



THE KENNEL CLUB

Making a difference for dogs

Kennel Club Response to Southwark Council Public Spaces Protection Order Consultation

Submitted on 5th June 2017 by: The Kennel Club, Clarges Street, Piccadilly, London W1J 8AB, tel: 020 7518 1020, email: kcdog@thekennelclub.org.uk

The Kennel Club is the largest organisation in the UK devoted to dog health, welfare and training, whose main objective is to ensure that dogs live healthy, happy lives with responsible owners. As part of its External Affairs activities the Kennel Club runs a dog owners group KC Dog with approximately 5,000 members, which was established to monitor and keep dog owners up to date about dog related issues, including Public Spaces Protection Orders (PSPOs) being introduced across the country.

As a general principle we would like to highlight the importance for all PSPOs to be necessary and proportionate responses to problems caused by dogs and irresponsible owners. It is also important that authorities balance the interests of dog owners with the interests of other access users.

Comments on consultation process

We would like to welcome the proactive approach the Council has taken in promoting this consultation. The consultation plan demonstrates thought was put into the process. In addition to social media posts, we also found signs promoting the consultation during a site visit to Nunhead Cemetery.

However, we have been contacted by a local dog walker who is concerned that local pressure groups may be making multiple submissions to the consultation in support of enhanced restrictions on dog owners. If possible, we would ask the Council to check for duplicated IP addresses of those responding to the online consultation form.

Response to proposed measures

Dog fouling

The Kennel Club strongly promotes responsible dog ownership, and believes that 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 like to take this opportunity to encourage the local authority to employ further proactive measures to help promote responsible dog ownership throughout the local area in addition to introducing Orders in this respect.

These proactive measures can include: increasing the number of bins available for dog owners to use; communicating to local dog owners that bagged dog poo can be disposed of in normal

litter bins; running responsible ownership and training events; or using poster campaigns to encourage dog owners to pick up after their dog.

Dog access

The Kennel Club does not normally oppose dog exclusion or dog on lead orders in 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, and that having a child in the home is the biggest predictor for a family owning a dog.

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, picnic areas, or on pavements in proximity to cars and other road traffic.

The council should be aware that dog owners are required, under the Animal Welfare Act 2006, to provide for the welfare needs of their animals and this includes providing the necessary amount of exercise each day. Their ability to meet this requirement is greatly affected by the amount of publicly accessible parks and other public places in their area where dogs can exercise without restrictions. This section of the Animal Welfare Act was included in the statutory guidance produced for local authorities by the Home Office on the use of PSPOs.

Accordingly, the underlying principle we seek to see applied is that dog controls should be the least restrictive to achieve a given defined and measurable outcome; this is the approach used by Natural England. In many cases a seasonal or time of day restriction will be effective and the least restrictive approach, rather than a blanket year-round restriction. For instance a “dogs exclusion” order for a beach is unlikely to be necessary in mid-winter.

The Government provided clear instructions to local authorities that they must provide restriction free sites for dog walkers to exercise their dogs. This message was contained in the guidance document for DCOs, and has been retained in both the Defra/Welsh Government and Home Office PSPO guidance documents, with the Defra guidance for PSPOs stating ‘local authorities should ensure there are suitable alternatives for dogs to be exercised without restrictions’.

A common unintended consequence of restrictions is displacement onto other pieces of land, resulting in new conflict being created. It can be difficult to predict the effects of displacement, and so the council should consider whether alternative sites for dog walkers are suitable and can support an increase in the number of dog walkers using them.

To be compliant with the Public Sector Equality Duty we submit the council should consider the accessibility of restriction free alternatives for those with reduced mobility (including but not limited to those with a disability or elderly persons for instance). Alongside considering any direct impact as a result of the PSPO upon those with protected characteristics.

We welcome the inclusion of “dog on lead by direction” provisions, which should allow a more targeted approach to tackle the individuals who allow their dogs to run out of control. We would also recommend local authorities make use of the other more flexible and targeted measures at their disposal such as Acceptable Behavioural Contracts and Community Protection Notices. Kennel Club Good Citizen Training Clubs and our accredited trainers can also help those people whose dogs run out of control due to them not having the ability to train a good recall.

Nature reserves and cemeteries

We are concerned about the proposal to introduce a PSPO to protect nature reserves. We would submit that the legal test for the introduction of a PSPO can't be met purely on the basis of protecting nature. The Anti-social Behaviour, Crime and Policing Act 2014 is clear that a PSPO can only be introduced 'where activities have had or are likely to have a detrimental effect on the quality of life of those in the locality...'. It is clear from the Act, its accompanying explanatory notes and Government guidance documents that this is referring to the effects on people, and not other non-human species.

