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28 February 2017

S U M M O N S

MEETING: Community Board
DATE: 8 March 2017
TIME: 6pm
PLACE: Council Chamber, Town Hall, Gosport
Democratic Services contact: Vicki Stone

MICHAEL LAWTHER
BOROUGH SOLICITOR

MEMBERS OF THE BOARD

The Mayor (Councillor Mrs Hook) (ex-officio)
Chairman of the Policy and Organisation Board (Councillor Hook) (ex-officio)

Councillor Burgess (Chairman)
Councillor Murphy (Vice Chairman)

Councillor Mrs Batty
Councillor Bateman
Councillor Earle
Councillor Mrs Huggins
Councillor Hylands
Councillor Mrs Jones

Councillor Miss Kelly
Councillor Mrs Morgan
Councillor Ronayne
Councillor Scard
Councillor Mrs Wright
Councillor Wright

FIRE PRECAUTIONS

(To be read by the Chairman if members of the public are present)

In the event of the fire alarm sounding, please leave the room immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Councillors are requested to note that, if any Councillor who is not a Member of the Board wishes to speak at the Board meeting, then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off or switched to silent for the duration of the meeting.
- iii. This meeting may be filmed or otherwise recorded. By attending this meeting, you are consenting to any broadcast of your image and being recorded.

AGENDA

1. APOLOGIES FOR NON-ATTENDANCE
2. DECLARATIONS OF INTEREST
All Members are required to disclose, at this point in the meeting or as soon as possible thereafter, any disclosable pecuniary interest or personal interest in any item(s) being considered at this meeting.
3. MINUTES OF THE MEETING OF THE COMMUNITY BOARD HELD ON 25 JANUARY 2017
4. DEPUTATIONS – STANDING ORDER 3.4
(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Monday 6th March 2017. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).
5. PUBLIC QUESTIONS – STANDING ORDER 3.5
(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Monday 6th March 2017).
6. DOG CONTROL PUBLIC SPACE PROTECTION ORDER
To advise the Community Board of the responses received in response to the consultation exercise on the proposed public spaces protection order (PSPO) for the control of dogs (Dog PSPO)

PART II
Contact Officer
Borough
Solicitor

**A MEETING OF THE COMMUNITY BOARD
WAS HELD ON 25 JANUARY 2017 AT 6PM**

The Mayor (Councillor Mrs Hook) (ex-officio), Councillor Hook (ex-officio), Councillors Mrs Batty (P), Bateman (P), Burgess (P), Earle (P), Mrs Huggins (P), Hylands (P) Mrs Jones (P), Miss Kelly (P), Mrs Morgan (P), Murphy (P), Ronayne (P), Scard (P), Mrs Wright, Wright (P)

It was reported that in accordance with Standing Order 2.3.5, Councillor Mrs Cully had been nominated to replace Councillor Mrs Wright for this meeting.

22. APOLOGIES

Apologies were received from Councillor Mrs Wright.

23. MINUTES OF THE MEETING OF THE COMMUNITY BOARD HELD ON 16 NOVEMBER 2016

RESOLVED: That the minutes of the meeting of the Community Board held on 16 November 2016 be approved and signed by the Chairman as a true and correct record.

24. DECLARATIONS OF INTEREST

- Councillor Mrs Batty declared a pecuniary interest in respect of item 6 of the agenda and advised the Board that she would remain in the room but take no part in the vote or debate of this item.

25. DEPUTATIONS

There were no deputations.

26. PUBLIC QUESTIONS

There were none.

PART I

27. BUSINESS PLAN UPDATE AND COUNCIL DWELLING RENTS 2017/2018

Consideration was given to a report of the Borough Treasurer and Housing Services Manager which considered the Housing Revenue Account (HRA) Business Plan including the revised 2016/2017 budget and the 2017/2018 budget including recommendations on rent levels for next year.

The report also provided Members with an update on the latest information with regard to policy changes that impacted on local authority housing services.

In response to a question from a Member regarding the Council purchasing further properties this year, the Chairman of the Board confirmed that the Council had purchased two ex-council houses and were looking at the budget to possibly purchase more going forward.

A Member raised concerns with the proposed rent increase of garages in line with inflation and stated that garages were not being let due to the high costs. It was further advised that the same garages were featured on the choice based letting scheme.

A Member raised concerns with regards to the Council no longer having an income recovery team and the potential escalation of arrears and debt. The Housing Services Manager clarified that the income recovery function would still be retained but undertaken by housing officers working more generically.

A Member welcomed proposals for funds to be transferred to the major repairs reserve and asked that balconies in need of repair be made a priority. The Chairman advised that the surveying of balconies was currently being undertaken.

RESOLVED: That the Community Board recommend to Council that:

- a) The revised HRA Business Plan extract (Appendix A) and associated 2016/17 Revised Budget and 2017/18 Budget (Appendix B) is agreed
- b) That Council Dwelling rents decrease by 1% (an average of £0.83 per week), continuing the four year deduction programme as detailed in the new national rent policy introduced in April 2016.
- c) The rent for older style garages be increased in line with inflation, as agreed in the Garage Renewal Strategy.
- d) To Increase the presently approved HRA Capital Programme by £875k (as in 2.3b).

PART II

28. HOUSING SERVICES REVIEW

Consideration was given to a verbal update from the Housing Services Manager.

The Chairman welcomed Julie Smith and Members were advised that Julie would be managing Housing Services when James resumed his role back in Portsmouth.

The Housing Services Manager advised Members that on the 15th November 2016 he presented a set of proposals to the Housing Services Teams. For clarity it was advised that the Housing Service teams affected were Housing Options, Housing Management (operational services) and Property/Asset Management Services.

Members were advised that the proposals achieved three key outcomes:

- 1) The shared management arrangement between GBC and PCC for the Housing Services,
- 2) A revised structure for the Housing Services, and
- 3) Some shared specialist services

Members were advised that the core housing services remained in Gosport whilst exploiting shared specialist services. The proposals provided strong strategic and operational leadership. The proposals would achieve a stronger, resilient and flexible structure, with no reduction in services to customers, and at a reduced cost.

