

EXECUTIVE

LEADER: Cllr Jeremy Christophers

PORTFOLIO HOLDER: Cllr Sylvia Russell

DATE: 30th October 2018

REPORT OF: Environmental Protection Manager and
Portfolio Holder for Health and Wellbeing

SUBJECT: Implementation of a Public Spaces Protection Order
for responsible dog ownership

PART I

RECOMMENDATIONS

The Executive is recommended to

A Consider and approve the implementation of a Public Space Protection Order (PSPO) for Responsible Dog Ownership under ss59 to 75 of the Anti-Social Crime and Policing Act 2014.

B Authorise the Council's Solicitor to draft and make the order.

C Authorise the Council's Environmental Protection Manager to issue fixed penalty notices under the PSPO.

1. PURPOSE

The purpose of a Public Spaces Protection Order (PSPO) is to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. It can be used to deal with existing problems and problems that are likely to arise in the future.

The definition of a PSPO is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Only a local authority can make a PSPO in respect of a public place within its area. The definition of a 'local authority' in England under Section 74(1) is (amongst others) a district council. Parish and Town Councils do not have the power to issue PSPO's. The local authority must be satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- Activities carried out in a public place within the authority's area **have had** a detrimental effect on the quality of life of those in the locality, or

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- It is **likely** that activities will be carried out in a public place within that area and that will have such an effect.

The second condition is that:

- It is or is likely to be of a **persistent or continuing nature**
- Is or is likely to be, such to make the activities **unreasonable**; and
- Justifies the restrictions imposed by the notice.

The broad aim is to keep public spaces welcoming to law abiding people and communities and not simply to restrict access.

2. BACKGROUND

Within the Clean Scene Programme of works in the Teignbridge Council Strategy 2016 – 2025 is an action to “Review council policies on dog fouling and restricted access across Teignbridge’s open spaces and beaches.” An Officer Working Group has reviewed the current situation, undertaken a wide ranging public consultation and recommends the implementation of a Public Spaces Protection Order to deal with the issues around irresponsible dog ownership. This project started in October 2016 and progress has been reported to Overview and Scrutiny Committee on a quarterly basis.

The PSPO will enhance the existing controls; the law in the past on dog control has been patchy, so a PSPO will help the council deal with the minority of irresponsible dog owners who don’t clear up after their dog or control it. A frustration to officers and members has been the inability to deal with dog fouling on roads that do not have a national speed limit of less than 40mph. This means that many of our rural areas had no controls on dog fouling on the highway.

Currently officers are able to prosecute offenders who breach a dog byelaw. Under the proposed PSPO a range of enforcement options would be available to officers and are described in section 6.

It should be noted that the legislation for dealing with stray dogs will remain and is sufficient and is therefore not included in the proposed PSPO.

For the many responsible dog owners who pick up after their dog wherever they go, nothing will change. Inconsiderate dog owners would be targeted through awareness and enforcement. Registered blind people and assistance dog users will be exempt.

3. MAIN IMPLICATIONS

A PSPO would introduce a clear and simple set of rules that all dog owners would need to comply with across the Teignbridge district. Enforcement would be targeted and graduated to ensure that the irresponsible dog owner is dealt with.

4. GROUPS CONSULTED

Section 72(4) of the act defines what necessary consultation means:

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1. The chief officer of police and the local policing body for the police area that includes the restricted area;
2. Whatever community representatives the local authority thinks is appropriate to consult with; and
3. The owner or occupier of land within the restricted area, if, or to the extent that is reasonably practicable to consult with the owner.

The Statutory Guidance recommends that the council engages in an open and public consultation to give the users of the public space the opportunity to comment on whether the proposed restriction or restrictions are appropriate, proportionate or needed at all.

It also recommends that the Council should also ensure that specific groups likely to have a particular interest are consulted, such as a local residents association, or regular users of the open space or those involved in specific activities in the area.

Consultation was undertaken between June 2017 and the 2nd October 2017. Officers consulted the following groups and organisations;

- Existing Licenced businesses
- All Teignbridge District Councillors
- Town and Parish Councils
- Police and Crime Commissioner for Devon and Cornwall
- National Organisations involved in the welfare of dogs including the Kennel Club.
- Attending a number of community events in the District
- Online survey promoted via local newspaper articles, TV and Social Media.

Overall we received 2055 returns with over 1179 specific comments made. The majority of respondents supported the control and requested that the Council provided sufficient resources to target the irresponsible dog owners. Concerns were raised about how the controls would be enforced and that they should be applied with common sense.

There were those who felt that the controls were too restrictive and others who requested more stringent controls. A detailed summary is available in Appendix B.

5. SUGGESTED CONTROLS AND CONSULTATION RESPONSES

The proposed PSPO would contain eight controls, some of which are an enhancement of existing controls whilst others are new. The first seven proposed controls show a significant majority of those consulted agreeing with the proposal.

The eighth control, the maximum number of dogs that can be walked is less clear with a number of differing views.

FOULING – making it an offence if a person in charge of a dog fails to pick up its faeces straight away.

- Improvement of an existing control

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- 99% of those consulted in agreement with this control

MEANS TO PICK UP- making it an offence if a person in charge of a dog does not carry a bag or other means of clearing up after their dog at all times.