From the information available to us, there is no apparent evidence to show detrimental effects on people in the locality. Thus, we submit that a PSPO introduced on the stated disturbance to nature is flawed.

We would be happy to work with the council to develop more appropriate measures to mitigate against potential negative impacts of dogs to sensitive nature reserves.

We understand that the proposals surrounding nature reserves are meant to mainly restriction dogs at Nunhead Cemetery. On the Friends of Nunhead Cemetery Group we found the following text: 'Since its formation in 1981, FONC has taken the view that owners exercising their dogs responsibly in the cemetery were welcome. This was because in the early days we were keen to encourage such visitors since the cemetery had been largely shunned by the public and dog-walkers went some way to discouraging vandals and other unwelcome visitors from anti-social behaviour.' We believe that if on lead and exclusion orders are introduced at the cemetery then the amount of dog owners visiting will fall as the most important amenity for dog owners is off lead exercise.

Typically, the Kennel Club would not oppose a dogs on lead restriction for a cemetery to ensure mourners are not unduly disturbed by off-lead dogs. However, having visited Nunhead Cemetery we would submit a formalisation of the current zoning approach would be a more locally appropriate solution.

With regard to excluding dogs from these sites, it is important the Council takes account of section 64 of the Anti-social Behaviour, Crime and Policing Act 2014. Which provides clear rules regarding 'Orders restricting public right of way over highway'. In law, dogs are considered as a natural accompaniment to pedestrians, in the same manner a pram or pushchair is. Given that highways (including public rights of way) run through some (if not all) of these sites, we therefore submit this section of the Act is applicable.

These requirements are distinct and additional to the standard consultation, publicity and notification requirements as detailed under Section 72 of the Act.

Maximum number of dogs a person can walk

The Kennel Club feel that an arbitrary maximum number of dogs a person can walk is an inappropriate approach to dog control that will often simply displace and intensify problems in other areas. The maximum number of dogs a person can walk in a controlled manner depends on a number of factors relating to the dog walker, the dogs being walked, whether leads are used and the location where the walking is taking place.

An arbitrary maximum number can also legitimise and encourage people to walk dogs up to the specified limit, even if at a given time or circumstance, they cannot control that number of dogs.

We thus suggest that defined outcomes are used instead to influence people walking more than one dog, be that domestically or commercially, such as dogs always being under control, or not running up to people uninvited, on lead in certain areas etc.

For example, an experienced dog walker may be able to keep a large number of dogs under control during a walk, whereas an inexperienced private dog owner may struggle to keep a single dog under control. Equally the size and training of the dogs are key factors; this is why an arbitrary maximum number is inappropriate. The Kennel Club would recommend the local authority instead uses “dogs on lead by direction” orders and targeted measures such as Acceptable Behaviour Contracts and Community Protection Orders to address people who don’t have control of the dogs they are walking.

A further limitation of a maximum number of dogs per person is that that it does not stop people with multiple dogs walking together at a given time, while not exceeding the maximum number of dogs per person. Limits can also encourage some commercial dog walkers to leave excess dogs in their vehicles, which can give rise to welfare concerns.

If a maximum number of dogs is being considered due to issues arising from commercial dog walkers, we instead suggest councils look at accreditation schemes that have worked very successfully in places like the East Lothian council area. These can be far more effective than numerical limits, as they can promote wanted good practice, rather than just curb the excesses of just one aspect of dog walking. Accreditation can also ensure dog walkers are properly insured and act as advocates for good behaviour by other dog owners. The Kennel Club is currently developing a national Code of Practice for Commercial Dog Walking for launch in 2017, alongside a national accreditation and training scheme that councils can work with us to apply and promote in their areas.

Assistance dogs

We request that appropriate exemptions are put in place for those who rely on an assistance dog and registered blind people. There are in total seven charities training registered assistance dogs in the UK that we submit should be included. We would suggest that to find out more information about the range of assistance dogs now legally recognised under disability legislation in the UK that need to be accommodated, go to www.assistancedogs.org.uk.

For the proposed dog fouling measures we suggest the Council adopts the following wording:

This offence does not 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) 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 dog access restrictions including dog exclusion we submit the Council adopts the following wording:

These offences do not 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.

Appropriate signage

It is important to note that in relation to PSPOs the “The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014” make it a legal requirement for local authorities to –

“cause to be erected on or adjacent to the public place to which the order relates such notice (or notices) as it considers sufficient to draw the attention of any member of the public using that place to -

- (i) the fact that the order has been made, extended or varied (as the case may be);
and
- (ii) the effect of that order being made, extended or varied (as the case may be).”

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. This can often be achieved by signs that on one side say, for example, “You are entering [type of area]” and “You are leaving [type of area]” on the reverse of the sign.

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.