



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET MEMBER FOR THE ENVIRONMENT, WASTE AND RECYCLING DECISION MAKING MEETING – 20 DECEMBER 2021
Report Number	AGENDA ITEM 01
Subject	APPROVAL OF PUBLIC SPACES PROTECTION ORDER FOR DOG FOULING
Wards affected	All
Accountable member	Cllr Andrew Doherty Email: <a href="mailto:Andrew.Doherty@cotswold.gov.uk">Andrew.Doherty@cotswold.gov.uk</a>
Accountable officer	Jon Dearing, Group Manager for Professional Services Email: <a href="mailto:Jon.Dearing@publicagroup.uk">Jon.Dearing@publicagroup.uk</a>
Summary/Purpose	To report on the outcome of the consultation about a renewal of the Public Spaces Protection Order (PSPO) for Dog Fouling and to recommended a decision for its approval.
Annexes	Annex 1 – PSPO consultation on Dog Fouling: Response summary. Annex 2 - Public Spaces Protection Order for Dog Fouling.
Recommendation(s)	<i>That the renewed PSPO for Dog Fouling be approved for a further three years effective January 2022.</i>
Corporate priorities	Delivering our services to the highest standards
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Parish Councils Town Councils Gloucestershire Constabulary



## **1. BACKGROUND**

- 1.1** The Anti-Social Behaviour Crime and Policing Act 2014 provides the legal framework for the creation of Public Spaces Protection Orders. These control activities within defined areas that:
- a) Have had a detrimental effect on the quality of life of those in the locality, or it is likely that the activities will take place and they will have a detrimental effect.
  - b) The effect of these activities is, or is likely to be, persistent or continuing in nature
  - c) Is, or is likely to be, unreasonable
  - d) Justifies the restrictions being imposed.
- 1.2** 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).

## **2. MAIN POINTS**

- 2.1** 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. The relevant section of the CNEA Act 2005 was repealed in 2014 and all Dog Control Orders were automatically transitioned into PSPOs. As PSPOs expire after three years, a review was required for the re-introduction of the Order.
- 2.2** The existing PSPO was introduced in January 2019 and expires in January 2022.
- 2.3** The proposal for consultation was to re-introduce the Order for a further three years under the same terms. The level of the fine to remain at £100, with a 25% discount for early payment. The proposal went out to statutory consultation on 16th June 2021 and ended on 30th July 2021. The responses are summarised in Appendix 1.
- 2.4** The responses were in support of the proposal, although some consultees had questions about enforcement and the practicalities of enforcement. However, with no dissenting concerns a new PSPO as drafted in Appendix 2 is recommended for approval with no further amendment.

