

Summary of Consultation Comments and Officers Response

Where comments are of a similar nature they have been paraphrased.

Comments that relate to specific problem areas have been referred to the relevant officer to investigate.

1. Dog Fouling

| Comment | Officers Response |
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| PSPO needs to cover all county/countryside areas not just town one. | District Councils can only make orders in their locality and these must be based on the tests of the legislation. Therefore some measures are blanket while others are on specific problem areas. |
| Rarely catch offenders who do not clear up after their dogs "in the act" . Suggest using forensic methods and making it an offence not to have a dog chipped. | The Council uses a range of methods to promote responsible dog ownership. The PSPO is an additional tool. The new forensic method is a new approach but one that requires voluntary participation. From 6th April 2016 it will be an offence not to have a dog chipped, however there is no requirement for owners to provide dog DNA samples and owners who offend are unlikely to do so. |
| Would like to see more CCTV around to catch the owners of dogs fouling. | The use of CCTV is governed by strict legal requirements, and the Council's policy is to use covert CCTV only in the pursuit of serious crime and where its use is proportionate to the offence. Dog fouling is not defined in law as a serious crime. The effectiveness of CCTV in catching dog fouling offenders is low relative to the high cost of operation. It is also important to recognise that residents may have concerns about public bodies monitoring their activities and retaining video footage of them and their children when they are going about their lawful business. |
| Suggest higher fines for repeat offenders and possibility of community service. | Under the law £100 is the maximum fixed penalty notice rate that can be given however, it is likely that repeat offender would be prosecuted rather than offered the FPN. The fine if prosecuted could be up to £1,000. |
| Difficult to pick up faeces in long grass - more frequent grass cutting to enable easier identification when picking up, or a "stick and flick" policy . | Officers will take a sensible and proportionate approach to enforcing the legislation but also note that in the countryside, and especially where farm animals graze it is better to pick up dog faeces to reduce the risk of passing Neospora and Sarcocystosis to cattle and sheep respectively. We do not believe that the 'stick and flick' approach |

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| | would be acceptable to residents in our streets and parks. |
| 6 people commented that 'more dog bins are needed'. (Specifically not enough dog poo bins in rural areas or all of Bishop's Stortford). | Specific requests will be looked at and also where possible will highlight that bagged dog waste can be put in public litter bins too. |

2. To fail to put your dog on a lead in a specified area (allotments)

| Comment | Officers Response |
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| 39 respondents felt all dogs need to be kept on a lead on areas such the streets, pathways and open spaces. This is because they believe that dogs on leads are under control and people are more likely to pick up after their dog if kept on a lead. | <p>We have followed the guidance for the legislation which states PSPOs should be used in a proportionate and evidenced-based way and therefore have restricted this measure to a small number of sites where dogs off the lead can cause a nuisance. A blanket restriction requiring dogs to be walked on leads would not be proportionate to the problem. The Kennel Club state that '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.</p> <p>Where there are specific problems we make use of "dog on lead by direction" orders, to allow a more targeted approach to tackle the individuals who allow their dogs to run out of control. Where we have problems with dogs not being kept under control we also work with the Police using the LEAD initiative, Acceptable Behavioural Contracts and Community Protection Notices.</p> <p>Members would need to consider whether we include allotments owned by Town / Parish council and the resource implications.</p> |
| Some people also suggested that part of the open space should be designated dog areas where dogs can be walked off the lead safely or dog walking areas where dogs should be kept on the lead to give owners a choice. | |
| One person said that dogs being required to be on leads is excessive, although if the wording is altered to include "or under close control" they would support the legislation change. | |
| Require dog owners to carry leads for all the dogs they have with them. | |
| Query if the order covers dogs on extendable leads. | |
| Query why the order requires to have dogs on leads in allotments | |
| Additional request to include allotments owned by Hertford Town Council. | |

3. Dog Exclusion Areas (children play areas, fenced games areas, bowling greens, and marked playing pitches when in use for playing sports)

| Comment | Officers Response |
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| Query on the time period covered by the order to exclude dogs from marked playing pitches when in use for playing sports. | This means dogs are excluded from the pitch when there are footballers on the pitch. It doesn't mean during the football |

