

# Crawley Borough Council

## Report to Overview and Scrutiny Commission 10 January 2022

### Cabinet 12 January 2022

## Information on Option 3 in Relation to Petition – 'Keep your dog on a lead in Tilgate Park'

Report of the Head of Community Services, **HCS/34**

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### 1. Purpose

- 1.1 A Petition of 139 valid signatures named 'Keep your dog on a lead in Tilgate Park' was submitted and considered at the Overview and Scrutiny Commission and Cabinet meetings in September 2021.
- 1.2 Cabinet requested officers bring a further report back for its consideration, providing more detail with regard to the potential implementation of 'option 3' referred to within report [HCS/30](#), including:
  - the possible changes to service delivery and personnel
  - expected financial implications
  - legal aspects (including details on the use of byelaws, installation of a PSPO together with the associated statutory consultation requirements).

### 2. Recommendations

- 2.1 To the Overview and Scrutiny Commission:

Consider the report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet:

The Cabinet is recommended to:

- 2.2.1 Agree in principle to the implementation of a Public Space Protection Order (PSPO) to prohibit dog related anti-social behaviour in Tilgate Park for a period of 3 years. This will require dogs to be kept on leads in all areas of the park unless explicitly specified otherwise. Dogs will not be permitted at all in the children's play area or Walled Garden.
- 2.2.2 Reinststate a proactive and high profile education and information programme, as set out in section 3.5, encouraging owners to keep their dogs on leads in Tilgate Park.
- 2.2.3 Approve delivery of associated enforcement action from within existing revenue resource (Community Wardens service).

2.2.4 Authorise the Head of Community Services, in consultation with the Head of Legal, Governance & HR, to commence a formal PSPO process, including the statutory public consultation, and to present the findings to Cabinet for a decision.

### **3. Background**

- 3.1 The petition requested that the Council increases on site information signage and Community Warden patrols to inform and enforce the rules stated on the Council's website requiring dogs to be kept on leads in Tilgate Park, specifically around the lake.
- 3.2 Prior to this, a public consultation took place in 2017 which resulted in 146 external responses from park users who gave their views. The majority (54%) did not support a 'dogs on leads' policy, although there was significant support for it to be introduced (46%).
- 3.3 Further to the Cabinet meeting in September, there has been one further formal complaint involving a dog at Tilgate Park. As at 21st December 2021, there have been 10 formal reports involving dogs off leads in Tilgate Park (9 Council & 1 police reports), the most recent received on 18<sup>th</sup> December 2021 (please see Appendix A for detail). Complaints typically relate to the lake area (and main lawn) and involve dogs off lead approaching other park users uninvited. Anecdotally, complaints on social media channels have increased and staff have witnessed dogs causing nuisance to other park users during their working day.
- 3.4 There have been 22 dog related reports made to Sussex Police over a three year period (2018 – 2021). There have been no further complaints since the Cabinet meeting in September. As a comparison, 267 reports were made to Sussex Police over a similar timeframe when considering enforcement options for ASB relating to car cruising.
- 3.5 As an initial response to the petition, there was broad Cabinet support for the introduction of more robust measures to enforce against anti-social behaviour involving dogs in Tilgate Park. It was recognised that whilst the majority of formally reported and anecdotal incidents were largely focused around the lake and lawn areas, there was evidence of the issue affecting the entire park.
- 3.6 It was also acknowledged that there was likely to be under-reporting of incidents and the true scale of the issue was not necessarily reflected in formal complaints and reports, particularly in the case of dogs interfering with the park's wildlife.
- 3.7 Current policy, to educate/inform dog owners to put their dogs on leads, has largely been unsuccessful with signage repeatedly being removed or vandalised and community warden intervention often ignored.
- 3.8 Option 3, as set out in report HCS/30, had a dual focus, that being to redouble education/information efforts alongside the introduction of enforcement action for those in breach of the rules.

#### **Redouble education/information efforts**

- Installation of vandal proof signage
- Implementation of a Communication Plan
- Undertake Community Warden patrols
- Provide education and information to dog owners

### **Introduce enforcement alongside education/information**

- Introduce enforcement approach (CBC byelaws / Public Space Protection Order (PSPO) / Community Protection Notice (Warning)
- 3.9 Dedicated spaces where dogs are permitted to be “off lead”, such as the “Hound Ground” are being considered and will be reflected in the agreed enforcement approach.