It was proposed that a Head of Housing would be in practical terms be full time and based in Gosport.

Members were advised that a key feature of the new structure was the movement towards greater generic working to support improved customer contact.

Members were advised that a formal consultation had been entered into from 18th November 2016 which ended on the 3rd January 2017.

The Housing Services Manager advised Members that the timing of the Board had meant that only a verbal update could be provided however a briefing had been arranged for Members next week to discuss the proposal in further detail.

Members were advised that the broad feedback themes that emerged were for example:

- Concern about the movement from specialism towards generic working
- Feedback on the proposals
- Service development ideas
- Process questions
- Structure/roles

Members were advised that once the End of Consultation document was presented the focus would turn to the implementation of the change and supporting the service to embed the new structure.

Members were advised that there was a significant level of change and would require careful planning and change management to ensure that the core services continued to be delivered and customer service was maintained.

Members were advised that an implementation plan with the key steps would be published in early February 2017 and the officers were confident that the key structural changes could be implemented within this financial year.

The Housing Services Manager advised that there would be a continued commitment to clear communications with stakeholders and ward members to ensure that everyone was helped to navigate to the contact points as they change.

Following a question from a Member the Housing Services Manager clarified that there were changes to the services arising from the feedback but that these were not fundamental changes to the original proposals.. It was further advised that these changes would be discussed at the briefing meeting arranged for Members, but that this information could not be given until the service had been informed.

Following a question regarding how the shared responsibility would benefit customers who had previously been passed from pillar to post between the departments. The Housing Services Manager advised that there would be more generic working and that roles were being designed to deal with the typical demands from customers of the service and having one point of contact would reduce the issue of being passed from pillar to post.

Members welcomed the changes proposed and felt that the review undertaken had been conducted professionally and openly, with staff having been given the opportunity to share ideas and relay their fears.

29. ANY OTHER ITEMS

There was no other business.

The meeting concluded at 18:17

CHAIRMAN

ITEM NO.06

Board/Committee:	Community Board
Date of Meeting:	8 th March 2017
Title:	Dog Control Public Space Protection Order
Author:	Borough Solicitor
Status:	FOR DECISION

Purpose

To advise the Community Board of the responses received in response to the consultation exercise on the proposed public spaces protection order (PSPO) for the control of dogs (Dog PSPO)

Recommendation

- The Community Board notes the responses received in response to the consultation exercise on the proposals for a Dog PSPO.
- The Community Board adopts a Dog PSPO commencing on 1st May 2017 for a period of three years (in the form of Appendix A) with the same dog control measures proposed in the consultation save:
 - i. dogs shall be only excluded from sports pitches whilst in use for organised events;
 - ii. dogs shall only be excluded from enclosed children's play areas which have fixed playing equipment or apparatus installed NB this shall not extend to local areas for play;
 - iii. there shall be no requirement for a person in charge of three or more dogs to keep no more than two off lead at any one time
- The Borough Solicitor shall have delegated authority to take the necessary steps for the Dog PSPO to take effect including publicity requirements and correction of any clerical errors.

1 Background

- 1.1** The 2009 dog control orders (DCOs) require a person to clean up after their dog; exclude dogs from specified places; require dogs to be on a leash in specified places; and restrict to a maximum of six the number of dogs a person may exercise at any one time. The DCOs will be repealed in October 2017 as a result of new

legislation taking effect.

- 1.2** If the Council wishes to retain or vary the dog control measures it must consider making a PSPO under Part 4 of the Anti-social Behaviour Crime and Policing Act 2014 (the “Act”).
- 1.3** A PSPO prohibits or requires specific activities being done in “Public Places”. A “Public Place” is any place where the public have access, on payment or otherwise, as right or with permission.
- 1.4** It is an offence for a person to fail to comply with a PSPO. It is proposed a person who uses a guide or assistance dog will be exempt from all the requirements of any Dog PSPO.
- 1.5** In order to make a PSPO the Council must be satisfied on reasonable grounds that two conditions are met (the “Conditions”).
- 1.6** The first Condition is that the activities carried on in a Public Place have had or are likely to have a detrimental effect on the quality of life on those in the locality.
 - 1.6.1** Dog fouling is unsightly and unpleasant. It also presents a health hazard where the public, in particular children, walk and play areas such as, beaches, allotments, parks and playing fields. It can lead to toxocarissis a serious illness and even blindness.
 - 1.6.2** Dogs taken into children’s play area may become aggressive if startled.
 - 1.6.3** Dogs that are not kept under control in other Public Places may cause a nuisance and worry other animals.
- 1.7** The second Condition is that the conduct is likely to persistent or unreasonable so as to justify the restrictions proposed.
 - 1.7.1** The Council must take into account whether there are still sufficient areas that dogs can be exercised without restriction. Any restrictions must be reasonable and proportionate to the potential harm and nuisance they seek to address.
- 1.8** Before a PSPO can be made the Council must consult the public, police, highway authority and other interested parties on the proposals, and have regard to any responses received.
- 1.9** The relevant regulations require that where the Council has made

a PSPO, it must publish to that effect a notice on its website. It must also cause to be erected on or adjacent to the Public Place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to the PSPO and its effect.

- 1.10** An interested person may apply to the High Court to question the validity of a PSPO on prescribed grounds. An application must be made within the period of 6 weeks beginning with the date on which the PSPO is made.

2 Report

- 2.1** On 26th November 2016 the Community Board approved for the purposes of consultation a set of proposals for a draft Dog PSPO. The proposals were to:

- i. Continue with the same dog control measures as the DCOs save:
- ii. dogs are excluded from sports pitches at all times rather than limited to when in use for organised events.
- iii. the maximum number of dogs that a person can exercise at any one time is reduced from six to four,
- iv. dogs are excluded from enclosed children's play areas including local areas of play and local equipped areas of play, and
- v. Adopt the three new dog control measures set out below which shall apply to all Public Places
- vi. requirement to put dog on a lead if directed by an Authorised Officer ("AO") if in the opinion of the AO the dog is causing a nuisance or worrying other animals;
- vii. a requirement for a person exercising a dog to have with them a means to pick up deposited by that dog and show the receptacle on demand to an Authorised Officer;
- viii. a requirement where a person is exercising three or more dogs to keep no more than two off lead.

