



Telscombe Tye proposed Public Spaces Protection Order

Pre-consultation report

August 2018

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Introduction

Public Spaces Protection Orders (PSPOs) can be made by district councils to deal with issues that have a detrimental and persistent effect on the quality of life of residents in the area.

PSPOs place conditions or restrictions on what people can do within a specific area. Breaching a PSPO without reasonable excuse is a criminal offence punishable by a fixed penalty notice or prosecution. A PSPO can last for a maximum of three years but may be extended if justified.

We have a number of PSPOs already in place in Lewes District, addressing issues related to dog fouling and the public consumption of alcohol.

We are now exploring the possibility of introducing a PSPO on Telscombe Tye to protect the lambs and ewes that graze on the Tye for various periods during the year, from being scared, injured or killed by dogs.

In the autumn of 2018 we will carry out a public consultation over the proposed options for the PSPO.

Ahead of the public consultation we asked for the views of key stakeholders as part of our pre-consultation activity to find out initial views on the proposed options, whether there are viable alternative options that we have not considered, and whether there are any stakeholder groups that we should be engaging as part of the consultation.

Respondents to the pre-consultation activity

The pre-consultation information was shared with a number of groups and organisations. Responses were received from:

- The Kennel Club
- Telscombe Residents Association
- Natural England

Why is a PSPO needed?

Despite local measures to reduce the frequency of dog attacks, incidents continue.

Worrying of sheep by dogs (attacking, chasing or being off the lead in a field in which there are sheep) can result in the dog owner/walker being prosecuted under the Dogs (Protection of Livestock) Act 1953. However, this legislation cannot be enforced by the local authority and makes no provision for fixed penalty notices; nor does it take account of the impact that dog attacks on the community flock can have on local people.

Loss of ewes and lambs can have a major financial and emotional effect on all concerned. The cost of replacing livestock is borne by the Town Council but ultimately

from public funds. The sight of a dog attack, at the time of the incident and its aftermath, can be very distressing for the farmer and anyone using the Tye. Pupils from Telscombe Cliffs Primary School take a keen interest in the flock, with regular visits to the farm.

The underlying cause of sheep worrying is the failure to keep dogs on leads in areas where sheep are present. It is a persistent problem on the Tye and is having a detrimental effect on the quality of life of those in the locality.

PSPO options proposed during the pre-consultation stage

The following is a long list of options for a PSPO to address sheep worrying on the Tye. We would like to know your views on these proposals.

Option 1

Applicable all year round but only in the vicinity of sheep:

A person is guilty of an offence if at any time, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog which is not on a short lead and which is in the vicinity of sheep.

For the purposes of this Order, "short lead" means a lead of fixed length and of not more than two metres.

This option would mean that a dog owner can lawfully walk their dog off a lead whilst on the Tye but they would need to place their dog on a lead when near any sheep.

This option could help prevent sheep attacks and worrying but it would not provide the same protection as Option 2. This is because the Tye is undulating in places and that sheep are often hidden in long grass, bushes or shrubs - meaning it can be difficult to spot sheep.

Option 2

Applicable all year round and whether in the vicinity of sheep or not:

A person is guilty of an offence if at any time, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog which is not on a short lead.

For the purposes of this Order, "short lead" means a lead of fixed length and of not more than two metres.

This option would mean that a dog must be kept on a lead at all times whilst on the Tye.

This could provide the fullest protection to sheep but represents a higher level of restriction for dog walkers and if they wanted to exercise their dog off a lead, they

would have to do so elsewhere. Options nearby include the cliff-top walk or promenade along the base of the cliffs.

Option 3

Applicable only at specified times of the year:

A person is guilty of an offence if during the times specified in the Schedule to this Order, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog which is not on a short lead [and which is in the vicinity of sheep].

For the purposes of this Order, "short lead" means a lead of fixed length and of not more than two metres.

This option could mean that dogs must either be kept on a lead at all times **or** when near a sheep during a specified time of the year. For example during lambing between March and May.

This option could allow the Tye to be used freely by dog walkers when sheep and lambs are not using the land.

However the timings can vary from year to year and are very weather dependent. This means that it is difficult to specify set times of the year when sheep are definitely off the Tye, and an Order made in these terms would not give the farmer the flexibility to manage the flock and the Tye pasture in the best way.

Option 4

Limited to designated areas on the Tye:

Any of the options above but applicable only to designated parts of the Tye.

This option is a variation of options 1, 2 or 3 but would only apply in certain areas of the Tye.

This option means that owners would have to walk their dogs either on a lead at all times whilst on the Tye **or** only when near a sheep, at either all times of the year **or** during a specified time **when** in a certain area.

This option would allow dog walkers to use the Tye whilst providing a safe place for sheep and lambs. However, sheep and land tend to graze across Telscombe Tye and can be found in any part at any time.

Sheep and lambs are also used to help maintain the Tye as they can help prevent shrubs growing, which allows for greater diversity of plant species.

Option 5

More lenient dog control:

Any of the options above but replacing “on a short lead” with “on a lead or otherwise under close control”

This option could be applied to any of the above options, requiring dog walkers to use an extendable lead, or no lead so long as the dog was under “close control”.

This option would provide more flexibility for dog walkers but it would mean that sheep and lambs are not as well protected as owners don't have the same level of control over their dogs.