## **4. Reasons for the Recommendation**

- 4.1 The council recognises that many dog owners who visit Tilgate Park are responsible; they keep their dog under control and exercise it in a manner that doesn't cause distress to other park users. However, the council and Police do have to deal with complaints each year about irresponsible ownership and the impact on the public and wildlife.
- 4.2 An enforcement approach has not been pursued for dog related matters prior to now because of the preference for an incremental approach to managing the issue, focusing on education of dog walkers. This has largely been unsuccessful, although new approaches to effective education, such as “Keep Britain Tidy” guidance, are well evidenced and continue to be a key element of the recommended approach. This is particularly important to ensure that responsible dog owners aren't alienated and that enforcement is applied to those who choose not to engage with the requirements.
- 4.3 A PSPO offers the most appropriate and practical enforcement solution to robustly manage antisocial behaviour involving dogs at Tilgate Park since it is designed to deal with a particular nuisance or problem in a specific 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. They are intended to ensure the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour. Authorised officers can issue a Fixed Penalty Notice immediately upon witnessing a breach of the PSPO.
- 4.4 Other enforcement options available to the Council – byelaws and a Community Protection Notice – are not considered to be appropriate or effective and are likely to be significantly more resource intensive.
- 4.5 Public Space Protection Orders must be evidence based. It is therefore necessary for decision makers to be satisfied, on reasonable grounds, that the required conditions are met, should they wish to proceed. This includes information received from the statutory public consultation.
- 4.6 The Council has successfully implemented PSPOs to address anti-social behaviour issues relating to car cruising and consumption of alcohol in public places.
- 4.7 Tilgate Park is already one of several patrol ‘hotspots’ for the Council's Community Warden Service and enforcement of the policy will be managed within existing resource. This will include daily patrols and regular days of action. Not only does this approach support the Council's requirement to achieve a balanced budget, it is proportionate to the scale of the issue and allows for resources to be adjusted according to need. This will be reviewed regularly against other service demands.
- 4.8 The Community Warden Service has suitably qualified, skilled and experienced personnel to enforce against the PSPO, requiring minimal training.

## 5. Information & Analysis

### Legal Implications

#### 5.1 Byelaws

These are local rules made by local authorities but approved by central government which are enforceable as criminal offences.

Byelaws are quite an old fashioned way of dealing with local public order rules and Parliament has indicated that matters such as the control of dogs ought to be dealt with under the new types of orders which it has created – the current one being PSPOs which replaced dog control orders.

It therefore appears that in practice the legal route to making byelaws relating to dogs is effectively closed and, should CBC make byelaws and seek to have them confirmed by the Secretary of State (the procedure to make them valid), we may find that this request is refused leading to wasted effort, time and expense.

#### 5.2 Community Protection Notices (CPNs)

CPNs can be served if satisfied on reasonable grounds that:

- The conduct of the person is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality, and
- the conduct is unreasonable.

However, there are preconditions to service of a CPN, which are:

- a written warning must first have been given to the person stating that the CPN will be issued unless the person's conduct ceases to have the detrimental effect, and
- the officer is satisfied that, despite the person having had enough time to deal with the matter, their conduct is still having that effect.

#### Pros

- Could be useful for repeat offenders if they can be identified.
- Enforcement can be via FPN (immediate).
- Reasonably straightforward and quick to introduce.

#### Cons

- Somewhat impractical for 'on the spot' one-off enforcement as written warnings are required.
- If a person does not provide their identity it would be very difficult, if not impossible, to enforce without police assistance.
- If a FPN is not paid, prosecution is the next step which can be lengthy and is resource-intensive.
- Resources required for enforcement (personnel on the ground required)

#### 5.3 Public Spaces Protection Orders (PSPOs)

PSPOs were introduced under the Anti-social Behaviour Crime and Policing Act 2014. A PSPO is designed to address unreasonable and persistent behaviour that affects the quality of life of a local authority's residents. PSPOs last for 3 years

unless extended before they expire. PSPOs can only be made where the Council is satisfied on reasonable grounds (i.e. there is evidence demonstrating):

- that there has been (or it is likely to be) activities carried on in a public place which have had (or are likely to have) a detrimental effect on the quality of life of those in the locality,
- the effect (or likely effect) of the activities:
  - is (or is likely to be) of a persistent or continuing nature,
  - is (or is likely to be) such as to make the activities unreasonable.
  - justifies the restrictions imposed.

#### Pros

- Once made, enforcement can be via Fixed Penalty Notice (immediate).

#### Cons

- Cannot be made if there is not an evidence base to meet the statutory threshold.
- Lengthy and resource-intensive to make a PSPO, including public consultation (6 month process)
- If a FPN is not paid, prosecution is the next step which can be lengthy and is resource-intensive.
- Resources required for enforcement (personnel on the ground required).

