

CABINET

Tuesday, 24 January 2017

DOG CONTROL – PUBLIC SPACE PROTECTION ORDERS (REP1458)

EXECUTIVE SUMMARY

1. Changes enacted by the Anti Social Behaviour Crime and Policing Act 2014 mean that existing orders relating to the control of dogs will lapse in October 2017 unless reviewed and replaced by a “Public Space Protection Order”
2. Proposals for PSPOs to replace these controls were published for statutory consultation in August 2016. The results are summarised and presented for consideration herein.
3. Recommendations are presented for making new PSPOs to maintain a suitable level of control over dogs. PSPOs remain in force for 3 years, whereupon they must be reviewed and remade or lapse.

| | |
|-------------------------------|---|
| Is the report Open or Exempt? | Open |
| Wards Affected: | ALL |
| Cabinet Member: | Councillor Stephen Ardley Cabinet Member for Operational Partnerships & Lowestoft Rising |
| Supporting Officer: | Andrew Reynolds Environmental Protection Manager 01502 523113 Andrew.reynolds@eastsoffolk.gov.uk |

2 INTRODUCTION

- 2.1 Waveney District Council's existing Dog Control Order (2007) makes it an offence to fail to pick up after your dog. It also prohibits dogs from certain land, including certain limited areas of beach at certain times and also requires dogs to be kept on a lead in certain prescribed areas. These controls have been in force since 2007.
- 2.2 The UK Government has repealed the Clean Neighbourhoods and Environment Act 2005 under which these controls were made. These revisions were enacted by the Antisocial Behaviour, Crime and Policing Act 2014, which introduced powers for Local Authorities to make a "Public Space Protection Order" (PSPO) in respect of land to either prohibit activities or impose requirements on people using the land where it appears necessary and reasonable to do so in order to "prevent a detrimental effect on the quality of life of those resident in the area". A PSPO remains in force for a period of 3 years after which it must be reviewed and re-made.
- 2.3 The 2014 Act provides that existing dog control orders will remain in force for a period of three years following the commencement of the 2014 Act, at which point they will lapse as if they were a PSPO reaching the end of its period of validity; however, the guidance suggests a Councils need not wait until expiry of existing orders before reviewing and replacing with a PSPO, and suggests that this might be done "...ahead of that transition to simplify the enforcement landscape."

3 CONSULTATION

- 3.1 Further to report #####, 12 draft Public Space Protection Orders were prepared for consultation and published in August 2016. These dealt with proposed controls as follows:
 - 3.1.1 Exclusion of dogs from part of Southwold beach for part of the year
 - 3.1.2 Requirement for dogs to be kept on leads on Southwold promenade
 - 3.1.3 Requirement to clean up after dogs in the whole district
 - 3.1.4 Exclusion of dogs from part of Carlton Marshes Nature Reserve
 - 3.1.5 Requirement for dogs to be kept on leads on part of Carlton Marshes Nature Reserve
 - 3.1.6 Exclusion of dogs from part of Lowestoft beach for part of the year
 - 3.1.7 Exclusion of dogs from part of Kessingland beach for part of the year
 - 3.1.8 Requirement for dogs to be kept on leads on Lowestoft Promenade
 - 3.1.9 Exclusion of dogs from children's play areas
 - 3.1.10 Requirement for dogs to be kept on leads on part of Lowestoft beach
 - 3.1.11 Exclusion of dogs from part of Corton beach for part of the year
 - 3.1.12 Requirement for dogs to be kept on leads in other areas
- 3.2 As a starting point these set out to replicate the controls currently enacted by the 2007 Waveney Dog Control Order, made under the Clean Neighbourhoods and Environment Act 2005.
- 3.3 There were two exceptions to this;
 - 3.3.1 Firstly, new controls were proposed for Carlton Marshes Nature Reserve at the request of the landowners – The Suffolk Wildlife Trust;

3.3.2 secondly, the proposals affecting Southwold beach and promenade were amended at the request of, and in line with preliminary discussions with Southwold Town Council.