- 2.2** Promenades- Dogs under the current DCOs are excluded from

the beach areas only at Lee-on-the-Solent and Stokes Bay between 1st May and 30th September. There are no proposals to extend this to the promenade areas.

2.3 Consultation Process

- 2.3.1** A consultation notice was published on the Council website on 5th December 2016 inviting any comments from the public in response to the proposals to be made in writing or by email by 16th January 2017. Details of the consultation and how to respond were posted on social media, a newspaper advertisement, and widely reported in the local press.
- 2.3.2** The consultation notice was sent on 5th December 2016 to the Office of the Police and Crime Commissioner, the Highway Authority, Defence Infrastructure Organisation (the “Authorities”). In addition the consultation notice was sent to the Dogs Trust, The Kennel Club, and Natural England (the “Interest Groups”).
- 2.3.3** The Council is satisfied that the consultation process has been properly undertaken in accordance with the legislative requirements and guidance.
- 2.3.4** Natural England and The Kennel Club responded to the consultation. Their submissions are reproduced at Appendix B.
- 2.3.5** The Council has received 339 responses from members of the public to the proposals. The numbers collated as to the numbers in favour and against each proposed dog control measure have been collated. This document is at Appendix C.

2.4 Exclusion of dogs from sports pitches at all times

- 2.4.1** The Kennel Club and Natural England have expressed concern that a blanket exclusion will lead to the displacement of dog walkers to the more ecologically sensitive coastal areas. The Solent Recreational Mitigation Partnership (SRMP) of which the Council is a constituent member has devised positive initiatives to encourage dog walkers away from the coastal areas into the Alver Valley.

- 2.4.2** Only 12 of the 141 comments received from the public specifically referring to this proposal were supportive. The point is made that many of the open spaces in the Borough include sports pitches. A blanket exclusion will significantly restrict the areas in the Borough that dogs can be exercised off lead. The knock on effect is that dogs may miss out on exercise leading to behavioural issues such as aggression. A number of the responses received has queried how a blanket exclusion would be enforced: i.e. would it apply to specified sports pitches or generically
- 2.4.3** The rationale of this proposal was to tackle the problem of dog fouling on sports pitches. Ward Councillors often receive complaints of these areas being contaminated by dog fouling.
- 2.4.4** It does appear, however, that a blanket exclusion of dogs from sports pitches is disproportionate to the harm the measure seeks to address, and would be difficult to enforce. The other dog control measures proposed will reduce the incidence of dog fouling on sports pitches.
- 2.4.5** It is, therefore, recommended that the exclusion from sports pitches remains limited to when in use for organised events.
- 2.5** **Exclusion from enclosed children's play areas to include local equipped areas for play and local areas for play**
- 2.5.1** 70 of the 86 public comments on this proposal were not supportive.
- 2.5.2** Local areas for play (LAPS) and local equipped areas for play (LEAPS) are small parcels of enclosed land within housing developments such as Priddys Hard and Cherque Farm, set aside for children to play or exercise in. Only LEAPS have fixed play equipment or apparatus installed. LAPS are a recreational space with no fixed play equipment installed, which are not particularly well used by children.
- 2.5.3** It is suggested that the exclusion is limited to children's play areas which have fixed playing equipment or apparatus. This would then only encompass LEAPS.
- 2.6** **Restrict the maximum number of dogs a person can be exercise on any Public Place to four (currently six).**
- 2.6.1** The Kennel Club have said that there is no evidence as to why it

is necessary and proportionate to reduce the maximum number of dogs from six to four. DEFRA guidance is that the maximum number of dogs should not exceed six. Natural England is concerned that this will significantly impact on professional dog walkers who exercise dogs in numbers.

2.6.2 24 of the 54 comments from the public commenting on this proposal were supportive.

2.6.3 It is a matter for the Council to decide how many dogs one person can reasonably control on land at any one time. It can depart from DEFRA guidance if there are good reasons. Relevant considerations may include the proximity of children and wildlife to the Public Places. In particular it is recognised that Gosport is the most densely populated Borough outside of the two main cities.

2.6.4 It is proposed that because of the high population density the number of dogs a person can exercise on any Public Place at any one time is reduced from six to four.

2.7 Means to pick up

2.7.1 The Kennel Club have suggested that the interpretation of what amounts to a means to pick up may mean that this measure is in practice difficult to enforce. They express concern that a person may be criminalised if they have already used and disposed of their only bag when directed by the Authorised Officer to produce the bag. Any signage must be very clear as to what is required of the dog walker.

2.7.2 39 of the 45 responses from the public specifically commenting on this proposed new measure were supportive.

2.7.3 The comments of the Kennel Club are noted. It is not unreasonable, however, to expect a dog walker to take more than one bag with them so they can clean up after their dog.

2.7.4 It is, therefore, recommended that this new dog control measure is adopted in any Dog PSPO.

2.8 Dogs on lead by direction

2.8.1 The Kennel Club are supportive of this measure. 22 out of the 23 public responses commenting on this proposal were supportive.

2.8.2 It is, therefore, proposed that this measure is adopted as part of

any Dog PSPO.

2.9 A person exercising three or more dogs only two may be kept off a lead

2.9.1 Natural England has said that this proposal may also result in deflecting professional walkers to the coast, further undermining the work undertaken by the Solent Recreation Mitigation Panel.

2.9.2 Only 10 out of the 77 responses from the public commenting on this proposal were supportive.

2.9.3 It is intended that the Dog PSPO will exclude dogs from specified places or require dogs to be kept on a lead in specified places. The proposed dogs on lead direction measure will mean that in other Public Places where there are no such restrictions, the owner of dog that is causing a nuisance or worrying other animals can be required to put their dog on a lead.

2.9.4 This measure may be disproportionate and unreasonable in the circumstances. It is, therefore, recommended that this measure is not adopted as part of any Dog PSPO.

