

AGENDA ITEM NO 5		
CABINET		
Date	17 November 2020	
Title	Title Public Spaces Protection Orders – Responsible Dog Ownership	

1. PURPOSE/SUMMARY

 To seek approval for Public Space Protection Orders which provide powers for the control of nuisance dogs and dog fouling.

KEY ISSUES

- Parks and Green Spaces are a valued community asset in Fenland providing access to outdoor activities and a safe and healthy environment for young people to play and exercise. Many of these parks have won awards such as In Bloom for their value as a community facility and their contribution to protecting nature and the environment.
- In previous years the Council has worked hard to ensure community issues such as
 dog fouling and nuisance dogs are controlled. These issues can have a particularly
 detrimental effect on our parks and green spaces. Dog faeces carry bacteria which is a
 public health risk, particularly for young children.
- Power to grant a Public Space Protection Order (PSPO) falls under The Anti-social Behaviour, Crime and Policing Act 2014 and has a life span of 3 years. FDC last reviewed this Order for our Parks and Open Spaces in 2017 and now seek to create a new Order for the next 3 year period.
- Breaches It is an offence for a person without reasonable excuse to do anything that
 the person is prohibited from doing or fails to comply with a requirement of a PSPO.
 The maximum Fixed Penalty Notice is £100 and if prosecuted the maximum fine is
 £1,000. The current charge is £75 in Fenland with an early payment incentive of £65 if
 paid within 21 days of issue. A review of fines is proposed in early 2021.
- Positive community engagement has been undertaken in July and August 2020 with dog owners and the community in Fenland offering overwhelming support to the Council's proposal to apply for a new Public Space Protection Order.

2. RECOMMENDATIONS

Cabinet is requested to:

- Note the consultation responses in paragraph 2.3; and
- Approve the proposed Public Spaces Protection Order attached at Appendix 1 and accompanying maps at Appendix 2 for a period of 3 years and to authorise the Monitoring Officer to apply the seal in order to bring this into effect.

Wards Affected	ALL
vvalus Allecteu	
	Councillor Peter Murphy
Portfolio Holder	Portfolio Holder for Environment
	Appahal Tigha
	Annabel Tighe
	Head of Environmental Health and Compliance
	Email; atighe@fenland.gov.ukAmy Brown
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	Amy Brown
Contact Officer	Chief Solicitor and Deputy Monitoring Officer
Contact Officer	Email; amybrown@fenland.gov.uk
	Carol Pilson
	Corporate Director
	Email; cpilson@fenland.gov.uk
Background Paper	0.1: 10047
Reference papers	Cabinet 2017

1. BACKGROUND

- 1.1 In 2018/2019 there were more than 250 issues relating to dog fouling and behaviour reported to the Council (not including stray dogs). In 2019/2020 there were 281. Many of the reports related to issues within our parks and green spaces. Examples of the issues reported include:
 - Dog fouling not being cleared up.
 - Dogs being allowed to run off the lead in banned areas such as children's play areas.
 - Dogs reported to be out of control and potentially dangerous.
 - Excessive domestic noise dog barking.
 - 1.2 In 2014 the Crime, Police and Anti-Social Behaviour Act provided Councils with powers in the form of public space protection orders to control such issues. Previously other powers had been used in Fenland.

- 1.3 The orders provide a framework for enforcement of the following issues:
 - Dog fouling on any public land open to the air. This includes highways and footpaths, parks and open spaces,
 - -Loose and nuisance dogs,
 - -Dogs to be excluded from fenced children's play areas and open cemeteries.
 - -Dogs to be kept on a lead in closed cemeteries and certain parks.
- 1.4 The orders must be reviewed every 3 years and were last reviewed in 2017.
- 1.5 These powers compliment the council's enforcement policy approach of prevention, intervention and enforcement.
- 1.6 In addition to the proposed enforcement approach, the PSPO will also increase community engagement and support those responsible dog owners who take pride in their local environment and look after their community assets. Recognising this is a community issue has seen the Council sign up to support the Green Dog Walkers initiative and this has been very successful. We have in the last year launched this in all 4 market towns and 3 rural villages and signed up over 150 volunteers. This is a friendly non-confrontational campaign which promotes picking up your pets fouling. As part of this we installed 7 dog bag dispensers in chosen locations in Fenland to help where people have forgotten their bags. This was very well received by the public and is being used. We also use our website and social media pages to promote our campaigns and responsible dog ownership.

2. CONSIDERATIONS

- 2.1 These proposals must be implemented for the enforcement of these community issues to continue.
- 2.2 Currently streetscene officers are delegated to serve fixed penalty notices for these offences. Since the orders were refreshed in 2017, 8 fixed penalty notices have been served. 7 for dog fouling and 1 for a dog being in a specified area off a lead.

2.3 Consultation results

The recent summer consultation asked for community feedback on whether the Council's application for a new Public Space Protection Order would be supported. Those consulted were members of the public through our website and social media pages, community groups and interested partners including as,

- Police
- Town & Parish Councils
- Diocese of Ely
- Dog charities
- Cambridgeshire County Council.

All partner responses were in support of the order.

A total of 315 members of the public responded with the following results;

Q1 Do you agree that we should make failing to remove dog faeces an offence?
 97% said yes

- Q2 Do you agree that it should be an offence if you fail to put your dog on a lead when asked by an authorised officer? This would be when the officer decides it is not being sufficiently supervised or the owner does not have it under control?
 96% said ves
- Q3 Do you agree that dogs should be kept on a lead at all times in specific public open spaces and areas; such as churchyards, closed cemeteries and open play areas?
 89% said yes
- Q4 Do you agree that it should be an offence to take any dog into specified parts of public open spaces and areas; such as open cemeteries and fenced children play areas?
 81% said yes
- Q5 Do you agree that a person who is found to contravene a Public Spaces Protection Order in relation to dog control shall receive a fixed penalty notice, requiring them to pay a fine within 28 days?

95% said yes

- Q6 Do you agree with the fine should be increased from the current fine of £75 rising to £100?
 - 83% for £100 and 17% for staying at £75

3. EFFECT ON CORPORATE OBJECTIVES

- 3.1 Environment A continued consistent framework to tackle dog fouling and dog related issues, improving our local environment and streetscene.
- 3.2 Quality Organisation To take a fair and equitable approach to enforcement to positively improve living, working and environmental standards.
- 3.3 Communities promote health and wellbeing

4. COMMUNITY IMPACT

- 4.1 The outcome will be positive for Fenland communities with clarity for park users on the various controls in place. As well as enabling the Council to take enforcement Action where required.
- 4.2 A fresh campaign will be launched at the time the new powers are approved.

APPENDIX 1

Fenland District Council (Dog Control) Proposed - Public Spaces Protection Order 2020

Fenland District Council ("the Council") in exercise of its powers pursuant to Section 59 and 72 of the Anti-Social Behaviour, Crime and Policing Act 2014 ("the Act") hereby makes the following Order ("The order"):-

- 1. This Order shall come into operation following public consultation and shall have effect for a period of 3 years from the effective date.
- 2. This Order relates to the areas shown hatched in red on the attached Plans in Schedule's 1,2,3, & 4 and as further described respectively in Schedules 1A & 4A ('the Restricted Area'); and applies to all the land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). For the purposes of this paragraph, any land which is covered is to be treated as land which is "open to the air" if it is open to the air on at least one side.
- 3. The effect of this Order is to impose the following prohibitions and requirements on the Restricted Areas as specified individually as follows:
- 4.1 In the Restricted Areas shown in Schedule 1 and described in Schedule 1A:
- 4.1. 1 (A) A person in charge of a dog shall be guilty of an offence if, at any time, he does not keep the *dog on a lead* of not more than 5 meters in length, unless –
- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier, or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the Purpose of this Paragraph a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
- 4.2 In the Restricted Areas shown in Schedule 2
- 4.2. (1) A person in charge of a dog shall be guilty of an offence if, at any time, he does not comply with a *direction* given to him by a constable or authorised officer of the Council to put and keep the *dog on a lead* of not more than 5 meters in length. This would be when the officer decides it is not being sufficiently supervised or the owner does not have it under control, unless-
- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier, or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
 - (2) For the Purpose of this Paragraph -
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time another person is in charge of the dog:
- (b) a constable or authorised officer of the Council may only give direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

In this Paragraph "an authorised officer of the Council" means any person authorised in writing for the purposes of this Order by Fenland District Council (the Council).

