

8. Implementation of Public Spaces Protection Orders for Dog Control

REPORT OF: Head of Corporate Resources
Contact Officer: Ben Toogood – Emergency Planning & Outdoor Services Manager
Email: ben.toogood@midsussex.gov.uk Tel: 01444 477379
Wards Affected: All
Key Decision: No
Report to: Council
Date of meeting 27th September 2017

Purpose of Report

1. A report was presented to the Scrutiny Committee for Community, Housing and Planning on 12th September 2017, to explain how the Council will implement Public Spaces Protection Orders (PSPOs) to replace Dog Control Orders in Mid Sussex. The Scrutiny Committee agreed to recommend to the Council that the PSPOs be adopted. Therefore, the purpose of this report is to seek the Council's agreement to the adoption of Public Spaces Protection Orders as specified herein.

Summary

2. The Council's Park Rangers currently have powers to enforce Dog Control Orders under the Clean Neighbourhood and Environment Act 2005.

This Act of Parliament is due to be succeeded by the Anti-Social Behaviour, Crime and Policing Act 2014. Under this new legislation, PSPOs will replace Dog Control Orders.

The Council must adopt this new legislation by October 2017 in order to retain these existing powers.

Recommendations

3. **Council are recommended to:**
 - (i) **Note the contents of this report and agree to the adoption of the Public Spaces Protection Orders as set out in Appendix 1.**
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Background

4. Legal Context

Under the Clean Neighbourhood and Environment Act 2005, the following Dog Control Orders can be enforced by authorised officers on District Council owned land. The following orders apply:

- Dog Fouling
- Dog Exclusion (applies to fenced areas such as children's playgrounds and tennis courts)
- Dogs on Lead by Direction
- Dogs Specified Maximum Amount (6) – currently applies to Bedelands Farm Local Nature Reserve and Leylands Park, Burgess Hill.

To enforce these orders, officers authorised by the District Council can issue Fixed Penalty Notices (FPNs) of £75 to any offenders as an alternative to prosecution. The fine is reduced to £50 if payment is made within 10 working days. Failure to pay the FPN may result in prosecution with a maximum fine of £1000.

This Clean Neighbourhood and Environment Act is due to be succeeded by the Anti-Social Behaviour, Crime and Policing Act 2014. Under this new legislation, PSPOs will replace Dog Control Orders.

Once the PSPOs have been made, they will be valid for a period of three years, after which the Council must review the PSPOs, consult on any amendments or new PSPOs, and introduce any new PSPOs for a further three years.

5. Promoting Responsible Dog Ownership in Mid Sussex

Since implementing Dog Control Orders, the experience of officers is that the vast majority of dog walkers act responsibly when using the Council's land.

As a result of this, the Park Rangers have focused primarily on promoting responsible dog ownership, which has served to reassure site users and educate any potential offenders. When specific complaints are received, the Rangers are capable of responding with targeted enforcement activities, when and where appropriate.

There are 317 Council-owned sites currently covered by these orders. There are three Park Rangers (2 FTE) carrying out this work, in addition to their other duties.

Since the Council adopted its powers under the Clean Neighbourhood and Environment Act, there have been six FPNs served for Dog Fouling in the District. This serves as confirmation that the vast majority of dog walkers continue to act responsibly and that dog fouling is not prevalent in public spaces across the District. With this in mind, the current approach to promoting responsible dog ownership in Mid Sussex is deemed to be appropriate.

However, it should be noted that dog control measures remain an emotive issue with the public. Therefore, when applying this new legislation, the Council must find the balance between protecting public spaces from misuse whilst not unfairly restricting the activities of dog walkers.

6. How Public Spaces Protection Orders for Dog Control Will be Applied in Mid Sussex

1. PSPOs will replace the existing Dog Control Orders which apply to the Council's Land. This will enable officers to take enforcement action (if necessary) under the Anti-Social Behaviour, Crime and Policing Act 2014.
2. The Council will also apply PSPOs to sites that have been adopted by MSDC since the previous legislation came in to force, so that all District Council landholdings are covered by the new legislation.
3. Following the successful trial at Bedelands Farm Local Nature Reserve, the Council will increase the number of sites where the Maximum Number of Dogs (6) order will apply. Maximum Number of Dogs (6) will be applied to the additional sites listed in paragraph 6.2 of this report.

6.1 Public Spaces Protection Orders - Maximum Number of Dogs (6)

When Dog Control Orders were introduced in Mid Sussex, the Council designated Bedelands Farm Local Nature Reserve, Burgess Hill with the Maximum Number of Dogs (6) order, as a trial.

This trial has been very successful in achieving a balance between protecting the natural environment of the Local Nature Reserve and allowing people with dogs access to the site.

Based on the successful trial at Bedelands Farm Local Nature Reserve, the decision was made to include a further 23 similar sites across the District.

These are typically larger sites which provide access from residential areas into woodland or open countryside and are thus very popular with dog walkers.

These sites include Local Nature Reserves and adjoining sites where it has been considered important to protect flora and fauna.

