

Report for: Service Delivery & Continuous Improvement PDG

Date of Meeting:	15 September 2025
Subject:	Public Spaces Protection Order – Dog Control
Cabinet Member:	Cllr Josh Wright, Cabinet Member for Service Delivery and Continuous Improvement
Responsible Officer:	Luke Howard, Environment and Enforcement Manager Matthew Page, Head of People, Performance and Waste
Exempt:	N/A
Wards Affected:	All
Enclosures:	Appendix 1 – Plan of Recreation Ground, Silverton

Section 1 – Summary and Recommendation(s)

1. The Service Delivery and Continuous Improvement PDG consider recommending to Cabinet that they authorise commencement of statutory procedures (including consultation) to vary by order the Mid Devon (Public Spaces Protection) (Dog Control) Order 2024 and to delegate authority to decide whether to make the order of variation after consultation has taken place.
2. The Service Delivery and Continuous Improvement PDG consider recommending to Cabinet that they grant a general delegation to the Cabinet Member for Service Delivery and Continuous Improvement for all other future variations of the Mid Devon (Public Spaces Protection) (Dog Control) Order 2024.

Recommendation(s):

The Service Delivery and Continuous Improvement PDG consider the contents of this report and recommend to Cabinet that they make the following resolutions:

1. On being satisfied that the statutory grounds for varying the Mid Devon (Public Spaces Protection) (Dog Control) Order 2024 (“the Dog Control PSPO ”) are met, as detailed in the Report, to allow Officers to commence statutory consultation for the following:
2. To vary the Dog Control PSPO by including the prohibition that dogs are excluded from the area known as the recreation ground Silverton (as shown on the plan at Appendix 1). Delegated Authority to be granted to the Director of Legal, HR & Governance (Monitoring Officer) to draft the necessary order varying the Dog Control PSPO that can then go out to consultation.
3. The Cabinet consider granting delegated authority to the Operations Manager for Street Scene and Open Spaces, in consultation with the Cabinet Member for Service Delivery and Continuous Improvement etc. to:
 - consider the responses to the necessary consultation, publicity and notification
 - decide whether to refer the matter back to Cabinet for a decision or to decide in the light of the responses received whether to make the Variation Order and to authorise the Director of Legal, HR and Governance (Monitoring Officer) to seal the order
 - authorise, if it is considered appropriate, the Director of Legal, HR and Governance (Monitoring Officer) to make any minor amendments to the draft of the variation order prior to sealing the variation order
4. That a general delegation be made to the Cabinet Member for Service Delivery and Continuous Improvement to decide any further future variations to the Dog Control PSPO proposed by the Operations Manager for Street Scene and Open Spaces following the necessary statutory consultation, publicity and notification requirements for future PSPOs.
5. Delegation to be given to the Director of Legal, HR and Governance (Monitoring Officer) to make orders of variation, following decisions from the Cabinet Member for Service Delivery and Continuous Improvement.

Section 2 – Report

1.0 Introduction

- 1.1 The Council’s Dog Control PSPO was extended on the 7 October 2024.

- 1.2 The Dog Control PSPO is an example of a Public Spaces Protection Order. A Public Spaces Protection Order (PSPO), is a measure to tackle anti-social behaviour, introduced by the Anti-Social Behaviour, Crime and Policing Act 2014 ("2014 Act").
- 1.3 PSPOs require or prohibit certain activities from taking place in certain places (restricted areas) in order to prevent or reduce any detrimental effect caused by those activities to local people (section 59(4) of the 2014 Act).
- 1.4 Failure to comply with a PSPO prohibition or requirement is an offence and a person (without reasonable excuse) will be liable on summary conviction to a fine currently set at up to £1000.
- 1.5 A constable or a person authorised by the Council may decide in the case of a PSPO breach, that a fixed penalty notice is more appropriate than prosecution. In this case, once the penalty has been paid, any liability for conviction will be discharged.
- 1.6 Silverton Parish Council requests that the dog Control PSPO is varied to exclude the dogs from the "Recreation Ground – Silverton" (aka "Community Area").
- 1.7 Under the 2014 Act the Dog Control PSPO may be varied by applying to a new area of public space to which it previously did not apply (only if certain conditions are met as regards activities in that new area).
- 1.8 The first condition is that:
- a) activities carried out in the new area have had a detrimental effect on the quality of life of those in the locality, or
 - b) is likely that activities will be carried out in the new area and that they will have such an effect.
- 1.9 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.

2.0 The Dog Control PSPO

- 2.1 The Dog Control PSPO has the following prohibitions and requirements, breaches of which are deemed a criminal offence:
- 1. Prohibition of dog fouling
 - 2. A requirement of dogs to be on a lead:
 - a) in cemeteries or churchyards,
 - b) in certain parks, or

- c) when requested by an authorised officer or police constable
- 3. An exclusion of dogs from a certain area such as play areas
- 4. A limit on the number of dogs walked at a time by one person

2.2 Public Spaces

- 2.3 A PSPO can only apply to a Public Space. The term “Public Spaces” is defined in the Dog Control PSPO to mean land within the district of Mid Devon, which is open to the air including covered land which is open on at least one side and to which the public are entitled and permitted to have access, with or without payment, with the exception of Forestry Commission Land.