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| | season. Parks are a resource for a wide range of users with dog walking in the majority. Most dog owners are responsible and can exercise their dogs across the park without impact on football pitches that are not in use. We see no reason to penalise the majority of dog owners for the inconsiderate few. |
| Question why dogs only have to be on leads when pitches are in use for playing sports. | This proposal is for the safety of all users and its felt proportionate to allow dog owners to exercise their pets on the pitches when games are not taking place. Responsible owners will avoid pitches while in play for the safety of others and their dog. |
| Please include the Cutforth Road Park and Play Area and the West Road Play Area in the designated areas for dog exclusion. Please include The Bullfields allotment garden, the Southbrook allotment garden, the Vantorts allotment garden and the Bellmead allotment garden in the dog exclusion order. | See comment point 2 about including Town / Parish land. |

4. Walking more than four (4) dogs

| Comment | Officers Response |
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| The number of dogs that is safe to walk will depend on the walker's ability to keep them under control. | Four dogs is felt to be a reasonable number and this is a continuation of the existing Dog Control Order that has been in place for many years. We believe that an owner walking more than 4 dogs is unlikely to be able to pick up after them and the outcome of relaxing this measure would be an increase in dog fouling. A responsible owner should be able to manage up to 4 dogs, depending on their nature. If there are specific owners that are causing problems with less than this number there are other measures that can be used (<i>as per point 2</i>). |
| Concerned that maximum number of 4 dogs is too many and consider 2 or 3 more manageable. | |
| Note that all dogs, however well behaved, are animals and as such can be unpredictable. Dogs and owners can be unsocial and controlling four dogs at one time may not be possible. | |

5. To fail to put an out of control dog on a lead when directed to do so

| Comment | Officers Response |
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| Requiring dog owners to put their dogs on a lead when asked to do so by an authorised person, fails to do anything for the vast majority of situations where a member of the public wants a dog owner to control their dog and no authorised person is present. | Officers cannot be everywhere but it enables officers the power to deal with a specific problem, rather than a blanket restriction on everybody. |

6. Failure to produce a receptacle for picking up dog faeces

| Comment | Officers Response |
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| <p>While most resident supportive of this measure some residents expressed concerns that there might be overzealous enforcement and that the enforcement officers may be selective to achieve imposed targets.</p> <p>A number of people were concerned that there is no provision for the responsible dog owner who has already used their bags and is on their way home or given their last bag to help out another dog owner of friend. It was suggested that a common sense approach is needed and a strong discretionary element built in to avoid prosecuting responsible owners.</p> | <p>Appropriate communication will be give before the commencement of the order. At the start of the campaign a warning will be given on the first occasion to a dog walker that fails to have the means to pick up.</p> <p>This proposal is supplementary to the existing dog fouling measure and not meant to replace it, so officers will using this as an additional tool where we have dog fouling problem areas and catching the perpetrators is a problem. In these areas additional signage will be installed regarding the means to pick up warning dog owners of the increased patrols</p> <p>Additionally only trained authorised officers will be using the powers in an appropriate way.</p> |
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7. Using a mechanically propelled vehicle in a disorderly or anti-social manner

| Comment | Officers Response |
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| <p>Noted that it would be subjective and difficult to enforce on private land and should be a matter for the land owner. A good idea on public land</p> | <p>The approach would depend upon the source of the complaints:</p> <ul style="list-style-type: none"> - Should complaints come from members of the public about the private land agencies would approach the landowner to address the issues. Should they not engage and problems continue then consideration <i>could</i> be given to taking action against them. - If the complaint comes from the land owner themselves agencies would work with them; which may include making physical changes to the area e.g. such as restricting access to the site |
| <p>Concerned the wording of this proposed measure is too vague and requires a better definition of "disorderly and anti-social manner" plus a definition of "mechanically propelled vehicle". Failure to adequately define these terms will result in litigious situations</p> | <p>The term 'mechanically propelled' has been used in case law and is a recognised acceptable definition. It has been left open rather than a list to capture any emerging new trends; for example 'hoverboards'.</p> <p>The term 'disorderly and anti-social manner' has been rather than specific behaviours so that it can be responsive to emerging issues.</p> <p>This power will be used with discretion and when there is evidence to support it.</p> |