3 Risk Assessment

3.1 Not adopting a dog PSPO could mean that the Council have limited powers to deal with dog fouling, nuisance and harm within its area and no means to enforce against irresponsible dog owners. There are inherent risks associated with taking any enforcement actions. The adoption of a Dog PSPO will reduce those risks.

4 Conclusion

4.1 The DCOs will expire in October 2017. If the Council wishes to continue with or vary the dog control measures it must make a PSPO subject to a consultation exercise.

4.2 A consultation exercise has been undertaken on the proposed dog control measures as agreed by the Community Board on 26th November 2016.

4.3 Having regard to the consultation responses it is suggested that a dog PSPO is adopted with the same dog control measures as the DCOS save the maximum number of dogs is reduced from six to four, and the new measures relating to means to pick up and dogs on lead by direction are adopted.

4.4 Otherwise the requirements and prohibitions of the Dog PSPO

appear to be proportionate to the potential harm and nuisance they seek to address. There are still considerable Public Places in the Borough for dogs to be exercise on and off lead.

- 4.5** It is recommended that a Dog PSPO is made in the form of Appendix A.

Financial Services comments:	None
Legal Services comments:	Contained in the report
Crime and Disorder:	Failure to comply with a PSPO is unless an exemption applies a criminal offence. The decision to issue a fixed penalty notice or in state criminal proceedings is made having regard to the Council's generic enforcement policy.
Equality and Diversity:	Persons that use a guide or assistance dog because they are blind or deaf or have mobility issues are exempt from the requirements of the PSPO.
Service Improvement Plan implications:	None
Corporate Plan:	Dog control measures that are reasonable and proportionate may be necessary to ensure equal access for all to public space amenities for exercise and recreation without fear of harm.
Risk Assessment:	Paragraph 3 of the report
Background papers:	Report to Community Board 26.11.16 meeting –Proposed Dog PSPO Equality Impact Assessment
Appendices/Enclosures:	
Appendix 'A'	Dog PSPO
Appendix 'B'	Representations from Natural England & Kennel Club
Appendix C	Results of public consultation
Report author/ Lead Officer:	Jamie Paterson x5484

Section 59 Anti-social Behaviour, Crime and Policing Act 2014
Public Spaces Protection Order (Control of Dogs) 2016

Gosport Borough Council (the “Authority”) hereby makes the following Order for the Control of Dogs in its area (the “Order”)

This Order comes into force on 1st May 2017 and shall be in force for a period of 3 years.

General provisions:

1.1 “Authorised Officer” means any officer of the Authority authorised by the Chief Executive for the purposes of 4.1 of this Order.

1.2 “Public Place” means any place in the administrative area of the Authority to which the public or a section of the public has access, on payment or otherwise, as of right by virtue of express or implied permission.

2.1 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

2.2 A person who fails to comply with any obligation or prohibition imposed by this order is guilty of a criminal offence by virtue of section 67(1) of the Anti-social Behaviour Crime and Policing Act 2014 and liable on summary conviction to a fine not exceeding level 3 on the standard scale

3. Fouling

3.1 If a dog defecates at any time in any Public Place a person who is in charge of the dog at the time must remove the faeces forthwith 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 Public Place has consented (generally or specifically) to his failing to do so.

3.2 Placing the faeces in a receptacle which is provided for purpose, or for the disposal of waste, shall be sufficient removal from the Public Place

- 3.3 Being aware of the defecation or not having a device for or suitable means to removing the faeces shall not be a reasonable excuse for failing to remove it.

4. Means to pick up

- 4.1 A person in charge of a dog on any Public Place must have with him an appropriate means to pick up dog faeces deposited by that dog unless
- (a) he has 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.
- 4.2 The obligation is complied with if, after a request from an Authorised Officer, the person in charge of the dog produces an appropriate means to pick up dog faeces.

5 Dogs on Lead by Direction

- 5.1 An Authorised Officer may in any Public Place other than those specified in Schedules 1 and 2 of this Order (which dogs are excluded from or must be kept on a lead in any event) direct a person in charge of a dog to keep the dog on a lead if such restraint is in the opinion of the Officer necessary to prevent nuisance to other persons or worry to animals.
- 5.2 A person issued with a direction under 5.1 must comply unless
- (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the Public Place has consented (generally or specifically) to his doing so.

6. Maximum Number of Dogs

- 6.1 In any Public Place, other than those specified in Schedule 2 of this Order, the maximum number of dogs which a person may take onto that Public Place is 4
- 6.3 A person must comply with the requirements in 6.1 unless
- (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the public place has consented (generally or specifically) to his doing so.

7. Dogs on Leads

- 7.1 A person in charge of a dog in any Public Place specified in Schedule 1 to this Order must keep the dog on a lead 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 place has consented (generally or specifically) to his failing to do so

8. Exclusion of Dogs

- 8.1 A person in charge of a dog must not take it into or keep it in any Public Place specified in Schedule 2 to this Order 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 Public Place has consented (generally or specifically) to his failing to do so.

9. Exemptions

- 9.1 The requirements or prohibitions of this order shall not apply to any person who is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 or has a disability affecting their mobility, manual dexterity or ability to lift, carry or move everyday objects and who relies upon a dog trained by a prescribed charity for assistances.

EXECUTED AS A DEED BY AFFIXING THE COMMON SEAL OF GOSPORT BOROUGH COUNCIL IN THE PRESENCE OF:

HEAD OF LEGAL SERVICES

SCHEDULE ONE –

PARAGRAPH 7 DOGS ON LEADS

This Order applies to the following Public Places in the Borough of Gosport

1. Any cemetery or churchyard
2. Any allotment
3. Along the perimeter of any sports pitch whilst an organised event is taking place.
4. Car Parks

SCHEDULE TWO-

Paragraph 8 EXCLUSION OF DOGS

This Order applies to the following Public Places in the Borough of Gosport

1. Between 1 May and 30 September inclusive in any year the following beach areas:

i). Any area of beach between the promenade and Low Water Mark of Medium Tides and contained between the points enclosed with notional lines extending from the easternmost part of the Swimming Baths to the easternmost end of that part of the promenade known as “The Esplanade” at Lee-on-the Solent which is shown hatched in black on the accompanying map marked “Map Number 1”.

ii). Any area of beach between the promenade and Low Water Mark of Medium Tides and contained between the points enclosed with notional lines extending from the westernmost part of the Sailing Club slipway to the easternmost point of the GAFIRS slipway at Stokes Bay in Hampshire which said area is hatched in black on the accompanying map marked “Map Number 2”.