4 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?

Vision; "Maintain and sustainably improve the quality of life for everyone growing up in, living in, working in and visiting East Suffolk"

"Maintain and sustainably improve the quality of life for everyone growing up in, living in, working in and visiting East Suffolk. We want our residents to be healthy and to enjoy our coast and countryside; our history, art and culture."

Three-pronged Strategy; Healthy and engaged people; People who feel included and proud of where they live; Communities looking after their land, food, water, energy, services, jobs and housing; and, Having strong links to other places and communities.

Critical Success Factor Protecting, enhancing and making sustainable use of our environment

Planned Actions for SCDC and WDC; Empower local town and parish councils

5 FINANCIAL AND GOVERNANCE IMPLICATIONS

5.1 None

6 OTHER KEY ISSUES

6.1 Equality Impact Assessment has been completed. Exemptions are included where appropriate for registered disabled persons who rely on a registered assistance dog (guide dog, hearing dog etc.)

7 CONSULTATION

7.1 Consultations have been undertaken by direct correspondence (postal or email) as follows:

- Chief Constable
- Police & Crime Commissioner
- Suffolk County Council
- Parish/Town Councils
- Elected Members – relevant WDC/SCDC/SCC Councillors
- Suffolk Wildlife Trust (Carlton Marshes proposed Order)
- Lowestoft Dogs Club (Carlton Marshes, Lowestoft Promenade /beach)
- Lowestoft Beach Hut owners (Lowestoft Promenade /beach)
- Southwold & District Chamber of Trade & Commerce (Southwold Promenade and beach)
- Southwold Beach Hut Owners (Southwold Promenade and beach)
- Southwold & Reydon Society

In relation to the proposals affecting Southwold Beach and Promenade, Southwold Town Council took the lead in organising a meeting with representative groups to discuss the existing proposals and review what changes may be desirable. The first such meeting included Southwold Town Councillors, the Southwold & District Chamber of Commerce, the Reydon and Southwold

Society, the Southwold Beach Hut Owners Association and officers of Waveney District Council (to advise on the technical aspects of the existing and proposed controls).

- 7.2 In addition to this, consultation has been undertaken by publicising the proposals on the Council's web site and by press release.
- 7.3 The consultation exercise for the PSPOs currently under consideration ran initially for 4 weeks ending on the 12th September 2016.
- 7.4 In total, 337 responses were received as follows:

| Affected Area | Number of responses |
|-----------------|---------------------|
| Kessingland | 1 |
| Lowestoft | 5 |
| Carlton Marshes | 8 |
| Beccles | 2 |
| General | 10 |
| Southwold | 311 |

- 7.5 **Kessingland** – The only response received specific to the proposal to replace the current restrictions on Kessingland Beach came from Kessingland Parish Council, who responded to the effect that the existing control order was outdated and should not be replaced when it expired.

The original controls were applied to Kessingland Beach under a by-law, The by-law was replaced in 2007 with identical controls as part of the introduction of the Waveney Dog Control Order made in 2007 under the provisions of the Clean Neighbourhoods and Environment Act 2005.

Since the original by-law, deposition of material on the coast has extended the width of Kessingland beach to the point that it is now over 300 metres wide. Thus, the available area of beach compared with the number of people using it and the manner of that use, is now such that the Kessingland Parish Council do not consider the conflict between the dog owners and other beach uses to be a significant enough to warrant special control measures.

Kessingland Parish Council are aware of the necessity for dog controls on a beach in order to qualify for Blue Flag status, but this is not a Blue Flag beach and the Parish Council have no plans to consider such in the future.

It is therefore proposed not to proceed with proposed PSPO07 – relating to the exclusion of Dogs from part of Kessingland Beach for part of the year.

- 7.6 **Lowestoft** – 1 response was received suggesting that the current requirement for dogs to be kept on a lead during the winter months (30th September to 31st April) be abolished. This is a requirement of the current controls under the 2007 Dog Control Order and the proposed PSPO replacing this control in its current form replicated that requirement.