- New Control
- 84% of those consulted in agreement with this control

DOG EXCLUSION AREAS (EXCEPT BEACHES) – making it an offence for a person in charge of a dog, to let a dog be in dog ban area (e.g. Children’s play park).

- Existing control
- 96% of those consulted in agreement with this control

SEASONAL DOG EXCLUSION AREAS (BEACHES) - an offence for a person in charge of a dog, between 1 May and 30 September or 1 April and 30 September in Dawlish Warren to take the dog onto, or permit the dog to enter or to remain on, any beach designated as a dog ban area. The beaches are Dawlish Warran, Dawlish Town, Dawlish Coryton Cove, Holcombe, Teignmouth Town, Shaldon and The Ness.

- Existing control
- 96% of those consulted in agreement with this control

DOGS ON LEAD AREAS - an offence if a person in charge of a dog at any time does not keep the dog on a lead on land designated as a dog on lead area.

- Existing control
- 88% of those consulted in agreement with this control

DOG(S) ON LEAD ON THE HIGHWAY – an offence if, at any time, a person in charge of a dog does not keep the dog on a lead, whilst on a road or footpaths adjacent to a road.

- New control
- 80% of those consulted in agreement with this control

DOG(S) ON LEAD BY DIRECTION - an offence if at any time within a dog ban area, a person in charge of a dog does not comply with a direction given to him by an authorised officer of the council or police officer to put and keep the dog on a lead.

- Existing control
- 91% of those consulted in agreement with this control

RESTRICTION ON THE NUMBER OF DOGS - restrict the number of dogs that can be walked by a single individual on or off the lead

- New Control
- 57% of those consulted in agreement with this control
- 30% of those consulted disagree with this control

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- 13% of those consulted don't know

Of those in agreement with this control how many dogs should the single individual should walk on or off a lead at any one time?

Number	Number	Percentage
3	588	50%
4	267	23%
5	24	2%
6	18	2%
Other	272	23%

Whilst there is no statutory guidance to assist when setting the numbers the following advice has been considered.

- Comments in the consultation suggest that the numbers of dogs relates to the circumstances such as dog size, with, behaviour, strength and ability of the owner to control the dogs.
- Kennel Club feel that an arbitrary figure is an inappropriate approach and will simply displace and intensify the problem in other areas.
- Dogs Trust states that the behaviour of the dogs and the competency of the owner needs to be taken into consideration. Research from 2010 shows that 95% of dog owners have up to 3 dogs and therefore the number of dogs would not normally be expected to exceed 4 dogs.
- PDSA commented that the control may not have the desired effect as owners abilities vary.
- East Devon District Council have recently introduced a similar PSPO for dog control and they have limited the number of dogs to no more than 6 dogs.
- The recently issued Guidance notes for Conditions for providing home boarding for dogs, October 2018 states that "no more than four dogs must be walked at the same time" this is to ensure dogs are exercised at least once daily as appropriate for its age and health.

Members are asked to consider setting the restriction on the number of dogs.

When drafting the controls the potential negative impacts they may have on vulnerable groups and ensuring we meet the requirements under the Equality Act 2010 were considered.

Nothing in the proposed PSPO would apply to a person who –

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 if they are alone with the dog; or
- (b) a person with a disability affecting their mobility, manual dexterity, physical coordination or ability to lift, carry or move everyday objects or who relies upon a dog trained by a prescribed charity (and is clearly identified) for assistance if they are alone with the dog.
- (c) any police dog or fire dog.

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6. ENFORCEMENT

The aim is not to penalise responsible dog owners but to target persistent offenders who refuse to comply with the proposed controls. Consideration will be given to the ability of the owner to exercise control over the dogs before taking enforcement action.

A person observed not to be complying with the PSPO is liable to receive a fixed penalty notice. This can be up to £100 and we are recommending that the fine is set at £100. Officers also have powers to issue Community Protection Notices or prosecute if the offence warrants the sanction.

A poster and awareness campaign is planned should the PSPO be approved to inform the public about the controls and how to report incidents online.

7. TIME-SCALE

The order lasts for not more than three years. It can be extended under s60 (2) by the Council if it is satisfied on reasonable grounds that it is necessary to extend the order to prevent:

- Occurrence or recurrence after that time of the activities identified in the order, or
- An increase in the frequency or seriousness of those activities after that time.

The PSPO can also be discharged and varied by the Council.

8. JUSTIFICATION

The order is required to effectively tackle irresponsible dog ownership within the Teignbridge District.

9. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on 6 November 2018

Officer- David Eaton

Designation–Environmental Protection Manager

Cllr Sylvia Russell

Portfolio Holder for Health and Wellbeing

Wards affected	All
Contact for any more information	David Eaton, Environmental Protection Manager david.eaton@teignbridge.gov.uk 01626 215064
Background Papers (For Part I reports only)	None
Key Decision	Y
In Forward Plan	Y
In O&S Work Programme	Y Part of the Council Strategy
Community Impact Assessment attached:	N – Completed for the Council Strategy and the proposed controls prior to the Consultation.
Appendices attached:	A: Draft Public Spaces Protection Order Controls B: Consultation Summary