

Urgency/Special Urgency Form

Urgent Cabinet Report/Delegated Key Decision

Date of Request:	24 June 2022	Date of Meeting/Decision:	27 June 2022	Officer:	Julian Feakes, prevention and partnership officer
Report/ Decision Title	To approve the extension of the Redcar & Cleveland Public Spaces Protection Order 2016 for a further three years with the proposed “leads by direction/order” and “dogs on leads” variations				

Chief Officer	Signature

Special Urgency

Reason for urgency

The Redcar & Cleveland Public Spaces Protection Order 2016 will lapse on 1 July 2022 unless the council exercises powers, available under the public spaces protection provisions of the Antisocial Behaviour, Crime and Policing (2014) Act, to extend the Order for a further three years – until 30 June 2025 – with the proposed variations including a borough-wide “leads by direction/order” and “dogs on leads” requirements at seven formal parks and gardens within Redcar, Marske, Saltburn and Loftus, in order to tackle dog fouling and other forms of irresponsible dog ownership.

In error, the decision was not published in the Forward Plan. Accordingly, it’s not now possible to comply with the requirements for the 28 days forward plan period. However, all other notification, publication, and consultation requirements for the making, renewal or varying of a public spaces protection order have been complied with. If the council were to pause the decision-making process to comply with the 28 day key decision forward plan period, the Order would lapse meaning the council would not be able to carry out any enforcement action to tackle dog-fouling and dog control issues.

NB In cases of Urgency – General Exception, The chair of the relevant Scrutiny and Improvement Committee (or if there is no chair, the whole committee individually) must be informed by notice in writing of the decision to be taken, and this notice must also be published, with reasons for the urgency, at least 5 working days in advance of the decision being taken. In cases of Special Urgency, the agreement of the chair of the relevant Scrutiny and Improvement Committee that the decision cannot reasonably be deferred must be obtained (or if there is no chair, or the chair is unable to act, the Mayor, or in their absence the Deputy Mayor). A notice setting out this position and detailing the reasons for the urgency must be published and use of this procedure must be reported to Council by the Leader on a quarterly basis.

This urgent report/decision has been seen and agreed by the following:

Officer / Member	Signature
Managing Director	P Rice
Section 151 Officer	P Winstanley
Monitoring Officer	S Newton
Leader/Chair of Cabinet (For Cabinet Decisions only)	
Cabinet Member	Approved by email 27/06/22
Scrutiny Chair (Special Urgency Only)	Approved by email 27/06/22

Delegated Power Record

Are the details of the decision to be public or confidential?

Public

If the details of the decision are confidential, please select the category for exemption under the Local Government Act 1972.

Choose an item.

Reference	ADCOM-22-143
Corporate Plan Priority	Improving the Physical Appearance of the Borough and Enhancing Prosperity
Delegation Title	To exercise all the powers allocated to the council through the Anti-social Behaviour, Crime and Policing Act
Delegated Power Number	350A
Date of Exercise	27/06/2022
Cabinet Member	Cllr Cliff Foggo
Assistant Director	Robert Hoof

Type of Decision (Key/Executive/Non-Executive) See Scheme of Delegation to Officers - Council Constitution	Key - Executive
FOR KEY DECISIONS ONLY	
Delegated Power Forward Plan Ref	N/A
Date Decision Published in Forward Plan	
Urgency (For Key Decisions not included in Forward Plan only)	Special Urgency - Forms Attached

Background to Decision:

“Improving the physical appearance of the borough and enhancing prosperity” is a priority for the council within the new corporate plan, including by taking robust enforcement action against those who damage the environment and put others at risk.

In recent years, the council has developed a joined-up dog-fouling strategy, having the aim of reducing the incidence of dog-fouling by challenging inappropriate behaviour (“pick up the poo” campaign) and promoting responsible dog ownership (dog well-being roadshows). The council consolidated three existing dog control measures within a new single public space protection order; and introduced two new dog control offences when it brought the Redcar & Cleveland public spaces protection order (PSPO) 2016 into force 1 July 2016:

- failure to clean up after their dog (pre-dated 2016 PSPO).
- exclude dogs from entering areas of Redcar and Saltburn beaches between 1 May and 30 September (pre-dated 2016 PSPO).
- exclude dogs from entering any of the council's nine cemeteries (pre-dated 2016 PSPO).
- exclude dogs from entering fenced-off children's play areas (new offence introduced July 2016).
- failure to have the means to pick-up after their failure to clean up after their dog (new offence introduced July 2016).

