
Subject:	PUBLIC SPACES PROTECTION ORDER
Meeting and Date:	Cabinet – 15 January 2024
Report of:	Shaun Taylor, Community Services, Asylum & Transport Manager and Paul Neagle, Port Health & Public Protection Manager
Portfolio Holder:	Councillor Charlotte Zosseder, Portfolio Holder for Community & Corporate Property and Councillor Jamie Pout, Portfolio Holder for Transport, Licensing & Environmental Services
Decision Type:	Key Decision
Classification:	Unrestricted

Purpose of the report:	To seek Cabinet authorisation to vary the existing Public Spaces Protection Order, made in July 2022, in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014.
Recommendation:	That, having regard to the conditions within s.59 of the Anti-Social Behaviour, Crime and Policing Act 2014, Cabinet: <ol style="list-style-type: none"> 1. Authorises the variation of the Public Spaces Protection Order (Dover District Council) 2022.

1. Summary

- 1.1 On 4 September 2023, Cabinet gave authorisation to conduct a consultation process on the existing Public Spaces Protection Order (PSPO) which came into force on 26 July 2022. Consultation was carried out in accordance with Sections 61 and 72 of the Anti-Social Behaviour Crime and Policing Act 2014.
- 1.2 Where a PSPO is in force, the local authority that made the order may vary it by increasing or reducing the restricted area or by altering, removing or adding a prohibition or requirement.
- 1.3 A local authority must carry out the necessary consultation (and the necessary publicity, and the necessary notification (if any)) before varying a PSPO. The consultation phase has concluded and it is requested that authority is given to vary the order.

2. Introduction and Background

- 2.1 The Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) provides local authorities with powers to make Public Spaces Protection Orders. These orders 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.
- 2.2 A local authority can make a PSPO if reasonably satisfied that two conditions are met:
 - that activities carried on 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 that it is likely that activities carried on will have such an effect
 - and

- the effect or likely effect of the activities is or is likely to be of a persistent or continuing nature; is or is likely to be such as to make the activities unreasonable and justifies the restrictions imposed by the order.

2.3 The current PSPO controls 6 activities:

- Dog fouling (covering the whole district)
- Dogs on lead by order (covering the whole district)
- Dogs on lead (in specified places)
- Dog exclusion (in specified places)
- Consumption of alcohol in public places
- Unauthorised camping (covering the whole district)

2.4 Following the introduction of this PSPO, implementing its requirements and consulting with the Environmental Crime team it has been identified that a variation is required in the following areas:

- Rewording of Part 5 – “Consumption of Alcohol in Public Places” to clarify where the restrictions apply.
- Removal of children’s play area at Children’s Playing Field, Cowdray Square, Deal, Kent from Schedule 2 and extensions of area where dogs on lead restrictions apply at Children’s Playing Field, Cowdray Square, Deal, Kent in Schedule 1 to mirror approach of unfenced children’s play areas such as Russell Gardens in Temple Ewell.
- Addition of a dog exclusion area within the enclosed children’s play area to schedule 2 at Woodnesborough Village Hall Green, Elmwood Park, Woodnesborough, Kent

2.5 These amendments are requested to eliminate issues with effective enforcement of the PSPO and insert an enclosed children’s play area previously omitted from the order.

2.6 By virtue of section 72 of the Act, before varying a PSPO the Council is obliged to carry out consultation with the Chief Officer of police, the local policing body, community representatives and owners/occupiers of land covered within the order.

2.7 Consultation was carried out for a period of 6 weeks from 12 September to 23 October 2023, resulting in a total of 21 public responses. Consultation was publicised through Keep Me Posted, Online via our website (Appendix 7 – Website Wording) and through Social Media utilising a survey on the MS Forms Platform to gather responses. Opportunity was also provided on our website allowing individuals to write to the council with their comments. We also wrote to key stakeholders including:

- Kent Police
- Dogs Trust
- KCC
- Kennel Club
- Kent Highways
- Natalie Elphicke MP
- Police and Crime Commissioner
- RSPCA
- Woodnesborough Parish Council

A breakdown of the comments is given in Appendix 2.

2.8 Of the 21 comments:

- 16 were in favour (76%)
- 3 were against (14%)
- 2 responses were not applicable to the variations being sought (10%)

2.9 Of the three objections:

- Woodnesborough Village Hall
 - Mechanics of the PSPO have been misunderstood.
- Cowdray Square
 - Against dogs on leads in the large park area of Cowdray Square
- Consumption of Alcohol
 - Misunderstood the variation being sought

2.10 The Kennel Club provided a formal response to Dover District Council dated 18 October 2023 (Appendix 3). Summary of response below:

On Lead

We can support reasonable 'dogs on lead' Orders which can, when used in a proportionate and evidence-based way, include areas such as cemeteries, picnic areas, or on pavements in proximity to cars and other road traffic.

