Executive Member for Housing & Safer Neighbourhoods

23 May 2016

Report of Assistant Director – Housing & Community Safety

Holgate Dock - Public Space Protection Order (PSPO) Consultation Outcome

Summary

1. The purpose of this report is to consider the responses from the recent consultation process and determine whether to introduce a PSPO for the area of land known as Holgate Dock (see Annex1). The decision to undertake consultation regarding a potential PSPO was in response to complaints received from St Pauls School and residents highlighting issues with dog fouling within Holgate Dock.

Recommendations

2. The Executive Member is asked to approve:

   a) **Option 1** – The introduction of a PSPO within Holgate Dock to ban dogs from the area. Setting the amount of any Fixed Penalty Notice (FPN) at £100, which would be reduced to £75 if paid within the first 14 days.

      Reason: to ensure that the council actively addresses the issue of anti-social behaviour in our communities

Background

3. The Anti-Social Behaviour, Crime and Policing Act 2014 came into force on the 20th October 2014 and changed the powers available to local authorities and the police to deal with anti-social behaviour in our communities.

4. The Act introduces a new power, a Public Spaces Protection Order (PSPO), which is granted by the Local Authority, but can be enforced by either the Local Authority or the Police.

5. The PSPO serves to protect a public space from persistent or continuing anti-social activity by individuals or groups that is having a detrimental effect on the quality of life of those in the locality. Such an order lasts for a period of up to 3 years, with provision for extensions for up to 3 years at a time. The process starts by way of consultation, and after this time, a decision can be taken by a Local Authority to grant a PSPO. This new power replaces the previous gating orders, designated public place orders (relating to restrictions on alcohol consumption) and dog control orders.

6. If any new prohibition is not adhered to, then the local authority or police have the ability to take formal enforcement action. This action can take one of two forms, to prosecute for the breach, or to issue a Fixed Penalty Notice (FPN). The Act allows for Local Authorities to set a local level for FPNs to a maximum of £100.

7. The Council have received 10 complaints from several individuals and groups, including local residents/parents of children at St Pauls School, the School, the School PTA. The local ward councillor has also received complaints. The complaints highlighted different issues which can be summarised as follows (the number of times that the issue was mentioned by the different complainants are recorded in the brackets):-

    - Dog fouling left by irresponsible dog owners (10)
    - Use of the field by dog owners between 9:00 and 17:00 hrs on school days (6)
    - Dogs off the lead bounding and knocking over small children and causing intimidation (6)
    - Trip hazards created from dogs digging (1)

Options

8. **Option 1** – Authorise the introduction of the PSPO to ban dogs from Holgate Dock at all times

9. **Option 2** – Authorise the introduction of the PSPO to ban dogs from Holgate Dock only during term times

10. **Option 3** – Authorise the introduction of the PSPO to ensure that all dog fouling is picked up.

Analysis

11. **Option 1** - To introduce a PSPO in the area that would ban dogs, if this was breached it could lead to a Fixed Penalty Notice of £100 being given to the perpetrator.

12. As well as undertaking public consultation to try to ascertain the extent of the problem on the field, staff attended on various different days over the last few weeks and recorded the number of deposits on the field. This is detailed in the table below;

Date	Number of deposits on the field
21st March	2
22nd March	2 (from the previous day)
5th April	0
6th April	0
11th April	3 (new, plus evidence of diarrhoea)
15th April	2 (from the previous day, plus evidence of diarrhoea)
21st April	1 (new)

13. To try to resolve the problem, the school have previously written to parents and raised the issue in school, and the Neighbourhood Enforcement Officers have also carried out patrols in the area, but have not been able to catch anybody fouling. The school do not have access to another field to use for PE and sports. They do carry out a visual inspection before the start of lessons, but they still report that there are incidents of pupils standing in dog faeces.

14. There is a public health risk, as younger children like those who attend St Pauls are at greater risk of contacting Toxocariasis (because they are more likely to put things in their mouths) which can cause permanent loss of vision in victims.

15. The nearest alternative dog walking area is at Upper St Pauls Terrace, which is a small open space which has a dog ban within the children's play area. There is a stretch of grass behind The Fox Public House, Holgate Road, which is only a short walk away. Hob Moor is also within a half mile radius (see annex 1).

16. **Option 2** - Banning dogs during term time would reduce incidents of dog fouling on the site. There are issues though as highlighted by several of the respondents that because the incubation period for the eggs is several weeks, this would still increase the risk for children using the area.

17. Introducing this option would also be problematic to enforce as term dates vary, which would mean that some people would not be aware of term dates. Signs would need to be erected, which would need to be updated regularly to advise people of term dates to minimise this issue.