2. Any Bowling Green

3. Any enclosed area designated solely for the purpose of children’s play on which there is fixed play equipment or apparatus installed.

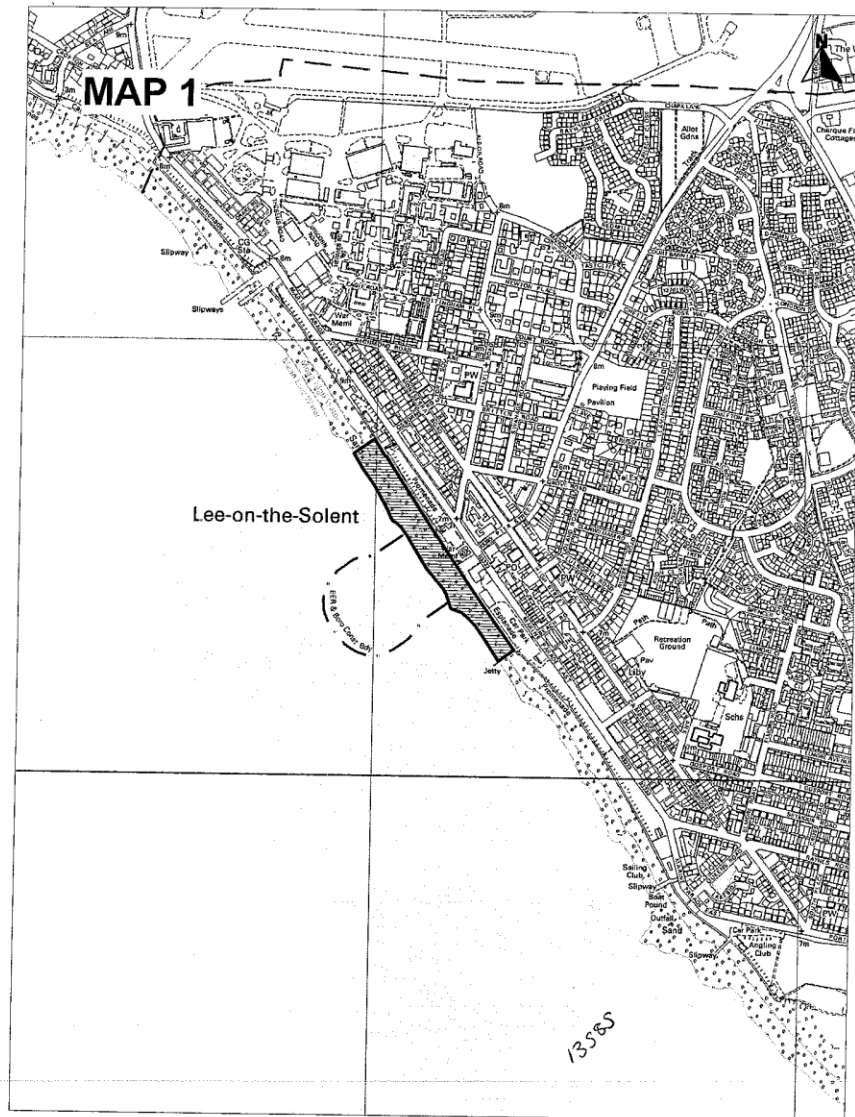
4. Any Sports pitch whilst in use for an organised event;

5. Any area within 'The Wild Grounds' of the Alver Valley that is:

i). designated as a Site for Special Scientific Interest ("SSSI")

or;

ii). where Gosport Borough Council keep animals.



TOWN HALL, HIGH STREET, GOSPORT,
HANTS, PO12 1EB.

DATE : 05/03/2009

Scale 1:10000
0 80 160 240 320 400 m

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GOSPORT
BOROUGH COUNCIL

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TOWN HALL, HIGH STREET, GOSPORT,
HANTS, PO12 1EB. DATE : 05/03/2009

DATE : 05/03/2009

Scale 1:10000
0 80 160 240 320 400 m

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Date: 19 January 2017
Our ref: 206464



Head of Street Scene
Gosport Borough Council

streetscene@gosport.gov.uk

BY EMAIL ONLY

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

Dear Head of Street Scene

Consultation: Public Space Protection Order (Control of Dogs)

Location: Gosport Borough Council

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has reviewed the proposed Public Space Protection Order and is concerned that certain elements of the proposals may negatively impact the effectiveness the emerging Solent Recreation Mitigation Partnership (SRMP) Strategy In Gosport.

The SRMP has recently conducted dog walker surveys and sought advice from an Access Management consultant in order to inform how best to engage with dog walkers in the Solent to encourage responsible behaviour, with particular reference to minimising disturbance to internationally important wintering birds on the coast.

The advice from this Solent research, and from other areas in the country (e.g. Dorset Dogs) is that positive management measures are much more effective than dog control orders by the very fact that you work in liaison with dog walkers and not against them. Although the SRMP is still refining the exact mitigation measures to be included in the Definitive Mitigation Strategy, it is very likely that positive management measures will form part of the final strategy which will be based on the evidence mentioned above. Some of these measures are likely to include working with professional dog walkers to define codes of conduct when walking multiple dogs, and setting up a dog walker friendly website.

The new proposals in the PSPO to exclude dogs from sports pitches (when they are not being used), and to exclude dogs from Alver Valley (under certain conditions) will have a knock on effect of deflecting dog walkers to more sensitive areas such as the internationally designated Special Protection Area, both in Gosport and in adjacent boroughs. The Alver Valley has been identified as a site to encourage dog walkers to and has even received funding to support that aim. Also the proposal to restrict dogs to a maximum of four per person (with only two off the lead) will also result in deflecting professional dog walkers to neighbouring boroughs without these restrictions, and likely to the coast, further undermining the SRMP Strategy.