4.3 In the Restricted Areas shown in Schedule 3:

- 4.3 (1) If a dog defecates at any time on any part of the land, a person who is in charge of the dog at that time who *fails to remove faeces* from the land forthwith, shall be guilty of an offence unless-
- (a) he has reasonable excuse for failing to do so; or
- (b) the owner, occupier, or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
 - (2) Nothing in this paragraph applies to a person who –
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 in respect of a dog trained to assist the blind: or
- (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to carry, lift or otherwise move everyday objects, in respect of a dog trained by a prescribe charity and upon which he relies on for assistance.
 - (3) For the purposes of this paragraph-
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at the time some other person is in charge of the dog:
- (b) placing the faeces in a receptacle on the land for which is provided for the purpose, or disposal of the waste, shall be a sufficient removal from the land.
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise) or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces.
- (d) each of the following is a "prescribed charity"-
- (i)Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine partners for Independence (registered charity number 803680).
- 4.4 In the Restricted Areas shown in Schedule 4 and described in Schedule 4A:
- 4.4. (1) A person in charge of a dog shall be guilty of an offence if, at any time, he **takes the dog onto**, or permits the dog to enter or to remain on to any part of the **land** unless-
- (a) he has reasonable excuse for doing so; or
- (b) the owner, occupier, or other person or authority having control of the land has consented (generally or specifically) to his doing so.
 - (2) Nothing in this paragraph applies to a person who –
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 in respect of a dog trained to assist the blind; or
- (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People 9registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to carry, lift or otherwise move everyday objects, in respect of a dog trained by a prescribe charity and upon which he relies on for assistance.
 - (3) For the purposes of this paragraph-
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at the time some other person is in charge of the dog: and
- (b) each of the following is a "prescribed charity"-
- (i)Dogs for the Disabled (registered charity number 700454);

- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine partners for Independence (registered charity number 803680).
- 5. It is an offence for a person without reasonable excuse to do anything prohibited by this Order, or to fail to comply with a prohibition or requirement to which a person is subject to pursuant to this Order.
- 6. A constable or "an authorised officer of the Council" may issue a Fixed Penalty Notice (FPN) to anyone he or she has reason to believe has committed an offence under this Order.
- 7. "An authorised officer of the Council" means any person authorised in writing for the purpose of this order by Fenland District Council (this Council). A constable means a police constable in whatever capacity.
- 8. A person found to be in breach of this Order is liable upon summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000.00); or to be made subject to a FPN.
- 9. The Council is satisfied that the conditions set out in Sections 59 and 72 of 'the Act' have been met: that activities carried out in a public place within the authorities area have had a detrimental effect on the quality of life of those in the locality; and that 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, and justifies the restrictions imposed by this Notice. The Council believe that it is reasonable to impose the above prohibitions and requirements in order to prevent the detrimental effect from continuing, occurring or reoccurring, and to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or reoccurrence.
- 10. Any interested person (an individual who lives or regularly visits or works) in the restricted area who desires question the validity of this Order on the grounds that the Council had no power to make it or that any requirement of the Act has not been complied with in relation to this Order, may apply to the High Court within six weeks from the date upon which the Order is made.

This Order shall come into force and be in place for a period of three years from the:

This order shall come into force and be in place for a period of three years from the.
Date:
Sealed as Deed on behalf of Fenland District Council, the common seal being affixed in the presence of and signed by
Seal no: Authorised Signatory

SCHEDULES

Public Spaces Protection Order (Dogs) 2020 SCHEDULE 1 – Dogs on leads

The Fenland District Council hereby makes the following Order:

- 1 This Order will come into force after full consultation.
- 2 This Order applies to the land specified in the Schedule.

Offence

- 3(1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead of not more than 5 meters in length, unless--
- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

4 A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

SCHEDULE 1A

Those areas hatched in red on the associated plans being located within the areas listed below:

Settlement Area

Benwick

St Mary's Churchyard Manea

St Nicholas' Churchyard

Chatteris

Coates

South Green

Huntingdon Road March

Larham Way Alberts Drive
Meeks Cemetery Garden of Rest, High Street

St Peter's & St Paul's Nightall Drive

Churchyard Robingoodfellows Lane
St Wendredas' Cemetery
Station Road Cemetery

North Green The Avenue

Newton

Doddington St James' Churchyard

St Mary's Churchyard
Whittlesev

Elm Garden of Rest, Station Road

All Saints Churchyard St Andrew's Churchyard St Mary's Churchyard

Friday Bridge Churchyard Tower Close

Wimblington

St Peter's Churchyard

Wisbech

Burcroft Road General Cemetery Heron Road Jasmine Close St Peter's & St Paul's Churchyard

Public Spaces Protection Order (Dogs) 2020 SCHEDULE 2 - Dogs on leads by direction

The Fenland District Council (in this Order called "the Authority") hereby makes the following Order:

- 1 This Order comes into force on following public consultation.
- 2(1) This Order applies to all the land with the Fenland District Council local authority area which is open to the air and to which the public are entitled or permitted to have access (with or without payment). The area hatched in red on the associated plans.
- (2) For the purposes of this section, any land which is covered is to be treated as land which is "open to the air" if it is open to the air on at least one side.
- In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

- 4(1) A person in charge of a dog shall be guilty of an offence if, at any time on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Authority to put and keep the dog on a lead of not more than 5 meters in length, unless--
- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person of authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the purposes of this article--
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) a constable or authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

In this Paragraph 'an authorised officer of the Council' means any person authorised in writing for the purposes of this Order by Fenland District Council (the Council).

Penalty

A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Public Spaces Protection Order (Dogs) 2020 SCHEDULE 3 – Dogs No Fouling - Means to pick up dog faeces

The Fenland District Council hereby makes the following Order:

- 1 This Order comes into force following public consultation.
- 2(1) This Order applies to all the land with the Fenland District Council local authority area which is open to the air and to which the public are entitled or permitted to have access (with or without payment). The area hatched in red on the associated plans.
- (2) For the purposes of this section, any land which is covered is to be treated as land which is "open to the air" if it is open to the air on at least one side.

Offence

- 3(1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless--
- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) Nothing in this article applies to a person who--
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 in respect of a dog trained to assist the blind; or
- (b) has a disability which affects his mobility, manual dexterity, physical co-ordination 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.

- (3) For the purposes of this article--
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) each of the following is a "prescribed charity"--
- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4 A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Anti-social Behaviour, Crime and Policing Act 2014

Public Spaces Protection Order (Dogs) 2020 SCHEDULE 4 – Dogs excluded

The Fenland District Council hereby makes the following Order:

- 1 This Order comes into force following public consultation.
- 2 This Order applies to the land specified in the Schedule.

Offence

- 3(1) A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless--
- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- (2) Nothing in this article applies to a person who--
- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948 in respect of a dog trained to assist the blind; 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 co-ordination 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.
- (3) For the purposes of this article--
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
- (b) each of the following is a "prescribed charity"--
- (i) Dogs for the Disabled (registered charity number 700454);
- (ii) Support Dogs (registered charity number 1088281);
- (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

SCHEDULE 4A

Those areas hatched in red on the associated plans being located within the areas listed below:

Settlement Area

Benwick

High Street

Chatteris

Cricketers Way Furrowfields Hunter's Close Huntingdon Road Larham Way New Road Cemetery St Paul's Drive Wenny Road

Doddington

Beech Avenue Walden Close

Eastrea

Springfields Thornham Way

Friday Bridge

West Drive

Manea

Williams Way

March

Eastwood Cemetery Gaul Road North Drive West End Park

Parson Drove

Main Road

Whittlesey

Burdett Grove Manor Leisure Centre Pinewood Avenue Snowley Park Station Road Whittlesey Cemetery

Wimblington

Honeymead Road

Wisbech

Bath Road Conference Way Copperfields Heron Road Malt Drive Mount Pleasant Cemetery Westmead Avenue Wisbech Park

Wisbech St Mary

Wisbech St Mary Cemetery

SCHEDULE 1A

Those areas hatched in red on the attached plans being located within the areas listed below:

Settlement Area

Benwick

St Mary's Churchyard

Chatteris

Huntingdon Road Larham Way Meeks Cemetery St Peter's & St Paul's Churchyard

Coates

North Green South Green

Doddington

St Mary's Churchyard

Elm

All Saints Churchyard

Friday Bridge Church Yard

Manea

St Nicholas' Churchyard

March

Alberts Drive
Garden of Rest, High Street
Nightall Drive
Robingoodfellows Lane
St Wendredas' Cemetery
Station Road Cemetery
The Avenue

Newton

St James' Churchyard

Whittlesey

Garden of Rest, Station Road St Andrew's Churchyard St Mary's Churchyard Tower Close

