

CABINET – 13TH OCTOBER 2022

Report of the Head of Regulatory and Community Safety Lead Member: Councillor Shona Rattray

Part A

PUBLIC SPACES PROTECTION ORDER ('PSPO') – BRADGATE PARK AND SWITHLAND WOOD

Purpose of Report

To seek approval of the Notice of Intention and upon expiry of the 28-day notice period to approve the Public Spaces Protection Order (Bradgate Park and Swithland Wood) Control of Dogs 2023 under the provisions of the Anti-Social Behaviour Crime and Policing Act 2014.

Recommendations

1. That the Notice of Intention, attached in Appendix A, be approved, and issued.
2. That, if there are no objections, the draft Public Spaces Protection Order ('PSPO'), attached at Appendix B be made as drafted after the expiry of the 28 days' notice period.
3. That the Head of Regulatory and Community Safety, in consultation with the Lead Member for Business Support, be given delegated authority to amend and make the Order if there are only minor alterations required.
4. That the Head of Regulatory and Community Safety, in consultation with the Lead Member for Business Support, be given delegated authority to make revisions and amendments to the Order in response to future requests for additional dog controls at Bradgate Park Estate and that the Constitution be amended accordingly.
5. That the Head of Regulatory and Community Safety, in consultation with the Lead Member for Business Support, be given delegated authority to renew the Order if there are no major changes required to the Order at the renewal time (January 2026) and that the Constitution be amended accordingly.
6. That the Head of Regulatory and Community Safety, in consultation with the Lead Member for Business Support, be given delegated authority to authorise staff employed by Bradgate Park Estate to issue fixed penalty notices for dog control offences.

Reasons

1. To inform the public about the principles of the proposed PSPO and give a formal opportunity for them to raise objections and make comments.

- 2.&3. To make the PSPO under the provisions of the Anti-Social Behaviour Crime and Policing Act 2014, to address anti-social behaviour issues relating to dog control.
4. To enable relevant revisions of the PSPO subject to evidence of dog control issues.
5. To enable renewal of the PSPO if there are no major changes required.
6. To authorise officers of Bradgate Park Estate so they can provide dog control enforcement across Bradgate Park and Swithland Wood.

Policy Justification and Previous Decisions

This action meets with the Council's value for working together: 'We work together with pace and positivity as one council and in partnership with others. It also meets with the Council's value 'Pride in Charnwood': 'We take pride in our work and our borough and are ambitious for the future'.

The PSPO also contributes to achieving the themes within the Corporate Strategy 2020-2024 'Caring for the Environment and Healthy Communities'.

The Anti-Social Behaviour Crime and Policing Act 2014 was introduced in October 2014. The Act introduced Public Spaces Protection Orders to last for up to 3 years. This Act replaced the Dogs Fouling of Land Act 1996, Dog Control Act and relevant byelaws.

The Council is the local authority which makes PSPOs for any land which is mainly within the Charnwood boundary. Bradgate Park and Swithland Wood come under the jurisdiction of the borough so the Council can make the Order. The PSPO lasts for up to three years but may be varied within this time.

Implementation Timetable including Future Decisions and Scrutiny

If Cabinet approval is granted and following the call-in period, the timetable will be as follows:

- A Notice to make an Order and draft PSPO will be published with a 28-day notice period to allow for objections and comments on the proposed PSPO.
- Review of comments and decision made on terms of PSPO.
- If no objections are received, then the Order will be made as drafted.
- If there are minor objections or need for alterations, the Head of Regulatory Services will amend and make the Order
- If there are major objections a further Cabinet report will be written for a decision at Cabinet to revise or not and progress with the PSPO.

After this point, the PSPO will be published on the Council website and in paper format with an implementation date.

Report Implications

The following implications have been identified for this report.

Financial Implications

The Council will process all fixed penalty notices and will deal with appeals and any prosecutions. Bradgate Park Trust will be reimbursed for payments made for the fixed penalty notices and will pay a processing fee to fully cover the administration costs of the Council. Any prosecution for non-payment of a fixed penalty notice will be reclaimed through the legal action.

Risk Management

Risk Management

The risks associated with the decision Cabinet is asked to make and proposed actions to mitigate those risks are set out in the table below.