## **3. FINANCIAL IMPLICATIONS**

- 3.1** None



#### **4. LEGAL IMPLICATIONS**

4.1 None

#### **5. RISK ASSESSMENT**

5.1 The order can be challenged if its introduction has failed to follow the correct process.

#### **6. EQUALITIES IMPACT**

6.1 None

#### **7. CLIMATE AND ECOLOGICAL EMERGENCIES IMPLICATIONS**

7.1 None

#### **8. ALTERNATIVE OPTIONS**

8.1 None

#### **9. BACKGROUND PAPERS**

9.1 None:



## Annex I

### PSPO consultation on Dog Fouling: Response summary.

Consultee	Response Summary
Bibury	<p>The Council considered the consultation in their meeting held on Tuesday 20<sup>th</sup> July 2021 and agreed to support the following proposals:</p> <ul style="list-style-type: none"><li>• The existing dog fouling provisions remain in place</li><li>• The level of fine remains at the maximum of £100 per offence</li><li>• Prosecution of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000). The maximum amount is fixed by statute.</li></ul>
Chipping Campden	<p>Yes, I would like the controls in the Order to continue.</p>
Coates	<p>At the meeting of Coates Parish Council last night, Councillors resolved that they would like the controls in the Order to continue.</p>
Cobberley	<p>Cobberley Parish Council would like to confirm that they agree with your proposals for the PSPO.</p>
Donnington	<p>Although in the Donnington Parish we don't have any area of public land we would like the controls in the Order to continue. Our nearest two Parishes, Broadwell and Stow, both have areas of public land that our residents frequently visit.</p>
Evenlode	<p>I've looked at your email. I feel that more detail/clarification is required on whether the wording of any Order:- (1) sufficiently differentiates between urban environments with pavements and rural environments. Kicking a poo into the verges in the countryside where there are no pavements around a village is very different in impact to leaving a poo on the verges to properties in built up areas, 2) whether there is any statutory requirement within the regulations governing dog fouling for waste bins to be installed, or whether that is up to Parish Council policy; (3) whether the Regulations govern the scenario of a dog walker scooping poo into a plastic bag but then abandoning the bag in a hedge or tree branch ( it seems to me that this is almost worse because of the time the bag will take to break down as opposed to the time 'raw' waste will take to be dealt with by rats and foxes or breakdown naturally). Is this 'removal from the land'? Where is that specified?</p>



Consultee	Response Summary
	So in principle Evenlode PC agrees with orders to deal with dog fouling in populated areas with the caveat that the matters raised in this consultation do not give enough detail and are not wide enough in ambit. This PC feels that threatening a fixed penalty will be no more likely to deter inconsiderate behaviour any more than the threat of fixed penalties for the plethora of all the other regulatory issues falling within the remit of CDC -
Fairford TC	Fairford Town Council is supportive of renewing the PSPO for a further 3 years.
Gloucestershire Contabulary	I fully support the continuation of the PSPO in this area. I have liaised with SMT and they are fully supportive to. The PCC office have also asked me to respond on their behalf
Kemble & Ewen	Kemble & Ewen Parish Council would strongly support the renewal of the PSPO for the control of Dog Fouling.
Lower Slaughter	I am the Parish Clerk for Lower Slaughter Parish Council. LSPC have asked me to contact you to fully support this Protection Order
Long Newton	Long Newton PC agree with the attached letter and wish for renewal.
Longborough	My Council met on 12 <sup>th</sup> July and agreed unanimously to support CDC's proposals to extend the existing regulations for a further three years.
Mickleton	Mickleton Parish Council fully support the renewal of the Public Spaces Protection Order for the control of dog fouling in the Cotswold District. The only comment they would like to make is that they feel that the £100 fine per offence should be increased.
North Cerney	Shall I reply confirming that NCPC supports the renewal of the PSPO?
Morton in Marsh TC	Is in favour of retaining the current provision, which is clear in its application of the PSPO and its effect
Northleach TC	<p>Northleach with Eastington Town Council supports the renewal of the controls in the order.</p> <p>The lack of dog waste bins is not encouraging the correct disposal of dog waste in the parish. If the district council is committed to make our district cleaner and greener overall, then we would hope they would support the installation and maintenance of new bins, in particular the dog waste bin that the council requested two years ago in a spot where the waste is often overflowing.</p> <p>The Town Council would also like to see more effective enforcement.</p>



Consultee	Response Summary
Upper Oddington	I can confirm that OPC would want to see the PSPO renewed. Councillor would be inserted to know the numbers of fines issued if that information can be easily found
Quenington	Quenington Parish Council has reviewed your letter dated 24th June and is fully supportive of the renewal of a PSPO with regard to dog fouling as it is still very much an ongoing issue.
Somerford	Following the Somerford Keynes Parish Council meeting 5 <sup>th</sup> July 2020 it was unanimously agreed that the Parish Councillors would like to support the proposals for dog fouling and for the current order to continue in its current form
Stow on the Wold TC	Firstly my apologies as I am late in responding to the above consultation. The Council discussed the above PSPO at it July Council Meeting and they have asked me to convey that it fully supports the renewal and have nothing further to add. Hope all well with you and keep up the good work



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## **Annex 2**



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### **PUBLIC SPACES PROTECTION ORDER (PSPO 2 /2022)**

#### **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

I. 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 complied 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);



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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

(END)