



THE EXECUTIVE - INDIVIDUAL EXECUTIVE DECISIONS

Date: Friday, 20 October 2023

PART 1

1. Public Space Protection Order Extension (**Pages 3 - 12**)

MARK TRILLO
EXECUTIVE DIRECTOR & MONITORING OFFICER

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HIGH PEAK BOROUGH COUNCIL

Individual Executive Decision

20 October 2023

TITLE:	Public Space Protection Order Extension
EXECUTIVE COUNCILLOR:	Councillor Jean Todd – Executive Member for Climate Change and Environment
CONTACT OFFICER:	David Smith – Head of Communities Culture and Climate Change
WARDS INVOLVED:	All

Appendices Attached – Appendix A: Draft Order.

1. Reason for the Report

- 1.1 The current Public Spaces Protection Order (Dog Fouling and Nuisance) 2020 expires on 19 October 2023 and need to be extended or replaced if the Council wishes to continue to have the power to take enforcement action in response to dog fouling and nuisance behaviour.

2. Recommendation

- 2.1 That the Executive Councillor notes the comments submitted about the draft Order.
- 2.2 That the Executive Councillor approves the extends the current Public Spaces Protection Order so that it remains effective until 19th October 2026, unless varied, or discharged prior to this date.

3. Executive Summary

- 3.1 The Borough Council exercised its power under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) to make a Public Spaces Protection order to help stop or reduce the detrimental effect on the quality of life of those in the locality caused by (i) failure to remove dog faeces from land and (ii) nuisance behaviour caused by dogs in public areas.
- 3.2 The Order came into force on 19 October 2020 and lasts for a period of three years. A copy of the Order was published on the Council's website

(www.highpeak.gov.uk/pspo) and a copy of the Order, which outlines the prohibitions and coverage of the Order, can be found at Appendix A.

- 3.3 Following approval by the Executive Member, the Council carried out the necessary consultation, publicity and notification that it is required to conduct prior to deciding whether to extend the order.
- 3.4 It is suggested that none of the responses necessitate material changes to the draft Order and that the new Order can now be introduced by way of Individual Executive Decision.
- 3.5 In accordance with Select Committee Procedure Rules this decision has been made exempt from call-in with the agreement of the Chair of the Community Select Committee.

4. **How this report links to Corporate Priorities**

- 4.1 The proposed Order would support Aim 1: Supporting our communities to create a healthier, safer, cleaner High Peak.

5. **Alternative Options**

- 5.1 None.

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

The introduction of the Order would assist in preventing nuisance and environmental crime (dog fouling).

6.2 Workforce

None – the current officers already enforce under the existing Orders.

6.3 Equality and Diversity/Equality Impact Assessment

It is recognised that some groups may find it difficult to comply with the Order and hence exemptions are provided for people who are (i) registered blind or (ii) have a disability that affects their 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 they rely for assistance.

6.4 Financial Considerations

None, enforcement of the Orders would be delivered within current budgets.

6.5 Legal

A PSPO can be made if, on reasonable grounds, the local authority is satisfied that the required conditions are met. The first consideration is the nature of the anti-social behaviour, requiring that:

- activities that have taken place have had a detrimental effect on the quality of life of those in the locality, or it is likely that activities will take place and that they will have a detrimental effect.
- the effect or likely effect of these activities:
 - is, or is likely to be, persistent or continuing in nature
 - is, or is likely to be, unreasonable
 - justifies the restrictions being imposed.

The Anti-Social Behaviour, Crime and Policing Act 2014 sets out the requirements for consultation. As stated in the report, PSPOs can last for up to three years once approved and can be varied or extended more than once.

6.6 Sustainability

None.

6.7 Consultation

A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before extending the period for which a public spaces protection order has effect. The responses are outlined in the report.

6.8 Risk Assessment

None

Neil Rodgers
Cabinet Director (Place)

Web Links and Background Papers

www.highpeak.gov.uk/pspo

Contact details

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Head of Communities, Culture and Climate
Change
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6. **Detail**

- 6.1 The Borough Council exercised its power under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) to make a Public Spaces Protection order to help stop or reduce the detrimental effect on the quality of life of those in the locality caused by (i) failure to remove dog faeces from land and (ii) nuisance behaviour caused by dogs in public areas.
- 6.2 The Order came into force on 19 October 2020 and lasts for a period of three years. A copy of the Order was published on the Council's website (www.highpeak.gov.uk/pspo) and a copy of the Order, which outlines the prohibitions and coverage of the Order, can be found at Appendix A.
- 6.3 A local authority may extend the period for which an Order has effect prior to its expiry. Before deciding to extend an Order, the relevant local authority must carry out the necessary consultation, publicity and notification. Following agreement by the Executive Member, the Council carried out the necessary requirements. These requirements, and the way in which the Council has met them, are set out in the table below.

