



20 November 2024

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CABINET MEMBER FOR HOUSING AND PLANNING DECISION MEETING

A Cabinet Member for Housing and Planning Decision Meeting will be held at on
Thursday, 28 November 2024 at 1.30 pm.

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Committee Administrator know prior to the date of the meeting.

AGENDA

1. **Declarations of Interest**

To receive any declarations of interest from the Cabinet Member or any officers present.

2. **Renewal Of Public Space Protection Order For Dog Fouling** (Pages 3 - 18)

Purpose

To consider the proposals to adopt an extension to the Public Space Protection Order for Dog Fouling for a further three years to commence 1 January 2025.

Recommendations

That the Cabinet Member for Housing and Planning resolves to:

1. Approve the renewal of the Public Space Protection Order for Dog Fouling for a further three years effective 1 January 2025

(END)

Agenda Item 2



COTSWOLD
District Council

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET MEMBER FOR HOUSING AND PLANNING DECISION MEETING – 28 NOVEMBER 2024
Subject	RENEWAL OF PUBLIC SPACE PROTECTION ORDER FOR DOG FOULING
Wards affected	All
Accountable member	Councillor Juliet Layton - Cabinet Member for Planning and Regulatory Services Email: Juliet.layton@cotswold.gov.uk
Accountable officer	Philip Measures - Service Leader ERS Email: Democratic@cotswold.gov.uk
Report author	Kevin Lea - Enviro Crime Officer Email: Democratic@cotswold.gov.uk
Summary/Purpose	To consider the proposals to adopt an extension to the Public Space Protection Order for Dog Fouling for a further three years to commence 1 January 2025.
Annexes	Annex A – (Public Space Protection Order - Dog Fouling) Annex B – Equality Impact Assessment
Recommendation(s)	That the Cabinet Member for Housing and Planning resolves to: <ol style="list-style-type: none">1. Approve the renewal of the Public Space Protection Order for Dog Fouling for a further three years effective 1 January 2025
Corporate priorities	<ul style="list-style-type: none">• Delivering Good Services• Supporting Communities
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Town & Parish Councils in CDC, Gloucestershire Police and Police Commissioner



1. EXECUTIVE SUMMARY

- 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. While most dog owners are caring, responsible individuals, there are still some people who do not clean up after their pets.
- 1.2** A Dog Control Order was adopted by The Council in 2008. This was approved to deal with dog fouling under the provisions of the Clean Neighbourhoods and Environment Act 2005 (CNEA) The relevant section of the CNEA Act 2005 was repealed in 2014 and all Dog Control Orders were automatically transitioned into Public Space Protection Orders (PSPOs). As PSPOs expire after three years, a review is required for the re-introduction of the Order.
- 1.3** The existing PSPO was extended in January 2022 and expires in January 2025. The recommendation of this report is to approve the existing PSPO as set out in Appendix A, to continue for another three years, until January 2028.

2. BACKGROUND

- 2.1** 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.
- 2.2** The Anti-Social Behaviour Crime and Policing Act 2014 provides the legal framework for the creation of PSPOs. These control activities within defined areas.
- 2.3** A local authority may make a PSPO if satisfied on reasonable grounds that two conditions are met.

The first condition is 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
- It is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that 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
- Justifies the restrictions imposed by the notice

2.4 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.

2.5 A breach of the PSPO is a criminal offence, which can be dealt with, either by way of a fixed penalty notice (FPN) of up to £100 or prosecution. If prosecuted, an individual could be liable to a fine no higher than £1,000. Any PSPO introduced can only be valid for a maximum of three years or shorter and must thereafter be extended.

2.6 Authorised officers enforce the provisions of the PSPO by patrolling and investigating complaints. Fixed Penalty Notices (£100) can be issued for non-compliance. Officers take a proportionate approach to enforcement, seeking to raise awareness and educate in the first instance.

2.7 PSPO's have a duration of 3 years. Prior to expiry they should be reviewed to determine whether they should be extended for an additional period (e.g. a further 3 years). Section 60 of the Act allows for the extension of the orders currently in force providing that the local authority who made the order, is satisfied on reasonable grounds that doing so is necessary to prevent.

- Occurrence or recurrence after that time of the activities identified in the order, or
- An increase in the frequency or seriousness of those activities after that time

2.8 Dog Fouling - Makes it an offence if a person in charge of a dog fails to clean up its faeces. Covering all public places in the District. 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.

2.9 Failing to produce a receptacle for picking up dog faeces – 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.



2.10 It is a reasonable expectation of our residents to access open spaces for their own mental health considerations and for the welfare of their animals when exercising that the PSPO is sufficient to take enforcement action where owners fail to comply or are inconsiderate of others.

