

**27 September 2022**

## **Public Space Protection Order - Dog fouling**

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**Portfolio:** Environmental Excellence

**Ward(s) Affected:** All Wards

### **Purpose of the Report:**

This report presents for Cabinet approval a proposed new dog fouling and dog restrictions Public Space Protection Order under the Anti-social Behaviour, Crime & Policing Act 2014. This follows public consultation and would establish replacement of the existing Public Space Protection Order on a like-for-like basis.

### **Recommendations:**

1. That Cabinet approves the Public Space Protection Order No. 3 as proposed in paragraph 4.5 and Appendix 1 over the geographical areas identified in Appendix 2 for a period of three years.

## **1. Summary**

- 1.1 A Public Space Protection Order is the mechanism by which the Council can incentivise people to clean up after their dogs if they have fouled in a public place and can enforce non-compliance. Public Space Protection Orders have a maximum duration of three years, and a decision is now required whether to approve a new one, either as proposed or differently worded.
- 1.2 Dog fouling remains a significant environmental concern and nuisance for residents. This report presents recommendations for Cabinet approval to make a new Public Space Protection Order No.3 under the Anti-social Behaviour, Crime & Policing Act 2014 to apply to the whole Broadland District Council administrative area. This legal control would require persons in control of dogs to clear up after them if they foul in on any public/private land open to the air which the public have access with or without payment including but not limited to all public highways (to include verges, footways, and footpaths), all public parks, pleasure grounds, sports grounds, playing fields and play.

## **2. Background**

- 2.1 A Public Space Protection Order (PSPO) is the principal measure available to councils to combat dog fouling offending by irresponsible dog owners. These are made routinely by councils across the country.
- 2.2 The previous Public Space Protection Order was extended in 2021 applying to the whole administrative area of the Broadland district council area and required a person in control of a dog to clean up after it when it fouls in a public place however, they have a limited duration.
- 2.3 The Order made exemptions for people who are blind, deaf or have a disability that affects their mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which they rely for assistance.
- 2.4 Before making a public space protection order the Council must be satisfied that the activity has a detrimental effect on the quality of life of those in the locality (or it is likely that activities will take place and have such an effect); is (or is likely to be) persistent or continuing in nature; is (or is likely to be) unreasonable and justifies the restrictions being imposed. The Council must formally consult with the local police and local communities on the proposal to introduce an order.

## **3. Current position/findings**

- 3.1 The Broadland district enjoys relatively low levels of reports of dog fouling however routine contact with residents tells us that dog fouling remains an issue the public are concerned about.

- 3.2 Dog fouling is unpleasant where it occurs and contact on rare occasions with dog excrement can cause toxocariasis – an infection that can lead to dizziness, nausea, asthma and even blindness or seizures.
- 3.3 While most dog owners are caring, responsible individuals, there are still some people who do not clean up after their pets.
- 3.4 Over the past twelve months the Council has responded to seven complaints of dog fouling. In this period, no fixed penalty notices were issued because the offenders could not be identified. However, action was taken to inspect the local areas of concern and reassure local communities as to the council's robust enforcement policy. When offenders are dealt with, a fixed penalty notice may be offered, or the council may decide to prosecute. Formal action tends to have the support of the majority of residents.
- 3.5 It should be noted that despite the low rate of fixed penalty notice service, public space protection order signage and bins act as a reminder to dog owners of the penalties of not complying with the order.
- 3.6 A public space protection order allows the council to post anti-fouling signage, place dog waste bins in public areas, to issue fixed penalty notices or prosecute dog owners who fail to clear up after their pets.

#### **4. Proposed action**

- 4.1 A public space protection order can run for a period of up to 3 years. The Public Spaces Protection Order No.3 has been drafted as presented in Appendix 1 is made, with a duration for a period of 3 years. The requirement for a further such Order will be then considered in good time to with a view to future decisions provided for under the Anti-social Behaviour, Crime & Policing Act 2014.
- 4.2 Prior to the production of this report a formal consultation ran from 6th May 2022 until 17th June 2022. Parish and Town Councils were consulted with letters sent via emails. The Police, Police & Crime Commissioner and Norfolk Highways were consulted via posted letter and the public consultation was carried out via the Councils website.
- 4.3 No objections were received against the proposed Public Space Protection Order from any consultee or member of the public through the council website. Reepham Town council and Freethorpe Parish Council requested additional signage as part of the consultation.
- 4.4 No responses were received from the Police Crime & Commissioner, Norfolk Constabulary or Norfolk Highways.
- 4.5 Following the closure of the consultation period, and having considered the responses received, it is proposed that the Public Space Protection Order No.3 is made as set out in Appendix 1.
- 4.6 With the introduction of a new public space protection order, council officers will conduct patrols in areas where reports or intelligence are received that fouling is

occurring. Officers will endeavour to inform and where necessary educate dog owners and will robustly investigate when individuals are identified as not clearing up after their dogs. Regulatory officers will work with environmental services to target heavily fouled areas with a view to reducing the amount of clean-up of public areas that is required.

## 5. Other options

- 5.1 The Council could decide to not to approve a new public space protection order. This would leave the council with limited sanctions or deterrents to deal with irresponsible dog owners who fail to clear up after their pets. This option is not recommended due to the scale of public concern about dog fouling, the importance of cleanliness of the open spaces of Broadland, and the fact that dog fouling left in such areas can present health issues to residents.