Our advice therefore, is that Gosport should work with the SRMP on this issue, as the new (above what already exists) proposals for dog exclusions, and restrictions on professional/multiple dog walkers will lead to displacing the issue elsewhere thereby not resolving it, and will give rise to

general mistrust by the dog walking community and make it harder for the SRMP to develop good working relationships to encourage responsible behaviour. Gosport may also wish to seek advice from Stephen Jenkinson from Access and Countryside Management, who has advised the SRMP on this matter.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Francesca Sanchez on 07766 504185. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

Francesca Sanchez – Lead Adviser
Dorset, Hampshire and Isle of Wight



THE KENNEL CLUB

Making a difference for dogs

Kennel Club Response to Gosport Borough Council Public Spaces Protection Order Consultation

Submitted on 16th January by: The Kennel Club, Clarges Street, Piccadilly, London W1J 8AB, tel: 020 7518 1020, email: kcdog@thekennelclub.org.uk

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare and training, whose main objective is to ensure that dogs live healthy, happy lives with responsible owners. As part of its External Affairs activities the Kennel Club runs a dog owners group KC Dog with approximately 5,000 members, which was established to monitor and keep dog owners up to date about dog related issues, including Public Spaces Protection Orders (PSPOs) being introduced across the country.

As a general principle we would like to highlight the importance for all PSPOs to be necessary and proportionate responses to problems caused by irresponsible dog owners. It is also important that authorities balance the interests of dog owners with the interests of other access users.

Conversion of Dog Control Orders into PSPOs

We are aware that much of the proposed PSPO is a direct conversion from the existing Dog Control Order's which are in force in Gosport. The legal test for the implementation of a PSPO is different to that of a dog control order, and it should not be taken for granted that existing dog control orders meet the new legal test.

We are concerned by what appears to be a trend to increase restrictions on dog walkers in Gosport. The new PSPO includes a number of new restrictions on dog walkers, but not a single restriction has been relaxed. We are unaware of any evidence to support either the additional restrictions or the majority of the existing restrictions, having been produced or published. In the absence of such data we submit that all that is required at the present time is to produce a PSPO that mirrors the DCO requirements, or relaxes them.

The Government when legislating for PSPOs also provided local authorities targeted powers to deal with individual irresponsible owners, through Community Protection Notices. Detailed advice on the use of these targeted measures to deal with irresponsible dog owners are contained within the Defra/Welsh Government guidance document.¹ These tools have the advantage of allowing authorities to require problem dog walkers to attend training courses and deal directly with the underlying problem behaviour. We would encourage Gosport council to make greater use of these targeted measures, rather than relying on blanket measures which impact on everyone, regardless of behaviour.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/373429/dog-ownership-practitioners-manual-201411.pdf

Dog fouling

The Kennel Club strongly promotes responsible dog ownership, and believes that dog owners should always pick up after their dogs wherever they are, including fields and woods in the wider countryside, and especially where farm animals graze to reduce the risk of passing Neospora and Sarcocystosis to cattle and sheep respectively.

We would like to take this opportunity to encourage the local authority to employ proactive measures to help promote responsible dog ownership throughout the local area in addition to introducing Orders in this respect.

These proactive measures can include: increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog poo can be disposed of in normal litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog.

Dog fouling - requirement to be in possession of means to pick up

Whilst the Kennel Club supports proactive efforts on behalf of local authorities to encourage responsible dog ownership and to ensure that those who are not picking up after their dogs are brought to book, this has to be fair and proportionate and we would not like to see responsible dog owners penalised unfairly.

The Kennel Club has concerns over proposals to introduce an offence of not having the means to pick up. Responsible owners will usually have dog waste bags or other means to clear up after their pets but we do have some concerns, for example if dog owners are approached at the end of a walk and have already used the bags that they have taken out for their own dog, or given a spare bag to someone who has run out, a behaviour that is encouraged by Green Dog Walker schemes.

Furthermore it is perfectly plausible that these proposals in certain circumstances would perversely incentivise dog walkers not to pick up after their dog. Should a dog walker on witnessing their dog fouling realise they are down to their final one or two poo bags (or other receptacle), they will be forced into a decision of whether to use the bag and risk being caught without means to pick up, or risk not picking up in order to retain a "means to pick up" should they be stopped later on their walk. It is perfectly reasonable to assume that a proportion of dog walkers would choose the second option if they thought this was the least likely route to being caught. Especially if the penalty for not picking up was the same as not having means to pick up. Local authorities may wish to consider introducing a clause which provides an exemption for dog walkers who have run out of bags, but can prove that they were in possession of and made use of bags (or other suitable receptacle) during their walk.

If such a measure is introduced it is essential that an effective communication campaign is launched in the local area to ensure that people are aware of the plans and have an excess supply of dog waste bags with them, so that it is the right people who are getting caught. Additionally, appropriate signage should be erected to inform those who are not familiar with the local rules are not unfairly caught out.

We are also concerned how easily local authorities could enforce this law when trying to define whether or not dog owners have 'a means' of picking up after the dogs, without risking the expense of legal challenge. In the absence of poo bags owners trying to flout the law could theoretically point to any number of items on their person that they intend to use, so we think that the most effective spot checks you can carry out are those that catch offenders in the act of not picking up, rather than second guessing behaviours on the basis of what they are or are not carrying with them.

Alternatively, to avoid a fine an irresponsible owner could simply tie one bag to his or her dog's lead or collar but never actually use it.

Recently Cornwall council considered introducing a 'means to pick up' order but subsequently decided against it as they deemed it to be disproportionate and concluded that the requirement would be 'toothless', as it would be highly unlikely to be enforceable in a magistrates court. Please see the attached Cornwall Council report for more details.

Dog access

The Kennel Club does not normally oppose Orders to exclude dogs from playgrounds, or enclosed recreational facilities such as tennis courts or skate parks, as long as alternative provisions are made for dog walkers in the vicinity. We would also point out that children and dogs should be able to socialise together quite safely under adult supervision, and that having a child in the home is the biggest predictor for a family owning a dog.