Anecdotal evidence suggests that this part of the 2007 Order as it affects Lowestoft Beach is frequently disregarded; however, a review of complaints received since the 2007 Order came

into force shows that there have been no complaints about dogs being allowed off the lead on Lowestoft beach during the winter period and no enforcement action has been taken.

It is therefore proposed not to proceed with proposed PSPO10 – relating to the requirement for dogs on Lowestoft beach between 30th September to 31st April the following year to be kept on a lead.

Rules excluding dogs during the bathing season are a requirement of the Blue Flag scheme and the area of beach affected by PSPO06 at Lowestoft includes a Blue Flag Beach.

A total of 4 other responses were received in relation to the controls on Lowestoft Beach, generally supporting the proposals.

It is proposed to adopt PSPO06 relating to the exclusion of dogs from Lowestoft beach as drafted.

It is proposed that PSPO10 relating to the requirement to keep dogs on Lowestoft beach on a lead not be adopted.

- 7.7 Carlton Marshes** – Of the 8 responses received referring specifically to Carlton Marshes Nature Reserve, 7 expressed support for the proposal. It was not clear whether the remaining response was intended as an objection or a statement in support.

Carlton Marshes Nature Reserve is owned or in the process of being acquired by Suffolk Wildlife Trust. Part of the site is a Site of Special Scientific Interest, which means it has been nationally recognised as representing some of the best habitat of its kind in the British Isles. The Trust makes this site freely accessible to members of the public to enjoy, whilst attempting to manage the land for the benefit of its unique mix of flora and fauna. The Trust runs an active educational programme whereby each year, 3,000 children from clubs and other groups including pupils from local schools undertake structured, accompanied visits to learn about the marshland habitat, the SSSI and the species which depend upon it.

Dogs out of control off-lead have been known to bother other reserve users and parties of school children, chase and worry cattle and wild species such as deer and birds and significantly disrupt the breeding activities of protected ground nesting species. The Trust's rules for visitors already include a requirement for dogs to be kept on leads on most of the site, to protect other reserve users, farm animals, wildlife in general and the habitat. Studies commissioned by the Trust have quantified the impact which uncontrolled dogs have on the reserve's wildlife population and demonstrate this to be significant (background papers).

PSPO04 proposes that dogs are excluded altogether from two parts of the reserve comprising an area to the Southern edge known as Spratt's Water and another larger area at the margin of Oulton Dyke to the North East. Spratt's Water represents especially sensitive habitat, and is part of the SSSI designation, being home to rare and endangered species such as the Water Rail, Grasshopper Warbler, Cetti's warbler, Reed Warblers, Sedge Warblers, Water Vole and many rare plants.

The Trust have a positive relationship with Happy Paws Dog Training Society (a Lowestoft based dog training and agility club), who support the proposals fully and who work with the Trust to promote responsible behaviour amongst the dog owning community and specifically those who visit the reserve. The Trust have made available part of a field where dogs may be exercised off-lead to cater for dog owners who require this. They have also taken steps to engage with the public by running special walks for dog walkers, talking to visitors and providing clear signs and dog waste disposal facilities in prominent places. Whilst this has made inroads, there is still a hard core of non-compliance amongst a minority.

It is proposed to adopt both PSPO04 relating to the exclusion of dogs from parts of Carlton Marshes Nature Reserve, and PSPO05 relating to the requirement for dogs to be kept on a lead on parts of Carlton Marshes Nature Reserve as drafted.

7.8 **Beccles** – Beccles Town Council made the only response received specific to Beccles and this related to the wording of PSPO19 which deals with general provisions requiring dogs to be kept on leads on certain land. Although principally concerned with item 5 on the schedule attached to this proposal relating specific to controls applicable to sports pitches on Beccles common, the Town Council suggested that the wording of the order generally, would benefit from the addition of the words “... and be kept under close control” so that the wording of PSPO19 would require dogs to be kept on a lead at all times and be kept under close control.

