

South Lakeland District Council
Delegated Executive Decisions
Date of Proposed Decision: Thursday 20 May 2021
Public Space Protection Orders

Portfolio: Economy, Culture and Leisure Portfolio Holder
Decision Maker: Director of Customer and Commercial Services
Report Author: Polly Straker – Locality Team Leader
Wards: (All Wards);
Forward Plan: Key Decision included in the Forward Plan as published on 30th March 2021

1.0 Expected Outcome

1.1 Public Space Protection Orders (PSPOs) were introduced as part of the Anti-social Behaviour, Crime and Policing Act 2014. The existing Orders were agreed and made on 1st March 2018. These orders last for three years and are now being revisited to determine if a new set of PSPOs can be made. These PSPOs focus on the control of dogs.

A consultation process has supported the view that these orders should be renewed. Amendments are required to Sports pitches where there are no other facilities for dog exclusion and an area high-lighted for dogs to be on leads.

Additionally a new Order is proposed to prevent the use of barbeques and the lighting of bonfires on SLDC Parks and Opens Spaces.

2.0 Proposed Decision

2.1 It is recommended that the Director:-

(1) Approves the reinstatement of a PSPO in defined areas across the district, which are identified in Appendix 1 for the following restrictions:-

- **Fouling of land by dogs restriction**
- **Dogs on lead by direction restriction**
- **Dogs on lead restriction**
- **Dog exclusion restriction**
- **Number of dogs walked by an individual restriction, limited to five dogs**
- **Requiring the means to pick up after a dog restriction**
- **Dogs on leads restriction in Rothay Park Children's Playground.**

(2) Approves a new PSPO for the following areas:-

- **Dog exclusion on a Sports Pitch where no other facilities are available. This includes:**
 - Jubilee Fields Kendal
 - Wattsfield, Kendal
 - Netherfield, Kendal
 - Dean Gibson, Kendal
- **Dog Exclusion on the paddock at Maryfell, Sedbergh.**
- **Dogs on leads restriction when crossing Kendal Golf course.**
- **Dogs on leads at the car park at Jubilee Fields Endmoor**
- **Dogs exclusion on Jubilee Playing Fields Endmoor**
- **Barbeques and Bonfires are not permitted on SLDC owned Parks and Open spaces.**
 - Rayrigg Meadow, Windermere
 - The Glebe , Bowness
 - Lightburn Park, Ulverston
 - Nobles Rest, Kendal
 - Abbot Hall, Kendal
 - Borrans Park, Ambleside

Maps of these locations can be found in Appendix 2

- (3) Approves that subject to review if all the requirements are satisfied a PSPO can be extended for a further 3 years.**

3.0 Background and Proposals

- 3.1 The Public Space Protection Order (PSPO) came into force on 1st March 2018 for a duration of 3 years. PSPOs were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 (“2014 Act”). A PSPO is designed to deal with a particular nuisance or problem in an area. For a PSPO to be made, the 2014 Act requires that the activities carried on in a public place within SLDC’s area has had or likely to have a detrimental effect on the quality of life of those in the community, it is or is likely to be persistent or continuing in nature and it is or likely to be unreasonable which therefore justifies the restrictions imposed.
- 3.2 The PSPO can impose restrictions on the use of that area which can apply to everyone or persons in specified categories or to all persons except those in specified categories. The Orders are designed to ensure that the law-abiding majority can enjoy public spaces, safe from anti-social behaviour. When introducing a PSPO, a council must set out what activities are being prohibited or restricted, what area is covered, the period the Order is in effect, any exemptions, how the Order can be enforced and consequences of breaching the Order. For example, dog exclusion on a sports pitch, area defined by pitch markings with an on the spot fine by SLDC or the police for a breach.

- 3.3 A PSPO can last for up to three years, after which it must be reviewed. It is possible if all requirements are satisfied to extend the Order for another three years at a time. PSPO can only be extended before the end of the existing three years period.
- 3.4 There is a legislative requirement for consultation and communication before a PSPO can be introduced. Effective communication and consultation with partners, stakeholders and the wider community has helped to identify what behaviours are causing concern and what evidence has been provided to support this.
- 3.5 Amendments have also been made to some parks and open spaces to allow better access around a park and in accordance with guidance to restrict the Order to a defined pitch marking or playground fence line, rather than a blanket dog exclusion. For example Queens Park, Windermere and Yewtree, Grange-over-Sands.
- 3.6 Looking at the responses in the consultation and the numerous correspondence received following the introduction of the PSPOs, we would recommend sports pitches within a park or open space offering other facilities will be dog exclusion on the pitch area only. For sports pitches that are the only facility on the Open Space a dog exclusion order is recommend on the whole area for example Wattsfield Playing Field. Maps and full details of the exclusions will be illustrated on signage on site and available on the SLDC website.
- 3.7 We would also recommend dog exclusion on the paddock at Maryfell, Sedbergh. This has been requested by the Parish Council and greatly supported in the consultation responses. This would also prevent dog walkers taking a short cut through the play area which is already dog exclusion; thereby preventing damage and interference in the play area.