With regards to the proposed dog exclusion Order for "Any enclosed area designated solely for the purposes of children's play including but not limited to" we would request the Council publishes a map and/or list of areas which have been designated for these purposes. As covered later in this submission, the Council will need to erect appropriate signage at each site where restrictions are in force.

The Kennel Club can support reasonable "dogs on lead" orders, which can - when used in a proportionate and evidenced-based way – include areas such as cemeteries, picnic areas, or on pavements in proximity to cars and other road traffic.

However, we will oppose PSPOs which introduce blanket restrictions on dog walkers accessing public open spaces without specific and reasonable justification. Dog owners are required to provide their dogs with appropriate daily exercise, including "regular opportunities to walk and run", which in most cases will be off lead while still under control. This is a provision of the Code of Practice for the Welfare of Dogs, which accompanies the Animal Welfare Act 2006.

Accordingly, the underlying principle we seek to see applied is that dog controls should be the least restrictive to achieve a given defined and measurable outcome; this is the approach used by Natural England. In many cases a seasonal or time of day restriction will be effective and the least restrictive approach, rather than a blanket year-round restriction. For instance a "dogs on lead" order for a picnic area is unlikely to be necessary in mid-winter.

The council should be aware that dog owners are required, under the Animal Welfare Act 2006, to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. Their ability to meet this requirement is greatly affected by the amount of publicly accessible parks and other public places in their area where dogs can exercise without restrictions. This section of the Animal Welfare Act was included in the statutory guidance produced for local authorities by the Home Office on the use of PSPOs.

The Kennel Club is strongly opposed to the extension of the dog exclusion Order to cover any sports pitch, whether or not it is in use. We would call on the council to continue with existing restriction of excluding dogs only when sports pitches are in use.

Maximum number of dogs a person can walk

The Kennel Club feel that an arbitrary maximum number of dogs a person can walk is an inappropriate approach to dog control that will often simply displace and intensify problems in other areas. The maximum number of dogs a person can walk in a controlled manner

depends on a number of factors relating to the dog walker, the dogs being walked, whether leads are used and the location where the walking is taking place.

An arbitrary maximum number can also legitimise and encourage people to walk dogs up to the specified limit, even if at a given time or circumstance, they cannot control that number of dogs.

We thus suggest that defined outcomes are used instead to influence people walking one or more dogs, be that domestically or commercially, such as dogs always being under control, or not running up to people uninvited, on lead in certain areas etc.

For example, an experienced dog walker may be able to keep a large number of dogs under control during a walk, whereas an inexperienced private dog owner may struggle to keep a single dog under control. Equally the size and training of the dogs are key factors; this is why an arbitrary maximum number is inappropriate. The Kennel Club would recommend the local authority instead uses “dogs on lead by direction” orders and targeted measures such as Acceptable Behaviour Contracts and Community Protection Orders to address people who don’t have control of the dogs they are walking.

We understand that the old limit was set at six dogs, which was in line with Defra guidance, we therefore question what evidence the Council has to justify the proposed reduction and associated stipulations.

A further limitation of a maximum number of dogs per person is that that it does not stop people with multiple dogs walking together at a given time, while not exceeding the maximum number of dogs per person. Limits can also encourage some commercial dog walkers to leave excess dogs in their vehicles, which can give rise to welfare concerns.

If a maximum number of dogs is being considered due to issues arising from commercial dog walkers, we instead suggest councils look at accreditation schemes that have worked very successfully in places like the East Lothian council area. These can be far more effective than numerical limits, as they can promote wanted good practice, rather than just curb the excesses of just one aspect of dog walking. Accreditation can also ensure dog walkers are properly insured and act as advocates for good behaviour by other dog owners. The Kennel Club is currently developing a national Code of Practice for Commercial Dog Walking for launch in 2017, alongside a national accreditation and training scheme that councils can work with us to apply and promote in their areas.

Displacement effects

As considerable additional restrictions are being proposed, we are very concerned to see that apparently no consideration has been given to how these will displace on and off lead dog walking to areas within the Gosport area and adjacent local authorities.

This displacement principle is recognised by Natural England and many other bodies; much research on how and why this happens has taken place elsewhere in Hampshire. We feel this is especially the case with all the additional restrictions being proposed at this time in Gosport, and in particular the maximum number of dogs and year-round sport pitch restrictions. Evidence repeatedly shows that additional restrictions such as these will not reduce dog walking, on or off lead; they will simply displace activity somewhere. Especially given that off-lead access is consistently amongst the most important factors for dog walkers considering where to walk their dog.²

² <http://www3.hants.gov.uk/shu-research-paper.pdf>

Thus, if Gosport expects dog owners to comply with the proposed PSPO, on and off-lead access currently taking place will likely be displaced elsewhere. Indeed this is one reason why the Defra Guidance for PSPOs states that “Local authorities should look to provide other suitable dog walking areas in the locality” when restrictions are being put in place.” We have seen no evidence that the latter guidance has been adhered to in this case.

Moreover, we submit the Council has not given due regard to the likelihood of this Order, as proposed, to cause significant disturbance to EU designated wildlife in and around the Gosport area, designated as Special Protection Areas and Special Areas of Conservation. This outcome would also be contrary to the proposed purpose of some parts of the Order and many other wider nature conservation policies and plans of the council. We also submit these displacement effects must also be explicitly considered by the Council under its duties under Natural Environment and Rural Communities Act 2006, the so-called “biodiversity duty”.

We request clarification of what assessment, if any, has been made of these displacement effects and any conditions or comments requested or given by the Council’s nature conservation officers and Natural England. In the absence of any such consultation and a meaningful assessment of displacement effects, we strongly recommend that the proposals are put on hold until such time as a meaningful assessment has been made.

In particular, we refer to the on-going work elsewhere in Gosport Council in relation to the Solent Special Protection Area and the Gosport Bird Disturbance Mitigation Protocol (SRMP), as attached. This document highlights the acknowledged potential for dog walking to disturb overwintering birds that are protected at a European Level, and for which Gosport has a statutory responsibility.