The remaining sites are larger sports grounds which are also popular with dog walkers, and typically where irresponsible dog walkers can present a hazard to those using the facilities.

6.2 Sites where PSPOs - Maximum Number of Dogs (6) will be applied:

- Bedelands Farm Local Nature Reserve
- Leylands Tip Site & Leylands Park Recreation Ground
- Grasmere Open Space
- Hammonds Ridge Meadows
- Nightingale Lane Meadows & Open Space
- Maltings Farm Open Space
- Eastlands Farm
- Malthouse Lane Meadows
- Pangdean Lane Meadows
- Ashplats & Holteye Track
- Farm Close Meadows
- Ashenground Wood Local Nature Reserve
- Blunts Wood & Paiges Meadow
- Catts Wood & Bolnore Wood Local Nature Reserve
- Four Acre Wood
- Hurst Farm
- Scrase Valley Local Nature Reserve
- Eastern Road Local Nature Reserve
- The Wilderness Field
- East Court Recreation Ground
- Whitemans Green Recreation Ground
- Scaynes Hill Recreation Ground

7. Consultation

A six-week consultation period was completed 14th August 2017. Officers provided comprehensive information about the PSPOs for the public to view, including detailed maps of the District Council land where the PSPOs will apply.

Prior to the consultation period, the Customer Service and Communications Team prepared press releases to emphasise the key messages to the public. The Contact Centre were briefed to answer any enquiries from the public and the Council's social media channels were utilised to promote the key messages.

The Emergency Planning & Outdoor Services Manager briefed the Town & Parish Councils at the Communications Meeting held on 23rd March 2016. No concerns were expressed by those present about the District Council's proposed course of action in this regard.

In total, 30 responses were received during the consultation period. The majority of these were from individual members of the public but it should be noted that responses were also received from The Dogs Trust and The Kennel Club. Appendix 2 provides a summary.

Policy Context

8. The contents of this report support the Council's Main Purpose, to be an effective Council delivering value for money services and helping to create a strong economy, environment and community. The intention of this report is to ensure that the Council retains and enhances existing powers following a change in legislation.

Other Options Considered

9. None

Financial Implications

10. This report contains no financial implications.

Risk Management Implications

11. None.

Equality and Customer Service Implications

12. Some of those responding to the consultation made particular reference to the emergence of commercial dog walking companies and commented on their use of public land for this purpose. Officers have commented that in the vast majority of cases, commercial dog walkers are providing a professional service to residents of Mid Sussex, whose dogs would otherwise be walked on public land. The Kennel Club is currently developing a National Code of Practice for Commercial Dog Walking. Once this new Code of Practice is launched, the Park Rangers will review it and see if it can be applied in Mid Sussex to complement the Council's approach to Dog Control. The Council must treat customers equitably in this regard and when applying this legislation, there should be no discrimination between commercial dog walkers and private individuals.

Other Material Implications

13. This report covers the adoption of Public Spaces Protection Orders in relation to Dog Control, as applied by the Council's Outdoor Services Team. Any further application of this legislation by the District Council will be subject to a separate report.

Background Papers

The Public Spaces Protection Order (Mid Sussex District Council) 2017

Mid Sussex District Council (“the Authority”) has made the following Public Spaces Protection Order under Chapter 2 section 59-75 of the Anti-Social Behaviour, Crime and Policy Act 2014 (“the Act”).

Mid Sussex District Council being satisfied that dog faeces which is not immediately removed from land has a detrimental effect on the quality of life of the general public and the public health implications of dog faeces is well documented hereby makes the following Dog Fouling Order:

The Order comes into force on 2017 for a period of 3 years.

In this Order an “Authorised Officer” means an employee of the Authority or a Town or Parish Council Officer who is authorised in writing by the Authority for the purposes of giving directions under this Order, together with any Police Constable or PCSO (Police Community Support Officer).

Offences

1. Dog Fouling.

- 1.1 This clause applies to land specified in Schedule of Land – Schedule 1 attached to this Order.
- 1.2 If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –
 - (a) he has a 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
- 1.3 If a person who is in charge of a dog does not have or produce when requested by an Authorised Officer a receptacle for picking up dog faeces, that person shall be guilty of an offence.
- 1.4 A Receptacle is defined as any object capable of holding faeces for disposal.
- 1.5 Placing the receptacle containing the faeces in a bin on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land.
- 1.6 Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.
- 1.7 Nothing in clause 1 applies to a person who –
 - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) has a disability which affects 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 and upon which he relies for assistance.

1.8 For the purposes of clause 1 –

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
- (b) each of the following is a “prescribed charity” –
 - (i) Dogs for the Disabled (Registered Charity Number 700454);
 - (ii) Support Dogs (Registered Charity Number 1088281);
 - (iii) Canine Partners for Independence (Registered Charity Number 803680)
 - (iv) Dog A.I.D (Registered Charity Number 1098619)
 - (v) Medical Detection Dogs (Registered Charity Number 1124533)

Penalty

1.7 A person who is guilty of an offence under clause 1 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL

This day of 2017

In the presence of

Authorised Officer:

SCHEDULE OF LAND – SCHEDULE 1

This Order applies to all land in the administrative area of Mid Sussex District Council that is open to the air to which the public are entitled or permitted to have access (with or without payment). MSDC land which is covered can be seen in the plans attached to this Schedule.