2.11 That it is unreasonable to fine those who are unable to comply with the proposals for reasons of disability and therefore these groups should be excluded by exemption.

- A person who has a disability which affects mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon whom he relies for assistance.
- A person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948.

2.12 That the value (£100) of the fixed penalty notice is reasonable and sufficient.

2.13 That the PSPO should be implemented with adequate bin provision and signage so that any enforcement action taken is both reasonable and proportionate.

3. RECOMMENDATION

3.1 That the renewal of the PSPO for Dog Fouling be approved for a further three years effective January 2025.

3.2 To maintain the power to serve Fixed Penalty Notices for the offence of dog fouling in public open spaces.

3.3 The level of the fine to remain at £100, with a 25% discount for early payment.

4. ALTERNATIVE OPTIONS

4.1 If the Council does not take any action, the PSPO for dog fouling will expire and the Council will not be able to issue fines for the offence of dog fouling. This option is not recommended because it removes a deterrent when dog fouling is still a recurring problem, albeit less frequent because society regards dog fouling as unacceptable.

4.2 The Council could issue a new PSPO to include other related anti-social behaviours associated with dogs, such as not being kept on leads. However, currently there is no demand for broadening the scope of the PSPO and were there to be in future, then an



additional PSPO could be consulted on, which would be specific to the issue and affected locations. Therefore, this option is not recommended or required at this time.

5. CONCLUSIONS

- 5.1** It is a reasonable expectation of our residents to access open spaces for their own mental health considerations and for the welfare of their animals when exercising that the PSPO is sufficient to take enforcement action where owners fail to comply or are inconsiderate of others.
- 5.2** That the PSPO should be implemented with adequate bin provision and signage so that any enforcement action taken is both reasonable and proportionate.

6. FINANCIAL IMPLICATIONS

- 6.1** There are no financial implications.

7. LEGAL IMPLICATIONS

- 7.1** Legal Services will review and make any order subject to this decision.

8. RISK ASSESSMENT

- 8.1** The purpose of the proposed PSPO (Dog fouling), is to provide a better understanding of the balanced approach to managing freedoms for all with the need to control inappropriate behaviour that infringes the freedoms of the community more widely.
- 8.2** Under the Anti-social Behaviour, Crime and Policing Act 2014 ('the Act'), where a public spaces protection order is introduced a legal challenge over the validity of such an order is possible for a period of up to six weeks. The Order will, therefore, be subject to a six-week cooling off period in which it may be challenged.

It is considered appropriate to implement legal powers to take enforcement action when required to encourage responsible pet ownership.

9. EQUALITIES IMPACT

An Equality Impact Assessment has been completed and attached as Annex B to this report.



10. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS

10.1 There are no carbon emission or climate change implications with regard to this recommendation.

11. BACKGROUND PAPERS

11.1 None

(END)

Annex A



COTSWOLD
District Council

PUBLIC SPACES PROTECTION ORDER (PSPO 3 /2025)

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 PART 4, SECTION 59

Cotswold District Council makes this Order, being satisfied on reasonable grounds that activities in the location described in paragraph 2 of this Order have had or are likely to have a detrimental effect on the quality of life of those in the locality, and that these activities involved various anti-social behaviours. Further, Cotswold District Council believes that the effect, or likely effect, of the activity described in paragraph 1 of this Order is (or is likely to be) persistent in nature, such as to make the activity unreasonable and justifies the restriction imposed on this notice.

Cotswold District Council hereby requires by way of this Order that

1. The activities described below are hereby prohibited as from the date of this Order:

(1) If a dog defecates at any time on the land to which this Order applies and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –

- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) Nothing in this article applies to a person who –

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

(b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon whom he relies for assistance.

(3) For the purpose of this article –

(a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;

(b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;

(c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;

(d) each of the following is a "prescribed charity" –

(i) Dogs for the Disabled (registered charity number 700454)

(ii) Support Dogs (registered charity number 1088281)

(iii) Canine Partners for Independence (registered charity number 803680)

2. This Order applies to all land which is within the administrative area of Cotswold District Council and which is -

(i) Open to the air (which includes land that is covered but open to the air on at least one side); and

(ii) including land which is within the administrative area of Cotswold District Council to which the public are entitled or permitted to have access with or without payment of the following descriptions:

a. Any highway, footway, footpath and towpath over which the public have a right of way on foot and adjoining verges which are maintained at public expense. This may include some areas of access land;

b. All pedestrianised areas to which the public have access;

c. Open spaces which are owned, occupied or maintained by or on behalf of Cotswold District Council, Gloucestershire County Council, a Registered Social

Landlord/Housing Association or any Town or Parish Council within Cotswold District Council including car parks, parks, play areas and sports grounds;

d. Any cemetery, burial ground or churchyard;

2. Excepted from the description in paragraph 1 above is -

(i) Land that is placed at the disposal of the Forestry Commissioners under section 39 (1) of the Forestry Act 1967.