As the document shows, in order to meet its housing allocation targets, Gosport is requiring housing developers to fund work that ensures even the smallest number of new homes built (a quarter of which will have a dog) do not add to recreational pressure on overwintering birds, especially by increasing dog walking in sensitive areas. Such strategic mitigation and wider planning for dog walking is an approach we endorse; indeed in partnership with East Hants District Council and Hampshire County Council we produced the attached good practice planning guidance. We trust this illustrates our intent and ability to work constructively with local councils to manage dog walking in a responsible and professional manner, and very much request that opportunity to do so is offered in Gosport, firstly by suspending the introduction of any new restrictions until further discussions take place. We also very much suggest consultation takes place with the Solent Recreation Mitigation Partnership which is referenced in the attached Gosport Borough Council document.

Without assessing and planning for displacement arising out of the proposed PSPO, it is our view that this Order will increase levels of disturbance to protected species on Gosport’s coastline, at a time when the Planning Department at Gosport Council is making housing developers to pay for work to prevent that very same effect happening.

Finally, a core principle of the SRMP approach is developing rapport, trust and dialogue with dog walkers so that they will be as amenable as possible to changing where they go and what they do, to both help nature conservation and enable Gosport Borough Council to meet its housing targets. Key to the latter and the SRMP’s wider approach is identifying where dog owners can walk their dogs at less sensitive times and places. If Gosport council’s current approach to PSPOs does not similarly address the issue of where responsible dog walkers are going to walk their pets when restricted or banned from areas they currently use, we submit that the SRMP’s approach (of which Gosport we assume is a funding partner) is likely to be undermined due to mistrust of the Council’s intentions, given that the measures only seem to be about addressing the negative impacts caused by a minority of dog walkers by

penalising all dog owners, and not supporting the tangible and legitimate human health and social benefits (see attached planning guidance) dog walking brings to the residents of a quarter of all Gosport's homes every day.

We do very much hope the Council will suspend the current PSPO process and work collaborate with ourselves, Natural England and the SRMP to develop a more integrated, balanced and ultimately effective approach.

Dogs on lead by direction

We welcome the inclusion of the "dog on lead by direction" provision, which should allow a more targeted approach to tackle the individuals who allow their dogs to run out of control. We would also recommend local authorities make use of the other more flexible and targeted measures at their disposal such as Acceptable Behavioural Contracts and Community Protection Notices. Kennel Club Good Citizen Training Clubs and our accredited trainers can also help those people whose dogs run out of control due to them not having the ability to train a good recall.

Assistance dogs and equality impact assessment

We note that an equality impact assessment has been completed with regard to the proposed PSPO, however we are troubled by the conclusion of the assessment.

We strongly welcome the proposal to exempt registered blind people and those who have a mobility disability requiring an assistance dog are exempt from the dog fouling and dogs on lead measures of the proposed PSPO. We believe both of these measures are essential to avoid discriminating against those who rely on assistance dogs.

However, the absence of an exemption for those who either registered blind or rely on an assistance dog from the proposed dog exclusion Order is of grave concern. Without an exemption the Council would in effect be banning people with disabilities who rely on assistance dogs from accessing public spaces.

We believe this is almost certainly a breach of the Equality Act 2010 and we question how this could meet the legal test for the introduction of a PSPO – namely that 'the activity is or is likely to cause a persistent detrimental effect on the quality of life of those in the locality'.

There are in total seven charities training registered assistance dogs in the UK that we submit should be recognised within the exemptions. We would suggest that to find out more information about the range of assistance dogs now legally recognised under disability legislation in the UK that need to be accommodated, go to www.assistancedogs.org.uk.

We also question whether the assessment fully considered the potential impact of the PSPO on the elderly, who may have reduced or limited mobility but who do not rely on an assistance dog. This group of society may have considerably less ability to travel to restriction free areas to exercise their dog, and are likely to be more adversely affected by the Order than other societal groups.

Appropriate signage

It is important to note that in relation to PSPOs the "The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014" require local authorities to –

"cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to –

- (i) the fact that the order has been made, extended or varied (as the case may be);
and
- (ii) the effect of that order being made, extended or varied (as the case may be)."

With relation to dog access restrictions such as a "Dogs Exclusion Order" or "Dog on Lead Order", on-site signage should make clear where such restrictions start and finish. This can often be achieved by signs that on one side say, for example, "You are entering [type of area]" and "You are leaving [type of area]" on the reverse of the sign.

With specific regard to the proposed "means to clear up measure" this type of law will be unfamiliar to dog walkers and prominent signage explaining the exact requirements expected of dog walkers, not all of whom will be local residents, should be erected in any area where the measure is to be enacted.

PSPO – DOG CONTROL

Summary of responses (individual responses only, not including organisations)

Total number of responses = 339

Supporting 65

Not supporting 185

Both 78

Questions only 11

Responses to specific areas of the proposed order

- **Requirement to possess an appropriate means of removing any faeces deposited a dog and produce this article on direction of an authorised officer.**

Total number of specific reference = 45

Support 39

Not support 6

- **Where a person is exercising 3 or more dogs, only 2 dogs may be kept off a lead at any one time.**

Total number of specific reference = 77

Support 10

Not support 67

- **Where a dog is considered to be out of control or causing alarm and distress, a person in charge of that dog in any public place can be directed by an authorised officer to put that dog on a lead.**

Total number of specific reference = 23

Support 22

Not support 1

- **Restrict the maximum number of dogs that can be taken onto land by one person to 4.no.**

Total number of specific reference = 54

Support 24

Not support *30

*6 professional dog walkers; 16 individual dog owners, remaining 8 not identify themselves as professional or individual dog walkers.

- **The exclusion of dogs from designated Local Equipped Areas for Play and Local Areas for Play; the beach and promenade between 1 May and 30 September.**

Total number of specific reference = 86

Support 16

Not support 70

Of those who did not support, specific reference to not supporting ban from promenade 30 Note – There is no proposal to exclude dogs from the promenade areas.

- **Exclusion of dogs from sports pitches at all times.**

Total number of specific reference = 141

Support 12

Not support 129