Risk Identified	Likelihood	Impact	Overall Risk	Risk Management Actions Planned
If the Notice of Intention is not approved, the 28 formal consultation period will be delayed, and the order may not be made on time which may result in a period with no order.	2	2	Low 4	If the Notice of Intention is not approved there is sufficient time to modify the Notice of Intention so it can be brought back to Cabinet and then consulted upon.

Crime and Disorder

PSPOs are intended to deal with a particular nuisance or problem in a particular area that is detrimental to the local community's quality of life, by imposing conditions on the use of that area which apply to everyone.

The PSPO will add clarity to people visiting the Estate about expectations in relation to dog control.

Enforcement of the PSPO will also send out a strong message to people that allowing a dog to foul and not clearing away afterwards or not keeping a dog under control is unacceptable and anti-social.

Key Decision: No

Background Papers: Summary of consultation responses
Number of Incidents

Officers to contact:

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Part B

Background

1. The Anti-Social Behaviour Crime and Policing Act 2014 brought in Public Spaces Protection Orders (PSPOs) for the control of a range of ASB issues, including problems relating to dog control.
2. The existing Bye laws for Bradgate Park and Swithland Wood were replaced in 2017 with a PSPO. This was varied in 2018 and then extended in 2020 and runs until February 2023.

Development of PSPOs

3. The main proposal for the new PSPO, is to include the following requirements:
 - i) Enforcing dog owners to clear away dog faeces across the whole Bradgate Park and Swithland Wood estate.
 - ii) Enforcing dogs on leads by order when an authorised officer gives a direction if they deem such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog which is likely to cause annoyance or disturbance to any other person, or to a bird or another animal.
 - iii) Enforcing a requirement to have dogs on leads in specified area (yellow zone)
 - iv) Enforcing requirements for a person in charge of a dog to ensure they do not take it into the protected 'Deer Sanctuary' areas and 'wildlife protection zones' which are signed at entrances as a "dog exclusion area" (whether the sign uses those particular words and/or symbols having like effect)
4. In establishing which restrictions or requirements should be included in the PSPO, the Council should ensure that the measures are necessary to prevent the detrimental effect of those in the locality or reduce the likelihood of the detrimental effect continuing or recurring.
5. A Notice of Intention is the final stage of the formal consultation process to offer residents' and organisations to make comment or object to the proposals outlined on the Draft PSPO.
6. Following review of the comments from the consultation at notice stage the final set of measures is agreed. The PSPO will be published in accordance with the regulations made by the Secretary of State and must:
 - identify the activities having the detrimental effect.
 - explain the potential sanctions available on breach; and
 - specify the period for which the PSPO has effect.

7. The PSPO applies to the Bradgate Park, and Swithland Wood Estate as outlined on the Schedule and map.
8. The PSPO is needed to enable enforcement to take place to control the amount of dog fouling and dog control incidents on the Bradgate Park Estate, which has increased in number over the last 3 years.

Consultation

9. At the start of the process it is a requirement to consult with the local Police and the Police and Crime Commissioner to share information about the area and the problems being caused.
10. It is also a requirement to consult with residents and organisations. A public consultation started in June 2022 to August 2022: the following groups were consulted using the methods outlined:
 - a. All residents – Charnwood Borough Council website and on noticeboards at Bradgate Park and Swithland Wood.
 - b. Parish and town Councils in surrounding areas – in writing
 - c. Police and Crime Commissioner and Local Policing Body – in writing.
 - d. Borough Councillors via briefing note
11. All consultation responses are included in the background papers.
12. The Notice of Intention offers a further opportunity for consultation where the public can make comments and raise objections. The Notice will be published on the Council website and in paper format on the noticeboards at the entrances to the estate.

Enforcement, Education and Campaigns

13. Any enforcement of legislation should be balanced with the need to educate people about the potential sanctions they may encounter if they do not comply with the law. The Rangers on the site have a policy where they ask the member of public to comply with the restriction and they will only get a fixed penalty notice if they refuse or fail to comply at a later point.
14. To enforce the PSPO in line with the relevant legal requirements and guidance, all officers will need to be fully trained and authorised. It will be enforced by the following:
 - Rangers and Car Park Wardens employed by Bradgate Park Trust
16. Fixed penalty notices of £100 will be issued by authorised officers. A fixed penalty notice is a way of discharging liability and if paid will ensure closure of the matter. The fee can be reduced to £50 if paid within 10 days. Failure to pay the fixed penalty notice may result in prosecution.

