

REPORT TO:		Cabinet	
DATE:		04 December 2024	
PORTFOLIO:		Joint portfolio report for Councillor Stewart Eaves – Environmental Services and Councillor Kimberley Whitehead – Parks and Cemeteries	
REPORT AUTHOR:		Craig Haraben (Head of Environmental Services)	
TITLE OF REPORT:		Public Space Protection Order relating to Dog Control	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	Yes	If yes, date of publication:	29 th November 2024

1. Purpose of Report

- 1.1 To request Cabinet consider extending and varying a Public Spaces Protection Order (PSPO) called the Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) pursuant to sections 60 and 61 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“The Act”) relating to dog control within the Borough of Hyndburn

2. Recommendations

- 2.1 That Cabinet agrees to extend and vary the Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) having taken into consideration the outcome of the consultation exercise.
- 2.2 That Cabinet agrees to extend and vary the Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) being satisfied that the conditions in sections 59 (2-3) and 60 (2) of the Act have been met. Those conditions being:
- (i) Activities carried on in a public place within the authority’s area have had a detrimental effect on the quality of those in the locality
 - (ii) It is likely that activities will be carried on in a public place within that area and they will have such an effect
 - (iii) Is or is likely to be persistent or of a continuing nature
 - (iv) Is or is likely to be such as to make the activities unreasonable
 - (v) Justifies the restrictions imposed
 - (vi) It is necessary to prevent the occurrence or recurrence of the activities identified in the order, or an increase in the frequency or seriousness of those activities

2.3 That Cabinet agrees to extend and vary the Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) which imposes the following requirements (for a detailed list of sites refer to Appendix 1):

- i. The exclusion of dogs from Council owned children's play facilities.
- ii. The exclusion of dogs from designated Council owned bowling greens.
- iii. The requirement that the owner or person in charge of a dog has to clear up after their dog if the dog fouls on any open land in the Borough to which the dog has access
- iv. The requirement for dogs to be kept on leads within Hyndburn's main townships.
- v. The requirement for dogs to be kept on leads in the Borough's cemeteries.
- vi. The requirement for dogs to be kept on leads on Council owned sports pitches
- vii. The requirement for dogs to be kept on leads within the grounds of Churchfield House in Great Harwood
- viii. The requirement for dogs to be kept on leads within the rose garden in Haworth Park

2.4 The variations proposed for Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) are:

- i. Adding the Multi Use Games Area (MUGA) on Bolton Avenue in Huncoat
- ii. Adding the new playground and MUGA at Knuzden Recreation ground
- iii. Removing the open space at Brookside View in Oswaldtwistle as its no longer a formal play facility
- iv. Removing the bottom plateau at Bullough Park playing fields from the PSPO as this is no longer used for formal sports
- v. Reducing the area on the bottom plateau at Memorial Park playing fields to exclude the area not used as football pitches from the PSPO
- vi. Reconfiguring the area at Wilson Playing Fields used for sports pitches to take into account the construction of the new leisure centre

(For detail of the variations please refer to the draft PSPO in Appendix 4 and associated plans in Appendix 5)

2.5 That Cabinet agrees that the level of any Fixed Penalty Notices (FPN) issued for contravening a PSPO will be £80 with no discount and delegates authority to the Executive Director (Environment) to amend the level of FPN in the future in consultation with the relevant portfolio holder and the Executive Director (Legal and Democratic Services).

3. Reasons for Recommendations and Background

- 3.1 Legislation relating to Dog Control changed in 2014 with the introduction of the Anti-Social Behaviour, Crime and Policing Act 2014. The Act superseded The Clean Neighbourhoods and Environment Act 2005 in relation to dog control.
- 3.2 The Act required local authorities to use PSPOs instead of dog control orders. To make a PSPO a local authority has to be satisfied that activities carried on in a public place had or were likely to have a detrimental effect on the quality of life of those in the locality (s 59 (2) of the Act) and that those activities were unreasonable, likely to persist or continue and justified the making of the PSPO.
- 3.3 Section 60 (2) of the Act permits local authorities to extend the period during which an existing PSPO has effect if it is satisfied on reasonable grounds that the restrictions in that PSPO are still required.
- 3.4 PSPO's are live for a maximum of three years and at that point can be extended and varied if necessary, for them to remain in force.
- 3.5 Officers take the view that the statutory conditions are met because:
 - (i) There are ongoing concerns about dog fouling in the Borough
 - (ii) There have been issues for users of play facilities and bowling greens with dogs running around disrupting their activities, jumping up at people and fouling in these areas
 - (iii) There are issues with dogs off leads running in townships causing disruption for shoppers and dogs running into the highway
 - (iv) There are ongoing concerns about dogs not on leads being able to run onto graves and foul in the Boroughs cemeteries
 - (v) There are ongoing concerns about dogs off leads fouling, disrupting users and attacking other dogs at Churchfield House in Great Harwood
 - (vi) There are ongoing concerns about dogs off leads fouling on grass sports pitches where children and adults play football and rugby
 - (vii) There are ongoing concerns about dogs off leads fouling and disrupting users in the rose garden at Haworth Park during weddings and art events
- 3.6 In addition to paragraph 3.5 officers take the view that the statutory conditions are met because since the current PSPO was enacted in December 2021 and the current restrictions were put in place the dog warden has still had to issue 28 Fixed Penalty Notices for breaching PSPO conditions, in addition to a number of informal warnings and educational conversations with dog owners while out on patrol. Also the dog warden routinely receives and investigates general complaints from members of the public about issues such as dog fouling and anti-social dog behaviour. As such officers take the view that the issues outlined in paragraph 3.5 are continuing and persistent.
- 3.7 A consultation exercise was undertaken during October of 2024. Key stakeholders such as the Police & Crime Commissioner Office, Dogs Trust, Kennel Club and user groups such as Sports Leagues & local 'Friends Of' groups were informed of the consultation to ensure those most invested had a chance to comment. A summary of the results are in the table below:

