

## BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan

### REPORT OF THE EXECUTIVE DIRECTOR OF ADULTS & COMMUNITIES TO CABINET

#### **PUBLIC SPACE PROTECTION ORDER FOR DOG CONTROL**

#### **1. PURPOSE OF REPORT**

- 1.1 This report is to provide Cabinet with the relevant information in order to allow for a decision to be made relating to the implementation of a boroughwide public space protection order for Dog Control.

#### **2. RECOMMENDATIONS**

- 2.1 It is recommended that Cabinet review the conditions and implementation approach documented within the report and consider whether they are suitable for implementation across the borough and if so, agree them based on the evidence and feedback from the public consultation.**

#### **3. INTRODUCTION**

- 3.1 Since the development of the Anti-Social Behaviour, Crime and Policing Act 2014, previous legislation for the control of dogs has been removed and replaced with the ability for Local Authorities to apply a boroughwide PSPO. The development of a boroughwide PSPO for this matter is the new way of dealing with offences such as dog-fouling and other topics covered in more detail within this report.
- 3.2 Currently, within Barnsley Metropolitan Borough Council there are no controls placed on the owners of dogs. The only enforcement action available is to issue a Fixed Penalty Notice (FPN) for Dogs fouling on land under the Dog Fouling on Land Act 1996 which has since been repealed. Local Authorities can use this legislation until they move to a new enforcement method such as a Public Space Protection Order.
- 3.3 The Dog Fouling on Land Act 1996 currently used within Barnsley Metropolitan Borough Council has further limitations in addition to the fact it has been repealed, such as the fine levels are a maximum of £50 and any offences committed on highways with a speed limit exceeding 40MPH cannot be dealt with.
- 3.4 Many Local Authorities across England and Wales have now taken advantage of the Anti-Social Behaviour, Crime and Policing Act 2014 for dealing with dog related issues by introducing a boroughwide PSPO with a range of conditions. It is these conditions where consideration needs to be applied in-line with appropriate

governing bodies and legislation such as The Kennel Club and the Animal Welfare Act 2006.

- 3.5 Since the previous report (*Reference Cab.9.9.2020/11*) was submitted to Cabinet, a public consultation has taken place, and the responses have been analysed to ensure that conditions imposed as part of any order are based on what the public of Barnsley would like to see.
- 3.6 Currently, the enforcement for Dog Fouling is the responsibility of the Safer Neighbourhood Service (SNS); however, it is currently discharged by third party contractors working on behalf of the Local Authority to deal with environmental offences with a Fixed Penalty Notice in the first instance.
- 3.7 The order can be enforced by any person authorised by the delegated authority holder. This could be a Barnsley Council officer, a commissioned enforcement officer or a relevant person from other partnership agency.

#### **4. PROPOSAL AND JUSTIFICATION**

- 4.1 A public consultation was carried out between Friday 18 September 2020 and Friday 16 October 2020, which received 1089 responses from the public.
- 4.2 Appendix A outlines the common themes associated with consultation responses and, it is these responses that have shaped the proposed conditions.
- 4.3 It is proposed that any restrictions to be imposed on any specific parks will form separate orders to clarify what orders apply where within the borough. As such, this report seeks approval for a full, boroughwide PSPO which contains conditions that will apply to the whole borough, regardless of location.
- 4.4 Where specific parks/locations require tailored conditions, further cabinet reports will be submitted alongside the relevant consultation information.
- 4.5 Based on the above points, the proposed conditions for the boroughwide order are as follows:
- A person in charge of a dog must remove faeces from any public open land across Barnsley immediately.
  - A person in charge of a dog must put the dog on a lead when requested to do so by an authorised officer.
  - A person must keep a dog on a lead in a Cemetery.
  - A person must not take a dog into or keep it within a fenced/enclosed children's play area.
  - A person in charge of a dog must carry suitable means to remove any dog fouling.
- 4.6 The associated order in relation to the above conditions can be seen in Appendix B of this report.

4.7 Non-compliance with the conditions set out by the order will result in an offence being committed. This offence will initially be dealt with by the issuing of a Fixed Penalty Notice. The initial penalty notice is £100, and failure to comply with this penalty notice could result in a maximum penalty of £1000 being imposed by the Courts.

4.8 It is important to note that there would be an exemption applied to the above prohibitions based on the following:

- Where a person is registered as blind in a register compiled under section 29 of the National Assistance Act 1948; or

Where a person with a disability affecting their mobility, manual dexterity or ability to lift, carry or move everyday objects and who relies upon a dog trained by a prescribed charity for assistance.

4.9 If approval is granted on the implementation of the PSPO with the conditions outlined above then the process to put it in to force will take approximately four to six weeks.

4.10 The conditions set out above are nothing more than what would be expected of a responsible dog owner.

## **5. CONSIDERATION OF ALTERNATIVE APPROACHES**

5.1 One alternative approach to a borough wide PSPO is dog fouling enforcement continues under the current, repealed legislation. However, this is not recommended due to its limitations and the fact it has been repealed pending Local Authorities adopting new processes.

5.2 The secondary alternative approach is that the Council do nothing; however, this is not recommended as there would be no enforcement available for those individuals who fail to manage and control their dog appropriately.

