

EXECUTIVE

8th June 2023

Report Title	NNC Public Spaces Protection Order for Dog Control
Report Author	Graeme Kane – Interim Executive Director for Place & Economy
Lead Member	Cllr Matthew Binley, Executive Member for Housing, Communities and Levelling Up and Cllr David Brackenbury, Executive Member for Growth and Regeneration

Key Decision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in by Scrutiny?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there public sector equality duty implications?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information (whether in appendices or not)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Applicable paragraph number/s for exemption from publication under Schedule 12A Local Government Act 1972	

List of Appendices

Appendix A – Draft Public Spaces Protection Order 2023 – Dog Control

Appendix B – Scoping of public open spaces and amenities in Corby

1. Purpose of Report

- 1.1. This report is to seek approval from the Executive to commence the first stage public consultation on the proposed North Northamptonshire Public Spaces Protection Order 2023 – Dog Control.

2. Executive Summary

- 2.1. There are currently Public Spaces Protection Orders (PSPOs) relating to Dog Control in three of the four legacy authority areas. Corby is not currently covered by any PSPO relating to dog control.
- 2.2. The existing three orders will end in November 2023. The Kettering order was due to end in August 2023, following legal advice and consultation, this order is to be extended to end in line with the remaining orders. There were no concerns

raised during the consultation in relation to extending the order until November 2023.

- 2.3. In order to ensure consistency across North Northamptonshire a new PSPO for dog control is proposed to cover the entire administrative area. The draft proposed order can be found in **Appendix A**. This order includes all areas previously covered by dog control PSPOs and makes proposals for areas in Corby and suggested additions and amendments from Town and Parish Councils.
- 2.4. The draft PSPO has been subject to consideration by the Executive Advisory Panel. Initial views have also been sought from town and parish councils in relation to key locations, paying particular attention to feedback relating to Corby as an area unfamiliar to these orders.
- 2.5. The creation of a PSPO is a lengthy process and requires suitable public and wider statutory consultees to be involved in the consultations. This order will have a two-stage consultation period to ensure ample time to consider the views of the public on the areas to be included. To commence the consultation and to implement the order approval from the Executive is required.

3. Recommendations

- 3.1 It is recommended that the Executive approve the commencement of the Public Spaces Protection Order Consultation for Dog Control for North Northamptonshire Council.
- 3.2 Reason for Recommendations – having one aligned PSPO in place for dog control, will bring all existing conditions and controls together in one place, will remove inconsistencies across the areas and make enforcement more straightforward and easier to understand for the public.
- 3.3 Alternative Options Considered – The existing PSPO's within the previous sovereign areas of Wellingborough, Kettering and East Northamptonshire could be extended; amended; or revoked or could be left to expire in November 2023. However, having one aligned PSPO in place would remove inconsistencies that having three PSPO's creates and if they were allowed to lapse, this could increase dog fouling and dog control complaints and issues.
- 3.4 A separate PSPO could be introduced for the previous sovereign area of Corby, or this area could remain without standards for and enforcement of dog control. It is however believed to be important that all areas are covered by the same PSPO.

4 Report Background

- 4.1 The Anti-social Behaviour, Crime and Policing Act 2014 provides local authorities with powers to create a PSPO where they are satisfied that activities carried on in a public place:
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality;
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
- 4.2 There are currently three PSPOs in place from the legacy authorities in Wellingborough, Kettering and East Northants in relation to dog control. There are no PSPOs for dog control covering Corby. The three orders will run out in November 2023 and therefore it is necessary to start preparing to replace these orders with a new PSPO for dog control covering North Northamptonshire.
- 4.3 This is a significant piece of work that requires consultation and publicity. All existing areas that have controls in place are proposed to keep the majority of the outlined controls, unless as part of the consultation process suggestions to amend are made and accepted. Where new areas are identified for inclusion in the PSPO, these will be considered against the stated criteria.
- 4.4 It is proposed to remove the requirement from the Kettering PSPO that dogs must be kept on a lead no more than 1.5 metres in length in prescribed areas, as it is not deemed necessary or practical to enforce.
- 4.5 It is proposed to remove the wording from the Kettering PSPO that a person in charge of a dog must not take more than 6 dogs onto any land at any time. It is understood that DEFRA is currently reviewing issues around dog walkers and the numbers of dogs that they can safely walk, therefore it would not be appropriate to implement new requirements that may be contradictory to any new proposals. The only national guidance available by the dog walkers' association recommends FOUR at any one time: https://www.rspca.org.uk/Dog_walking_guide
- 4.6 As Corby Borough Council (CBC) did not have a PSPO in place, they previously undertook dog fouling enforcement under the provisions of the Dogs (Fouling of Land) Act 1996 by way of using Fixed Penalty Notices and/or prosecutions against dog owners that failed to pick up their dog faeces on designated areas of land. This applied to all public land within the Borough.
- 4.7 When the Dogs (Fouling of Land) Act 1996 was repealed by the Clean Neighbourhoods and Environment Act 2005 and Dog Control Orders were introduced, CBC adopted a Dogs Fouling of Land Act Order 2003 which allowed the local authority to continue using sections 3 and 4 of the Act until such time as a Dog Control Order was adopted. A report was taken to CBC Committee on 12th July 2011, and it was agreed that there was insufficient evidence at that time to implement such an order. Dog Control Orders have since been replaced with PSPO's.