18. **Option 3** - This would just update the current position, by replacing the by-law with a PSPO. The PSPO will be easier to enforce than the existing by-law.

19. However it is difficult for officers to catch offenders, and despite numerous visits to the site there have been no notices served up to the present time.

20. Some of the comments received from people, suggest the introduction of a dog DNA register similar to one that is being piloted in the London Borough of Barking and Dagenham (LBBD). This scheme is a voluntary scheme at present, although the council are looking at amending their tenancy agreement to make council tenants register. The company managing the process have agreed to waive the £30 registration fee for the first 1,000 dogs as well.

21. One of the issues that will need to be addressed in evaluating whether the scheme will be successful is how you can ensure that owners who do not pick up after their dog would register for the scheme. LBBD have confirmed that they currently have 300 dogs registered, and that there has been a 50% reduction in dog fouling within the three pilot areas though.

Consultation

22. As part of the process the Council has sought views from local residents to determine whether they support the PSPO. People were asked to complete a short survey which was placed on the council's website, links to this were placed on the entrance to the area, and for residents who do not have access electronically, a phone number was provided, so that paper copies could be sent out.

23. The council received 182 responses to the survey.

24. To the question, would you support the introduction of a PSPO in Holgate Dock?

    - 57% said that they would;
    - 42% would not.

25. In terms of what people wanted the PSPO to cover:

    - 56% supported an outright ban for dogs;
    - 6% a ban on dogs during term time;
    - 7.5% a ban on dogs between 9.00am and 5.00pm;
    - 2.3% supported keeping dogs on leads at all times; and
    - 29% favoured the current position that prohibits dog fouling.

26. In addition to the questions, a lot of comments were received, and both the questions and comments are included as annex 2.

27. The Council has also received feedback from the Kennel Club, who said that;
    - 'The Kennel Club strongly promotes responsible dog ownership and believes that dog owners should pick up after their dogs wherever they are.'
    - 'The Kennel Club does not normally oppose orders to exclude dogs from playgrounds or enclosed recreational activities such as tennis courts or skate parks, as long as alternative provisions are made for dog walkers.'
    - A copy of the response is attached in full as annex 3.

28. North Yorkshire Police and the Office of the Police & Crime Commissioner have been consulted on these proposals. North Yorkshire Police has commented "North Yorkshire Police support the proposal by City of York Council to implement a PSPO in the location of Holgate Dock. Environmental ASB can impact significantly on communities ability to enjoy open spaces therefore it is important that we use the tools and powers available to us to protect those spaces from being abused." The Office of the Police and Crime Commissioner have advised that they were unable to comment on this report at the time of writing because of Purdah.

Council Plan

29. The introduction of a PSPO in Holgate Dock strongly supports the priority within the Council Plan of 'A focus on Frontline Services.' To ensure that residents are protected from harm, with a low risk of crime.

    - Residents are encouraged and supported to live healthily (aim)
    - Residents are protected from harm, with a low risk of crime (aim)

Implications

30. The implications arising directly from this report are:

- **Financial** –There is a cost in terms of signage, but this can be contained within existing budgets.

- **Human Resources (HR)** – There are no HR implications.

- **Equalities** – The decision to enforce the PSPO powers will be the individual officer's decision and the equalities impact will be considered by these officers on a case by case basis.

- **Legal** – The Council's Legal Services Department have given advice and training to officers in relation to the Act and in relation to the new PSPO powers, and have assisted in the drafting of all of the paperwork required to deal with these powers.

- **Crime and Disorder** – The introduction of the PSPO will help reduce antisocial behaviour in the area.

- **Information Technology (IT)** – There are no IT implications.

- **Property** – There are no property implications.

- **Other** – There are no other implications.

31. Risk Management – There is clearly potential public health risks to the users of Holgate Dock if the problem of dog fouling is not addressed. The consultation responses clearly show there are differing views from within the community and dependant upon which option is chosen, the council will need to have a clear communication plan setting the reasons for the decision to minimise the potential for reputational impact on the council.

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Report Approved	√	**Date**	27 April 2016

Wards Affected: **All** Guildhall

For further information please contact the author of the report

Background Papers

Report to Decision Session – Executive Member for Housing and Safer Neighbourhoods - 15 February 2016 titled "Determination of whether to consult on the possible introduction of a Public Space Protection Order at Holgate Dock".

Annexes

Annex 1 – Map showing Holgate Dock and alternative dog walking areas
Annex 2 – Responses received from the public
Annex 3 - Responses received from the Kennel Club

Abbreviations

FMN	Fixed Penalty Notice
LBBD	London Borough of Barking and Dagenham
PSPO	Public Space Protection Order
PTA	Parent Teacher Association