## 6. Issues and risks

- 6.1 **Resource Implications** –Signage is already in place and monitoring/enforcement is business as usual for the Community Protection Team.
- 6.2 **Legal Implications** – The legislation establishes a particular process for adoption of a Public Space Protection Order. The Public Spaces Protection Order No.3as proposed is a readily administered legal sanction available to local authorities to tackle irresponsible dog owners with a straightforward enforcement process.
- 6.3 **Equality Implications** –No equality implications have been identified. The order would have exemptions for people reliant on assistance dogs.
- 6.4 **Environmental Impact** – The proposed Public Space Protection Order would have a positive environmental impact by establishing clear regulatory offences and penalties, encouraging dog owners keep our open spaces clean and increase compliance, and contributing to cleaner neighbourhoods and environments.
- 6.5 **Crime and Disorder-** The proposed Public Space Protection Order will by provide an easily administered enforcement sanction for use in dealing with dog fouling and irresponsible dog owners.
- 6.6 **Risks** – Public Space Protection Orders are made under the Anti-social Behaviour, Crime & Policing Act 2014. Direct offences under the orders are difficult to witness however dog fouling is an area where there is near universal agreement that public spaces and children’s play areas should be kept clear of dog fouling. Having the orders in place allow the council to advertise the requirement and penalties of a dog owner not clearing up after their animals and to legitimately raise the profile of the authority in the area by regular high visibility patrolling.

## **7. Conclusion**

- 7.1 The adoption of the Public Space Protection Order No.3 as proposed will deter dog fouling offences by irresponsible dog owners and enable enforcement under specific legal requirements. This will protect the health and wellbeing of our residents and the quality and cleanliness of Broadland's open spaces.

## **8. Recommendations**

- 8.1 That Cabinet approves the Public Space Protection Order No. 3 as proposed in paragraph 4.5 and Appendix 1 over the geographical areas identified in Appendix 2 for a period of three years.

## **Background papers**

None

## **Appendices**

Appendix 1 – Proposed Broadland DC Public Space Protection Order No. 3 .

Appendix 2 – Area Map to which the Proposed Broadland DC Public Space Protection Order No. 3 would apply.

**Broadland District Council 2022**  
**The Anti-Social Behaviour, Crime and Policing Act 2014**  
**Fouling of Land by Dogs**  
**The District of Broadland Public Spaces Protection Order No. 3**

**1. Broadland District Council (“the Council”) hereby makes the following Order:**

- a. This Order is made by the Council in exercise of its powers under Section 59 and Chapter 2 of Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and this Order may be cited as the Broadland District Council Public Space Protection Order No.3.
- b. The Council is satisfied that:
  - i. Activities carried on within the restricted area as defined in Article 2 below, being the fouling of land by dogs: and
  - ii. that such activities may be of a persistent or continuing nature and the restrictions imposed by this notice are justified.

**2. The Restricted Areas**

- a. This Order relates to all land within the administrative area of the Council, shown in red on the plan in Schedule 1 of this Order, (“the Restricted Area”). This Order relates to all public/private land open to the air to which the public have access with or without payment including but not limited to all public highways (to include verges, footways, and footpaths), all public parks, pleasure grounds, sports grounds, playing fields and play areas.

**3. Requirements and prohibitions**

Fouling – failure to remove dog faeces

If a dog defecates at any time on land within the restricted area the person who is in control of the dog at that time shall remove the dog’s faeces from the land forthwith. This restriction is subject to the exemptions as stated in Article 4.

**4. Exemptions**

- a. The restrictions and prohibitions defined in Article 3 of this Order shall not apply to a person who is:
  - i. is registered as a blind person in a register compiled under Section 29 of the National Assistance Act 1948

- ii. is deaf, in respect of a dog trained for deaf people and upon which he or she relies for assistance
- iii. has a disability that affects their mobility, manual dexterity, physical coordination, or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a registered charity and upon which they rely for assistance.

## **5. For the purposes of this Order**

- a. A person who habitually has a dog in their possession shall be considered in charge of the dog at any time unless at that time another person is in charge of the dog.
- b. Placing dog faeces in a suitable waste disposal receptacle shall be considered sufficient removal to satisfy the requirement of Article 3.
- c. The Council does not consider being unaware of dog 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 as an acceptable reason for failing to remove the faeces as require by Article 3.

## **6. Offences**

- a. Under section 67 of the Act, it is an offence for a person, without reasonable excuse, to do anything that the person is prohibited from doing by a public space protection order or to fail to comply with a requirement to which the person is subject under a public space protection order.
- b. A person failing to comply with a requirement or prohibition set out in Articles 3(a) or 3(b) of this Order shall be guilty of an offence unless he or she has reasonable excuse for failing to do so.
- c. A person guilty of an offence is liable on summary conviction to a fine not exceeding Level 3 on the standard scale.
- d. Pursuant to section 68 of the Act, a Constable or authorised person of the Council, may issue a fixed penalty notice to anyone he or she has reason to believe has committed the offences specified above. This gives the person to whom it is issued the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty to the Council.
- e. The level of the fixed penalty shall be £100 save that if the fixed penalty is paid within 10 days following the date of the notice the amount payable is reduced to £80.

- f. A person who pays the fixed penalty within the period of 14 days following the date of the notice may not be convicted of the offence in respect of which the fixed penalty notice was issued.

## **7. Commencement and duration of the Order**

- a. This Order comes into force on XXXXXXX and shall remain in force until the XXXXX unless extended under section 60 of the Act.

## **8. Right to Appeal**

- a. Any interested person wishing to challenge the validity of this Order must do so within 6 weeks beginning with the date on which this Order is made or, if applicable, varied.
- b. An application under Section 66 of the Anti-Social Behaviour, Crime and Policing Act 2014 is to the High Court.
- c. An interested person means an individual who lives in the restricted area or who works in or visits that area

Dated

The Common Seal of Broadland District Council

Was hereunto affixed in the presence of

Deputy Monitoring Officer

Officer of the Relevant Service



# Appendix 2