- 3.7.1 Sedbergh Parish Council Members discussed the consultation/review at their recent meeting and resolved their support. For reference, the minute recorded is noted below;

'Members discussed the current consultation/review in regard to the Public Space Protection Order, which included areas in Sedbergh. Sedbergh Parish Council had previously requested that the paddock area, adjacent to the playground at Maryfell, be included in the 'dog exclusion' zone and welcomed the addition on the consultation. The Clerk was requested to confirm the Council's support, welcoming the addition. As previously noted, this would allow young people to play safely in the area, becoming an extension of the current playground'.

- 3.8 A dogs on leads restriction has also been requested for the area at Kendal Fell where the public right of way crosses the golf course. This has been support by responses from the Consultation and also the golf club's response is below.

"Kendal Golf Club strongly supports the need for dog control, preferably for dogs to be on a lead whilst within the confines of the course. We are more relaxed about other areas of the village green, but signage at entry points to the golf course area should include a warning that dogs must be kept on a lead.

However, we would also provide the following examples to support our reasoning for dogs to be on controlled on leads:-

- A. *dogs on the loose are interfering with ground nesting birds across the whole Fell. Skylarks used to be in profusion across the Fell – this year only one nesting pair was spotted.*
- B. *we experience fairly regular instances of dogs picking up and usually chewing golf balls which are in play, which inevitably leads to confrontation and ill-feeling, and with no ready means of resolving the loss of a playable golf ball.*
- C. *owners of loose dogs, particularly those who provide dog care/walking services (they often have 5 or 6 dogs on the loose), do not pick up all of their mess. More bins should be provided at the popular entry points to the village green.*
- D. *A number of owners appear to delight in throwing balls or frisbees for dogs to chase across our greens (we don't mind so much elsewhere!), but we spend £10,000's each year on preparing and maintaining greens and tees which then get damaged by dog claws scratching the pristine surfaces as they run and turn.*
- E. *Some dog owners actually lose their dogs on the course. The result is that they criss-cross the golf course shouting and whistling for their dog. This is dangerous for the dog walker with the risks of flying golf balls, as well as an unwanted distraction and disturbance to those playing golf”.*

All PSPO areas should have common principles of control, with no individual area having different or more relaxed rules – it then becomes easier for the rules to be publicised and understood by all.

- 3.9 Preston Richard Parish Council have also requested a PSPO on Jubilee Playing Field in Endmoor to exclude dogs from the field where Kendal and Endmoor football teams play in the local league field and dogs on leads in the adjacent carpark. Consultation has been carried out and is detailed below.
- 3.10 A PSPO is also required for banning the use of barbeques and lighting of bonfires on SLDC Parks and Open spaces. This follows the numerous complaints and issues experienced during 2020. It would solve the issues of the disposal of barbeques which has resulted in bins being set on fire, bin liners melting. Areas of grass being burnt, benches being burnt, Seats being destroyed and the overall risk of fire.
- 3.11 It is also the intention that enforcement of the PSPO will be focussed on prevention through awareness using leaflets, signs and targeted enforcement in hot spots. Locality Officers will work directly with our community groups and Community Police Officers to achieve this. We are not an authority which aims to issue large numbers of Fixed Penalty Notices. Our preferred and current approach is to encourage responsible behaviour and to issue Fixed Penalty Notices where this guidance is not adhered to.
- 3.12 The PSPO would not apply to a registered blind person or someone who has a dog trained by a charity to support a person suffering from mobility, manual dexterity disability or deafness. A dog that is working on the land with the consent of the person in control of the land and a person in control of police or rescue dogs on official duty would also be exempt.
- 3.13 Additional exemptions are where:
 - i A person is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or

- ii A person. is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- iii. A person who has a physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day to day activities including affecting his mobility, manual dexterity, physical coordination or ability to lift, carry or otherwise move everyday objects in respect of a dog trained by a prescribed charity or such other charity/approved body as is considered appropriate by the Council and upon which he relies for assistance or
- iv. A person is training an assistance dog for one of the prescribed charities or such other charity/approved body as is considered appropriate by the Council.
- v. A person is not a person falling within the criteria mentioned in paragraphs i to v above but who the Council considers should be exempt due to the impairment of that particular person
- vi Nothing in the Order shall apply to the normal activities of a working dog whilst the dog is working. This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of HM Armed Forces and farm dogs that are being used to herd or drive animals

