

TEWKESBURY BOROUGH COUNCIL

Report to:	Executive Committee
Date of Meeting:	31 August 2022
Subject:	Proposal to Implement a Public Space Protection Order - Dog Control
Report of:	Principal Environmental Health Officer
Head of Service/Director:	Head of Community Services
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	Four

Executive Summary:

This report summarises the findings from a dog-related Public Spaces Protection Order consultation undertaken in May and June 2022. Informed by the consultation, it proposes the Dog-Related Public Spaces Protection Order 2022 to replace the previously expired Public Spaces Protection Order (PSPO). The Order will cover the whole of Tewkesbury Borough and will last for a period of 3 years. It is proposed that the 2022 Order will introduce an offence to allow a dog into a children's playpark which has been designated to exclude dogs, this will include all fenced/ enclosed children's playgrounds.

Recommendation:

That the Executive Committee RECOMMEND TO COUNCIL that the Public Space Protection Order relating to dog control is implemented under S.59 of the Antisocial Behaviour, Crime and Policing Act 2014.

Financial Implications:

The financial implications of re-introducing the PSPO order will be minimal. During the implementation of the PSPO in 2018, stickers were purchased to cover the existing dog fouling signs in the Borough. The authority still has a supply of stickers. A small amount of funding from within existing revenue budgets may be required for signage in children's play areas, though most playparks have signage presently to exclude dogs, which can now be enforced.

Legal Implications:

Fixed Penalty Notices will be issued offering the opportunity to discharge liability to conviction where necessary. Prosecutions under the PSPO may be carried out in situations where this is proportionate and in the public interest. All enforcement will be undertaken in line with the Environmental Health Enforcement Policy.

Environmental and Sustainability Implications:

Having the Order in place will provide a legal framework to tackle dog fouling in Tewkesbury Borough. Dog fouling is a major concern to many people, not just because of the mess it causes, but because it can be a health risk.

Resource Implications (including impact on equalities):

All officers in the Environmental Health Team will be authorised and trained to issue fixed

penalties notices. The Neighbourhood Policing Team are always willing to work closely with the Council regarding enviro-crime and antisocial behaviour (the Police do have enforcement powers under the provisions of the PSPO. However, it is anticipated that the Borough Council will take the lead on enforcement).

Areas that are particularly badly affected by dog fouling will be patrolled, however this will be carried out using existing resources and working with the local Police.

Due to the stigma behind dog fouling, it often happens during the hours of darkness, or when others are not around, so the numbers of fixed penalty notices are typically low, therefore the extra provision in the Order is not likely to have much impact on resources

Safeguarding Implications:

When taking enforcement action, officers will have regard to the Tewkesbury Borough Council Enforcement Policy which will take into account whether someone has a vulnerability.

The controls will not apply to assistance dogs used by the blind or by persons who lack the physical ability to comply with the requirements of the PSPO.

Impact on the Customer:

The proposal to introduce the Public Space Protection Order will have a positive impact on the customer as it will allow the authority to effectively deal with preparators allowing their dogs to foul. The PSPO also provides an opportunity to educate and reinforce elements of responsible dog ownership to dog owners.

1.0 INTRODUCTION

- 1.1** Dog fouling is not only unpleasant, but it can also be dangerous, especially to children. Whilst rare, contact with dog excrement can cause toxocariasis, an infection that can lead to dizziness, nausea, asthma and even blindness or seizures.
- 1.2** There are estimated to be more than 8 million dogs producing more than 1,000 tonnes of mess every day in the UK. While most dog owners are caring, responsible individuals, there are still some people who do not clean up after their pets.
- 1.3** A Public Space Protection Order, also known as a PSPO, is a power available to Local Councils under the Anti-Social Behaviour, Crime and Policing Act 2014.
- 1.4** An Order can be used to control certain activities in a specified area if two conditions are met:
 - That the activities have had, or are likely to have, a detrimental effect on those in the locality.
 - That the effect is, or is likely to be, persistent and continuing in nature and is, or is likely to be, such as to make those activities unreasonable and that restrictions are justified.
- 1.5** An Order, as well as meeting the above tests, must be fair, proportionate and consistent with the principles related to public safety and public health to enable dog owners and non-dog owners to enjoy public open spaces. It must be able to be enforceable without having detrimental impact on those that are vulnerable or reliant on assistance from dogs.
- 1.6** The PSPO which is the subject of this report, is intended to provide the Council with enforcement powers to address irresponsible dog control likely to have a detrimental effect on the quality of life to residents or impact on visitors to the area.

1.7 Authorised officers enforce the provisions of the PSPO by patrolling and investigating complaints. Fixed Penalty Notices (£100) can be issued for non-compliance and/or prosecution for certain offences at a Magistrates Court (up to £1,000). Officers take a proportionate approach to enforcement, seeking to raise awareness and educate in the first instance.

2.0 PUBLIC SPACE PROTECTION ORDER – DOG CONTROL

2.1 It is proposed that a single Public Space Protection Order (PSPO) for dog control within the Borough is reintroduced.

2.2 There were previously two provisions relating to dog fouling under The Public Space Protection (Tewkesbury) Order made in 2018 which lapsed in 2021.