For the purposes of this Schedule, land which is covered is to be treated as land which is ‘open to air’ if it is open to the air on at least one side

The Public Spaces Protection Order (Mid Sussex District Council) 2017

Mid Sussex District Council (“the Authority”) has made the following Public Spaces Protection Order under Chapter 2 section 59-75 of the Anti-Social Behaviour, Crime and Policy Act 2014 (“the Act”).

Mid Sussex District Council being satisfied that dogs in the land designated in the Schedule of Land – schedule 2 attached to this Order may cause danger to themselves danger nuisance annoyance or disturbance to persons damage property the worrying or disturbance of other animals or birds or harm to public health which has or which is likely to have a detrimental effect on the quality of life of those in the locality hereby makes the following Dog Exclusion Order:

The Order comes into force on 2017 for a period of 3 years.

In this Order an “Authorised Officer” means an employee of the Authority or a Town or Parish Council Officer who is authorised in writing by the Authority for the purposes of giving directions under this Order, together with any Police Constable or PCSO (Police Community Support Officer).

2. Dog Exclusion

- 2.1 This Order applies to the land specified in the Schedule of Land – Schedule 2 attached to this Order
- 2.2. A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless –
- (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specially) to his doing so.
- 2.3 Nothing in clause 2 applies to a person who –
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) has a disability which affects 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 and upon which he relies for assistance.
- 2.4 For the purposes of clause 2 –
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
 - (b) each of the following is a “prescribed charity” –
 - (i) Dogs for the Disabled (Registered Charity Number 700454);
 - (ii) Support Dogs (Registered Charity Number 1088281);

- (iii) Canine Partners for Independence (Registered Charity Number 803680)
- (iv) Dog A.I.D (Registered Charity Number 1098619)
- (v) Medical Detection Dogs (Registered Charity Number 1124533)

Penalty.

- 2.5 A person who is guilty of an offence under clause 2 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL

This day of 2017

In the presence of: -

Authorised Officer:

SCHEDULE OF LAND – SCHEDULE 2

This Order applies to all designated MSDC land. This includes fenced areas such as:

1. Childrens play areas
2. Tennis courts
3. Skate parks

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL

This day of 2017

In the presence of: -

Authorised Officer:

SCHEDULE OF LAND – SCHEDULE 3

This Order applies to all designated MSDC land.

The Public Spaces Protection Order (Mid Sussex District Council) 2017

Mid Sussex District Council (“the Authority”) has made the following Public Spaces Protection Order under Chapter 2 section 59-75 of the Anti-Social Behaviour, Crime and Policy Act 2014 (“the Act”).

The Authority being satisfied that a person cannot take more than 6 dogs onto the land described in Schedule of Land - Schedule 4 and the Authority seeks to protect the Land and public using the Land from damage and annoyance hereby makes the following Dogs Specified Maximum Amount Order:

The Order comes into force on 2017 for a period of 3 years.

In this Order an “Authorised Officer” means an employee of the Authority or a Town or Parish Council Officer who is authorised in writing by the Authority for the purposes of giving directions under this Order, together with any Police Constable or PCSO (Police Community Support Officer).

4. Dogs Specified Maximum Amount

- 4.1 This Order applies to the land specified in the Schedule of Land - Schedule 4 of this order
- 4.2 On land to which this Order applies, the maximum number of dogs which a person may take onto that land is six (6)
- 4.3 A person in charge of more than one dog shall be guilty of an offence if, at any time, he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in clause 3 of this Order, unless –
- (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- 4.4 For the purposes of this clause a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other persons is in charge of the dog.

Penalty

- 4.5 A person who is guilty of an offence under clause 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

EXECUTED AS A DEED by affixing
THE COMMON SEAL of
MID SUSSEX DISTRICT COUNCIL
This day of 2017

In the presence of: -

Authorised Officer:

SCHEDULE OF LAND – Schedule 4

See Schedule of land
Plans attached to Schedule 4

The following sites are included in this schedule:

Bedelands Farm Local Nature Reserve
Leylands Tip Site & Leylands Recreation Ground
Grasmere Open Space
Hammonds Ridge Meadows
Nightingale Lane Meadows & Open Space
Maltings Farm Open Space
Eastlands Farm
Malthouse Lane Meadows
Pangdean Lane Meadows
Ashplats & Holteye Track
Farm Close Meadows
Ashenground Wood Local Nature Reserve
Blunts Wood & Paiges Meadow
Catts Wood & Bolnore Wood Local Nature Reserve
Four Acre Wood
Hurst Farm
Scrase Valley Local Nature Reserve
Eastern Road Local Nature Reserve
The Wilderness Field
East Court
Whitemans Green
Scaynes Hill