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| Please add Drones under mechanically operated vehicle. | A drone is defined as an ' <i>unmanned aerial vehicle</i> ' therefore this power could be applied to nuisance caused by drones where this is clearly demonstrated as being a problem. |
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8. Fail to surrender possession when asked of any new psychoactive substances

| Comment | Officers Response |
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| This will help in the short term. Better to ban ALL substances for human consumption UNLESS they are licensed. This would resolve the so called 'legal highs' issue. How is a an officer to determine if a legal high is worthy of confiscation? | This would be disproportionate and problematic to manage. Officers will be using this power with discretion. Random checks would not be happening; instead officers would use this power when responding to intelligence / reports about use of 'legal highs'. |
| Concern that if highs are legal then there is no reason to confiscate them. Note there are already public order offence laws which control behaviour should someone become antisocial. Concern that Council / Police making up own powers. | At present the risks attributed to these substances are unknown; especially in regards to health. The issue of their use is being dealt with at a National level and East Herts Community Safety Partnership (CSP) wants to take measures to address their use which is currently lacking. Should national guidance be introduced that conflicts with this power the CSP take make the appropriate steps to amend this condition. |
| Do not support the seizure of substances that people are legally allowed to carry or use. If their use is causing anti-social behaviour then this needs to be dealt with under laws relating to that kind of behaviour itself. | See above answers. |

9. To fail to surrender alcohol when asked in a designated area

| Comment | Officers Response |
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| Note that alcohol-related anti-social behaviour is a serious issue for residents in Bishop's Stortford town centre. | Police conduct regular patrols of areas; paying particular attention where there have been calls from members of the public etc. These areas are reviewed bi-weekly by police. Residents or members of the public are encouraged to report incidents to agencies so that the most appropriate action can be taken and intelligence gathered. The CSP works closely together to take action against those who commit Anti-social behaviour and work with licensed premises in regards to any identified issues. |
| Extend alcohol restriction area to include Stanstead | Analysis did not show that this area |

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| Abbotts High Street. | required alcohol restrictions. Should there be an increase in reports and other measures to address the problems are not successful then this area could be included. |
| Noted concerns about underage drinking and resulting anti-social behaviour in the Castle Garden area of Bishop's Stortford – would like this included. Also concerns about property owners allowing plants to encroach onto the public footpath and restrict access. | There are existing powers to address underage drinking that police can exercise. Residents or members of the public are encouraged to report incidents to agencies so that the most appropriate action can be taken and intelligence gathered. The County Council (Highways Authority) has powers to require residents to remove plants that are obstructing the public highway and adopted footpaths. |

10. To extend the DPPA in Ware

| Comment | Officers Response |
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| Would not support the extension if customers can continue to sit outside in external seating areas of pubs. | The Act states that there are certain situations when a prohibition on consuming alcohol cannot be imposed; these include: <ul style="list-style-type: none"> - Premises authorised by a premises licence to be used for the supply of alcohol - A place within the curtilage of the above <p>Outside seating areas are part of the premises licence therefore exempt.</p> |
| Query whether order includes the Priory grounds – would like it included and enforced. | The Priory Grounds are included. |

11. Shouting, swearing, screaming or making unnecessary noise where alcohol restrictions are in place.

| Comment | Officers Response |
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| Issue with foul language at football matches particularly where young children are present eg Hartham Common on Sunday mornings | This type of behaviour is not what the condition is intended for. Should there be a significant disturbance or abuse aimed at specific people then reports should be made to police to investigate Public Order offences. |
| The anti-social or disorderly behaviour offence should apply everywhere, not just where alcohol restrictions are in place. | This prohibition has been limited to the alcohol restriction areas as this is where the evidence has shown a need as it is a perennial issue. If this was a district wide prohibition it would be difficult to enforce and manage |