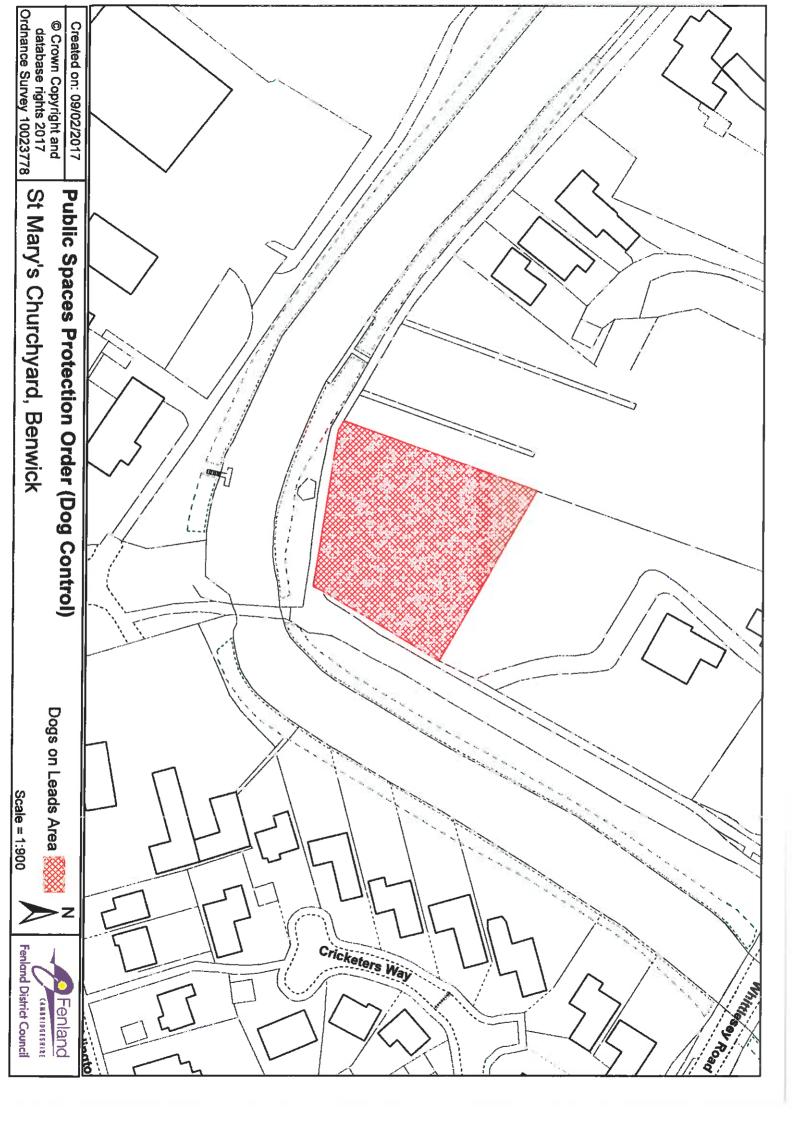
Wimblington

St Peter's Churchyard

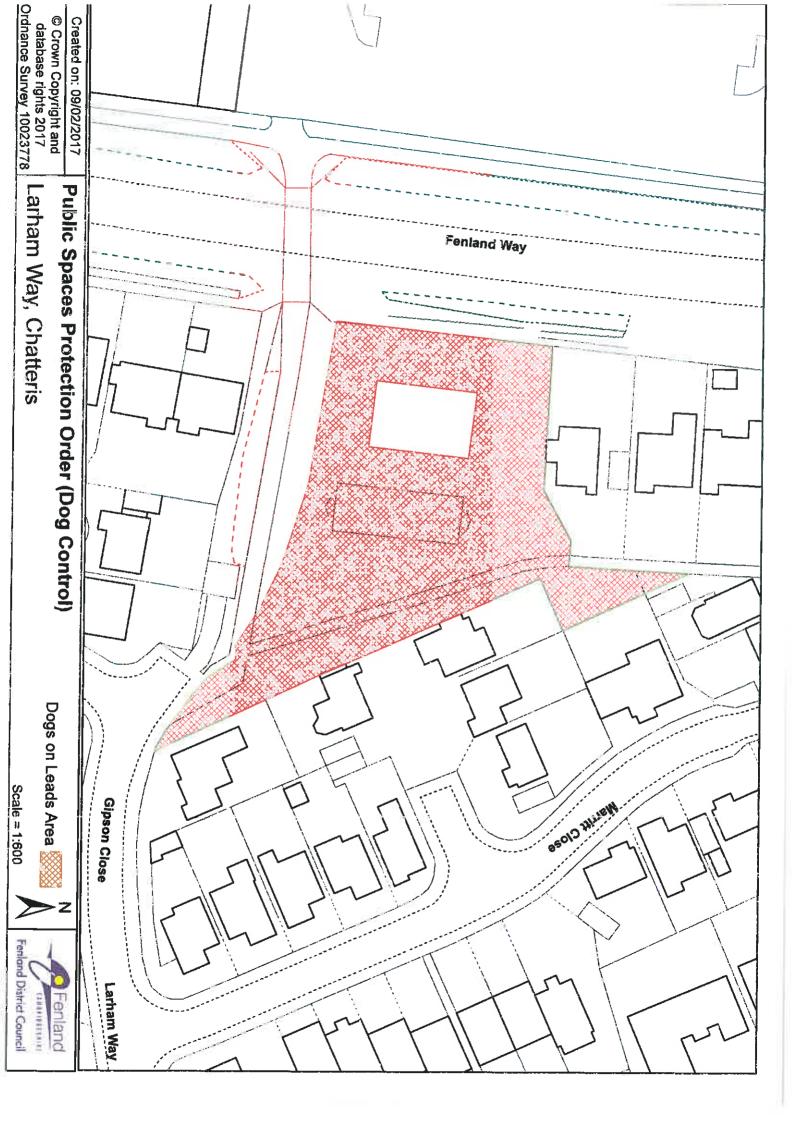
Wisbech

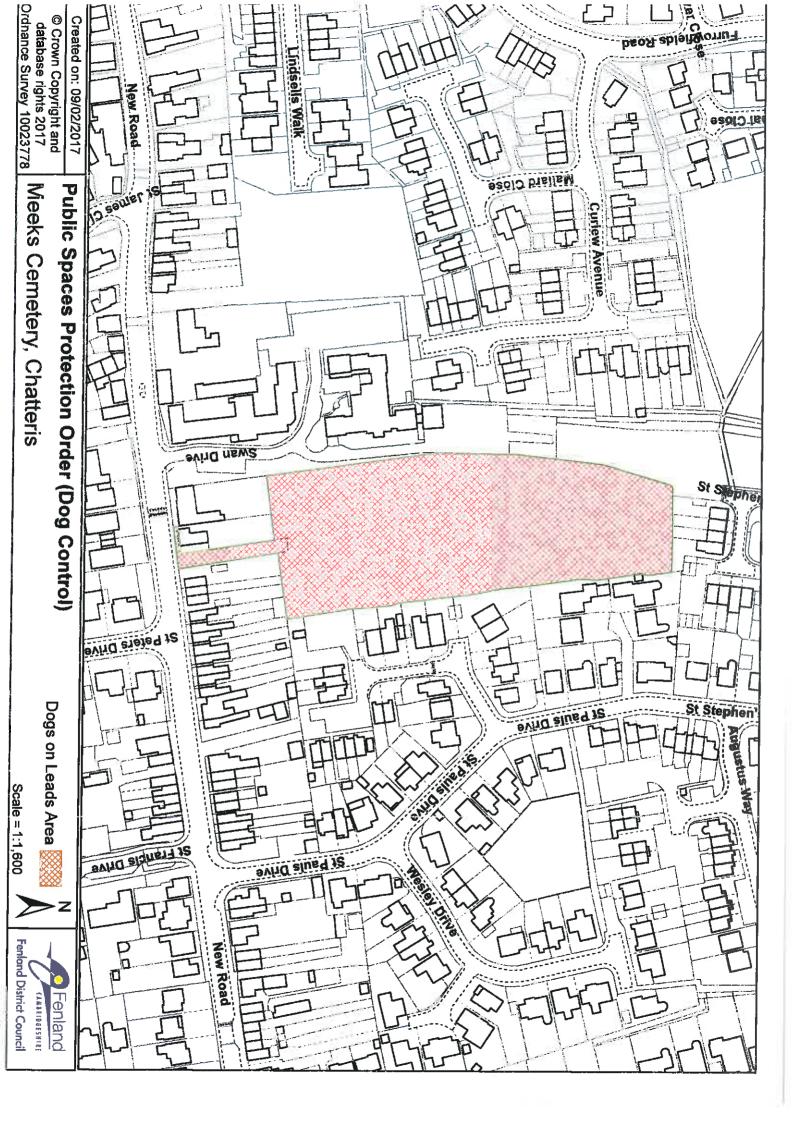
Burcroft Road
General Cemetery
Heron Road
Jasmine Close
St Peter's & St Paul's
Churchyard

