Agenda item:

Summary

Report for:	**Overview and Scrutiny Committee**
Date of meeting:	**14th June 2022**
Part:	**1**
If Part II, reason:	

Title of report:	
Contact:	Cllr Julie Banks, Portfolio Holder for Community & Regulatory Services Emma Walker – Group Manager ECP Dawn Rhoden – Team Leader Operations
Purpose of report:	1. Consider if the Dog Control PSPO should be extended 2. Consider if further consultation should occur around new areas of control
Recommendations	1. To approve the continuation the PSPO in its current form for a further period of 3 years
Corporate objectives:	A Clean safe and enjoyable environment
Implications: 'Value for money' implications	<u>Financial</u> The local authority must arrange for the display of signage advising of the effect of the Order. There is no prescribed format nor size requirements for these signs, and costs will ultimately depend upon the number of signs required and the design/materials used. There will be ongoing maintenance costs to replace any damaged signage. <u>Value for money</u> PSPO's are seen as a more cost-effective means of controlling the activities in question than under byelaws, also providing a wider range of enforcement options.
Risk implications	There are also reputational risks in terms of the council being perceived as enforcing against vulnerable persons and seeking to criminalise certain behaviours which wouldn't normally attract fixed penalty notices or

	prosecution for non-payment. There are also limited resources for enforcement and therefore enforcement will have to be targeted at certain periods. The PSPO will raise expectations that prohibited behaviours will be eliminated entirely; however due to difficulties in identifying some of the contraventions and taking a proportionate approach to enforcement there will not always be immediate results which will be noticeable to the public.
Community Impact Assessment	Community Impact Assessment reviewed
Health and safety Implications	Some Health & Safety implications may arise from the enforcement of orders, this will be incorporated within individual service risk assessments for authorised enforcing officers.
Consultees:	Hertfordshire Police Hertfordshire Highways Residents of Dacorum Boxmoor Trust National Trust Parish Councils
Background papers:	Strategic and Planning Overview and Scrutiny Report 20th November 2018 Cabinet Report 19th March 2019
Historical background *(please give a brief background to this report to enable it to be considered in the right context).*	A Public Space Protection Order (Dog Control) has been in place for the past 3 years, this must be renewed every 3 years.
Glossary of acronyms and any other abbreviations used in this report:	PSPO - Public Space Protection Order FPNs – Fixed Penalty Notices

1. Purpose of Report

The current Public Spaces Protection Order (Dog Control) 2019 is due to expire on the 28th July 2022. This report shows the consultation response as to if there is a need for this to be extended or withdrawn.

2. Background

Under the Anti-social Behaviour, Crime and Policing Act 2014, local authorities may make orders to prohibit specified activities, and/or require specified activities to be carried on in accordance with certain requirements, within a designated area in the public domain, which may include public highways and footways, parks and open spaces, pedestrianised areas, or similar. Such orders are known as Public Spaces Protection Orders (PSPO).

PSPO's can be used by authorities to control a variety of problematic behaviours which satisfy two statutory conditions:

> *"The first condition is that—*
> *(a) 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*
> *(b) 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—*
> *(a) is, or is likely to be, of a persistent or continuing nature,*
> *(b) is, or is likely to be, such as to make the activities unreasonable, and*
> *(c) justifies the restrictions imposed by the notice."*

Prohibitions or requirements on activities covered by a PSPO must be reasonable in order to:

> (a) prevent the detrimental effect from continuing, occurring or recurring, or
> (b) reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

Where a PSPO is in force, it is a criminal offence to do anything which is prohibited under the Order, or to fail to comply with requirements of the Order. Persons guilty of such offences are liable, on summary conviction, to a fine not exceeding level 3 on the standard scale (currently up to £1,000). Offences may also be disposed of by way of a fixed penalty notice of up to £100, payable to the local authority our fines are currently set at £80.

PSPOs may be enforced by a police officer, PCSO, or a person authorised by the local authority for that purpose.