The current dog related PSPO will end on 1 July 2022 unless the council exercises powers, available under the public spaces protection provisions of the Antisocial Behaviour, Crime and Policing (2014) Act, to extend the PSPO for a further three years in order to tackle dog related antisocial behaviour.

Extending the Redcar & Cleveland Public Spaces Protection Order 2016 beyond 30 June 2022 also creates the opportunity for the council to introduce new requirements and prohibitions on dogs when using public spaces, by varying the current Order when renewing or extending it to include new dog related offences should the evidence base justify it in doing so.

Having carried out a thorough-going review, supported by extensive information gathering, the council concluded the evidence base justified it in introducing general or targeted dogs on leads requirements as part of the then prospective review of the Order in 2022. In particular, incidents of “dangerous dogs” reports to Cleveland police had increased three-fold (+200%) during the last three years

Having regard to the conditions within section 60 of the Antisocial Behaviour, Crime and Policing (2014) Act, the cabinet member and executive management team members exercised delegated powers (**ADCOM-22-102**) to approve consultation and notification activities concerning the council’s proposals to renew the Redcar & Cleveland Public Spaces Protection Order 2016 (as previously extended – until 30 June 2022 – in July 2019 as Public Spaces Protection Order extension no. 1 of 2019), for a further three years (until 30 June 2025) with the proposed variations to introduce new dogs on leads provisions, in order to tackle crime and/or antisocial behaviour.

The council has complied with its notification, publication, and consultation requirements by:

- Carrying out a six-week consultation exercise (3 May-14 June 2022) in order to obtain views

on its proposals from all stakeholders affected:

- The council posted an on-line questionnaire on its “Current consultations” webpage and paper copies of questionnaires were made available at libraries across the borough.
 - The council also promoted the consultation by email to stakeholder organisations, forwarding copies of the consultation information and questionnaire together with a poster promoting the consultation. The council asked stakeholders to promote the consultation through their own webpages, social media, and newsletters.
 - Stakeholders contacted directly included Cleveland police and the office of the police and crime commissioner for Cleveland (required consultees); Beyond housing; all five local parish and town councils; every primary and secondary school within the borough; five local veterinary surgeries; and Redcar & Cleveland access group members.
 - The council’s community development team promoted the consultation widely to their community contacts, including neighbourhood action partnerships.
- Giving the necessary notice of its intention to extend the Redcar & Cleveland Public Spaces Protection Order 2016 (as previously extended by Public Spaces Protection Order extension no. 1 of 2019) for another three years (with variations) (26 May- 23 June 2022), including by:
 - Publishing the notice of intention to make a public spaces protection order on the council’s website
 - Notifying all five parish and town councils located within the administrative area of the authority, as it is required to do, inviting them to make representations in writing no later than Thursday 22 June 2022, as to whether or not the proposed order should be extended with the proposed variations.
 - Maintaining notices on or adjacent to the seven locations affected by the proposed section 7 dogs on leads requirements, such that they are sufficient to draw the attention of any member of the public to the order’s effect

Decision Considerations

Consultation outcome:

The council’s six-week consultation exercise has now concluded.

The consultation sought views on the following:-

- consultees’ experience of dog control related issues within Redcar & Cleveland during the last 12 months.
- continuation of the existing powers making it an offence to:
 - fail to clean up after their dog.
 - permit their dogs to enter areas of Redcar and Saltburn beaches between 1 May and 30 September.
 - permit their dogs to enter any of the council's nine cemeteries;
 - permit their dogs to enter any of the 64 fenced-off children's play areas across the borough.
 - [fail to have the means to pick-up after their dog]*
- introduction of new provisions making it an offence to:

- refuse to put and keep their dog on a lead when asked to by an enforcement officer (“leads by order/direction”)
- fail to keep their dog on a lead (“dogs on leads”) when in any of the following formal parks and gardens:

Locke Park
 Parts of Borough Park
 Zetland Park
 Marske valley gardens
 Marine Parade lower path gardens
 Parts of Saltburn valley gardens
 Coronation Park, Loftus

- which additional locations it would be appropriate to require dogs to be kept on a lead
- the proposed approach to tackling dog control issues.

