



|                            |   |
|----------------------------|---|
| Council name               | <b>COTSWOLD DISTRICT COUNCIL</b>  |
| Name and date of Committee | <b>CABINET MEMBER FOR HOUSING AND PLANNING DECISION MEETING – 28 NOVEMBER 2024</b>  |
| Subject                    | <b>RENEWAL OF PUBLIC SPACE PROTECTION ORDER FOR DOG FOULING</b>   |
| Wards affected             | All   |
| Accountable member         | Councillor Juliet Layton - Cabinet Member for Planning and Regulatory Services<br>Email: <a href="mailto:Juliet.layton@cotswold.gov.uk">Juliet.layton@cotswold.gov.uk</a>   |
| Accountable officer        | Philip Measures - Service Leader ERS<br>Email: <a href="mailto:Democratic@cotswold.gov.uk">Democratic@cotswold.gov.uk</a>   |
| Report author              | Kevin Lea - Enviro Crime Officer<br>Email: <a href="mailto:Democratic@cotswold.gov.uk">Democratic@cotswold.gov.uk</a>   |
| 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)<br>Annex B – Equality Impact Assessment   |
| Recommendation(s)          | That the Cabinet Member for Housing and Planning resolves to:<br><ol style="list-style-type: none"><li>1. Approve the renewal of the Public Space Protection Order for Dog Fouling for a further three years effective 1 January 2025</li></ol> |
| Corporate priorities       | <ul style="list-style-type: none"><li>• Delivering Good Services</li><li>• Supporting Communities</li></ul>   |
| 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provisions of the Clean Neighbourhoods and Environment Act 2005 (CNEA) The relevant section of the CNEA Act 2005 was repealed in 2014 and all Dog Control Orders were automatically transitioned into Public Space Protection Orders (PSPOs).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.



**COTSWOLD**  
District Council

**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)