2.4 Exclusion of dogs

Silverton Parish Council requests that dogs be excluded from the recreation ground identified in Appendix 1, due to problems with dogs.

2.5 Exemptions

- 2.6 An Offence will not be committed if:

- a) A person has a reasonable excuse
- b) A person has permission from the owner of the land
- c) A person is exempt under Clause 10 of the Dog Control PSPO. Clause 10 covers those needing assistance dogs, or with some form of disability, which might prevent them from complying with the Dog Control PSPO. There are also exemptions for certain working dogs i.e. those involved in law enforcement, military duties, statutory emergency services and search/rescue and those using a working dog for agricultural activities or exempt hunting as set out in Schedule 1 of the Hunting Act 2004.

3.0 **Reasons for Recommendations**

- 3.1 Dog fouling remains a significant concern for the Council. Despite considerable efforts to promote responsible dog ownership there remains a minority of dog owners who do not clean up after their dogs or keep them under control. Dog fouling is unpleasant and a risk to human health.
- 3.2 Responsible dog ownership enforcement via a PSPO will aid the reduction of risk to the general public of diseases such as toxocariasis from dog faeces; freedom from potential animal attacks and safeguarding the public and wildlife via the 'dogs on a lead' enforcement.
- 3.3 Any requirements or prohibitions that are to be imposed must be both reasonable to impose and aimed at preventing or reducing the risk of the detrimental effect from continuing, occurring or recurring in the future.

- 3.4 One of the advantages to having the Dog Control PSPO in place is that if there is an offence of failing to comply with a requirement or prohibition then the offender may be given a Fixed Penalty Notice (FPN); if the FPN is not paid then the offender may be prosecuted.
- 3.5 This can be contrasted with the alternative of using a Community Protection Notice ("CPN"). The purpose of a CPN, which was introduced under the 2014 Act is similar to a PSPO, which is to stop a person aged 16 or over, business or organisation committing anti-social behaviour which spoils the community's quality of life. The use of a CPN can be considered problematic in the context of dog control.
- 3.6 Prior to the issue of a CPN a written warning must be issued to the individual concerned that if they do not stop the anti-social behaviour i.e. their dog fouling, they could be issued with a CPN. Only if the dog fouling happens again on a separate occasion can a CPN be issued. If the dog fouling then happens again on another separate occasion, in breach of the CPN, an offence is committed and a FPN can be issued. It is submitted that the public would be concerned if a FPN could only be issued on the third occasion of the dog fouling.
- 3.7 Similar issues apply in using the Dogs Act 1871 in relation to dangerous dogs. Civil proceedings that a dog is dangerous, and not kept under proper control can be brought at a Magistrates' Court, and this can be done by the police, local authorities, or individual members of the public. If the Magistrates are satisfied that the complaint is justified, they can make any order they feel appropriate to require the owner to ensure that the dog is kept under proper control or, in extreme cases, destroyed. This type of action is usually only appropriate for serious cases, and is time consuming involving court hearings, which can take considerable time to arrange.
- 3.8 There are other criminal offences that can be prosecuted under the Town Police Clauses Act 1847 and the Dangerous Dogs Act 1991 (as amended) in relation to dogs that are deemed out of control and dangerous. Such prosecutions would be time consuming and expensive.
- 3.9 A check of the websites of Devon District Councils, as well as the Plymouth City Unitary Council, reveal widespread adoption of the control of dogs by PSPOs.
- 3.10 It is recognised that under the Animal Welfare Act 2006, dog owners are required to provide for the welfare needs of their dogs and that, in most cases, this will include off-lead exercise
- 3.11 Examples of where dogs can run freely are :
- Beacon Park, Crediton
Bluebell Avenue, Tiverton
Cotter Brook, Tiverton
Crow Bridge, Cullompton

Glebelands Road, Tiverton
The land at Moorhayes adjacent to Lea Road, Tiverton
Mountbatten Road, Tiverton
People's Park, Crediton
Railway Walk, Tiverton
River Exe Recreation Ground, Tiverton
The Oval, Tiverton
Knighthayes, Tiverton
CCA Fields, Cullompton
Oakford Recreation Ground

- 3.12 As summarised above the Dog Control PSPO protects enclosed play areas by prohibiting dogs. Officers consider that this approach is justified as children are more susceptible to diseases from exposure to faeces and urine from dogs. Similarly it is felt that young children are more at risk of injury from dogs. This is because young children will naturally be excited whilst playing which may provoke a reaction from dogs in the area. The consequences of a dog attack on a young child is likely to be far more severe than for an adult.
- 3.13 Silverton recreation area is predominantly used for different types of sport and recreation. The parish council have reported issues in relation to dogs running freely and fouling on the pitch with owners not being responsible in clearing the mess up. This has created issues for both sport matches and training. It is therefore recommended that dogs are not permitted on the recreation ground to prevent these issues from occurring.