Consultation Question	In Favour	Against
Exclude dogs from Council Play Facilities	89.47%	10.53%
Exclude dogs from Council bowling greens	88.30%	11.70%
That dog owners or those in charge of a dog clear up after the dog fouls	100%	0%
Dogs are kept on leads in Borough townships	91.49%	8.51%
Dogs are kept on leads in the Boroughs cemeteries	94.38%	5.62%
Dogs are kept on leads on designated sports pitches	71.74%	28.26%
Dogs are kept on leads within the grounds of Churchfield House in Great Harwood	90%	10%
Dogs are kept on leads within the rose garden at Haworth Park	82.42%	17.58%

- 3.8 As part of the consultation an online survey was available for Borough residents to indicate which of the proposals for inclusion within the PSPO they were for or against. A total of 95 responses were received via the on-line survey. The results are available in Appendix 2 of this report.
- 3.9 Within the consultation document there was a space available in the online survey for anyone wishing to make a specific point or comment about the proposals. A total of 104 responses were received via the on line survey. A copy of these responses are in Appendix 3 of this report.
- 3.10 While the PSPO restricts how dog walkers can exercise their dogs in specified areas, the Borough's eleven major parks and many other open spaces throughout Hyndburn are available for dog walkers to exercise their dogs without restrictions.

4. Alternative Options considered and Reasons for Rejection

- 4.1 Do not extend and vary the Borough Council of Hyndburn (Control of Dogs) Public Spaces Protection Order (Number 1 of 2021) relating to dog control in Hyndburn pursuant to Section 60 of the Anti-Social Behaviour, Crime and Policing Act 2014. This has been rejected as evidence and experience has shown that practical measures, like a PSPO help balance the needs of dog owners with the wider use of public spaces.

5. Consultations

- 5.1 A public consultation exercise took place for approximately one month between 1 October 2024 and 29 October 2024. The consultation was open to all residents of Hyndburn. In addition, certain parties were contacted directly about the consultation which included Police & Crime Commissioners Office, The Dogs Trust, Lancashire County Council, 'Friends of' and other community groups with an interest in green spaces and users of Council sports facilities.

6. **Implications**

<p>Financial implications (including any future financial commitments for the Council)</p>	<p>There will be a cost to the purchase and installation of signage relevant to the Public Space Protection Orders. The cost is estimated at £1,000 and will be funded from existing Environmental Services budgets.</p>
<p>Legal and human rights implications</p>	<p>Extending and varying a Public Space Protection Order must be undertaken as per guidelines and in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014. Officers have had regard to the attached national guidelines in progressing the extension and variation of the proposed PSPO, and have had particular regard to articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.</p>
<p>Assessment of risk</p>	<p>No specific risks have been identified. However not having PSPO for dog control in the Borough as outlined above could lead to an imbalance between the needs of dog owners and the wider use of public spaces</p>
<p>Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	<p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation; and • advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and • foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Cabinet is advised to consider its obligations in</p>

	<p>respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p> <p>Having considered the impact of the PSPO, officers consider that the PSPO does not have any particular impact on equality targets groups. In particular, assistance dogs are exempt from the PSPO thereby eliminating a potential adverse impact on those with a disability.</p>
--	--

**7. Local Government (Access to Information) Act 1985:
List of Background Papers**

- 7.1 Home Office guidance relating to Public Space Protection Orders (attached)
- 7.2 The results of the consultation (via survey monkey) and the comments made in the comments section of the consultation are located in appendices 2 & 3 of this report