3. If without reasonable excuse you breach the prohibition in paragraph 1 you may be issued with a fixed penalty notice of £100 or prosecuted reduced to £75 for early payment (within 14 days). If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 3 on the standard scale (currently £1,000).

4. This Order shall remain in place until for 3 years

THE COMMON SEAL of)

COTSWOLD DISTRICT COUNCIL)

affixed hereto is authenticated by the)

undermentioned person authorised by the)

Council to act for that purpose:)

Council Solicitor and Monitoring Officer)

Schedule 1.

CHALLENGING THE VALIDITY OF ORDERS

An interested person may apply to the High Court to question the validity of –

A) This Order, or

B) A future variation of this Order.

“Interested person” means an individual who lives in the restricted area or who regularly works in or visits that area.

An appeal against this Order or a future variation of this Order may be made to the High Court within six weeks from the date on which the Order or variation is made, on the grounds that:

- a) Cotswold District Council did not have power to make the Order or variation, or to include particular prohibitions or requirements imposed by the Order (or by the Order if varied);
- b) A requirement under Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 was not complied with in relation to Order or variation.

Equality and Rurality Impact Assessment Form

When completing this form you will need to provide evidence that you have considered how the ‘protected characteristics’ may be impacted upon by this decision. In line with the General Equality Duty the Council must, in the exercise of its functions, have due regard for the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

This form should be completed in conjunction with the guidance document available on the Intranet

Once completed a copy should be emailed to cheryl.sloan@publicagroup.uk to be signed off by an equalities officer before being published.

1. Persons responsible for this assessment:

Names: Kevin Lea	
Date of assessment: 01/10/2024	Telephone: 01285 623253 Email: kevin.lea@publicagroup.uk

2. Name of the policy, service, strategy, procedure or function:

Public Protection – Environmental Health renewal of Public Space Protection Order PSPO – Dog Fouling for a further three years.

3. Briefly describe it aims and objectives

<p>The Order will be in force for a period of 3-years from the 1 January 2025 – 31 December 2028, after which there will be a further statutory review.</p> <p>To protect public health and public safety from the adverse actions of dogs and less responsible dog owners. To support the welfare of people through responsible dog ownership.</p> <p>Dog Fouling - Makes it an offence if a person in charge of a dog fails to clean up its faeces. Covering all public places in the District 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.</p>

4. Are there any external considerations? (e.g. Legislation/government directives)

<p>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. The Anti-Social Behaviour Crime and Policing Act 2014 provides the legal framework for the creation of PSPOs. These control activities within defined areas.</p>

5. What evidence has helped to inform this assessment?

Source	✓	If ticked please explain what
Demographic data and other statistics, including census findings	<input type="checkbox"/>	
Recent research findings including studies of deprivation	<input type="checkbox"/>	
Results of recent consultations and surveys	<input type="checkbox"/>	
Results of ethnic monitoring data and any equalities data	<input type="checkbox"/>	
Anecdotal information from groups and agencies within Gloucestershire	<input type="checkbox"/>	
Comparisons between similar functions / policies elsewhere	<input type="checkbox"/>	
Analysis of audit reports and reviews	<input type="checkbox"/>	
Other:	<input checked="" type="checkbox"/>	Consultations carried out with Parish town councils, Police , Highways with the introduction of the original PSPO following the transition from a Dog control order in 2014.

6. Please specify how intend to gather evidence to fill any gaps identified above:

N/A

7. Has any consultation been carried out?

In August 2024, we contacted the following via email, Town & Parish Councils in CDC Gloucestershire Police and Police commissioner to notify them of our intention that we would like to extend the Order for a further 3 years. Other than publishing the extension, no further consultation will be required for the extension.