4.0 Consultation and publicity

- 4.1 The Council, before extending and/ or varying the Dog Control PSPO, must observe certain "necessary" consultation and publicity requirements.

4.2 Consultation

- 4.3 The Council is obliged to consult with the local Chief Officer of Police; the Police and Crime Commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives.
- 4.4 Community representatives' are defined broadly in the 2014 Act as 'any individual or body appearing to the authority to represent the views of people who live in, work in or visit the restricted area'. This gives the Council the freedom to determine who best to contact given local circumstances and the scope of the proposals.
- 4.5 It is proposed to consult with:

Silverton Parish Council
MDDC Councillors

Chief Constable of Devon Cornwall Police
Police & Crime Commissioner
The Kennel Club

4.6 Publicity and publication

- 4.7 The Council must publish the text of the proposed order varying the Dog Control PSPO.

5.0 Other Legal Considerations

- 5.1 In deciding whether to vary the Dog Control PSPO, the 2014 Act says the Council must have particular regard to the rights of freedom of expression, and freedom of assembly, set out in Articles 10 and 11 of the European Convention on Human Rights.
- 5.2 The need to "have particular regard" to Articles 10 and 11 suggests that Parliament in passing the Act has sought to give these rights an elevated status in relation to deciding whether to make a PSPO.
- 5.3 Article 10: freedom of expression reads as follows:
1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions, and to receive and impart information and ideas, without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
- 5.4. Article 11: freedom of assembly and association reads as follows:
1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these

rights by members of the armed forces, of the police or of the administration of the State.

- 5.5 Although PSPOs are a robust remedy because they affect the behaviour of every person within a specified area rather than being targeted at individuals, officers consider that varying the Dog Control PSPO does not unnecessarily interfere with lawful and legitimate activity.
- 5.6 It is submitted that in varying the Dog Control PSPO the Council will have found the right balance in the need to tackle anti-social behaviour associated with dogs, against the desire and entitlement of the public to use a public space.

6.0 General Delegation

- 6.1 A general delegation is sought for any other future variations. It is proposed that future variations be delegated to the Cabinet Member for Service Delivery and Continuous Improvement.
- 6.2 The purpose for this delegation is to expedite requests for variations by Parish and Town Councils. This would enable minor variations for land to be included/excluded within the order without the need to refer to Cabinet for the decision.
- 6.3 The Cabinet Member for Service Delivery and Continuous Improvement in consultation with the Operations Manager for Street Scene and Open Spaces will need to ensure the statutory test is met, as highlighted in paragraphs 1.8 and 1.9 of this report.
- 6.4 The Cabinet Member for Service Delivery and Continuous Improvement will also need to ensure under this delegation that the statutory consultation is undertaken with the relevant identified parties prior to exercising their delegated powers.

7. Conclusion

- 7.1 Officers believe that there are reasonable grounds to suggest that incidents relating to dogs are of such a nature that they have had, and are likely to have, a detrimental effect on the quality of life of the public whilst enjoying the open spaces of the recreational ground in Silverton.
- 7.2 Unfortunately, even though the majority of people do not create the issues identified, the continuing nature of the irresponsible behaviour by a minority of dog owners, and the adverse impact they have on the public justify the imposing of restrictions as proposed in this report.

Financial Implications

Whilst a consequence of enforcement may be an increase in Fixed Penalty Notices, income generation is not a reason for introducing a new PSPO.

Legal Implications

The Dog Control PSPO is designed to curb anti-social behaviour arising from irresponsible control of dogs and dog fouling.

Risk Assessment

The Council is at risk of not being able to enforce dog control infringements which could result in reputational damage for not taking appropriate action against offenders. The Council will also be at risk of not meeting statutory duties such as under Section 89 of the Environment Protection Act 1990 to ensure that land is clear of litter, which includes dog waste.

Impact on Climate Change

A PSPO requires or prohibits certain activities from taking place in certain places (restricted areas) in order to prevent or reduce any detrimental effect caused by those activities to local surroundings and people. Further, reduced levels of dog related anti-social behaviour improve the desirability of our open spaces.

Equalities Impact Assessment

An updated Equality Impact Assessment will be undertaken after the consultation proposed in the Report and prior to any decision whether to make the PSPO.

Relationship to Corporate Plan

The Street Scene Enforcement Service is a frontline service, which works throughout the District ensuring cleanliness and attractiveness of our public realm through both education and enforcement.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151 Officer

Date: 4.9.25

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 4.9.25

Chief Officer: Andrew Jarrett

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 4.9.25

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 05.09.2025

Cabinet member notified: (yes)

Section 4 - Contact Details and Background Papers

Contact: Luke Howard, Environment and Enforcement Manager

Email: lhoward@middevon.gov.uk

Telephone: 01884 255255

Background papers: None