4.0 Consultation

- 4.1 The PSPO review was consulted on with an online questionnaire which was advertised from 12 January 2021 to 09 March 2021. This was shared with partners, Members, Town and Parish Councils and key stakeholders including park users and the football clubs. Full list can be found in **Appendix 3**. It was also highlighted on social media and on our website, featured in a Town and Parish council newsletter and discussed with Cumbria County Council and Cumbria Police. Due to Covid restrictions we were unable to carry out any face to face activities.
- 4.2 A copy of the questionnaire can be found in **Appendix 4**. Posters were also placed in the Parks and Open spaces to promote the consultation.
- 4.3 Parish Councils have also been contacted with information on the process to introduce a PSPO on land they manage or own. SLDC will assist with the consultation process.
- 4.4 In total there were 457 complete usable responses to the survey. 455 were completed online, while 2 were submitted as paper copies.
- 4.5 Summary of the responses is available in **Appendix 5**.
- 4.6 Consultation activities were carried out by Preston Richard Parish Council in 2018/19. The responses supported Dog exclusion on the playing field but just dogs on leads in the car park area.

5.0 Alternative Options

The consultation responses has established that these restrictions are required and not making them is not a recommended option.

6.0 Links to Council Priorities

- 6.1 The proposed PSPOs will ensure South Lakeland is a better place to live. Looking after the environment for all to enjoy and considering the health implications of dog fouling in our parks and open spaces and other anti-social behaviours shows the Council is making the district a better place to live, work and explore.

7.0 Implications

Financial, Resources and Procurement

- 7.1 Enforcement of the renewed PSPO will be of the same level as the current activity therefore there should be no increase in budget required and can be accommodated from an existing budget. Re-signing and removal of redundant signs will be undertaken from budget already allocated. This should be minimal if current PSPO's are renewed.

Human Resources

- 7.2 As the PSPO is renewed, staffing levels will be as they are now and enforcement, community liaison and awareness will be carried out by the Locality Team.

Legal

7.3 Relevant legislation:-

- 7.3.1 Pursuant to **section 59 Anti-social Behaviour Crime and Policing Act 2014** (the Act) a local authority may make a PSPO if satisfied on reasonable grounds that two conditions are met.

- 7.3.2 The first condition is;

(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.

- 7.3.3 Pursuant to **section 59(5)** of the Act any prohibition or requirement contained with the PSPO must be reasonable to impose to prevent said detrimental effect from continuing, occurring or recurring.

- 7.3.4 It would be an offence pursuant to **section 67** for a person to do anything prohibited by a PSPO or fail to comply with a requirement of a PSPO within a restricted area.

- 7.3.5 Prohibitions, obligations and restrictions must be reasonable and proportionate.

- 7.3.6 The Council may authorise a person to issue fixed penalty notices pursuant to **section 68** of the Act. Also there would be a duty on the Council to ensure PSPO's are enforced in a reasonable and proportionate manner. Care should be taken to ensure only persons of a suitable character with appropriate training are authorised.

- 7.3.7 The Anti-Social Behaviour, Crime and Policing Act 2014 (publication of Public Spaces Protection Orders) Regulations 2014 sets out the publication required of the Council when making a PSPO.

7.3.8 Constitution page 67 para 1.3 (t), the Leader/Cabinet already delegates the power to make a PSPO to Director of Customer and Commercial Services.

In accordance with CEX/23 (2015/16) and Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 to:- (i) serve Community Protection Notices; (ii) make Public Spaces Protection Orders;

Health, Social, Economic and Environmental

7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment?

Yes **Appendix 6**

7.5 Summary of health, social, economic and environmental impacts.

The continuation of using PSPO's across South Lakeland will make our streets, Parks and Open spaces a better place to enjoy for all residents and visitors.

7.6 Have you completed an Equality Impact Analysis?

Yes **Appendix 7**

7.7 Summary of equality and diversity impacts:

There is no negative or positive impact from the introduction of PSPO to the groups identified that would affect a section individually

Risk

Risk	Consequence	Controls required
Not publishing the orders sufficiently in all areas and gaining a full understanding	The orders could be breached resulting in fixed penalty fines.	Correct publication of full information on the website and sufficient signage at all locations

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Maps of Proposed PSPO
2	Maps of Barbeque and Bonfire PSPO Restrictions
3	List of Stakeholders consulted
4	Questionnaire
5	Analysis Report
6	Health Social Economic and Environment Impact Form
7	Equality Impact Analysis Form

Background Documents Available

Name of Background document	Where it is available
Public Space Protection Order (PSPO) maps and legal information	Legal information

Tracking Information

Signed off by	Date sent	Date Signed off
Legal Services	14/04/2021	04/05/2021
Section 151 Officer	N/A	N/A
Monitoring Officer	19/04/2021	19/04/2021
CMT	N/A	N/A

Circulated to	Date sent
Lead Specialist	13/04/2021
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A

Note – Report authors must consult the relevant Portfolio Holder, members of the Corporate Management Team, the Monitoring Officer, and any other interested parties before a decision can be taken. If any objections are received, they must be reported at the meeting before the decision is taken.

Signed by:-	Title:-