SCHEDULE 1





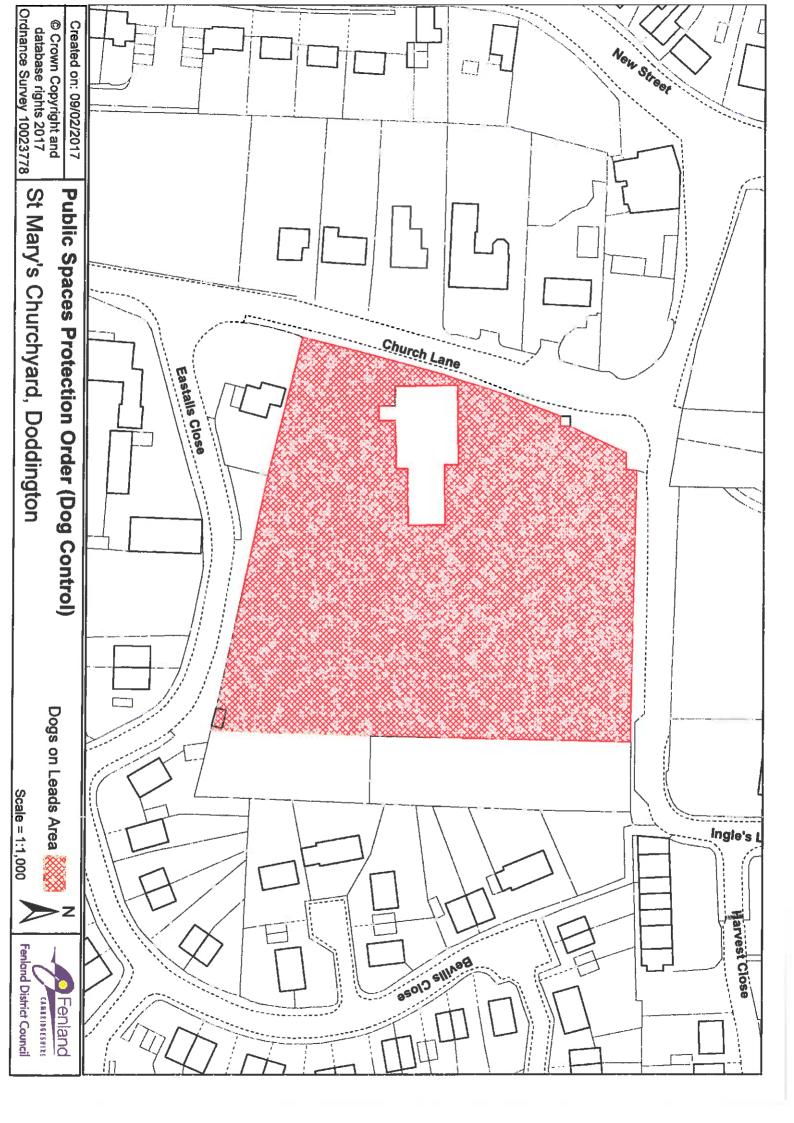


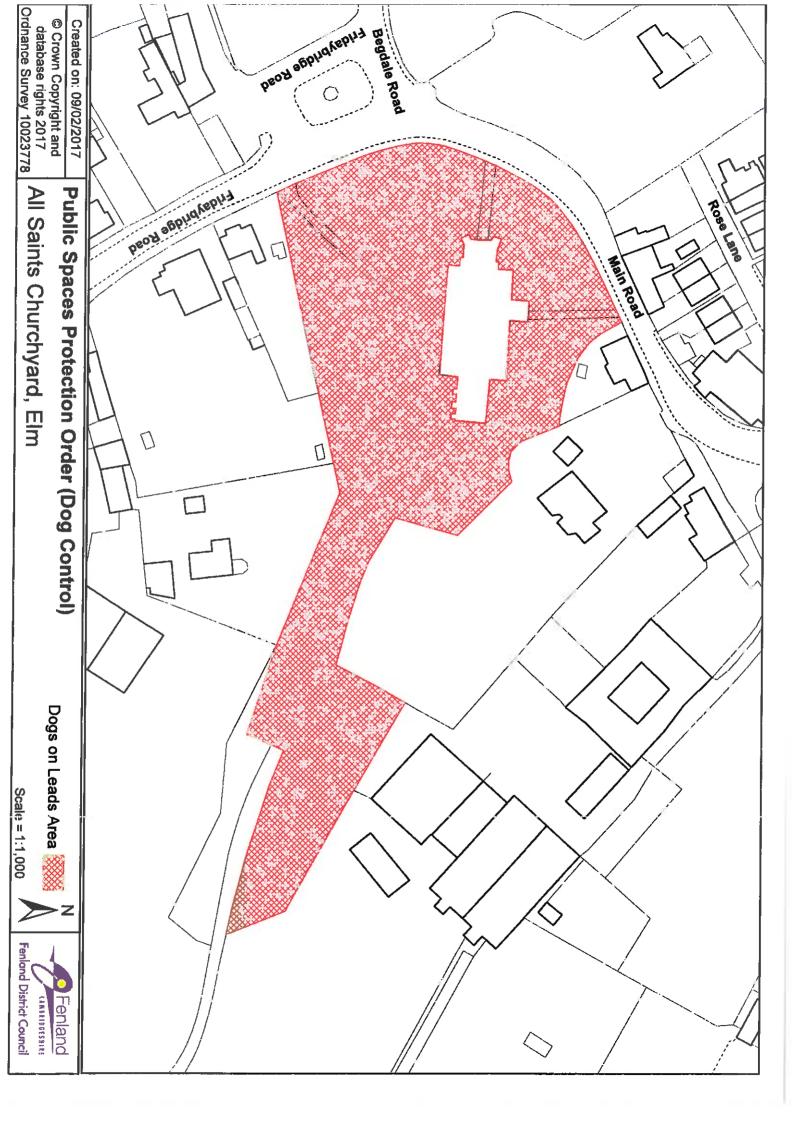


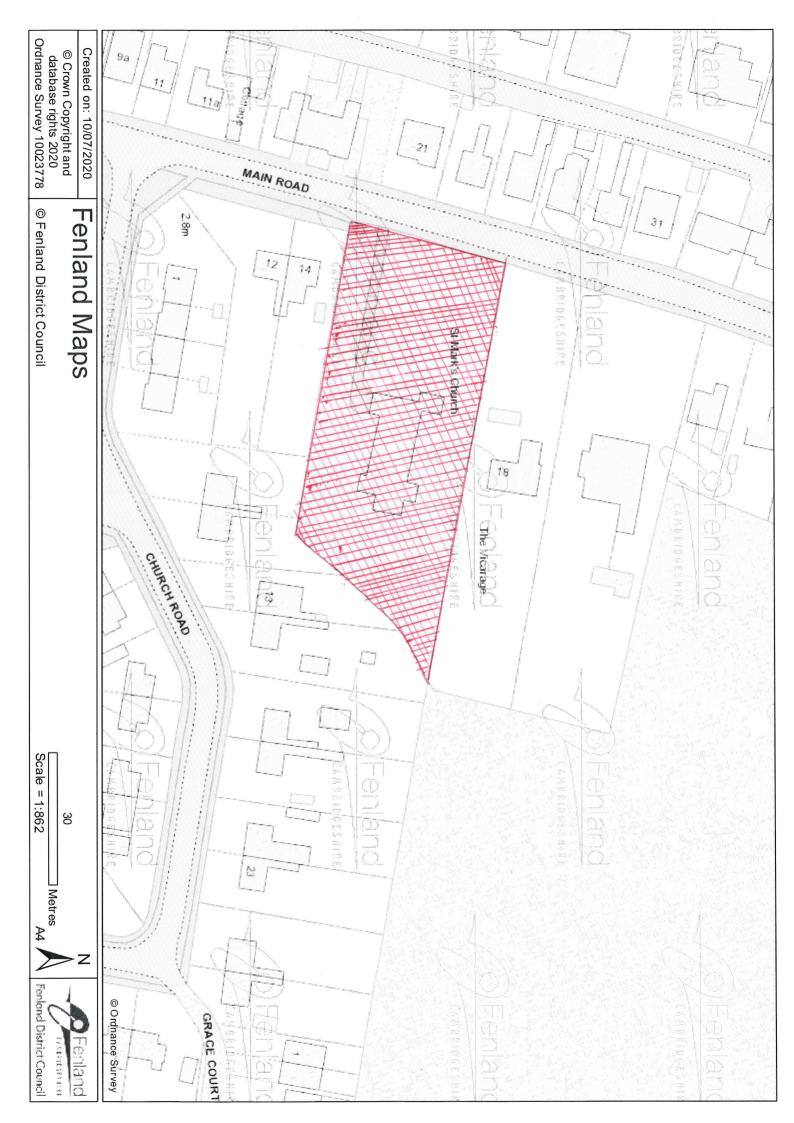




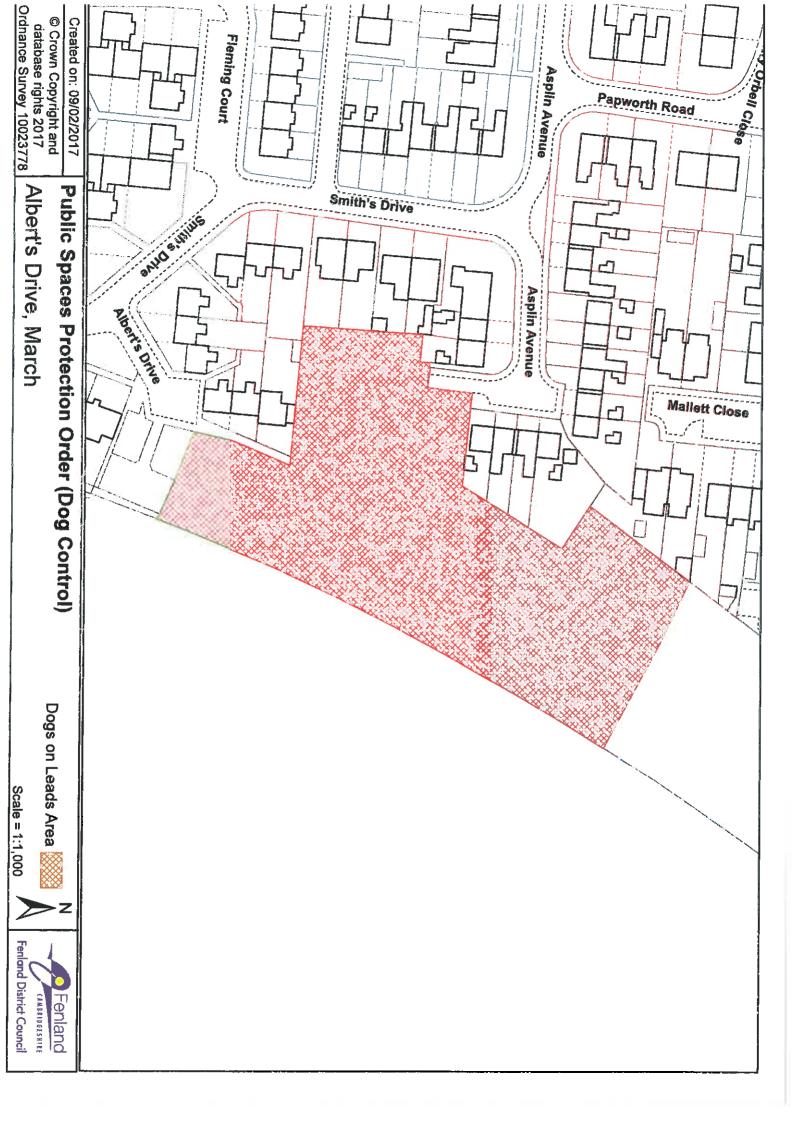










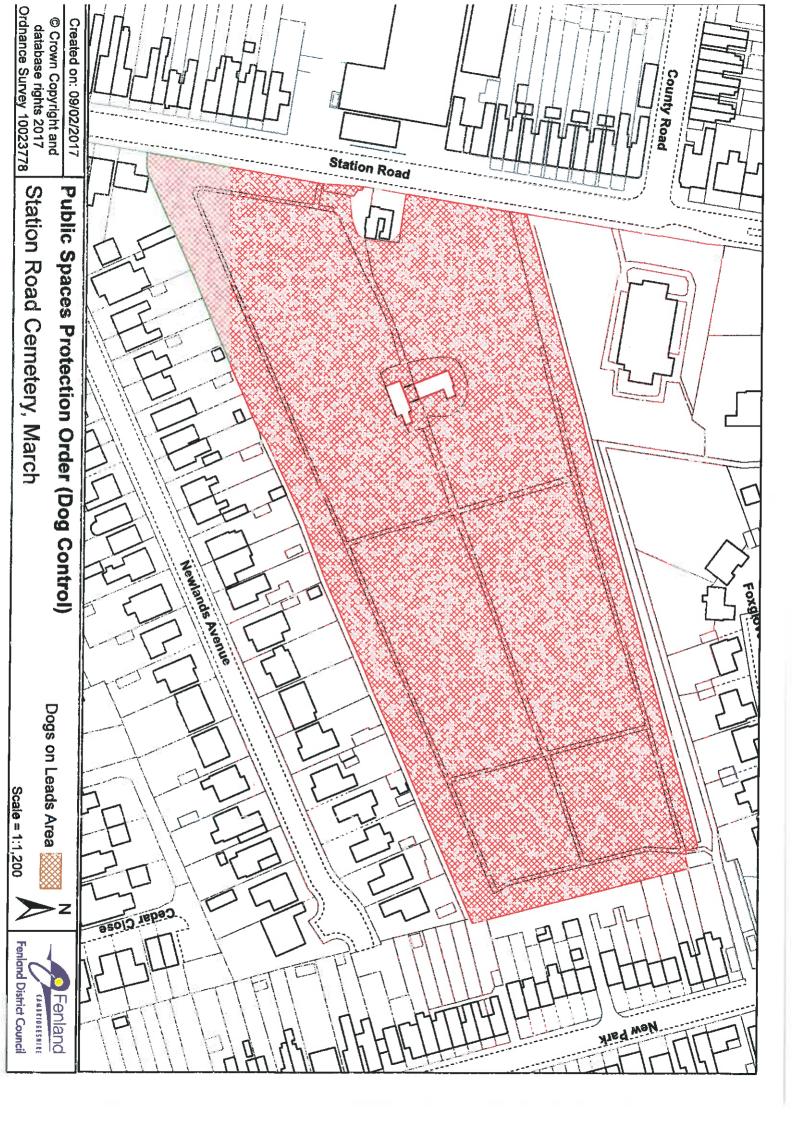


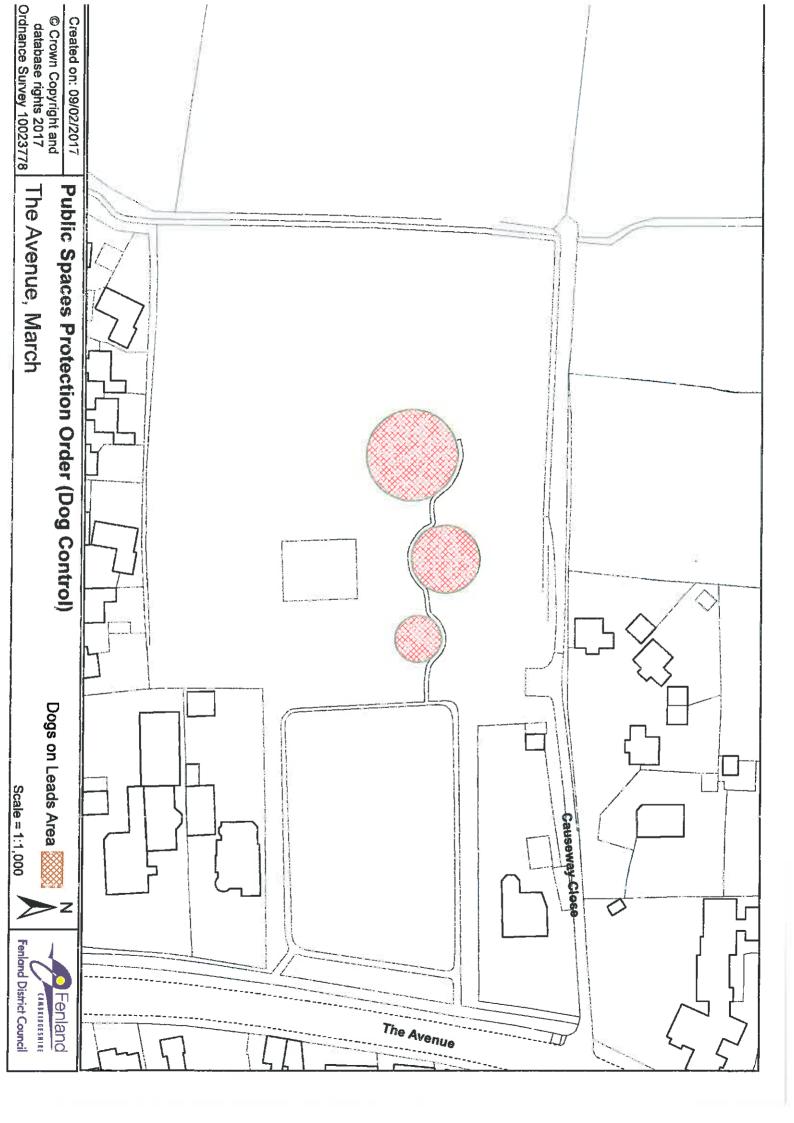