Timetable and future stages

17. The timetable for completing the PSPO for Bradgate Park and Swithland Wood is set out in the table below:

Event	Date	Stage
Cabinet meeting	13th October 2022	Notice of intention to 'Make an Order' and Draft PSPO to be presented to Cabinet for approval.
Publication of Notice of Intention	Following Cabinet meeting on 13th October and call-in period	28-day notice period to allow for objections and comments on the proposed PSPO. Published on Charnwood Borough Council website page and in paper format at appropriate places.
End of formal consultation period for Notice of Intention	After 28-day period	<p>Review of comments and decision made on terms of PSPO.</p> <ul style="list-style-type: none"> • If no major objections are received, then the Order will be made as drafted. • If there is a need for minor alterations: the Head of Regulatory Services will redraft and make the Order and make the Order. • If there are major objections, then a further Cabinet report will be written for a decision at Cabinet to revise or amend the PSPO. Alternatively, Cabinet could decide not to proceed with the PSPO. <p>Followed by signing of PSPO and publishing on website if decision to make</p>

APPENDICES

APPENDIX A

Notice of Intention – Charnwood Borough Council Dog Control

APPENDIX B

Draft Public Spaces Protection Order – Charnwood Borough Council Dog Control 2016

APPENDIX A

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 CHARNWOOD BOROUGH COUNCIL

NOTICE OF INTENTION TO MAKE A PUBLIC SPACES PROTECTION ORDER (‘PSPO’) DOG CONTROL – BRADGATE PARK AND SWITHLAND WOOD

Notice is hereby given that Charnwood Borough Council (‘the Council’) proposes for the purposes of reducing anti-social behaviour in relation to dog control to extend the existing PSPO under Section 60 of the Anti-Social Behaviour, Crime and Policing Act 2014 and of all other enabling powers.

The Council would like to seek your views on the proposed Notice of Intention to make an order. This Notice outlines the details of the proposed PSPO. Any comments and/or objections should be outlined on the smart survey accessed by the link or the QR Code.

At the closure of the formal consultation period, the Council will review all comments and will make a decision on whether to make the order or an alternative in part or in full

The PSPO will seek to address anti-social behaviour issues relating to dog control across the estate of Bradgate Park and Swithland Wood.

The majority of dog owners are responsible and display effective dog control but there are some occasions where additional controls are necessary to ensure all people in controls of dogs are acting responsibly.

The Council takes the health and well-being of the residents very seriously, and seeks to promote a healthy, safe environment for all residents, protecting them from anti-social behaviour in the form of dog control issues. These issues include:

- Owners allowing dogs to foul and not clearing away afterwards
- Dogs in dog exclusion zones where small children are playing
- Dogs not being kept under control on a lead near wildfowl and other animals causing distress and sometimes fatalities
- Dogs not being kept under control and worrying and causing distress to visitors to the park.

The effect of the Order will be to apply conditions to dog owners by:

- Insisting they clear up after their dogs if they foul forthwith across the whole of the Estate
- Insisting all dogs are kept on leads in areas of the park shown in yellow on the Plan
- Insisting dogs are not to be taken into dog exclusion zones shown in grey on the Plan
- Insisting dogs are put on lead if directed by an authorised officer in areas shown in dark green on the Plan.

This Order applies to the public places described in the Schedule to this Order (“the restricted area”)

SCHEDULE
Plan shown overleaf

Condition	Location
Dogs on leads £100 fixed penalty notice	In areas shown in yellow on the Plan
Dogs on lead by direction £100 fixed penalty notice	In areas shown in dark green on the Plan.
Dog exclusion zones £100 fixed penalty notice	All areas shown in grey on the Plan
Clearance of dog faeces £100 fixed penalty notice	Across the whole estate on any land which is open to the air and has access to the public whether by payment of not

A draft of the proposed Order is available for inspection on the Council’s website at:

<http://www.charnwood.gov.uk/pages/currentconsultations>

Any comment in relation to the extension of the PSPO outlined in this notice must be made using the smart survey link or QR code (below).

<https://www.smartsurvey.co.uk/s/noticeofintention/>



Bradgate Park and Swithland Wood - Plan



WELCOME TO BRADGATE PARK



A nationally important landscape rich in wildlife and heritage



Please remember the Countryside Code and follow these simple rules to help ensure a safe and enjoyable experience for all visitors.