- 4.8 There has never been an enforcement ability to request that dogs are kept on a lead or excluded from certain areas within the Corby area. Currently the only measure to address dog fouling and other forms of dog control is utilising Community Protection Warning Notices and Community Protection Notices under the Anti-Social Behaviour, Crime and Policing Act 2014.
- 4.9 Since there is currently no order in place within Corby, it is proposed that elements of the existing orders are replicated to include dog exclusion from all enclosed or fenced off children's play areas and an area wide dog fouling control within Corby. Further to this, suggestions have been made relating to areas that should have dogs on leads requirements such as churches and cemeteries.
- 4.10 The key part of the process is to seek views from as many people and groups as possible to try and ensure that we have included the right areas with the right controls. It is also important to consider the associated enforcement requirements when making such an order.
- 4.11 As part of the consultation process, there is a requirement to consult with specific statutory consultees such as the Police, the public, Town and Parish councils etc and to also consult with relevant bodies such as the Kennel Club, RSPCA, National Dog Walkers Association, Dogs Trust etc.
- 4.12 A pre-consultation exercise has taken place with the Town and Parish Councils with a deadline for response of 20th April 2023. Responses have been received from the following Town and Parish Councils:
- Broughton Parish Council
 - Denford Parish Council
 - Grendon Parish Council
 - Higham Ferrers Town Council
 - Irchester Parish Council
 - Loddington Parish Council
 - All Saints and Brambleside
 - Irthlingborough Town Council
 - Raunds Town Council
 - Kettering Town Council
 - Nassington Parish Council
 - Geddington, Newton and Little Oakley Parish Council
- 4.13 All agreed with the councils draft proposed PSPO and wish to retain all areas previously outlined within the schedules apart from Raunds Town Council who wished to remove their decommissioned skate park. Other comments included:
- Additional areas were highlighted for potential inclusion for dogs on leads areas:
Broughton Playing Fields
High Street Park, Broughton
Grendon Pocket Park, NN17 1JW
Saffron Road, Recreation Ground, Higham Ferrers
Saint Lawrence Church Yard, Stanwick
Stanwick Cemetery

North Park (All Saints and Brambleside) during football matches
Bassfords Recreation Ground and Millfields (Raunds) during council events.

- Meadow Road Park, Kettering was highlighted as a potential area for dog exclusion by Kettering Town Council.
 - Areas highlighted to be of particular concern for dog fouling included public footpaths, areas in front of schools and school playing fields. It was raised that the exclusion of dogs from school playing fields would be useful if in agreement with education.
- 4.14 Consultation with the country parks team has resulted in identified areas within Sywell Country Park: Hayes Wood wildlife refuge and in Irchester County Park: the main hub area for inclusion within the PSPO for dogs on leads.
- 4.15 This report and associated appendices was taken to the Sustainable Communities EAP on 26th April 2023. Clarification was provided at the meeting to confirm that the table provided within **Appendix B**, presents a list of public open spaces and amenity areas within the Corby area identified during the initial scoping exercise, it is not a list of areas which will definitely be included as dogs on leads or dog exclusion areas. This scoping exercise was required since there is no PSPO or Dog Control area currently in place within Corby which could be used as a basis for the new PSPO.
- 4.16 The Sustainable Communities EAP highlighted the importance of the provision of sufficient numbers of dog waste bins and suitable collection frequencies. The councils Waste Manager has advised that a list of bins is held within the waste team, and they are currently assessing how this information may be presented. The waste team can be contacted if there are any concerns about specific containers. Collection is based upon an output-based service and bins are visited as often as necessary. The provision of street litter (this includes dog waste containers) is not statutory and provision of containers is purely within the gift of the landowner and the waste team are currently reviewing the provision to ensure that the ongoing litter bin network is maintainable.
- 4.17 This report and associated appendices were presented to the Prosperous Communities Executive Advisory Panel on 11th May 2023. The importance of education in addition to enforcement was raised. The issue of dog waste bags being left within the environment was highlighted for potential inclusion within the Order. It has been confirmed that this would constitute a littering offence actionable by other legislative provisions. Dogs on leads on public rights of way was requested to be considered in line with Schedule 1.