Requirements under Section 72 Anti-Social Behaviour, Crime and Policing Act 2014	What we must do	What we did
"Necessary Consultation"	Consult with: <ul style="list-style-type: none"> a) the chief officer of police, and the local policing body, for the police area that includes the restricted area' b) whatever community representatives the local authority thinks it appropriate to consult; and c) the owner or occupier of land within the restricted area (where reasonably practicable). 	Letters were sent to the Chief Constable of Derbyshire Constabulary; the Police and Crime Commissioner for Derbyshire; and the Chief Executive of the Peak District National Park Authority on 6 September 2023. Consultees were asked to provide any comments that they have by 5 October 2023.
"Necessary Publicity"	Publish the text of the proposed order.	The text of the proposed order was published on the Council's website.
"Necessary Notification"	Notifying any parish councils and the County Council of the proposed order.	A copy of the proposed Order was sent to all town and parish councils on 6 September 2023. A copy was also sent to Derbyshire County Council on 6 September 2023.

Responses Received

6.2 Derbyshire Constabulary provided the following comment:

“I can confirm we are happy with the proposed extension to the Dog nuisance PSPO”

6.3 No other responses have been received.

Conclusion

6.3 The local authority is satisfied on reasonable grounds that it is necessary to extend the order for a further three years to prevent—

- (a) occurrence or recurrence after that time of the activities identified in the order, or
- (b) an increase in the frequency or seriousness of those activities after that time.

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PUBLIC SPACES PROTECTION ORDER (Dog Fouling and Nuisance) 2020

The High Peak Borough Council (the Council) in exercise of the power under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act), being satisfied that the conditions set out in section 59 of the Act have been met, makes the following order:

1. This Order comes into force on 19 October 2020 and will last for a period of three years and be extended by a further period of three years.
2. This Order applies to the land specified in the Schedule.

Purpose

3. This order is intended to help stop or reduce the detrimental effect on the quality of life of those in the locality caused by (i) failure to remove dog faeces from land and (ii) nuisance behaviour caused by dogs in public areas.

Prohibitions

4. A person shall be in breach of this Order if:
 - 4.1 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.
 - 4.2 A person who is in charge of a dog at that time does not comply with a direction given him by an Authorised Officer of the Authority to put and keep the dog on a lead of not more than six feet in length.
 - 4.3 An Authorised Officer of the Authority has reason to believe that a person has committed an offence under this Order and the person:
 - (a) fails to give his name and address when asked to do so, or
 - (b) gives a false or inaccurate name or address.

Offence of Failing to Comply with Order

- 5.1 Under section 67 of the Anti-social Behaviour, Crime and Policing Act 2014, it is an offence for a person without reasonable excuse to:
 - (a) do anything that the person is prohibited from doing by this Order, or

- (b) fail to comply with a requirement to which the person is subject under this Order.

5.2 A person does not commit an offence under this Order by failing to comply with a prohibition or requirement if:

- (a) he is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;
- (b) he 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;
- (c) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so; or
- (d) the local authority did not have power to include the prohibition or requirement in this Order.

5.3 A person guilty of an offence of failing to comply with this Order is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Challenging the Validity of the Order

6. An Interested Person may apply to the High Court to question the validity of the Order on the grounds that the Council has no power to make the Order, include the particular prohibitions or requirements imposed by the Order, or that a requirement of the Act has not been complied with within six weeks beginning with the date on which the order is made.

Interpretation

7. For the purpose of this Order:

- (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:
 - (i) at that time some other person is in charge of the dog; or
 - (ii) the person is under the age of 16, in which case the Parent of that person shall be treated as being in charge of the dog at the relevant time;
- (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) 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);
- (e) an Authorised Officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog is likely to cause

- annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird.
- (f) an Authorised Officer of the Authority means an employee, partner agency or contractor of High Peak Borough Council who is authorised in writing by High Peak Borough Council for the purposes of administering the requirements of this Order.
 - (g) Parent, in relation to a person under the age of 16, includes any person:
 - (i) who is not a parent of his but who has parental responsibility for him, or
 - (ii) who has care of him.
 - (h) Interested Person means an individual who lives in the restricted area or who regularly works in or visits that area.

IN WITNESS whereof the COMMON SEAL
of the HIGH PEAK BOROUGH COUNCIL was hereunto affixed this
day of two thousand and fourteen in
the presence of

Chairman

Chief Executive

SCHEDULE

This Order applies to all land within the area of High Peak Borough Council that is open to the air and to which the public are entitled or permitted to have access (with or without payment) including access land as defined in section 1 of the Countryside and Rights of Way Act 2000. This includes, but is not limited to all footpaths, public bridleways, the footways and carriageways of every highway (including tree bases and grass verges) and every cemetery, park, public garden and open space including land owned by parish and town councils.

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