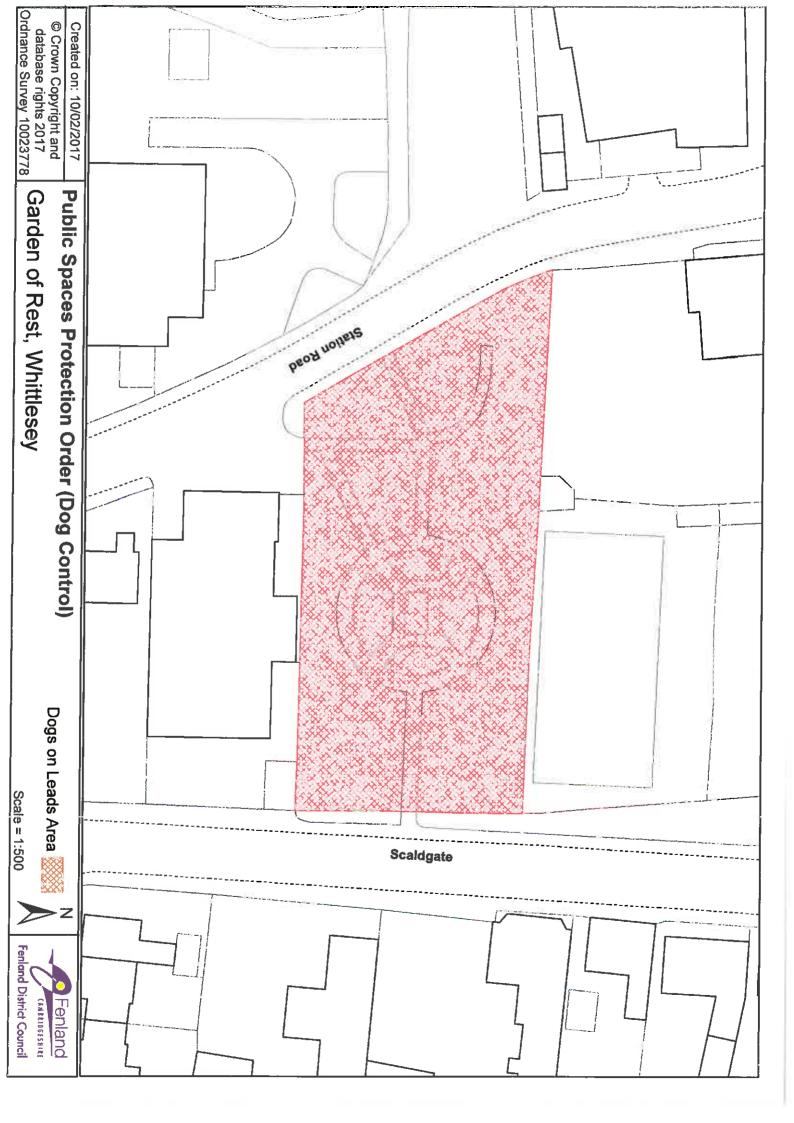








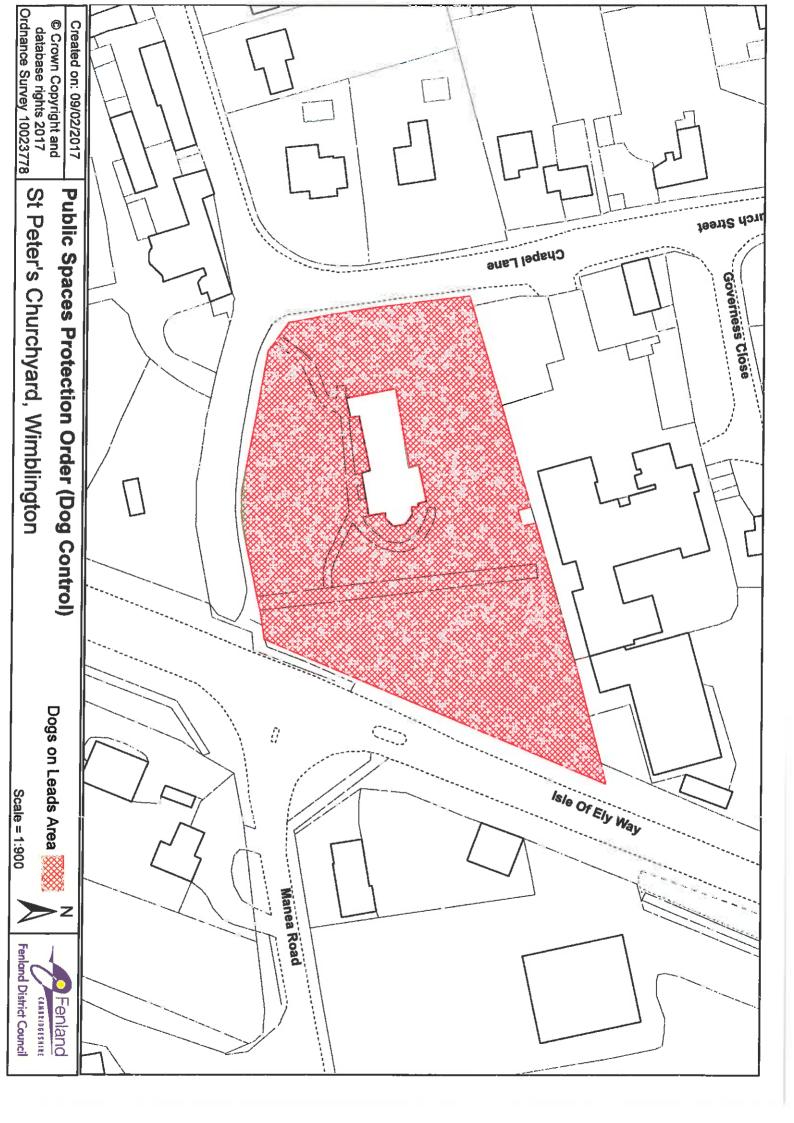




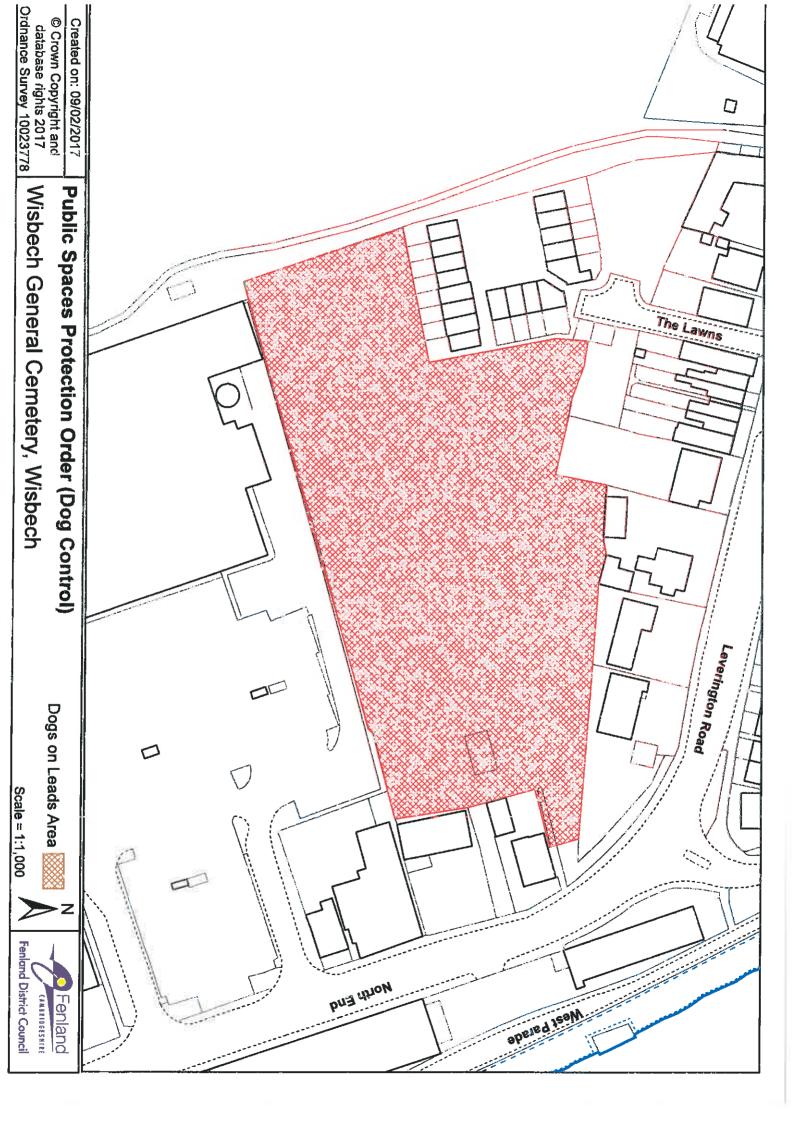


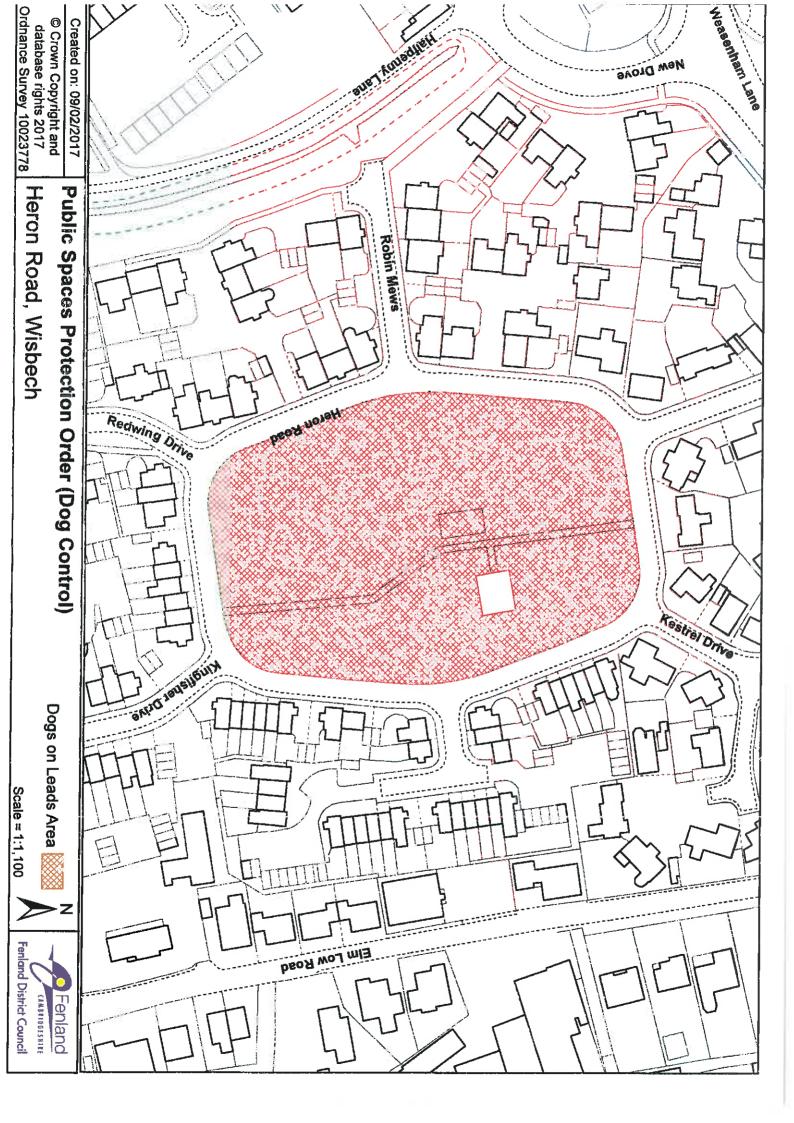








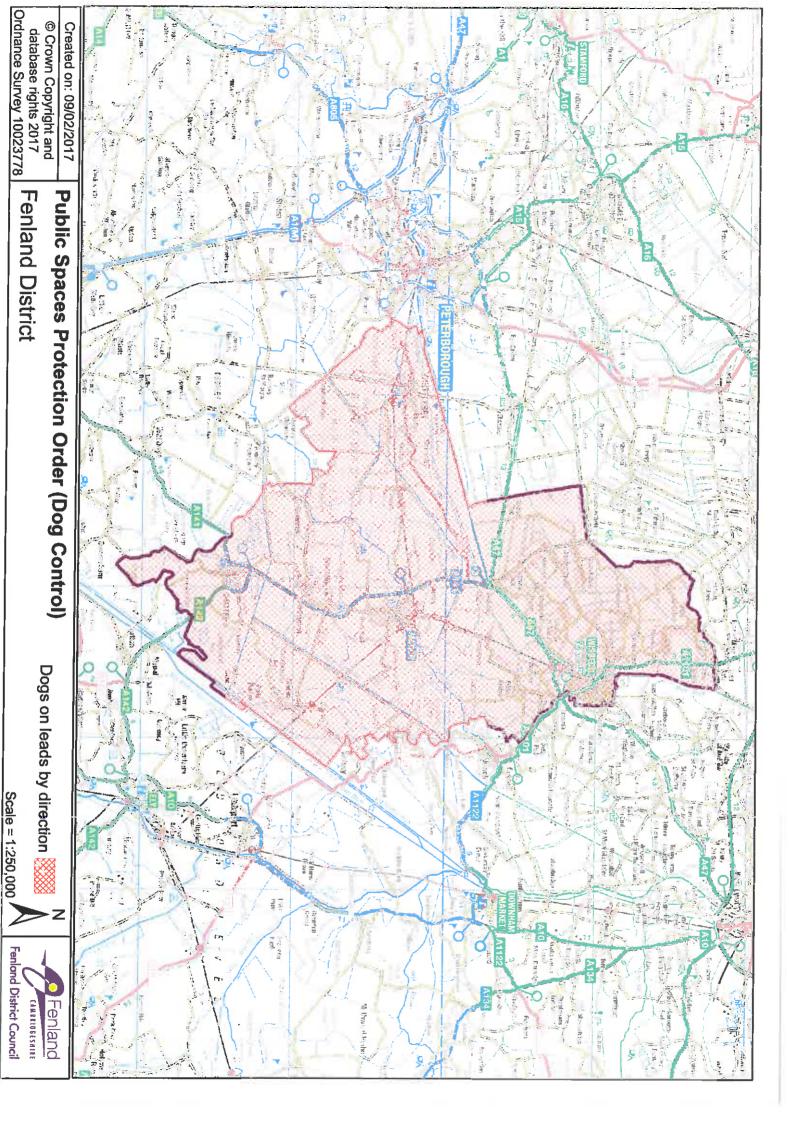




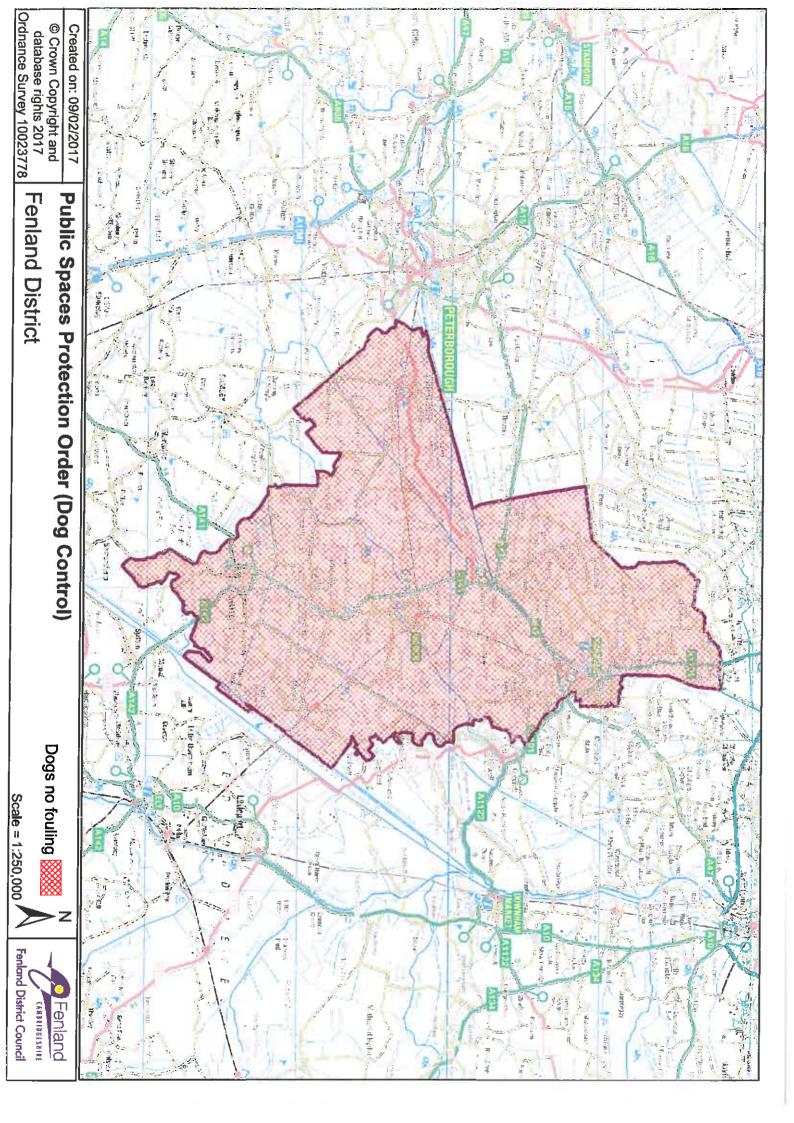




SCHEDULE 2



SCHEDULE 3



SCHEDULE 4A

Those areas hatched in red on the attached plans being located within the areas listed below:

Settlement Area

Benwick

High Street

Parson Drove Main Road

Chatteris

Cricketers Way Furrowfields Hunter's Close Huntingdon Road Larham Way

New Road Cemetery St Paul's Drive Wenny Road

Doddington

Beech Avenue Walden Close

Eastrea

Springfields Thornham Way

Friday Bridge West Drive

Manea

Williams Way

March

Eastwood Cemetery Gaul Road North Drive West End Park Whittlesey

Burdett Grove Manor Leisure Centre Pinewood Avenue Snowley Park Station Road Whittlesey Cemetery