Comments received during the pre-consultation stage

Comments received from The Kennel Club

The Kennel Club carried out an assessment of the Tye in relation to the proposed options on Friday 22 July 2018. The Kennel Club will be providing a full report outlining their findings and recommendations for a meeting at Telscombe Town Council on Tuesday 15 August 2018. The Kennel Club were supportive of the proposal to introduce an order to the Tye and were against consulting over a ‘full control’ option. They proposed a new option of ‘Year round control’ which appears in the ‘PSPO options proposed to be put forward for full public consultation ‘ below (Option 2).

Comments received from Telscombe Residents Association

The following gives the association's comments in full:

- Option 2**, in our view, is the only real answer, to the issue of sheep worrying on The Tye. We have too often witnessed people walking The Tye with their dogs completely free of any sort of control, despite notices abounding on The Tye and in the press/social media that there are sheep in the vicinity and pleading with dog owners to keep their pets on a lead. Many people believe that The Tye is there for the express purpose of exercising their dogs as it is “owned by the people”. This belief refers to the time in 1989 when Telscombe Town Council, in order to protect this area from development, bought the land with some funds raised by an increase in Council Tax. They do not understand that the sheep farmers have historic grazing rights on The Tye, nor that there is no statutory access rights (although Telscombe Town Council does encourage the use for quiet enjoyment and relaxation).
- **Option 5** does appear to offer a compromise, but we do not believe that this offers a very high degree of control over owners' dogs, and can put the sheep at greater risk of dog attacks.
 - **Option 1** may appear to the dog owner to be perhaps the best, but with our knowledge of the geography of The Tye, it is impossible to always see that

there are sheep on The Tye, or where on The Tye they are – however, a loose dog would be able to smell sheep before they are even visible. We therefore would reject this option.

- **Option 3** would, in our view, be unworkable. It is very difficult sometimes to be exact about when and where sheep will be on The Tye due to weather, farming timetables etc, and the farmers do have the right to manage their flocks (and the community flock) in the most appropriate way.
- **Option 4** seems at first glance to be acceptable, but does not take into account the fact that sheep have no boundaries, and will seek the best pieces of pasture, and the sweetest grass, irrespective of any artificial boundaries.

In summary therefore, we firmly believe that whilst Options 5 and 1 appear at first glance to be attractive without alienating dog walkers, the fact is that not only is sheep worrying and actual sheep deaths from dogs on the increase nationally, but that the attitude of some irresponsible dog owners is just as worrying, if not more so, that the natural behaviour of dogs near sheep.

We therefore conclude that **Option 2** would be our express choice in this matter.

Comments received from Natural England

Natural England proposed an additional option:

A person is guilty of an offence if at any time, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog which is not on a short lead when sheep are also present.

For the purposes of this Order, “short lead” means a lead of fixed length and of not more than two metres.

Sheep are deemed to be on the Tye when notices at the entrance indicate their presence and this can be confirmed by information on the (council) website.

The option of a lead was preferable to the close control option due to the risk of the latter being open to interpretation. It was also believed that the former fits better with the advice that is being issued by the Country Land and Business Association and the National Farmers Union; this makes us aware that any dog can be attracted to chasing sheep even when they are a long distance away. And even a well behaved dog in this situation can go from close control to no control very quickly.

Natural England opted for the “only when the sheep are present” option. This was seen as the least restrictive option and some suggestions for how the sheep being present could be communicated to dog walkers (the PAWs traffic light system).

Natural England questioned how the order would be enforced. A response was issued to Natural England confirming that the Lewes District Council team, Neighbourhood First would enforce the order.

PSPO options proposed to be put forward for full public consultation

Option 1 - Year round but only in the vicinity of sheep

A person is guilty of an offence if at any time, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog which is not on a short lead **and which is in the vicinity of sheep**.

For the purposes of this Order, “short lead” means a lead of fixed length and of not more than two metres.

Option 2 - Year round

Subject to clause 2, a person is guilty of an offence if at any time, and without lawful excuse, he or she takes onto, or allows to enter or remain on, Telscombe Tye any dog and fails to keep the dog on a short lead.

A person is not guilty of the offence in clause 1 so long as he or she keeps the dog in sight at all times AND prevents it from approaching sheep.

A person may not rely on the exception permitted under clause 2 where an authorised officer reasonably requests the person to place the dog on a lead.

For the purpose of this Order, “short lead” means a lead of fixed length and of not more than two metres.

Option 3 – More lenient dog control

Any of the options above but replacing “on a short lead” with “on a lead or otherwise under close control” – to mirror the wording of the Dogs (Protection of Livestock) Act 1953. This would permit dog walkers to use an extendable lead, or no lead so long as the dog was under “close control”.

Rationale for this shortlist of options:

- To provide set of options that would each be effective in tackling the issue of sheep worrying at the tie.
- To avoid equality issues that a full control order could present.
- To achieve for consistency with the Kennel Club recommendations.
- To provide a clear and distinct set of options so residents are clear what is being consulted over.

Proposal being put to Telscombe Town Council

The consultation project team is seeking endorsement from Telscombe Town Council to carry out a full public consultation over the three options set out above.

A report seeking final approval to carry out this consultation is scheduled to go to Lewes District Council Cabinet on 17 September 2018.