

## **Approval of Public Spaces Protection Order 2021 – Dog Related Restrictions and Restrictions Relating to Smoking in Children’s Play Areas**

Date: 3rd August 2021

Report of: Chief Officer, Elections and Regulatory

Report to: Chief Officer, Safer Stronger Communities

Communities, Housing & Environment

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

### **What is this report about?**

#### **Including how it contributes to the city’s and council’s ambitions**

- The purpose of this report is to advise the Chief Officer, Safer Stronger Communities of the background and legal basis for the creation and review of a Public Spaces Protection Orders and to advise of the outcome of the public consultation in relation to the proposed revision of the Public Spaces Protection Order 2021 – Dog Related Restrictions and Restrictions relating to Smoking in Children’s Play Areas and to seek approval to implement the order commencing Monday 9<sup>th</sup> August 2021.
- Implementing or renewing a Public Spaces Protection Order in relation to the control of dogs and smoking in children’s play areas helps to tackle dog and smoking related anti-social behaviour and contributes to the Councils ambitions to create Stronger, Safer communities through tackling crime and anti-social behaviour.
- The City and Council’s ambitions to support Health and Wellbeing by encouraging active and healthy lifestyles and also to be a Child Friendly City are also supported by the proposed Public Spaces Protection Order in that by including proportionate city wide and site specific dog related restrictions helps to keep green spaces clean and help allow residents enjoy them to their full potential The very specific dog exclusion areas such as children’s play areas also allow children to play freely without concern of being approached by dogs.
- The prohibition of smoking in children’s play areas also allows children to play and exercise without being exposed to the harmful effects of passive smoking.

## Recommendations

- a) The Chief Officer, Safer Stronger Communities is recommended to approve the implementation of the Public Spaces Protection Order– Dog Related Restrictions and Restrictions Relating to Smoking in Children’s Play Areas and the associated schedules on 9<sup>th</sup> August 2021.
- b) That the Fixed Penalty Notice remains set at £100, reduced to £80 if paid within 10 days.

## Why is the proposal being put forward?

The Public Spaces Protection Order Number 1 of 2018 (the "Order") Dog related restrictions and restrictions relating to smoking in children's play areas came into force on 1<sup>st</sup> July 2018 and expired on 30<sup>th</sup> June 2021. The 2018 Public Spaces Protection Order was implemented following an extensive review of the previous Dog Control Orders and included a number of additional city wide and site specific restrictions and for the first time included a prohibition of smoking in all children’s play areas in Leeds.

As the PSPO expired on 30<sup>th</sup> June 2021 the contents of the order were reviewed to ensure that they continued to pass the legal test for a PSPO.

Following discussions with colleagues in Parks and Countryside, the only proposed amendments to the order are to include a small number of newly built children’s play areas as dog exclusion areas and small area that would require dogs to be kept on leads in the immediate vicinity of the lake and visitors centre at Middleton Park.

In order to ensure that dog controls are reinstated in Leeds as soon as possible, it is necessary to introduce a new PSPO, the Public Spaces Protection Order 2021 – Dog Related Restrictions and Restrictions Relating to Smoking in Children’s Play Areas.

## What impact will this proposal have?

### Wards Affected:

Have ward members been consulted?

Yes

No

- 1 The proposal will allow legal powers to be in place once again which are very similar to those in place up until June 30<sup>th</sup> 2021 and will allow authorised Officers to issue Fixed

Penalty Notices, where appropriate, for non-compliance with the Public Spaces Protection Order.

2. An equality, diversity, cohesion and integration screening exercise and form have also been undertaken and no significant outstanding issues were identified (Appendix A)

### **What consultation and engagement has taken place?**

3. Public consultation is a legal requirement of the implementation or review process for the Public Spaces Protection Order. An online public consultation was undertaken over a 4 week period from 7<sup>th</sup> June until 6<sup>th</sup> July and received 1375 responses with supportive feedback received for all elements of the order (Appendix B).
4. A briefing note was produced and sent to all ward members to advise them of the review and proposes additions. Direct feedback was invited and members were asked to share the consultation with constituents. No direct written responses were submitted by members.
5. Middleton Park ward members were e-mailed directly with details of the proposals for the dogs on leads at all times area around Middleton Park lake and invited to request an online meeting to discuss the proposals should they wish to or to e-mail any concerns or comments. The proposals were self-explanatory and no further requests for information or a meeting were received.
6. In addition, all Parish Council and Town Councils were contacted to make them aware, to promote the consultation with residents and to invite them to take part in the consultation process. The West Yorkshire Mayor and Leeds Police Chief Superintendent were also consulted, although neither returned a response.