5 Issues and Choices

- 5.1 There are several options in terms of the PSPO's for Dog Control within North Northamptonshire, as detailed in paragraphs 3.1 to 3.4.

- 5.2 A proposed North Northamptonshire-wide PSPO for Dog Control is included within this report as the recommended way forward for reasons set out herein. If approved for consultation, this will be amended in line with responses received from the proposed 2-stage public consultation process.

6 Next Steps

- 6.1 Following approval by the Executive to commence the stage one consultation process, the public consultation will begin for a period of 6 weeks. This will be fully open to the public and direct consultations with statutory consultees will also take place.
- 6.2 Following analysis of the consultation feedback, a stand-alone recommendations report will be made based on the information provided. This may request areas to be added or removed or controls to be added or removed.
- 6.3 A revised draft PSPO will be made following consideration of the outcome of public consultations and will be fully reviewed and considered by lawyers. The second stage consultation process will then take place on the proposed final order for a period of four weeks.
- 6.4 The final proposed order and any amendments following the second public consultation will be brought back to Executive for formal sign off.
- 6.5 It is possible that due to the very tight timescales, ensuring sufficient public consultation and the authorities reporting cycles that the existing orders may lapse for a short period before the new order comes into force. At present we estimate this to be less than a week or so, but this may be increased due to unforeseen circumstances. A decision will be taken under such circumstances on whether the existing orders should be extended for this interim period to enable ongoing dog control provisions and enforcement to remain in place.

7 Implications (including financial implications)

7.1 Resources, Financial and Transformation

- 7.1.1 Enforcement of the existing PSPO's is met within different service areas: Environmental Protection, Waste Enforcement and Environmental Wardens/Street Scene. Enforcement will continue to be met by existing resource provisions.
- 7.1.2 Data has been collated from Kettering, East Northants and Wellingborough on the number of fines issued since April 2021 for breaches associated with a dog control PSPO and on the number of complaints received pertaining to dog control. This information was not available for Corby.
- 6 FPN's issued
 - 186 fouling complaints received

- 246 other dog related complaints e.g., anti-social behaviour and dog on dog attacks.

Each of these complaints were responded to by officers with appropriate action being taken. Patrols are regularly undertaken within the various teams during which advice is also provided. Patrols are increased in hot spots areas and PSPO's in themselves do act as a form of deterrent. The number of FPNS issued will have been impacted in some element by Covid.

- 7.1.3 Signage for additional areas will be required to be erected and existing signs will need to be replaced. These costs will be covered within the Environmental Health Budget. The presence of signage acts as a deterrent from behaviour occurring.
- 7.1.4 Self-adhesive dog fouling signs are posted in areas where dog fouling is deemed to be a problem. This is an ongoing cost currently met by Environmental Health.
- 7.1.5 The Council retains any revenue from the payment of fines of £100 each.
- 7.1.6 Unknown costs would include the legal costs for unpaid fines and possible legal challenges about the validity of such an order being introduced.
- 7.1.7 It is not considered that the new measures will add significantly to the work undertaken by current officers, there are however no resources currently available to extend this enforcement.

7.2 Legal and Governance

- 7.2.1 Chapter 2 of The Anti-Social Behaviour, Crime and Policing Act 2014 sets out the legislative framework around the creation of PSPOs and the offences for breaching a PSPO.
- 7.2.2 The authority to use these enforcement powers are delegated to officers under the scheme of delegation.

7.3 Relevant Policies and Plans

- 7.3.1 Environment – An NNC PSPO for Dog Control will have an important part in maintaining a '*Green sustainable environment*'.
- 7.3.2 It is anticipated that a reduction in dog fouling incidents and incidents associated with out-of-control dogs, will improve public amenity and have positive environmental benefits.
- 7.3.3 If as a result of the introduction of the new PSPO dog fouling and other forms of irresponsible dog ownership is reduced, this will have a beneficial impact on the protection and enhancement of the environment.