Do not feed the deer

It is unhealthy for the deer and can be dangerous for you as it encourages them to pester people aggressively for food. Please do not approach deer too closely or allow children to chase them.

Dogs

Please follow the National Dog Walking code and observe the 4CS of responsible dog ownership:

CONTROL - keep your dog on a lead or under effective control. A seasonal "dogs on leads" rule is in force in parts of the Park. Please observe the signs.

CHASING - deer die from being chased and the stress it causes. Most deaths are not caused by the dog catching and mauling the deer. ANY deer chase is potentially fatal and can lead to prosecution. The law allows us, in extreme circumstances, to shoot dogs that are worrying the deer.

CONSIDER other people - they might not like dogs and your dog running up to them can be terrifying
CLEAN UP after your dog - if it fouls in a public area bag the mess and bin it in any litter bin. In the remoter parts of the Park 'stick and flick' into the long grass or bracken. **PLASTIC BAGS KILL DEER** so do not leave bags of dog mess lying around or tied to bushes.

Put litter in the bins provided or more helpfully please take it home.
 Use the recycling bins for your recyclables and don't put general waste in them.

Cycling & Horse Riding

There are no legal rights of way for cyclists or horse riders in Bradgate Park. Cycling is permitted along the tarmac carriageway in Bradgate Park and on bridleways and horse tracks in Swithland Wood. Pedestrians have priority. Riding of bikes elsewhere in Bradgate Park or Swithland Wood is not allowed. Horse riding is permitted on the waymarked horse tracks in Bradgate Park and on the bridleways and horse tracks in Swithland Wood.

The lighting of fires or barbecues, flying of model aircraft or use of metal detectors is not permitted.

Camping is not permitted anywhere on the Estate.

The use of the Bradgate Park Estate is regulated by a series of Public Space Protection Orders, the full text of which can be viewed online at www.bradgatepark.org. Breach of these is punishable by the issue of a Fixed Penalty Notice.

If you would like to know more about the Friends of Bradgate Park, please email, visit the website or Bradgate Park Trust Facebook page

The Bradgate Park Estate (public footpaths, Swithland Wood) is managed by the Bradgate Park Trust (Registered Charity No. 512478). The Trust does not accept liability under any circumstances for any loss, damage or injury, including infections arising from natural or man-made features, which occur through the use of the Estate or its facilities.



APPENDIX B

The Anti-Social Behaviour, Crime and Policing Act 2014

The Public Spaces Protection Order ('PSPO') – (Bradgate Park and Swithland Wood) Control of Dogs 2023

Charnwood Borough Council ("the Council") in exercise of its power under section 60 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") and of all other enabling powers being satisfied that that the conditions set out in section 60 of the Act have been met hereby extends the following Order:

Part i: Dog Fouling

If a dog defecates at any time on land to which this Order applies across the entire Estate a person who is in charge of the dog at the time must remove the faeces from the land forthwith, that person shall be guilty of an offence 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.

Part ii: Leads by Order

A person in charge of a dog on land to which this order applies must comply with a direction given to him by an authorised officer of the Trust to put and keep a dog on a lead across the entire Estate shall be guilty of an offence 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.

NB: An authorised Officer shall only give a direction under this order if such restraint is reasonably necessary to prevent a nuisance or disturbance to any other person, or to a bird or another animal.

Part iii: Leads required at all times

A person in charge of a dog on land detailed in yellow on the Plan shall be guilty of an offence if, at any time he does not keep the dog on a lead 9am and 10pm 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.

Part iv: Exclusion

A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or remain on the Protected Deer Sanctuary areas and Wildlife Protection Zones shown in grey on the Plan 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.

1. Exemptions

Nothing in this Order shall apply to a person who –

- (a) Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (b) Is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) 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.

For the purpose of this Order –

- 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.
- Placing the faeces in a receptacle on the land which is provided for the purpose, or the disposal of waste, shall be sufficient removal from the land.
- Being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.
- “An authorised officer of the Authority” means an employee, partnership agency or contractor of Charnwood Borough Council who is authorised in writing by Charnwood Borough Council for the purposes of giving directions under the Order.
- Each of the following is a “prescribed charity” –
 - Dogs for the Disabled (registered charity number 700454)
 - Support Dogs Limited (registered charity 1088281)
 - Canine Partners for Independence (registered charity number 803680)

2. Penalty

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

A person may be offered a fixed penalty notice of £100 by way of discharging liability for the offence.