## **6. IMPLICATIONS FOR LOCAL PEOPLE/SERVICE USERS**

6.1 For the vast majority of local people across Barnsley, this will not have any adverse effects on them, and the implications against the law-abiding citizens and responsible dog owners across Barnsley will be limited.

6.2 The implementation of a PSPO will mean that it provides authorised officers with the ability to challenge irresponsible dog ownership where appropriate.

## **7. FINANCIAL IMPLICATIONS**

7.1 Consultations have taken place with representatives of the Service Director Finance (S151 Officer)

7.2 There is limited costings involved in developing the order. The creation and development of signage to be installed at key locations across the Borough will not exceed £8,000.00

- 7.3 These signs will be developed in conjunction with internal departments within the Council, and the costs will be contained within the service's current budget.
- 7.4 Safer Neighbourhood Services would be responsible for the proposed PSPO. However, a third-party contractor may be commissioned on behalf of the Local Authority to deal with offences through FPNs in the first instance. The income generated through FPNs would be used to commission the third-party contractor.

## **8. EMPLOYEE IMPLICATIONS**

- 8.1 The policing of any orders across the Borough requires resource, and there are currently limited resources available within the Safer Neighbourhood Service to deal with these additional breaches.
- 8.2 It is proposed that this type of enforcement may be dealt with on behalf of the Council by a commissioned contractor to allow limited Council employed resource to deal with the subsequent higher-level enforcement action required should an initial Fixed Penalty Notice remain unpaid.
- 8.3 While it is proposed the day to day enforcement of the order would sit with a potential commissioned contractor all front-line staff within the Safer Neighbourhood Service and other relevant services would have the ability to deal with any breaches of the order when witnessed.

## **9. LEGAL IMPLICATIONS**

- 9.1 In the development of any order associated with dog control, consideration needs to be applied to existing legislation and governance around animals' welfare. As part of the initial consultation and survey, the Safer Neighbourhood Service will liaise closely with Legal Services.
- 9.2 There will be consideration applied to ensure the order remains proportionate and legitimate in-line with Environmental Enforcement Policies.

## **10. CUSTOMER AND DIGITAL IMPLICATIONS**

- 10.1 The customer implications associated with this are that local communities will see that the Local Authority is taking positive action to deal with environmental blight and nuisance caused by irresponsible dog owners.

## **11. COMMUNICATIONS IMPLICATIONS**

- 11.1 A communications plan will be created to inform and update the public on the decision of cabinet and any ongoing changes.

There will be some key communication messages delivered as part of the development and any subsequent implementations of an order.

- Communications and marketing team will help develop clear signage linking with our borough-wide campaigns such as EverybodyThink and Joining Forces.
- Consistent communication will be required across the borough to ensure that residents know and understand the order's relevant conditions.
- Communication material to be created to inform residents of any changes, delivered with a multi-channel approach.
- Clear guidance for residents with dogs, to be provided on the council website and social media linking in with partners.

## **12. CONSULTATIONS**

- 12.1 A formal public consultation has been carried out which took place over a four week period. There were over 1000 responses to this which included a response from the Kennel Club. It is important to note that the public consultation directly shaped the order conditions proposed within this report.
- 12.2 Further consultation has also taken place with elected members across the borough who have shown an interest in this order.

## **13. REDUCTION OF CRIME AND DISORDER**

- 13.1 Environmental Crime is a blight on local communities whether this is dog fouling, fly-tipping or littering. With all other offences such as littering and fly-tipping there is current, suitable legislation available for the enforcement; however, there is no current legislation for dog fouling or dog control without developing a PSPO.
- 13.2 It is important to note that enforcement for dog fouling has taken place and still does; however, the legislation for it is now old and no longer suitable due to being repealed. Even on this basis enforcement staff have issued a high number of Fixed Penalties for dog fouling offences across the borough.

## **14. RISK MANAGEMENT ISSUES**

- 14.1 A highlighted risk is the enforcement of the order, as highlighted in section 8 above. The current resources available in-house to enforce the order are limited by opting to utilise the current commissioned environmental enforcement contractor, and any others in the future to enforce the order mitigates the associated risk.
- 14.2 An additional risk associated with the development of a PSPO is a legal challenge against the conditions. As part of the consultation into the development of a boroughwide order, best practice will be considered in conjunction with key organisations associated with animal welfare. The conditions included within this cabinet report take into account the Kennel Club's views to avoid any legal challenges as a result.

## **15. HEALTH, SAFETY AND EMERGENCY RESILIENCE ISSUES**

- 15.1 Concerning Health, dog fouling is a significant concern to many people, not just because of the mess it causes, but because it can be a health risk. Dogs may deposit roundworm eggs (*Toxocara Canis*) in their faeces, which become infections after about three weeks and can remain for up to two years.

Anyone, but particularly children playing near the ground, can risk picking up and swallowing the eggs. The eggs can then pass into the bloodstream into the body, creating a range of symptoms related to toxocaral infection.

## **16. LIST OF APPENDICES**

Appendix A – Financial Implications  
Appendix 1 - PSPO Consultation Summary  
Appendix 2 – Draft Order

## **17. BACKGROUND PAPERS**

None

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made

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