

## **Report to Cabinet for Public Protection**

**Subject:** Approval to extend with the Public Space Protection Order for dog fouling offences borough wide

**Date:** 7 September 2023

**Author:** Head of Environment

### **Wards Affected**

Borough-wide

### **Purpose**

To seek approval for authorisation to extend, for a further 3 years, the existing Public Spaces Protection Order for dog fouling (Gedling Borough Council) which is due to expire on 20 October 2023.

### **Key Decision**

This is not a key decision

### **Recommendation(s)**

#### **THAT Cabinet:**

- 1) Approves a further 3 year extension of the current Public Spaces Protection Order (PSPO) for dog fouling at Appendix 1 in accordance with Section 72 of the Antisocial Behaviour, Crime and Policing Act 2014.
- 2) Approve that the fixed penalty level for breaches of the PSPO remains set at £100, payable within 14 days.

## **1 Background**

- 1.1 In 2014 the Anti-Social Behaviour, Crime and Policing Act 2014 came into force. This legislation provides local authorities with powers to make Public Spaces Protection Orders (PSPOs). PSPOs are intended to address activities carried out in public spaces which have a detrimental effect on the quality of life of those in the locality. The Act repealed and replaced all Dog Control Orders including the Dogs (Fouling of Land) Orders. The

current PSPO was introduced on 20 October 2020 and allowed Gedling Borough Council to continue to be able to enforce dog fouling offences across the borough.

1.2 The offence of dog fouling is frequently reported from residents across the borough each year. In the last 3 years covered by the current PSPO we have seen a high number of reports regarding the issue:

- In 2020/21 there were 244 reports of dog fouling,
- In 2021/22 there were 214 reports of dog fouling,
- In 2022/23 there were 190 reports of dog fouling.

When there are reports of dog fouling the Neighbourhood Wardens work amongst the community by offering additional patrols, installing street signage and pavement stencilling in areas where there has been a significant number of complaints. Despite the education attempts, the issue is still occurring. Where a warden witnesses a dog fouling offence being committed, Gedling Borough Council can issue a £100 Fixed Penalty Notice under the current PSPO.

The ability to issue Fixed Penalty Notices and take prosecutions in itself is a deterrent to those who are tempted not to clear up after their dog. If a PSPO is not extended by a further 3 years the Council will not be able to enforce dog fouling offences within the borough.

1.3 The Current order was made in 2020 as the Council at the time was satisfied on reasonable grounds that:

- The behaviour concerned is carried out, or likely to be carried out in a public space;
- It has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
- The behaviour is or is likely to be persistent and continuing in nature;
- The behaviour is, or is likely to be, unreasonable and justifies the restrictions being imposed.

The Council can at any time before the current order expires extend the PSPO if it is satisfied on reasonable grounds that the extension is necessary to prevent occurrence or recurrence of the behaviour identified in the order, or that it is necessary to prevent an increase in the frequency or seriousness of the behaviour.

It is clear from the volume of complaints received by the Council in relation to dog fouling that the behaviour is having a detrimental effect on the quality of life for those living within the borough, and that it is persistent

and unreasonable. As such it is felt that if the order was to expire there would be occurrence and recurrence of dog fouling within their area.

- 1.4 Anyone found to be in breach of a PSPO can be issued with a Fixed Penalty Notice of up to £100 or prosecuted at the Magistrates Court where they can receive a fine of up to £1,000. Anyone who fails to pay a fixed penalty will be prosecuted in the Magistrates Court.
- 1.5 The extension of the current borough-wide PSPO for failing to remove dog faeces forthwith would continue to include all public land within the Borough including all pavements and highways, parks and recreation grounds, all children's play areas and all football pitches. A copy of the current PSPO appears at Appendix 1 to this report.
- 1.6 As this is an extension of an existing PSPO Nottinghamshire Police have been consulted, and the Inspector for Gedling is fully supportive of the extension.

## **2 Proposal**

- 2.1 It is proposed that Members authorise the extension for a further 3 years of the Public Spaces Protection Order (PSPO) for dog fouling to cover the whole of Gedling Borough.
- 2.2 The level of fixed penalty for contravening the PSPO is to remain at £100 payable within 14 days. This is in accordance with the Act and reflects the level of fixed penalties for other PSPO breaches.

## **3 Alternative Options**

- 3.1 Alternative to the proposal would be that Members do not authorise the extension of the current PSPO and allow the current dog fouling PSPO to expire with effect from midnight 20 October 2023. This would mean that the Council will not be able to enforce or prosecute for dog fouling offences.
- 3.2 The level of fixed penalty could be lower than £100, however this would not be consistent with other PSPO breaches and would not accurately reflect the costs involved with enforcement.

## **4 Financial Implications**

- 4.1 There are minimal advertising costs associated with the proposal. Since 1996 the Council has been installing and erecting signs across the Borough informing members of the public to comply with the Dogs Fouling of Land Act. It is anticipated that there will be a gradual phasing in of signs across the Borough and this will be done within existing budgets. We also use stencilling in areas that have an increased amount of complaints.
- 4.2 Whilst the fixed penalty of £100 will generate income to cover enforcement and administration costs, it is not expected that the number of fixed penalties issued will be significant if the PSPO is approved.

## **5 Legal Implications**

- 5.1 The Anti-Social Behaviour, Crime and Policing Act 2014 repeals all previous dog control orders. Dog fouling can only be dealt with by way of the PSPO. The Current PSPO was introduced by Gedling Borough Council from 20 October 2020 and is the only mechanism available to the Council to allow for enforcement of dog fouling offences within its area.

Section 60(2) sets out the test for extension to a PSPO.

Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

Section 60(3) states that the maximum extension a local authority can grant is 3 years at a time. The order can be extended multiple times but only for 3 years at a time. Section 60(3) also requires the Council to publish the extension of a PSPO in the same way a new order is published.

- 5.2 As this is a request for renewal of an existing PSPO public consultation is

not required.

## **6 Equalities Implications**

- 6.1 Having a reasonable excuse is an exemption under the legislation. Where an offence occurs and a person with a disability has a reasonable excuse this would be taken into consideration before enforcement is pursued. Specifically guide dogs and assistance dogs will be exempt from the requirements of the PSPO and this would be applied to the Council for a variety of reasons which are identified on the PSPO attached at Appendix 1.

## **7 Carbon Reduction/Sustainability Implications**

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

## **8 Appendices**

- 8.1 Appendix 1 – Draft Public Space Protection Order for Dog Fouling  
8.2 Appendix 2 – Map of the location covered by the PSPO (Borough Wide)

## **9 Background Papers**

- 9.1 Previous PSPO Documents- available on website.

## **10 Reasons for Recommendations**

- 10.1 If approval is not granted The Council will not be able to enforce dog fouling offences after 20 October 2023 when the current PSPO expires.

### **Statutory Officer approval**

**Approved by: Tina Adams**  
**Date: 24/08/2023**  
**On behalf of the Chief Financial Officer**

**Approved by:**  
**Date:**  
**On behalf of the Monitoring Officer**