#### Installation of a PSPO

- 5.4 A Public Space Protection Order (PSPO) could be implemented to prohibit dog related anti-social behaviour in Tilgate Park for a period of 3 years. This will require dogs to be kept on leads in all areas of the park unless explicitly specified otherwise. Dogs will not be permitted at all in the children's play area or Walled Garden.
- 5.5 Before making, varying, extending or discharging a PSPO, the council must carry out the necessary publicity, consultation and notifications and must publish information about the order in accordance with the regulations.
- 5.6 Consultation should include formal consultation with the chief officer of the police, Police and Crime Commissioner, local partners, including West Sussex County Council and the local community including the public and local businesses.
- 5.7 Breach of a PSPO is a criminal offence and can be dealt with by way of a fixed penalty notice (FPN) (currently set at £100) or a fine up to level 3 (£1000) on prosecution.
- 5.8 Within the confines of the legal framework, councils have the freedom to determine their own procedures for introducing a PSPO including satisfying themselves that the statutory requirements are met and giving final approval for the Order to go ahead.
- 5.9 The timeline for the consultation process is outlined in the table below;

Action	Date
Report to Cabinet to agree in principle to make a PSPO	January 2022

Consultation Period - consult stakeholders, online survey, face to face surveys, social media	February / March 2022
Return to Cabinet with results of consultation and agree to implement orders as per terms consulted on	June 2022
Full Council – ratify making of PSPO	July 2022

Behaviour Change - The continued importance of education and information

- 5.10 There is evidence nationally that dog enforcement is emotive and divisive. It is important to note that the policy will advocate for a continuation of a positive and proactive educational and informative approach to dog owners, particularly in the six month period leading up to a decision on the making of a PSPO.
- 5.11 By making it easy for the majority of dog walkers to know what the rules are and what alternatives are available for an off-lead experience, the minority are likely to follow suit. It is impossible to achieve 100% compliance but a majority compliance will shine a spotlight on those with entrenched behaviours where enforcement is actually needed, rather than penalising those who want to be responsible but were unclear about the rules.
- 5.12 Offering alternatives such as the Hound Ground and guided group dog walks can positively enable dog walkers to move away from the areas which we are trying to manage and will instigate word of mouth.
- 5.13 Working with local professional dog walkers will rapidly help us to spread the word and gather support for the initiative. It carries weight with dog owners if their trusted dog walker is already on board with the changes and can promote the benefits of it.

Potential Changes to Service Delivery and Personnel

- 5.14 Dog walking at Tilgate Park typically begins from 0600hrs and the peak drops away from 2030hrs except in the height of summer with lighter and warmer evenings. The Community Warden Service currently operates 0800 to 2130hrs, 7 days a week, and patrols Tilgate Park on a daily basis. This is alongside other service priorities which include;
- Statutory duties regarding stray dogs
  - Investigating and enforcing fly tipping, dog fouling, dealing with ASB and enforcement of littering across the town
  - Visiting hotspot locations (parks, open spaces, neighbourhood parades)
  - Town centre focus dealing with littering and engaging with the street community.
- 5.15 The equivalent of an additional 3 full-time Community Wardens would be needed to cover all dog walking hours 7 days per week at Tilgate Park to enforce the policy. This would cost the Council an additional £100,000 per annum.
- 5.16 The equivalent of 1.5 full-time Community Wardens would be needed to cover 7 hours per day, 7 days per week at Tilgate Park to enforce the policy. This would cost the Council an additional £50,000 per annum.

## **6. Implications**

### *Financial*

- 6.1 There would be no additional resource implications to enforce the policy because this work will be absorbed within existing resources.
- 6.2 Revenue resource, in the region of £5,000, would be required to invest in permanent signage in key locations.
- 6.3 There would be legal costs associated with enforcement policy related prosecutions although full costs would be sought from the courts in the case of a successful prosecution.

### *Legal*

- 6.4 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 gives local authorities the powers to make, vary or renew a PSPO. The procedure is set out in section 72 of the 2014 Act and in the Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 made under that Act.

### *Equalities*

- 6.5 Assistance dogs are exempt from the dogs on leads policy and any associated enforcement.

## **7 Background Papers**

[Petition "Keep your dog on a lead in Tilgate Park" HCS/30](#)

Report author and contact officer:  
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## Appendix A

### Further Complaints received since report HCS/30 published

18/12/2021

**Please describe the problem in as much detail as possible:** Dog walker with 10 dogs none on a lead. When 1 dog a Dobermann made an attack run for me from around 30 meters away and hit my knee with its teeth, it didn't draw blood. The dog walker blamed me as I was on my bike. When I rode off it again chased after me.