*a question asking consultees whether they supported the continuation of the existing PSPO powers requiring dog walkers to carry a poop bag or other means for clearing up after their pet was omitted from the survey questionnaire in error. Legal officers have advised this omission does not invalidate the consultation exercise.

In total, 1,356 survey responses (including 25 from community groups, charities and other organisations and businesses active in the borough) were received. One member of the public, a volunteer, and five organisations responded by email to the consultation.

Dog owners’ participation in this consultation exercise has been considerably higher than on previous occasions¹ when the council consulted on these dog control powers:

- 69.35% (749) of respondents were dog owners
- 27.13% (293) were non-dog owners
- 3.52% (38) declined to say

Overall, feedback from the consultation demonstrates the council has secured very significant support for its proposals to renew the existing dog control powers:

- ***Failure to clean up after their dog (dog fouling offence):***
 - Majority of all respondents in support (94.51% Vs 3.42% opposed)
- ***Exclude dogs from entering areas of Redcar and Saltburn beaches between 1 May and 30 September:***
 - Majority of all respondents in support (65.29% Vs 31.29% opposed)
- ***Exclude dogs from entering any of the council's nine cemeteries:***
 - Majority of all respondents in support (64.98% Vs 28.43% opposed)

¹ The corresponding participation rates when the council last consulted on its proposals to renew these dog control powers (15 May-26 June 2019) were: 56.58% (dog owners); 42.18% (non-dog owners); and 1.24% (declined to say). The corresponding participation rates when the council originally consulted on its proposals to introduce the Order (2 February-11 April 2016) were: 57.25% (dog owners); 40.40% (non-dog owners); and 2.35% (declined to say). The actual proportion of UK population estimated to own dogs is 34%; source: [Dog ownership in the UK 2022 | Statista](#)

- **Exclude dogs from entering any of the 64 enclosed children's play areas:**

- Majority of all respondents in support (88.41% Vs 8.81% opposed)

- **Failure to have the means to pick-up:**

- Majority of all respondents *estimated* to be in support (80.88%)

The council has also secured very significant support for its proposal to introduce a new requirement on dog walkers to comply with a direction to put and keep their dog(s) on a lead if asked to by an enforcement officer ("**Leads by order/direction**"):

- Majority of all respondents in support (83.47% Vs 13.21% opposed)

The council has also secured **majority support** for its proposal to introduce a new requirement on dog walkers to keep their dog on a lead for **four of the seven** designated formal parks and gardens where it proposed "**Dogs on leads**" provisions:

Locke Park, Redcar:

- Majority of all respondents in support (53.16% Vs 40.24% opposed); but a majority of TS10 respondents opposed (52.28% Vs 46.04% in support) this provision

Parts of Borough Park, Redcar:

- Majority of all respondents in support (51.57% Vs 44.10% opposed); but a majority of TS10 respondents opposed (52.28% Vs 46.04% in support) this provision

Zetland Park, Redcar:

- Majority of all respondents in support (51.86% Vs 39.64% opposed); but majority of TS10 respondents opposed (52.28% Vs 43.65% in support) this provision

Parts of Saltburn valley gardens:

- Majority of all respondents in support (55.37% Vs 40.11% opposed); majority of TS12 respondents in support (58.90% Vs 38.56% opposed) of this provision

The council has secured **plurality² support** for its proposal to introduce a new requirement on dog walkers to keep their dog on a lead for **two of the seven** designated formal parks and gardens where it proposed "**Dogs on leads**" provisions:

Marine Parade (north) lower path gardens, Saltburn-by-the-sea:

- Plurality (+36) of all respondents in support (47.64% Vs 44.37% opposed); majority of TS12 respondents in support (57.08% Vs 39.48% opposed)

Coronation Park, Loftus:

² Plurality: the number [of respondents] supporting the preferred option is less than 50% but more than the number [of respondents] supporting the second-placed option. Alternatively, the difference between the number of responses received favouring the preferred option and the number received for the second-placed option