A PSPO will be valid for a period of up to 3 years, at the end of which it may be extended. Orders may also be varied or discharged by the local authority at any time during their validity.

Prior to making, extending, varying or discharging a PSPO, a local authority must:

- Consult the chief officer of police and the Policing and Crime Commissioner for the applicable area; any community representatives that it is thought appropriate to consult; and the owners/occupiers of land included within the restricted area;
- Publish the draft Order (or details of variation/discharge proposal);
- Notify any parish/town councils within the restricted area, and the County Council;

with regards to its proposals. The authority must also consider its proposed restrictions against the rights of freedom of expression (Article 10) and assembly

(Article 11) under the European Convention on Human Rights. The proposed restrictions have been considered against the rights in Article 10 and 11 but it is not considered that there will be any infringement on these rights. If there is any infringement it is considered that it is proportionate for the prevention of disorder and crime.

The power to make PSPO's replaced and consolidated several earlier area-control orders, including designated public place orders which have previously been used by the Council in respect of street drinking.

PSPO's may be challenged in the High Court by any person who lives in, regularly works in or regularly visits a restricted area, within 6 weeks of an Order being made or varied.

3. Consultation Responses

A public consultation was carried out in March 2022 to gather views on if the order should continue, a summary of the results follow (Please note that for all schedules stated in the following questions they can be seen in Appendix 1):

Dog Fouling

3.1 A person in charge of a dog in any public place within the Borough of Dacorum (excluding National Trust land shown in Schedule 3 must forthwith clear up and remove any faeces deposited by the dog and either take away the faeces or place the faeces in a general litter or dog waste bin.

Note – The National Trust specifically requested to be not included in this part of the PSPO as they prefer the stick and flick method)

Question. Do you agree or disagree that with the continuation of the order that faeces deposited by a dog must be removed and either taken away or placed in a general litter or dog waste bin within the areas shown on the map in Schedule 3 (Please note this excludes National Trust land)?

	Responses	**%**
Yes I agree	1097	95.31
No I don't agree	46	4.0
Don't know	8	0.70

3.2 A person in charge of a dog in any public place within the Borough of Dacorum (Schedule 2) must comply with any request from a Constable or a person duly authorised by the Council to clear up and/or remove any faeces deposited by the dog where they have otherwise failed to do so. The faeces must either be taken away or placed in a general litter or dog waste bin.

Question. Do you agree or disagree with the continuation of the order that if any person responsible for a dog fails to clear up and/or remove any faeces deposited by the dog they can be requested by a Constable or an authorised officer to do so within the areas shown on the map in Schedule 2.

	Responses	%
Yes I agree	1049	96.42
No I don't agree	31	2.85
Don't know	8	0.74

3.3 A person in charge of a dog in any public place within the Borough of Dacorum (Schedule 2) must have with them an appropriate means to pick up dog faeces deposited by that dog. The obligation is complied with if, after a request from an authorised officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

Question. Do you agree or disagree with the continuation of the order that any person responsible for a dog must have with them an appropriate means to pick up dog faeces deposited by that dog within the areas shown on the map in Schedule 2?

	Responses	%
Yes I agree	1016	93.47
No I don't agree	61	5.61
Don't know	10	0.92

Dog Control

3.4 A person in charge of a dog in any public place within the Borough of Dacorum (Schedule 2) must comply with a direction given to them by a Constable or a person duly authorised by the Council to put and keep the dog on a lead unless:

a) they have 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.

Note - Dacorum Borough Council Staff are authorised alongside their contractors. Herts Police obviously do not prioritise PSPO enforcement however them being named allows them to use the powers if the need arises.

Question. Do you agree or disagree with the continuation of the order that dogs must be placed on a lead if required by a Constable or an authorised officer within the areas shown on the map in Schedule 2?

	Responses	%
Yes I agree	944	90.33
No I don't agree	65	6.22
Don't know/None of the above	36	3.45

Exclusion of Dogs in Specified Areas

3.5 A person in charge of a dog in a public space within the borough of Dacorum Borough Council is prohibited from allowing the dog to enter the "Dog Exclusion Zones" which include enclosed children's play areas, adventure playgrounds and splash parks (listed in Schedule1). Dogs are also not permitted within 3 metres of any unenclosed play equipment.

