

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

21 March 2017

### Report of the Central Services Director

#### Part 1- Public

#### Matters for Recommendation to Council

#### **1 PUBLIC SPACE PROTECTION ORDER – CONSULTATION RESPONSES**

**To provide feedback on the responses received on the Public Space Protection Order consultation**

#### **1.1 Background to the Public Space Protection Order (PSPO)**

- 1.1.1 A Public Space Protection Order (PSPO) is one of a number of new tools contained within The Anti-social Behaviour, Crime and Policing Act 2014 which gives the Borough Council the ability to deal with a particular nuisance or problem in a public area.
- 1.1.2 The Borough Council is proposing to enact a PSPO which has multiple restrictions contained within it. Some of these are around specific locations, and others are aimed at restrictions for the whole of the borough. The proposed PSPO has been discussed at a number of different meetings including the Communities and Housing Advisory Board, the Parish Partnership Panel, Tonbridge Forum and Cabinet.
- 1.1.3 It should be noted that the borough wide measures to tackle dog issues replace the current Dog Control Orders (DCOs). The restrictions are not new, but a number have been extended to areas other than those covered by the current DCOs. The current Dog Control Orders are being phased out from October 2017 and we therefore need to ensure that we have new restrictions in place before this time.

#### **1.2 Consultation responses**

- 1.2.1 The formal consultation ended on 15 March (after the print deadline for this paper). Further responses that are received will be reported to Members at the meeting. To 7 March (when this paper was produced) 33 online surveys had been completed. Of these 28 were from residents of the borough, 5 from Parish Council's and the rest from interested parties (including people who work in the

borough). We also received 8 comments/questions via email. A summary of the responses received to 7 March is attached at **Annex 1**.

1.2.2 A summary of the responses received is given below:

- The majority of respondents agreed with the proposed restrictions, although there appeared to be some confusion with the meaning of some of the restrictions.
- The restriction that generated the most comments/discussion was around 'ensuring dogs are on a lead by direction'. Mainly respondents seemed to be confused around what this restriction was aiming to do with many of the respondents suggesting that this restriction was trying to stop dogs from running off the lead or being able to be walked without a lead. This is not the aim of this restriction and we will need to ensure that this is explained so that people can understand the meaning of this restriction once the Order is granted.
- There were also concerns raised about how the PSPO will be enforced with some respondents querying who the authorising officers would be. The Borough Council is already looking into this issue to ensure that appropriate Borough Council authorised staff will be trained on how to issue appropriate Fixed Penalty Notices.
- With regard to the proposed PSPO for Tonbridge Memorial Gardens and Tonbridge Cemetery there were some suggestions made for additional restrictions that could be included. These will therefore be considered by a Working Group within the Council to see if it would be appropriate to make an additional PSPO to include these suggestions.
- The council can make a PSPO on any public space in its own area. The definition of public space is wide and includes any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission, for example a shopping centre.

### **1.3 The next steps**

1.3.1 Following the consultation responses (and subject to any further comments being received) we believe that the Borough Council should grant the Order as initially specified.

1.3.2 We do feel that further clarification will be needed to inform residents, Parish Councils and others about the restrictions included in the Order and where they will apply to. We are looking at this currently and will be producing a leaflet (as well as any other appropriate communications) to ensure that everyone is aware of what these new restrictions will include.

- 1.3.3 Any additional items to be considered (which have been raised through the consultation) will now be considered by a Working Group within the Council. If appropriate an additional PSPO will be developed and brought back to an appropriate Board.

## **1.4 Legal Implications**

- 1.4.1 As the PSPO is governed by the ASB legislation, we will be receiving legal guidance to ensure that we meet the criteria. Once the final PSPO measures are agreed the PSPO will need to be published in accordance with the regulations made by the Secretary of State.
- 1.4.2 Currently TMBC enforce against dog fouling using the Dog (Fouling of Land) Act 1996. It was repealed by Clean Neighbourhoods and Environment Act 2005 section 65, and replaced by similar legislation in the same act, namely Dog Control Orders (DCOs). However, as TMBC did not adopt a DCO for fouling across the whole borough, we were still able to enforce under the Dog (FoL) Act. The introduction of the PSPO for dog fouling borough-wide will supersede this legislation and enforcement for such offences will then only be possible using the PSPO. This means that every three years, Tonbridge & Malling Borough Council will have to renew the PSPO.

## **1.5 Financial and Value for Money Considerations**

- 1.5.1 Although there are no direct costs associated with the establishment of the PSPO, there will be a resource implication for the Borough Council for issuing Fixed Penalty Notices and the work associated with this.

## **1.6 Risk Assessment**

- 1.6.1 All appropriate risk assessments will be undertaken as required

## **1.7 Equality Impact Assessment**

- 1.7.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and varies between groups of people.

## **1.8 Policy Considerations**

### 1.8.1 Community, Community Safety

## **1.9 Recommendations**

1.9.1 That the Public Space Protection Order for Tonbridge & Malling BE GRANTED.

Background papers:

Nil

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