### **What are the resource implications?**

7. The purpose of implementing a PSPO is to achieve broad compliance with the requirement across all communities, rather than to increase the number of Fixed Penalties and prosecutions that are undertaken. All enforcement will be undertaken within existing resources.
8. One of the requirements for implementing a PSPO is that adequate signage is displayed in order that people are aware of what is expected of them. The signage requirements for the additional site specific requirements are currently being identified, but it is estimated that costs for signage for the new sites and amendments to signage to ensure that the prohibition of smoking is clearly signed as a legal required is estimated to be approximately £2000. The cost of the signage will be shared between Environmental Health and Parks and Countryside

### **What are the legal implications?**

9. As outlined in section 5c(i) of the Director's Sub-Delegation Scheme 1 - Director of Communities, Environment and Housing, the Chief Officer, Safer Stronger Communities, Housing and Environment is authorised to approve the implementation of Public Spaces Protection Orders.

10. A Team Leader from Legal Services has been fully engaged at all stages of the planning, drafting and preparation of the PSPO and will continue to provide support with the implementation and enforcement of the order.
11. In order to introduce a PSPO the local authority must be satisfied the behaviour that is being restricted is:
  - Having or is likely to have, a detrimental effect on the quality of life of those in the locality
  - persistent or continuing in nature
  - unreasonable
  - Justifies the restrictions imposed
12. The PSPO lasts for a maximum of 3 years but can be extended beyond this time.
13. An interested person may apply to the high court to question the validity of an Order on the grounds that the Local Authority did not have the power to make the order or to include a particular restriction or requirement of that order or that it did not meet the “tests” outlined in the Anti-Social behaviour Crime and Policing Act 2014. Any such application has to be made to the High Court within 6 weeks of enactment of the Order.
14. The High Court has the opportunity to suspend or quash any of the requirements of the order.
15. The proposed order has been subject to public consultation as required by the Anti-Social Behaviour Crime and Policing Act 2014
16. The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 requires that any PSPO that is implemented is published on the Council’s website and that signage is placed as deemed appropriate to ensure that the public are aware of the requirements.
17. This decision constitutes a significant operational decision and as such is not eligible for call in. The drafted PSPO and associated schedules are attached in Appendix C.

### **What are the key risks and how are they being managed?**

18. As outlined in point 13, there is a risk with the implementation of a PSPO that an interested person may apply to the high court to question the validity of that order. However, in order to mitigate such a risk, legal advice has been sought throughout the process and an extensive consultation process undertaken.
19. There are no additional resources available to enforce the additional requirements, which could result in the perception that the Orders won’t be properly enforced. The purpose of the implementation of the additional areas on the Public Spaces Protection Orders is to achieve broad compliance and that with assistance from colleagues and members of the public in providing intelligence, resources can be targeted to those areas and problems most requiring resources.
20. Publication of successful enforcement action can also be used to act as a deterrent.

## Does this proposal support the council's 3 Key Pillars?

Inclusive Growth

Health and Wellbeing

Climate Emergency

21. Ensuring that measures are in place to supporting keeping green and public spaces available for the public to use, including the use of certain areas for exercise such as tennis courts, Multi-use Games Areas and children's play areas free from dogs and to protect all areas from dog fouling help to promote health and wellbeing. In addition smoke free play areas also help to promote healthy lifestyles by allowing children to play without inhaling the harmful effects of smoke.

## Options, timescales and measuring success

### a) What other options were considered?

22. There have been similar dog controls in place in Leeds since 2011 and their necessity has been long since established. A number of city wide and site specific restrictions were added in the 2018 PSPO. In view of this, consideration was given as to the ongoing necessity of all of the requirements and whether any further additional sites were needed. The only additions deemed necessary were a small number of new children's play areas as dog exclusion areas and a small area around Middleton Park Lake to becoming dogs on leads area.

### b) How will success be measured?

23. As there has been a very similar PSPO in place for the past 3 years and dogs controls before that, success will be measured by perceptions around dog controls in the city and by the number of service requests and Fixed Penalty Notices issued remaining stable in line with pre March 2020 levels.

### c) What is the timetable for implementation?

24. The PSPO will be implemented on Monday 9<sup>th</sup> August 2021

## Appendices

25. Appendix A - Equality, Diversity, Cohesion and Integration screening form

26. Appendix B – Summary of Public Consultation feedback

27. Appendix C – Draft Public Spaces Protection Order 2021 - Dog Related Restrictions and Restrictions Relating to Smoking in Children's Play Areas and accompanying schedules.

## Background papers

28. None