If NO please outline any planned activities

8. What level of impact either directly or indirectly will the proposal have upon the general public / staff? (Please quantify where possible)

Level of impact	Response
NO IMPACT – The proposal has no impact upon the general public/staff	
LOW – Few members of the general public/staff will be affected by this proposal	
MEDIUM – A large group of the general public/staff will be affected by this proposal	<input checked="" type="checkbox"/>
HIGH – The proposal will have an impact upon the whole community/all staff	<input type="checkbox"/>
<p>Comments: e.g. Who will this specifically impact?</p> <p>There is also potential for positive equality impact for the public that may be affected by inconsiderate behaviour of others. By extension of this order, in terms of mental well-being opportunities arising for people to feel safer when outdoors for health benefits, education, work or simply walking to their local shops and amenities.</p> <p>This is particularly so for families with young children, wheelchair users, and older people who may consider themselves to be vulnerable and less likely to venture out without pavements that can be navigated safely by them and their carers, and that are clear of detritus and dog faeces.</p> <p>It can be assumed that young children who are more likely to be playing on the ground are most likely to benefit from the reduction of dog fouling. Children will have less potential to be harmed by un-cleared faeces or distressed by coming into contact with it. Young children are most likely to be exposed to dog fouling through their outside play activities and potential health impacts, if personal hygiene has not fully developed.</p> <p>There may be some negative consequences for some groups because removing dog fouling may present as a challenge. For example, wheelchair users and mobility scooter users could be particularly affected by dog fouling on streets and pathways, due to either difficulty picking up dog faeces if it has been caused by their own dog, or to difficulty dealing with dog fouling that they encounter which may go onto the wheels of their wheelchair or mobility scooter.</p> <p>As people with some disabilities may find it more challenging to comply with the Dog Fouling PSPO therefore included in the order are exemptions:</p> <ul style="list-style-type: none"> • A person who has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon whom he relies for assistance. • A person registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948. 	

9. Considering the available evidence, what type of impact could this function have on any of the protected characteristics?

Negative – it could disadvantage and therefore potentially not meet the General Equality duty;

Positive – it could benefit and help meet the General Equality duty;

Neutral – neither positive nor negative impact / Not sure

	Potential Negative	Potential Positive	Neutral	Reasons	Options for mitigating adverse impacts
Age – Young People		x		Young children are most likely to be exposed to dog fouling through their outside play activities and potential health impacts if personal hygiene has not fully developed.	
Age – Old People	x			Potential inability to remove dog fouling due to physical impairment.	
Disability		x		Wheelchair users particularly affected by dog fouling on streets, pathways etc. Toxoplasmosis can be a more dangerous infection for people with a weakened immunity leading to serious complications.	Appropriate exemptions in the draft PSPO Assistance dogs are for those who are trained to support people who rely on their assistance with their disability - registered blind or is deaf, has a physical or mental impairment which has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities.
Sex – Male			x		There is no estimated direct or indirect disproportionate impact of these proposals to residents on the grounds of sexual orientation.
Sex – Female			x		There is no estimated direct or indirect disproportionate impact of these proposals to residents on the grounds of sexual orientation.
Race including Gypsy and Travellers			x		There is no known direct or indirect disproportionate impact in terms of dog control for residents on the grounds of race

Religion or Belief			x		There is no known direct or indirect disproportionate impact in terms of dog control for residents on the grounds of religion or philosophical belief
Sexual Orientation			x		There is no known direct or indirect disproportionate impact in terms of dog control for residents on the grounds of sexual orientation
Gender Reassignment			x		There is no known direct or indirect disproportionate impact in terms of dog control for residents on the grounds of gender reassignment.
Pregnancy and maternity		x			Toxoplasmosis can be a more dangerous infection for people with a weakened immunity and people who are pregnant and can lead to serious complications.
Geographical impacts on one area			x		None
Other Groups					None
Rural considerations: ie Access to services; leisure facilities, transport; education; employment; broadband.					N/A

10. Action plan (add additional lines if necessary)

Action(s)	Lead Officer	Resource	Timescale

11. Is there is anything else that you wish to add?

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. While most dog owners are caring, responsible individuals, there are still some people who do not clean up after their pets.

The renewal of the PSPO will contribute positively to the Council corporate key priorities. It will contribute to a cleaner environment and a reduction in the health & safety risks associated with direct exposure to dog fouling.

Dog Fouling is considered an environment issue which can have a massive effect on communities on the look and feel of neighbourhood and the renewal of the PSPO will assist in changing behaviour. Having the legislative powers available will help protect the public health of all age groups. To help secure a behavioural change so that dog fouling is socially unacceptable.

Declaration

I/We are satisfied that an equality impact assessment has been carried out on this policy, service, strategy, procedure or function and where a negative impact has been identified actions have been developed to lessen or negate this impact. We understand that the Equality Impact Assessment is required by the District Council and that we take responsibility for the completion and quality of this assessment.

Completed By:	Kevin Lea	Date:	03/10/2024
Line Manager:	Jon Dearing	Date:	04/10/2024
Reviewed by Corporate Equality Officer:	Cheryl Sloan	Date:	07/10/2024