- Plurality (+102) of all respondents in support (43.18% Vs 33.85% opposed); majority of TS13 respondents in support (60.00% Vs 36.67% opposed)

A plurality of respondents **opposed** the council's proposal to introduce a new requirement on dog walkers to keep their dog on a lead at **Marske valley gardens**:

- Plurality (+21) of all respondents opposed (46.95% Vs 45.04%); majority of TS11 respondents opposed (61.29 % Vs 37.10% in support)

Had dog owners' participation in this consultation been in line with participation in the 2016 and 2019 consultation exercises, the council would have secured **majority support** for its "dogs on leads" in relation to **five of the seven** locations; and **plurality support** for its "dogs on leads" proposals for **Marske valley gardens and Coronation Park, Loftus**.

Appendix one attached summarises the findings from the consultation exercise, including weighted results showing the levels of support the council would have secured for its proposals had dog owners' participation been in line (57%) with participation in previous (2016 and 2019) consultations; or in line with the actual proportion (34%) of UK population estimated to own dogs.

All five organisations responding to the consultation were very supportive of the council's proposal to extend its dog control powers (with the proposed variations) for another three years. They included:

- Cleveland police
- The office of the police and crime commissioner for Cleveland
- Guisborough and Loftus town councils.
- Beyond housing

Concerning consultees' experience of dog control related issues:

- 69.67% said they had experienced issues around dog control issues within the borough in the last 12 months (68.15% of dog owners had done so; 88.36% of non-dog owners).
- Just 30.33% said they had not experienced issues around dog control issues within the borough in the last 12 months (31.85% of dog owners had not done so; 11.64% of non-dog owners).

The top five dog control issues reported by consultees who said they (66.32%), or a member of their family (14.28%), or someone they knew (12.49%) had experienced issues around dog control issues within the borough in the last 12 months were as follows:

1. 88.39% % said "dog fouling" (dog owners: 88.44%; non-dog owners: 92.22%).
2. 38.07% said "dog running out of control" (dog owners: 33.27%; non-dog owners: 50.37%).
3. 21.04% said "dog attack on another dog or pet animal" (dog owners: 21.02%; on-dog owners: 20.37%).
4. 18.22% said "dogs on beaches" during operation of exclusion zone (dog owners: 11.91%; non-dog owners: 32.22%).
5. 17.79% said they were "threatened by a dog's behaviour" (dog owners: 14.19%; non-dog owners: 25.56%)

The council also sought views concerning the following additional types of locations where it would be appropriate to require dogs to be kept on a lead:

- *Open and enclosed playing fields and sports facilities including football pitches, cricket pitches, golf courses, skate parks and bowling greens*
- *Allotments*
- *Enclosed memorial gardens*
- *Nature reserves, e.g., Coatham Marsh; Clarkson's Wood; Loftus woods; Guisborough Branch Walkway; Flatts Lane Woodland Country Park; Errington Woods; Eston Moor*
- *All highways including all roads, footways,*
- *Footpaths and pavements, alleys, and verges*
- *All car parks and public vehicle parking areas maintained by the council*
- *Pedestrianised town centre areas and precincts*
- *Redcar Esplanade and Saltburn Lower promenade*
- *School and religious premises*

A great deal of useful information has been obtained concerning public support for additional dogs on leads measures that the council will likely use as a basis for informing any future proposals for further varying the Order as appropriate, subject to the application of the prescribed tests. However, no decisions are sought from decision makers concerning additional requirements on dog owners at these types of location at this time.

Representations received as to whether the Order should be extended with the proposed “leads by direction/order” and “dogs on leads” variations:

The notification period concerning the extension of the Redcar & Cleveland public spaces protection order 2016 unchanged for a further three years lapsed 23 June 2022. Loftus town council made representations 8 June 2022 the Order should be extended (with the proposed variations) for another three years. Guisborough town council made representations 10 June 2022 the Order should be extended (with the proposed variations) for another three years. Skelton and Brotton parish council made representations 16 June 2022 the Order should be extended (with the proposed variations) for another three years.

Three representations have been received by members of the public objecting to the proposed “dogs on leads” requirements.