Question. Do you agree or disagree with continuation of the order that dogs should be prohibited from all children's play areas?

	Responses	%
Yes I agree	902	86.65
No I don't agree	113	10.85
Don't know	26	2.50

4. Service Requests

Over the last year the Animal Welfare Team has received 471 animal related service requests, these include dog on dog attacks, dogs worrying livestock, fouling, complainant's perception of excessive numbers of dogs being walked by individuals and businesses and animal welfare concerns.

The Clean Safe and Green Team received 216 requests to clear fouling from pavements (dog waste is not removed from grassed areas so there are no figures on this).

5. Enforcement

As you will be aware District Enforcement started on a 12 month pilot contract with us in November 2021 they have issued the following FPNs 01 November 2021 to 31 April 2022;

Offence Type	Offence Type Count
PSPO-Dog Bags	16
PSPO-Dog Fouling	6
PSPO-Dogs Exclusion Zones	2
PSPO-Dogs on Lead by Direction	4

We are fully aware that the vast majority of dog owners are responsible and have always complied with the appropriate legislation in regards to their dogs, however the complaints and the issuance of FPN shows that not all owners are responsible.

6. Other Concerns Raised During Consultation

Question. Have you come across any of the following activities within Dacorum? Please select all that apply.

	Responses (Total Respondents 689)
Individuals walking more dogs than they could reasonably control	400
Dogs being walked off the lead in locations you consider inappropriate	360
Dogs being walked in locations you believe to be inappropriate	160
Have you have experienced any other issues regarding the behaviour of dogs and dog owners in public areas within Dacorum? (Please specify below)	421

Question. If you have experience of /or have witnessed any of the following behavioural activities, has this behaviour had a detrimental impact on your quality of life within, or usage of, the public areas within Dacorum? Please select all that apply.

	Responses (Total Respondents 754)
Dog Fouling	627
Individuals walking more dogs than they could reasonably control	290
Dogs being walked off lead in locations	274

you consider inappropriate	
Dogs off the lead in appropriate locations, however out of control or acting aggressively	318
Dogs being walked in locations you believe to be inappropriate	138
Dogs in children's play areas	174

Question. How many dogs do you believe is a reasonable number for one individual to walk and monitor?

	Responses (total number of respondents (973)
1-2	564
3-4	301
5-6	36
7-8	5
9+	2
Don't know	65

7. Other concerns Raised during consultation

General feedback was also requested on other areas of concern, this can be seen in Appendix 7

8.0 Recommendations

In order to make a recommendation to this committee the officers must ensure that the legal requirements mentioned in section 2 of this report have been properly considered.

Activities included in the PSPO have continued within the Authorities area and have a detrimental impact on the quality of life of those in the locality This point can be demonstrated by the information in section 6, above 754 respondents have stated that dog behaviour has detrimentally impacted their life, in addition to this Environmental and Community Protection has received 471 animal related service requests (Section 4) indication this is a

concern for members of the public. In addition to this 216 requests have been submitted to Environmental Services to clear dog fouling on the highway. Despite the PSPO being introduced 689 (Section 6) respondents highlighted they had come across antisocial dog behaviours within the borough and 28 Fixed Penalty Notices have been served (Section 5) demonstrating it is likely that these behaviours have continued to be carried out in a public place and be persistent and unreasonable justifying the renewal of the PSPO.

Officers recommend;

- The PSPO is renewed
- There is an amendment to the access of the refreshment kiosk in Gadebridge Park (Splash Park) for dogs on a lead.

Appendix 1 – copy of the current PSPO including its schedules
Appendix 2 – copy if written responses Q1
Appendix 3 – copy if written responses Q2
Appendix 4 – copy of written responses Q3
Appendix 5 – copy of written responses Q4
Appendix 6 – copy of written responses Q5
Appendix 7 - Other comments