7.4 Risk

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Dog Control PSPO are not renewed, amended or implemented.	Unable to enforce dog control measures Certain areas requested by the public are not covered by the Order.	High	Introduce new PSPO prior to expiry of existing orders.
Additional Dog Control signage is not erected.	Unable to enforce dog fouling and other dog control measures	High	Introduce new PSPO prior to expiry of existing orders.
The council is challenged on the introduction of a new PSPO.	The order would not be valid. The council would incur court costs and reputational damage.	Low	Wide consultation with public and stakeholders

7.5 Consultation

7.5.1 The Consultation and Engagement Team and the Communications Team were involved in helping to design a full and meaningful consultation. This will assist in ensuring that all relevant groups are consulted with, and that the consultation is available in a number of different formats to enable as many people as possible to take part.

7.5.2 There will be a two-stage consultation process, the first stage being of 6 weeks to gather all initial views and considerations on the draft proposals. The second consultation round will be for four-weeks and will be to tweak and fine tune the final proposed order based on the consultation responses received.

7.6 Consideration by Executive Advisory Panel

7.6.1 The initial proposals have been drafted following consideration and review by the Sustainable Communities Executive Advisory Panel (EAP) on 26th April 2023 and the Prosperous Communities EAP on 11th May 2023. Both EAPS supported the principles of the PSPO consultation. Members of the panel were presented with the existing areas to be kept, information received from town and parish councils on a pre consultation process and areas mapped in Corby

for consideration. The PSPO as currently proposed has been amended to reflect the considerations and comments discussed at this EAP.

7.7 Consideration by Scrutiny

7.7.1 This report is eligible for call in by the Scrutiny Commission, as part of their work programme.

7.8 Equality Implications

7.8.1 An Equalities Screening Assessment has been completed. The screening assessment shows in general a neutral impact, which is typical of an enforcement-based decision. There is also a positive impact noted on the potential improvement to our green spaces by increasing responsible dog ownership.

7.8.2 The PSPO will have no significant implications for Convention rights. All of the proposed new measures are accompanied with the appropriate rights of appeal. The most controversial measure is requiring dogs to be kept on a lead in a specific place and this is a requirement which balances the freedom for dog owners to walk their dogs off lead with the rights of consumers to enjoy freedom from unreasonable exposure to dogs not under proper control.

7.8.3 The PSPO will not apply to the owners of assistance dogs used by the blind or by those who are unable as a result of a disability to comply with the legislation. An initial pro-forma Equality Screening Assessment has been completed.

7.9 Climate and Environment Impact

7.9.1 The enforcement of the new powers will lead to a safer and cleaner environment. There are no carbon emission or climate change implications with regard to this recommendation.

7.10 Community Impact

7.10.1 The PSPO places controls and restrictions across North Northants. For Kettering, Wellingborough and East Northants these restrictions and controls have been in place for a number of years and have been welcomed by all. The restrictions have been revised as the years of gone on to ensure new areas are included where evidence shows there is an issue, or the controls amended to ensure better enforcement and clarity.

7.10.2 Key restrictions include dog exclusion in all fenced children's play areas, county wide controls on dog fouling, dogs on lead orders in places such as cemeteries and the ability to request dogs to be placed on leads when required. The PSPO process requires a high level of community engagement to ensure that the community impact is considered.

7.10.3 The overall aim of the PSPO is to make a positive impact on the community and the areas the public use. It must also take into account the controls proposed and the impact these will have on the community. We are seeking as widely as possible comments, suggestion and views on the areas suggested.

7.11 Crime and Disorder Impact

7.11.1 Dog fouling is recognised as a rural crime indicator and repeatedly features as a major issue of concern for our residents. The use of these powers will have a positive impact on the council's ability to challenge anti-social behaviour associated with irresponsible dog ownership.

8 Background Papers

- 8.1 The Public Spaces Protection Order (Kettering Borough Council) (Dog Control) Order 2020. <https://kettering.gov.uk/downloads/download/13502/pspo-orders>
- 8.2 Borough Council of Wellingborough (Dog Control) Public Spaces Protection Order 2020. https://wellingborough.gov.uk/info/98/anti_social_behaviour_and_nuisance/1458/public_spaces_protection_orders_-_2020
- 8.3 East Northamptonshire Council Public Spaces Protection Order 2020. https://www.east-northamptonshire.gov.uk/info/100006/environmentalhealth/1924/public_spaces_protection_orders_east_northamptonshire_area