One objected to the “dogs on leads” requirements proposed for Locke Park, Redcar, and Marske valley gardens. The grounds they gave for their objections are as follows:

- The good behaviour of most dogs and owners
- The enjoyment and health benefits for owners of being able to exercise their dogs freely in these parks

The second objected to the “dogs on leads” requirements proposed for Locke Park, Redcar. The grounds they gave for their objections are as follows:

- The good behaviour of most dogs and owners; they hadn't personally noticed an increase in dog related antisocial behaviour
- The requirement discriminates against responsible dog owners
- Parks like Locke Park are great places for local people and dogs to exercise and socialise away from traffic

The third objected to the “dogs on leads” requirements proposed for Marske valley gardens. The grounds they gave for their objections are as follows:

- The proposals unfairly penalise responsible dog owners who keep their pets under close supervision even when off lead
- Marske valley gardens is well used by dog walkers including elderly dog owners unable to walk further afield who wish to give their pets free exercise for short periods to time
- The proposals, if approved, will curtail responsible dog owners’ enjoyment of Marske valley gardens

When exercising its powers under the public spaces protection provisions of the Antisocial Behaviour, Crime and Policing (2014) Act, to extend the duration of a PSPO the council is required to assess it has reasonable grounds that doing so is necessary to prevent:

- (a) occurrence or recurrence after that time of the activities identified in the [original] order, or
- (b) an increase in the frequency or seriousness of those activities after that time

The council’s legal officers are satisfied the council is able to extend the Redcar & Cleveland Public Spaces Protection Order 2016, for a further three years, with the proposed variations to introduce a borough-wide “leads by direction/order” provision and the “dogs on leads” for all seven proposed restricted areas, in order to tackle dog related antisocial behaviour for the following reasons:

- dog fouling continues to be a significant problem requiring a robust enforcement approach satisfying condition (a)
- dog control issues have emerged as a new issue in recent years; and this requires a robust enforcement approach, in common with many other local authorities across England & Wales satisfying condition (a)
- the council has struck an appropriate balance between the need to tackle antisocial behaviour, crime and disorder – namely dog-fouling and uncontrolled dogs – against the desire and entitlement of members of the public to use a public space.
- the council has conscientiously considered the views of all consultees in relation to all the provisions proposed for renewal or introduction when taking the ultimate decision.
 - In particular, the council has given due regard to the fact that, though these public spaces are, by their very nature shared spaces intended to meet the recreation needs of all sections of the community, dog owning respondents outnumbered non-dog owning respondents by a ratio of 2.56:1 (all respondents); by 4.06:1 (TS10 postcode area³); and by 3.38:1 (TS11 postcode area⁴)
 - In considering responses the council has taken reasonable steps to adjust for this
- the council has taken sufficient account of whether suitable alternatives exist nearby for dogs to be exercised without restriction, where it proposes to introduce targeted “dogs on lead” requirements, for example, Marske Sands, The Stray, The Headlands, and Church Howle are all locations where dog walkers can exercise their pets without restriction as an alternative to Marske valley gardens
- the council has also taken account of how the restrictions affect those relying on assistance dogs.

³ 78.13% (325) of all TS10 respondents were dog owners; 19.23% (80) were non-dog owners.

⁴ 75.13% (142) of all TS11 respondents were dog owners; 22.22 % (42) were non-dog owners.

- not renewing the Redcar & Cleveland public spaces protection order 2016 for a further three years, with the proposed “leads by direction/order” and “dogs on leads” variations, in order to tackle dog related antisocial behaviour will likely result in a reversal of the downwards trajectory for dog fouling reports established (**see ADCOM-22-102 for details**) since the introduction of the Redcar & Cleveland public spaces protection order 2016 – as previously extended by Public Spaces Protection Order extension no. 1 of 2019 – satisfying condition (b).

Interested persons can challenge the validity of a public spaces protection order by arguing that the council did not have power to make, vary or extend the order, or include particular prohibitions or requirements. They could also argue that one of the requirements had not been complied with.