7.9 **General** – Comments received not directed at any of the specific affected areas included 7 responses supporting the proposals in general and 2 responses which were unclear in their intentions.

One response was received requesting an alteration an amendment to the controls proposed by PSPO19, relating to Cemeteries and churchyards, to specifically include “burial parks” – the wording contained in item 7 in the schedule to PSPO19 requires dogs to be kept on leads in “all cemeteries and churchyards”, which replicates the existing controls made under the 2007 order. The respondent requested that the description “Burial Park” also be explicitly included in the wording of this clause in the interests of preventing misunderstandings.

Another response pointed out that some children’s play areas are not gated, but are fitted with grids at the entrance to prevent dogs entering and that the wording of the exclusion needs to include these in its scope.

It is proposed to adopt PSPO19 relating to the requirement for dogs to be kept on a lead on specified land specified by the schedule, as proposed save for the amendment wording proposed by Beccles Town Council and also with an amendment to include “Burial Parks” within the scope of item 7 in the schedule.

It is proposed to adopt PSPO 09 relating to the exclusion of dogs from gated and fenced children’s play areas to include the wording “Gated or fitted with grids and fenced to prevent access to dogs”.

7.10 **Southwold** – The proposals for Southwold beach and promenade generated a vigorous debate amongst visitors and residents alike.

The proposals relating to Southwold attracted a great deal of comment including the local press and on social media. Some of the information published by third parties, including an online petition set up to oppose the extension of controls on Southwold Beach, published inaccurate information in the form of petition forms, posters and leaflets which led potential respondents to believe that the proposals included a total ban on dogs on Southwold Beach all year round. (background papers).

The misinformation was brought to the attention of the known sources of that information, a press release was issued pointing out the misleading information and the consultation in respect of Southwold was extended a further 2 weeks, to the end of September 2016.

All the 77 responses received in respect of Southwold Beach which appeared to have been influenced by the inaccurate information published by these sources were (perhaps unsurprisingly) opposed to the proposals. They have been identified and reported separately in the analysis of responses received, below.

Of all the responses received (including the 77 referred to immediately above), 54 were in support of the proposals and 249 were opposed.

Opposition to the proposals continued after the press releases correcting the misinformation and the extension of the consultation period. In particular, a new group was formed on the back of a social media group with the aim of represent the views of dog owners, the Southwold and Reydon Dog Owners Association. Spokespersons from this group were invited by Southwold Town Council to a further meeting at Southwold Town Hall on 23 September 2016.

That meeting was chaired by the Mayor of Southwold and also attended by Southwold Town Councillors, the Southwold & District Chamber of Trade, the Southwold and Reydon Society, the Southwold Beach Hut Owners Association and officers of Waveney District Council (to advise on the technical aspects of the existing and proposed controls).

The meeting agreed unanimously that, (in respect of PSPO01 – Exclusion of dogs from part of Southwold Beach for part of the year) the period of the exclusion should be reduced from that proposed to 1st April to 30th September in any year, and (in respect of PSPO02 – Requirement to keep dogs on leads on Southwold Promenade) the requirement to keep dogs on leads should apply from the northern end of the promenade set aside for beach huts, to the southernmost end of the promenade and that this restriction should apply for the full twelve months of the year. This agreement formed the basis of the joint response submitted by the attendees of this meeting, which represented key groups in Southwold and Reydon.

Other individual responses included a suggestion that the period for which the exclusion from the beach should apply should be reduced to 6 months. Another respondent suggested that dogs should be allowed on the beach all year round, but only on leads.

Several respondents commented on the need for clearer signs, citing confusion as a possible reason for non-compliance with the current restrictions. Several respondents similarly referred to the need for enforcement.

One respondent pointed out that the small area off the promenade behind the beach huts immediately to the South of the Gun Hill café formed part of the promenade but had been excluded from the area indicated on the map accompanying the proposal for PSPO02 (Requirement to keep dogs on leads on Southwold Promenade).