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| | expectations. Public Order and ASB powers exist for agencies to address similar issues in the district. |
| Strong support for the order – note other councils have an officer available 24hours to observe noise issues. Would be a good idea for Hertford. | East Herts Council Environmental Health department deal with statutory noise nuisance. As part of their procedures this will include coming out to witness noise related nuisance however this is once a process has been followed. Licensing Officers will also investigate any reported breaches of conditions from licensed premises. |
| Concern that alcohol restriction areas may move any problems to other areas. Order should include any areas in the district that may be used for sports or picnics. The order (no:11) should include all public places which could then exclude specific areas such as Sports and similar areas in respect of shouting etc Swearing /screaming etc anywhere should be controlled. | The proposed areas are based upon where there is evidence to support their need and there have been higher levels of alcohol related ASB or crime. To have a district wide prohibition would not be proportionate or enforceable. Areas that can be used for picnics or sports is too vague and open to interpretation. The Council wants residents to be able to enjoy its parks and this will sometimes involve making noise. This is acceptable provided it is not at anti-social times. It is generally better for noisy sports and play activities to be within parks and restrictions could push people out onto streets, creating a greater nuisance. If other areas emerged as having alcohol related nuisance and other measures to address this failed then the PSPO could be amended to include an additional area. |
| Supportive of proposal but concerns about the vague definition and fair enforcement of the order. | The powers would be used with discretion and there is no intention to curtail people's enjoyment. It would be aimed at those who are showing disregard for the local community. |

Other Comments

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| <p>Enforcement and litter 54 people wanted more enforcement of litter and dog fouling legislation.</p> <p>Most comments were concerns about how these Orders will be policed and enforced. Suggest more public engagement and visible policing.</p> <p>A number of people commented on litter on the road verges, parks (such as Hartham) and in the towns at weekends. Suggestions that litter should be targeted like dog fouling.</p> | <p>Currently the Council has 8 officers employed who are authorised to issue FPNs as very small part of their role, resulting in on average 10 FPNs for litter issued per year.</p> <p>Random patrols in a large rural district like East Herts are rarely effective in catching offenders – see comments in main report in section 2.26.</p> |
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| <p>Signage Notice boards should be erected on open spaces and sports fields requesting dogs be kept on leads and owners to carry poop scoop bags on them at all times, whilst dog walking.</p> <p>Suggest more weather-proof posters and signs on rural footpaths, alerting dog owners to their responsibilities and reminding them of the consequences.</p> | <p>It is a requirement of the legislation that appropriate signage is installed where the order is to be enforced.</p> <p>In addition to this the Council has a range of signs to highlight the need to pick up dog faeces and will continue to use these.</p> |
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Summary of Comments from the Kennel Club to proposed measures:

PSPOs should be necessary and proportionate responses to problems caused by dogs and irresponsible owners.

Dog fouling

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 encourage proactive measures to help promote responsible dog ownership.

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. 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, sites where livestock or sensitive wildlife may be present, 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. We would encourage local authorities to make use of “dog on lead by direction” orders.

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

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.

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. Another difficulty with the wording of the proposed offence is that it does not define whether the person in charge of the dog has to have the pick up 'means' on his or her person, or whether a bag held or provided by someone walking with them or another dog walker in the vicinity will suffice.

Appropriate signage

It is important to note that legislation requires signage to be erected on or adjacent to the public place to which the order relates. With relation to dog access restrictions such as a "Dogs on Leads Order", on-site signage should make clear where such restrictions start and finish.

While all dog walkers should be aware of their requirement to pick up after their dog, signage should be erected for the PSPO to be compliant with the legislation. 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.

Working dogs

The guidance document prepared by Defra and the Welsh Government to accompany the legislation introducing Public Space Protection Orders is clear - "PSPOs are not intended to restrict the normal activities of working dogs and these activities are not envisaged to meet the threshold for the making of a PSPO". Therefore an appropriately worded exemption for working dogs should be included within the Order.