The cabinet member and executive management team members can be reasonably confident the council will be able to successfully defend any challenge because it has complied or will comply with the following:

- Requirements to assess whether the council has reasonable grounds to satisfy itself that extending the Order, with the proposed “leads by direction/order” and “dogs on leads” variations, is necessary to prevent the occurrence or recurrence after that time of the activities identified in the [original] order; or to prevent an increase in the frequency or seriousness of those activities after that time.
- Consultation, publication, and notification requirements:
 - The council has complied with notification and consultation requirements.
 - The council has complied with publication requirements in relation to the notification.
 - The council will publish the text of the PSPO being extended for a further three years on its website.
- Requirements concerning the content of the public spaces protection order being extended for a further three years.

The council will continue to maintain notices and signs on or adjacent to the land affected, such that they are sufficient to draw the attention of any member of the public to the Order’s effect.

Full details of decision:

Having regard to the conditions within section 60 of the Antisocial Behaviour, Crime and Policing (2014) Act, to approve the extension of the Redcar & Cleveland public spaces protection order 2016 for a further three years – until 30 June 2025 – with the proposed “leads by direction/order” and “dogs on leads” variations in order to tackle dog fouling and other forms of irresponsible dog ownership.

Financial detail:

The costs of onsite signs alerting members of the public to the provisions of the Order will be met within existing resources.

Delivering Social Value

The proposed order will achieve social value as follows:

- “Think local”.

- “A great place to live”.

Reasons for Decision:

The reason for the recommended option is that it means the council will retain and (by introducing “leads by direction/order” and “dogs on leads” requirements) further strengthen a robust approach to enforcement as part of a fully rounded dog-fouling strategy, which removes excuses for dog walkers failing to pick up after their dog or keep their dogs under effective control and considerably increases the risks for dog walkers who continue to offend.

It is therefore considered to best assist the council in effectively tackling dog-fouling and dog control issues.

Details of alternative options considered (if any) and reasons for rejection:

Do nothing: this means the council will not retain a central element of the dog-fouling strategy, and the scale of dog related antisocial behaviour including dog fouling will increase, reversing the significant progress made in tackling these issues since 2016.

Renew existing order unchanged: this means not taking new powers to tackle the upwards trend of dogs being dangerously out of control in public places; and, generally, to tackle dogs’ behaviour in public places likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal. Given this is a dog control measure widely adopted by local authorities across England and Wales, the council may also risk reputational damage as a result of not making full use of new powers to tackle dog-fouling and dog control issues.

Details of any conflict of interest declared by any Elected Member consulted in relation to the decision:

Details of any dispensation granted in respect of any conflict of interest:

Background Papers:

Files held by safer communities and streetscene service

Officer Name (Print)	Julian Feakes
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Officer Signature	J Feakes
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Submission date	24-Jun-22
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Procurement Approval	N/A
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Delegated Power Record

Reference	ADCOM-22-143
Delegated Power Forward Plan Reference	N/A
Corporate Plan Priority	Improving the Physical Appearance of the Borough and Enhancing Prosperity
Delegation Title	To exercise all the powers allocated to the council through the Anti-social Behaviour, Crime and Policing Act
Delegated Power Number	350A
Date of Exercise	27/06/2022
Cabinet Member	Cllr Cliff Foggo
Assistant Director	Robert Hoof

Signatures

.....C Foggo..... Date 28/06/2022

CABINET MEMBER FOR HIGHWAYS AND TRANSPORT

.....P Winstanley..... Date 28/06/2022

CHIEF FINANCE OFFICER

.....S Newton..... Date 28/06/2022

CHIEF LEGAL OFFICER

.....P Rice..... Date 28/06/2022

CORPORATE DIRECTOR FOR ADULTS AND COMMUNITIES

Call-In (Key Decisions Only)

Call-In to be dis-applied due to urgency, reasons as follows:

The decision has to be taken by 30 June 2022 otherwise the Order would lapse meaning the council would not be able to carry out any enforcement action to tackle dog-fouling and dog control issues. Accordingly, it is not possible to apply the call-in timescale. The special urgency rules have been applied and relevant forms completed in conjunction with Democratic Services.

Date Decision will become effective

Click or tap to enter a date.

To be completed by Democratic Services – date will be not less than expiry of 5 working days from publication unless urgency applies.