It is proposed to adopt PSPO01 relating to the exclusion of dogs from part of Southwold Beach for part of the year as proposed save for the amendment to the wording proposed by the stakeholder group facilitated by Southwold Town Council, the effect of which is to reduce the period for which the exclusion shall apply to 6 months each year from 1st April to 30th September each year.

It is proposed to adopt PSPO02 relating to the requirement to keep dogs on a lead on Southwold promenade as proposed, save for an amendment to include the area of promenade behind the huts immediately to the North of the Gun Hill cafe.

- 7.11 Draft copies of the proposed orders accompany this report. These are based on the proposals as originally published for consultation (see “background papers”) with amendments suggested by the consultation responses received.

8 OTHER OPTIONS CONSIDERED

- 8.1 Do nothing – rejected, because the existing controls laps in October 2017.

9 REASON FOR RECOMMENDATION

9.1 Following consultation, the proposals have been reviewed and amended.

RECOMMENDATIONS

1. That draft PSPO01 relating to the exclusion of dogs from part of Southwold Beach for part of the year is adopted as proposed save for the amendment to the wording to reduce the period for which the exclusion shall apply to 6 months each year from 1st April to 30th September each year.
2. That draft PSPO02 relating to the requirement to keep dogs on a lead on Southwold promenade is adopted as proposed save for an amendment to include the area of promenade behind the huts immediately to the North of the Gun Hill cafe.
3. That draft PSPO03 relating to the requirement to clean up after dogs be adopted as proposed.
4. That draft PSPO04 relating to the exclusion of dogs from parts of Carlton Marshes Nature Reserve is adopted as proposed.
5. That draft PSPO05 relating to the requirement for dogs to be kept on a lead on parts of Carlton Marshes Nature Reserve is adopted as proposed.
6. That draft PSPO06 relating to the exclusion of dogs from Lowestoft beach be adopted as drafted.
7. That draft PSPO07 relating to the exclusion of Dogs from part of Kessingland Beach for part of the year **NOT** be adopted.
8. That draft PSPO08 relating to the requirement for dogs to be kept on a lead on Lowestoft Promenade be adopted as proposed.
9. That draft PSPO09 relating to the exclusion of dogs from gated and fenced children’s play areas be adopted as proposed save for an amendment to include the wording “ Gated or fitted with grids and fenced to prevent access to dogs”.
10. That draft PSPO10 relating to the requirement for dogs to be kept on a lead on Lowestoft beach **NOT** be adopted.
11. That draft PSPO18 relating to the exclusion of dogs from Corton beach be adopted as proposed.
12. That draft PSPO19 relating to the requirement for dogs to be kept on a lead on land specified by the schedule be adopted as proposed save for the amendment to wording to read “dogs to be kept on a lead at all times *and be kept under close control*” and also with an amendment to include “Burial Parks” within the scope of item 7 in the schedule.

APPENDICES

Appendix A

Proposed PSPOs 01, 02, 03, 04, 05, 06, 08, 09, 18, and 19

BACKGROUND Please note that copies of background papers have not been published on the Council’s website but copies of the background papers listed below are available for public inspection free of charge by contacting the relevant Council Department.

| Date | Type | Available From |
|----------------|---|---|
| August 2016 | Proposed PSPOs published for consultation | http://www.eastsuffolk.gov.uk/community/anti-social-behaviour/public-space-protection-orders/waveney-district-council-dog-order-consultation/ |
| September 2016 | Poster, petition form and other papers misrepresenting proposals, reproduced from social media. | Environment@eastsuffolk.gov.uk |
| 2015 | Documentation produced in connection with a study into the impact of dogs on the Carlton Marshes Nature Reserve | - ditto - |
| 2007 | The Waveney District Council 2007 Dog Control Order | http://www.eastsuffolk.gov.uk/assets/Environment/Environmental-Protection/Animals/Dog-Control/WDC-dog-control-order.pdf |