2.3 The authority is now proposing to reintroduce the PSPO for dog control but with some minor variations. It is proposed that the PSPO for dog control includes the following provisions –

- 1) **Dog Fouling** (Included on 2018 Order) - Makes it an offence if a person in charge of a dog fails to clean up its faeces. Covering all public places in the Borough. This is defined as 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.
- 2) **Failing to produce a receptacle for picking up dog faeces** (Included on 2018 order) – This would require dog walkers to carry an appropriate receptacle for dealing with the waste that their dog/s produce. This requirement aims to ensure that dog walkers always have the means (i.e. a receptacle) to pick up their dog's faeces.
- 3) **Dog Exclusion** (New proposal) - Makes it an offence to allow a dog into a children's playpark which have been designated to exclude dogs. This will include all fenced/ enclosed children's playgrounds.
- 4) **Failure to provide details** (New proposal)– This will make it an offence for anyone who has committed an offence under the Order and who refuses to give their name, address and date of birth when asked by an authorised officer. Equally giving a false or inaccurate name, address or date of birth to an authorised officer will also be considered an offence under the Order.

2.4 It is proposed to include the exclusion of dogs from enclosed playparks as this has been something that the public have mentioned on numerous occasions to officers on their patrols as a cause of concern. The risks to children are also much higher from dog faeces as they are much more likely to touch things without knowing what it is.

2.5 It is also proposed to include the offence of failing to provide details, as this is something officers have experienced during the previous PSPO duration, and it will assist with achieving more effective enforcement of the PSPO.

2.6 The PSPO will cover any place to which the public, or any section of the public, has access for payment or otherwise, as of right or by virtue of express or implied permission (s 74(1) of the Act). This means that the controls will apply to all land in Tewkesbury Borough open to the air including agricultural land.

- 2.7** The controls will not apply to assistance dogs used by the visually impaired or by persons who lack the physical ability to comply with the requirements of the PSPO.
- 2.8** The PSPO will expire after 3 years, prior to which a full review of the controls in place will be carried out and, if necessary, amendments will be made or the Order will be extended for a further 3 years.
- 2.9** A proposed Order can be found at **Appendix 1**, and Area Map covered at **Appendix 2**
- 3.0** **CONSULTATION**
- 3.1** A public consultation was carried during May and June 2022. Full details of the consultation are contained in **Appendix 3**.
- 3.2** In addition, consultation was carried out with Parish Councils, Gloucestershire Constabulary and Gloucestershire County Council Highways.
- 3.3** In total there were 226 responses (207 where residents of Tewkesbury Borough) to the consultation, and the majority of people supported the introduction of the dog control PSPO. Full breakdown of consultation responses can be found at **Appendix 4**.
- 3.4** For the proposal for dog fouling (makes it an offence if a person in charge of a dog fails to clean up its faeces) 206 from 226 supported the suggestion.
- 3.5** For the proposal for failing to produce a receptacle for picking up dog faeces 214 from 226 supported the proposal.
- 3.6** For the proposal to include dog exclusion in children's playparks (makes it an offence to allow a dog into a children's playpark which have been designated to exclude dogs) 212 from 226 supported the proposal.
- 3.7** For the proposal to include failure to provide details (this will make it an offence for anyone who has committed an offence under the Order and refuses to or gives fake details to an authorised officer) 214 from 226 supported the suggestion.
- 3.8** It can be concluded from the public consultation that there is general support for all four proposals to be included in the PSPO.
- 3.9** There were a number of comments/questions raised about how the PSPO was going to be enforced. Officers within the Environmental Health Team will undertake patrols of areas that are identified as 'hot-spots'. Due to RIPA legislation, patrols must take place overtly, with officers clearly visible and identifiable. It is unlikely that people will continue to allow their dogs to foul while officers are present, but it will act as a deterrent. Officers will also investigate reports from the public of people not complying with the PSPO. A Fixed Penalty Notice (FPN) can be served where a witness statement from a member of the public or other supporting agency has been provided.
- 4.0** **ASSOCIATED RISKS**
- 4.1** There are greater risks associated with not introducing the Order, as it leaves Tewkesbury Borough Council with no enforcement powers to tackle dog fouling or control which may be a reputational risk.

4.2 The nature of dog fouling is that it is an opportunistic crime, and therefore difficult to catch in the act, however this will be mitigated by having all members of the Environmental Health team able to serve Fixed Penalty Notices and by having the support of Gloucestershire Police.

5.0 MONITORING

5.1 Regular patrols will be carried by Enforcement Officers of areas determined as 'hot-spots'.

5.2 Records will be kept relating to the number of complaints, Fixed Penalty Notices (FPNs) served and prosecutions undertaken.

6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

6.1 One of the Council's priorities in the Council Plan is to promote a healthy and flourishing environment in the borough.

6.2 The issue of land affected by dog fouling is a constant source of frustration and anger to residents. It represents not only a source of odour and contamination that can get on shoes and clothes and be dragged into houses, but also a significant public health concern with the faecal matter containing a range of pathogens.

Background Papers: Local Government Association- Public Spaces Protection Orders- Guidance for Councils [Public Spaces Protection Orders: Guidance for councils | Local Government Association](#)

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Appendices:

- 1- Proposed PSPO Order.
- 2- Area Map.
- 3- Public consultation.
- 4- Responses to public consultation.