of Crime &	✓	

Disorder Act		
Sustainability		✓
Asset Management/Property/Land	✓	
Technology		✓
Other (please explain)		

6. IMPLICATIONS:

Financial – amending the current PSPO, creating new PSPOs for additional locations, and implementing the requirements and exclusions contained within the Orders has an implication on Council resources involving publicity, promotion, enforcement, management, monitoring, and legal services. The extent of the financial implication is dependent on the prohibitions included, the areas included and the level of enforcement.

Whilst most of the existing signs will continue to be used there will be a need to provide new signage in prominent locations to assist the public to understand the controls and support effective enforcement. This is particularly needed in seafront/promenade locations by minimising signage to deliver maximum effect without negatively impacting on the locality. It is estimated that the cost of this signage and promotional material will equate to £8,000 which is containable within existing budgets.

Legal – Ongoing assistance and advice from Legal Services will be required to implement the Orders. Cabinet is advised that an interested person (someone who lives in, regularly works in, or visits the restricted area) can challenge the PSPO in the High Court within six weeks of it being made. The validity of the Order can be challenged on two grounds:

- i) That the Council did not have the power to make the Order, or to include particular prohibitions or requirements.
- ii) That one of the requirements (for instance, consultation) had not been complied with.

The making of a PSPO can also be challenged by judicial review on public law grounds within three months of the decision

Human Rights / Equality – An Equality Impact Assessment has been completed and indicates that there is little impact on the groups identified. One response was received in relation to a chronic fear of dogs and amendments to the Dog exclusion requirements. This has been given due consideration. Access will be improved for individuals with limited mobility and responsible for a dog wanting to use the ramp to access the beach and promenade at Bognor Regis Yacht Club. **Community Safety** – A PSPO is designed to improve community safety through deterring and preventing individuals or groups engaging in anti-social behaviour in public spaces. This can include individuals in charge of dogs.

Asset Management – The Order would apply to land owned by the Council as well as other land accessible to the general public.

7. REASON FOR THE DECISION:

To mitigate the expiration of Arun's current PSPOs by implementing new Orders which take into account the outcomes of a comprehensive consultation exercise, meet the needs of the district and enables the Council and partners to reduce anti-social behaviour from dogs and improve community safety.

8.EFFECTIVE DATE OF THE DECISION: 28 October 2020

9. BACKGROUND PAPERS:

Appendix A – Proposed Public Space Protection Orders

Appendix B – Public consultation, survey results

Appendix C – Summary of consultation responses/comments to the draft PSPO proposals

Appendix D – [Existing Orders](#)

Appendix E – Equality Impact Assessment

ASB Crime and Policing Act 2014: Anti-Social Behaviour Powers, Statutory Guidance for Frontline Professionals, updated August 2019 - [ASB Revised Statutory Guidance - August 2019](#)

PSPO Legislation - [PSPO Legislation](#)

Report to Cabinet on 12 December 2016 - [Cabinet Report 12.12.2016](#)

Cabinet decision notice 12 December 2016 - [Cabinet Decision Notice 12.12.2016](#)

Cabinet minutes of meeting 12 December 2016 - [Cabinet Minutes 12.12.2016](#)

Full Council minutes of meeting 11 January 2017 - [Full Council Minutes 11.01.2017](#)

Environment & Leisure Working Group 19 December 2017 Report & Minutes
<https://democracy.arun.gov.uk/CeListDocuments.aspx?Committeeld=171&MeetingId=308&DF=19%2f12%2f2017&Ver=2>

Environment & Leisure Working Group 17 January 2017 Report & Minutes
<https://democracy.arun.gov.uk/CeListDocuments.aspx?Committeeld=171&MeetingId=303&DF=17%2f01%2f2017&Ver=2>

Individual Cabinet Member Decision 08 March 2018 ref ICM/051/080318
<https://www.arun.gov.uk/download.cfm?doc=docm93jjjm4n12010.pdf&ver=12010>

