

## **CABINET**

**DATE OF MEETING: 7 SEPTEMBER 2023**

**TITLE OF REPORT: DOG FOULING PUBLIC SPACE PROTECTION ORDER**

**Report of: Executive Director – Place**

**Cabinet Portfolio: Regulatory**

**Key Decision: No**

**Confidentiality: Non-Exempt**

### **PURPOSE OF REPORT**

- 1 To agree the making of a district-wide Dog Fouling Public Spaces Protection Order (PSPO).

### **RECOMMENDATION**

- 2 Cabinet is recommended to delegate authority to the Executive Director – Place, in consultation with the Portfolio Holder for Regulatory, to:
  - a. consider the responses to the public consultation and make any necessary amendments to the draft PSPO in light of the consultation, and
  - b. adopt the district-wide PSPO to apply to any place where 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. The restrictions are that:
    - i. persons in charge of a dog must remove the faeces and for it to be disposed of in an appropriate receptacle, and
    - ii. persons in charge of a dog must have with them appropriate means to pick up dog faeces deposited by that dog.

### **BACKGROUND**

- 3 In June 2020 the Council adopted a district-wide Public Space Protection Order (PSPO) relating to dog fouling. The PSPO applied district-wide to any place 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. The restrictions are that:
  - i. persons in charge of a dog must remove the faeces and for it to be disposed of in an appropriate receptacle, and
  - ii. persons in charge of a dog must have with them appropriate means to pick up dog faeces deposited by that dog.

The PSPO expired at the end of May 2023.

### **NEED FOR A PSPO**

- 5 Public Spaces Protection Orders (PSPO) are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life. To justify a PSPO there has firstly to be evidence of a nuisance, and secondly that the effect (or the likely effect) of the activities is of a persistent nature making the behaviour unreasonable and rendering the notice justified.
- 6 It does this by imposing conditions on the use of that area, which apply to everyone. Orders are designed to ensure the law-abiding majority can use and enjoy public spaces, safe from antisocial behaviour.

- 7 Dog fouling is unpleasant and affects the enjoyment of space where members of the public have access. It can cause health risks and may cause infections.
- 8 The 2020 PSPO has been effective and provided the legislative basis for enforcement to be undertaken. However, as set out in the Environmental Health & Licensing Local Enforcement Plan, formal enforcement action, such as issuing and serving a Fixed Penalty Notice, is a last resort. The existence of a PSPO is an additional lever to ensure dog owners are responsible and deal with the natural process of dog fouling in a responsible way.
- 9 Having had regard to the above it is appropriate to make a new PSPO, covering the same matters as the 2020 version.

## **PROCESS FOR A NEW PSPO**

- 11 A 4-week consultation on a new the PSPO has already commenced. All relevant consultees in accordance with Section 72 of the Anti-social Behaviour, Crime and Policing Act 2014 have been notified of the consultation.
- 12 Following the end of the consultation period all the responses will be considered prior to a decision to adopt a new PSPO.
- 13 The 2020 PSPO was also informed by the representations made during its consultation. The consultation for the PSPO covers the same matters as the 2020 PSPO. It is therefore expected this will reduce the consultation burden.
- 14 Consultation on the PSPO will run for a 4-week period closing 2 October 2023. There is a wide notification procedure including all Parish and Town Councils, the Ministry of Defence, Suitable Alternative Natural Greenspace (SANG) owners and managers, the Kennel Club and Dogs Trust, Hampshire Police, Hampshire County Council, Natural England, RSPB, Fleet Pond Society and Basingstoke Canal Society. In addition, all Hart-registered dog walking businesses, local vets and pet shops have been notified.

## **CORPORATE GOVERNANCE CONSIDERATIONS**

### **Relevance to the Corporate Plan and/or the Hart Vision 2040**

- 16 The Corporate Plan includes the commitment to make Hart a great place to live, work and enjoy, and aims to protect and enhance the District's natural environment, landscape character and water environment.

### **Service Plan**

- 17 Is the proposal identified in the Service Plan? No
- 18 Is the proposal being funded from current budgets? Yes
- 19 Have staffing resources already been identified and set aside for this proposal? Yes

### **Legal and Constitutional Issues**

- 20 Chapter 2 of the of the Anti-social Behaviour, Crime and Policing Act 2014 sets out the power and procedures for making a public spaces protection order. Section 59 sets out the power. This power can however be challenged under section 66 by an interested person who can apply to the High Court to question the validity of a public space protection order on the grounds that the local authority did not have power to make the order or that a requirement under this Chapter was not complied with. Section 72 sets out the necessary consultation and publicity requirements while section 68 gives the power to

authorised persons to issue a fixed penalty notice to anyone who breaches the terms of the PSPO.

### **Financial and Resource Implications**

- 21 The cost of preparing the Dog Fouling PSPO, its consultation and adoption will be met through existing resources.
- 22 The cost of the enforcement of the PSPO is already budgeted.

### **Risk management**

- 23 There are no risk management issues as a result of this recommendation.

### **EQUALITIES**

- 24 There are no direct equalities implications as a result of the Dog Fouling PSPO. The consultation on the draft PSPO was screened to consider if there were any equalities implications.

### **CLIMATE CHANGE IMPLICATIONS**

- 25 There are no direct climate change implications as a result of the Dog Fouling PSPO.

### **ACTION**

- 26 Following the close of the consultation period the comments received will be analysed in consultation with the Portfolio Holder. Unless substantial objections are received the Executive Director – Place will adopt the Dog Fouling PSPO under the delegated powers requested in this report. The PSPO will then come into effect at the earliest opportunity.

### **Contact Details:**

Mark Jaggard, Executive Director - Place

### **APPENDICIES**

Appendix A: Draft consultation Dog Fouling Public Space Protection Order