Exclusions

The Kennel Club does not typically oppose Orders to exclude dogs from playgrounds or enclosed recreational grounds, such as skate parks or tennis courts, as long as alternative provisions are made for dog walkers in the vicinity. Children and dogs should be able to socialise together quite safely under adult supervision, with having a child in the home the biggest predictor for a family owning a dog.

Assistance Dogs

The Kennel Club welcomes the exemptions proposed in this Order for assistance dogs. We urge the Council to review the Equality and Human Rights Commission's guidance for businesses and service providers when providing any exemptions for those who rely on assistance dogs.

2.11 Dogs Trust also provided a formal response to the consultation (Appendix 4) with two comments (below):

Re Dog Exclusion Order

- Dogs Trust accepts that there are some areas where it is desirable that dogs should be excluded, such as children's play areas, however we would recommend that exclusion areas are kept to a minimum and that, for enforcement reasons, they are restricted to enclosed areas. We would consider it more difficult to enforce an exclusion order in areas that lack clear boundaries.

- Dogs Trust would highlight the need to provide plenty of signage to direct owners to alternative areas nearby in which to exercise dogs.

Re Dogs on Leads Order

- Dogs Trust accept that there are some areas where it is desirable that dogs should be kept on a lead.

- Dogs Trust would urge the Council to consider the Animal Welfare Act 2006 section 9 requirements (the 'duty of care') that include the dog's need to exhibit normal behaviour patterns – this includes the need for sufficient exercise including the need to run off lead in appropriate areas. Dog Control Orders should not restrict the ability of dog keepers to comply with the requirements of this Act.

- The Council should ensure that there is an adequate number, and a variety of, well sign-posted areas locally for owners to exercise their dog off-lead.

2.12 Kent Police also responded to the consultation (Appendix 5). No representation was made, and Kent Police were in support of Dover District Council in this variation.

2.13 The measures do not apply to assistance dogs.

2.14 The current PSPO is available at this [link](#).

2.15 If Cabinet is minded to authorise the variation of the PSPO, there is a further requirement for publicity within the Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations. These require that where a local authority has made a PSPO or intends on carrying out a variation (extension and discharge), it must publish it on its website and erect such notices as it considers sufficient to advise members of the public that the PSPO has been made and the effect of such an order. The majority of sites already have signs and these will only need minor amendments.

3. Identification of Options

3.1 Option 1 - Authorise the variations as detailed in Appendix 1 to come into force on 15 January 2024

3.2 Option 2 - Reject the variations and maintain the PSPO which came into force on 26 July 2022.

4. Evaluation of Options

4.1 Option 1 – The recommended option. The overall aim of the variations is to:

- Maintain a comprehensive and consistent approach to the control of dogs in the district
- Providing clarity to where part 5 of the PSPO applies and ensuring enforcement can take place where appropriate.

4.2 Option 2 – Make no changes to the PSPO which came into force on 26 July 2022.

- Legal challenge to enforcement activities taken under Part 5 of the PSPO as it does not make it clear that the order refers to the entire Dover District Area.
- Leave an inconsistency in the Council's approach to dog restrictions across the district.

5. Resource Implications

5.1 Signs shall be erected/altered advising of the new restrictions. This will cost in the region of £300 and can be met from existing budgets.

6. Corporate Implications

6.1 Comment from the Section 151 Officer: Accountancy has been consulted on the

report and have no further comments to add.

- 6.2.1 Comment from the Solicitor to the Council: The Principal Lawyer – Litigation & Regulatory has been consulted during the preparation of this report and has no further comments to make.
- 6.2.2 Comment from the Equalities Officer: This report seeking approval to vary the existing Public Spaces Protection Order, made in July 2022, in accordance with the Anti-social Behaviour, Crime and Policing Act 2014, does not specifically highlight any equality implications, however in discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

7. **Appendices**

Appendix 1 – Proposed PSPO (Not Final -Further version once agreed at Cabinet)

Appendix 2 – Breakdown of comments received to proposed variation

Appendix 3 – Kennel Club Response

Appendix 4 – Dogs Trust Response

Appendix 5 – Kent Police Response

Appendix 6 – Summary of draft changes to PSPO

Appendix 7 – Website Wording

8. **Background Papers**

Public Spaces Protection Orders – Guidance for Councils – LGA Paper