Wimblington

Honeymead Road

Wisbech

Bath Road Conference Way Copperfields Heron Road Malt Drive

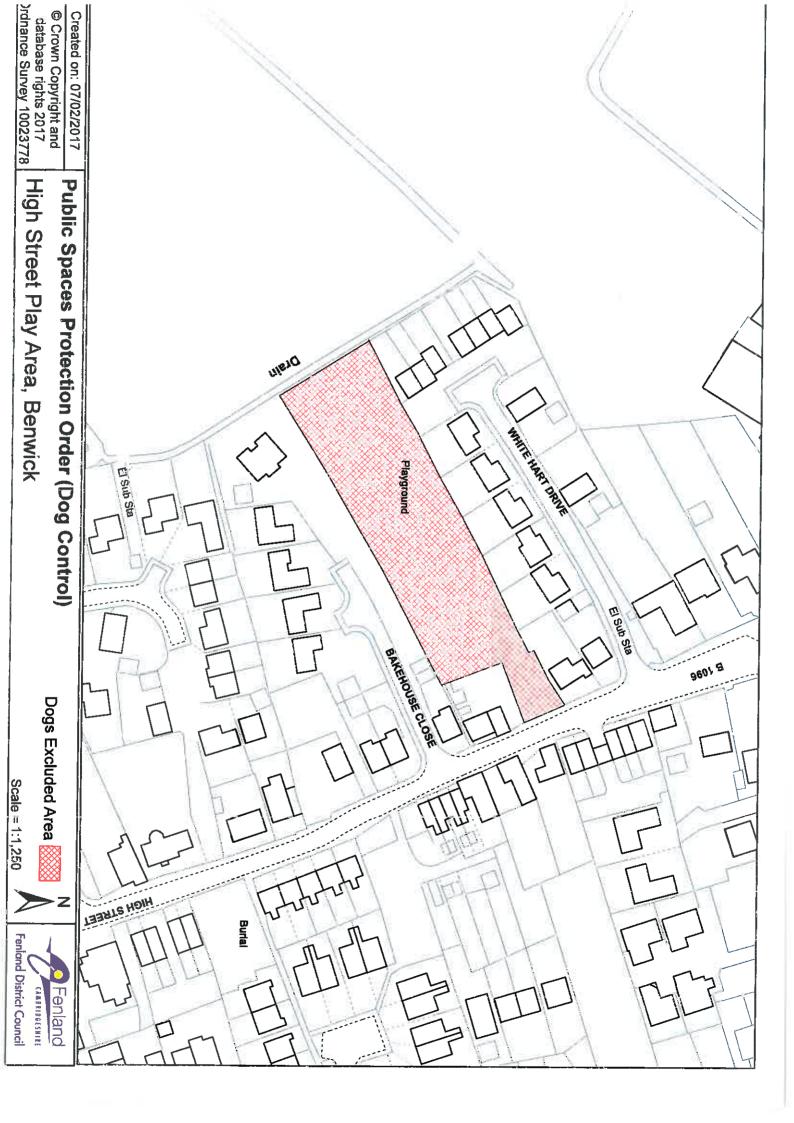
Mount Pleasant Cemetery

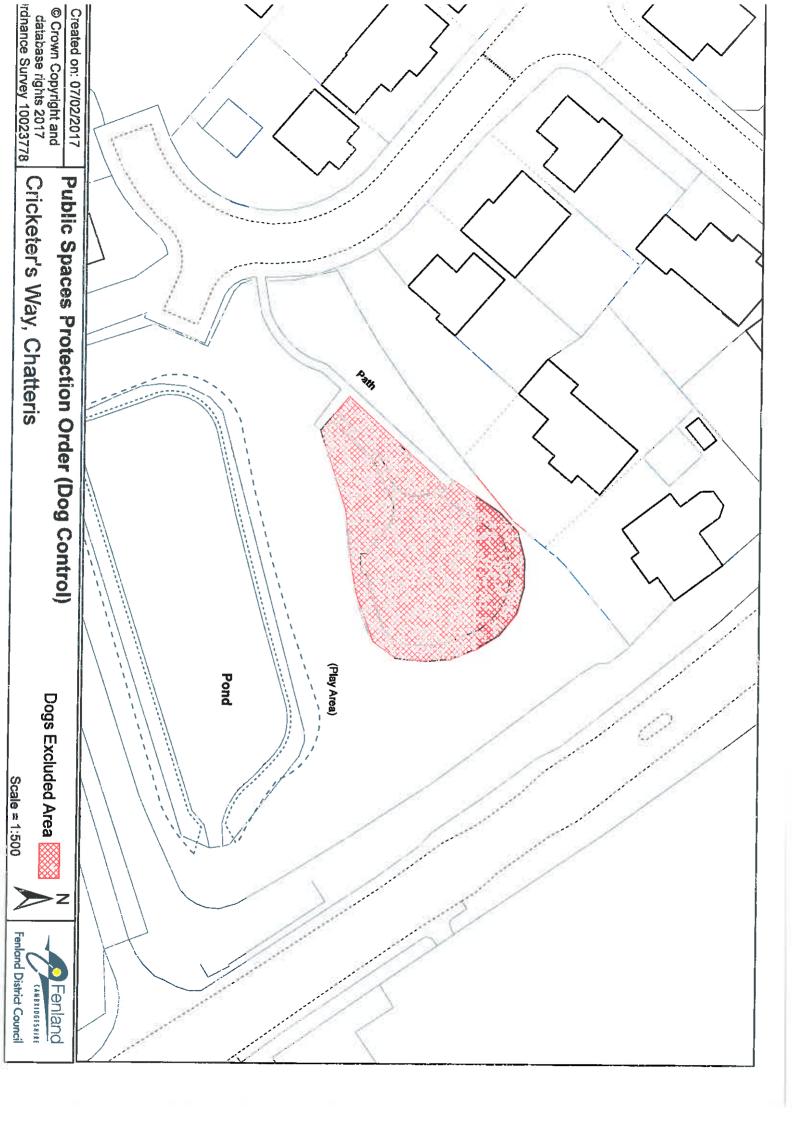
Westmead Avenue Wisbech Park

Wisbech St Mary

Wisbech St Mary Cemetery

SCHEDULE 4



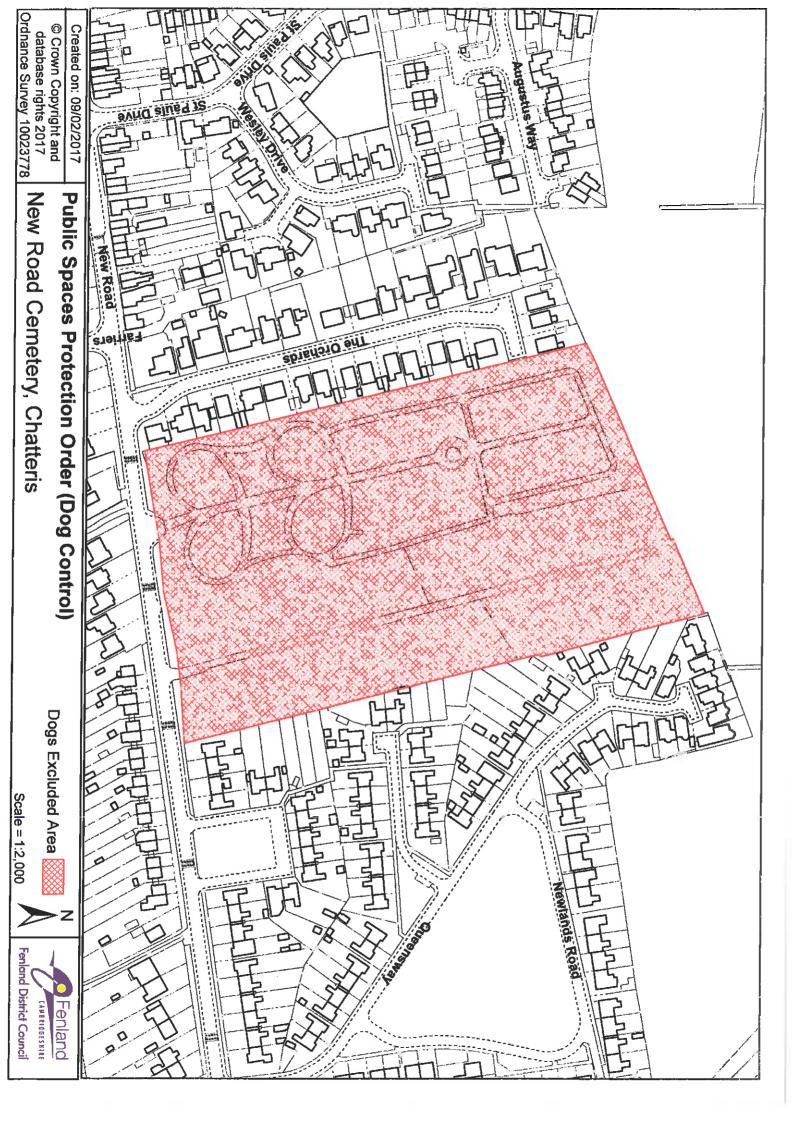


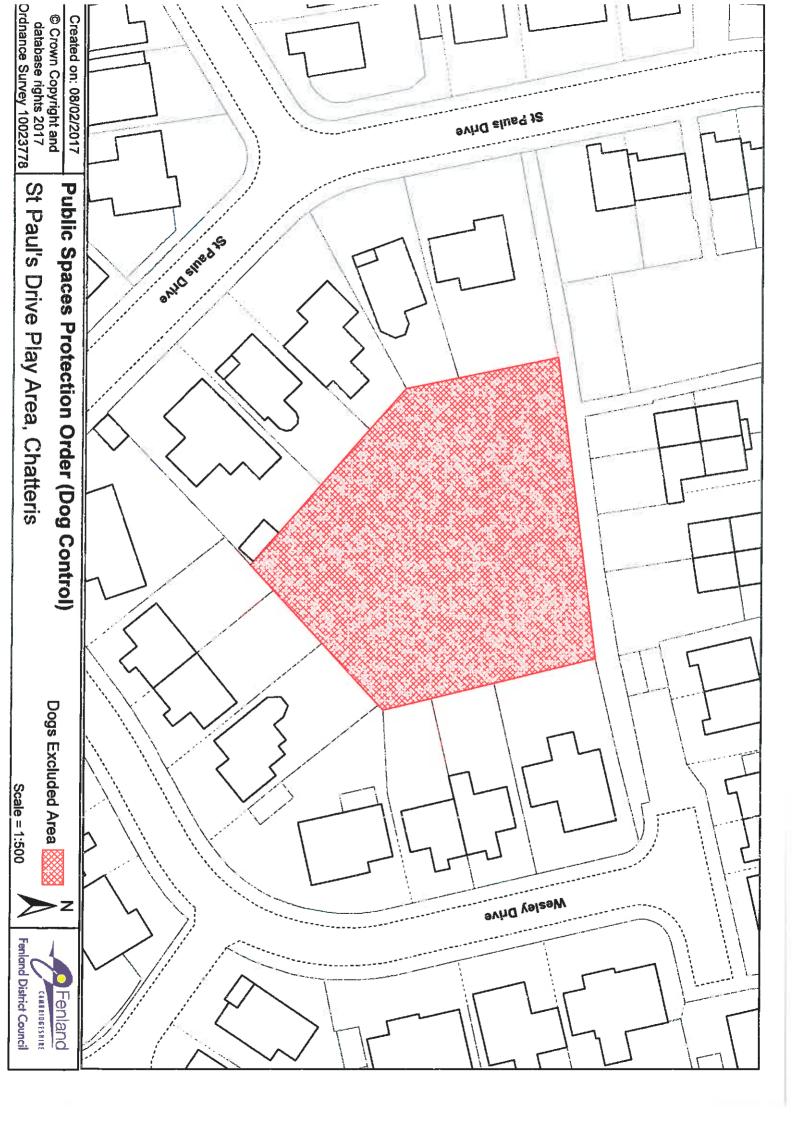




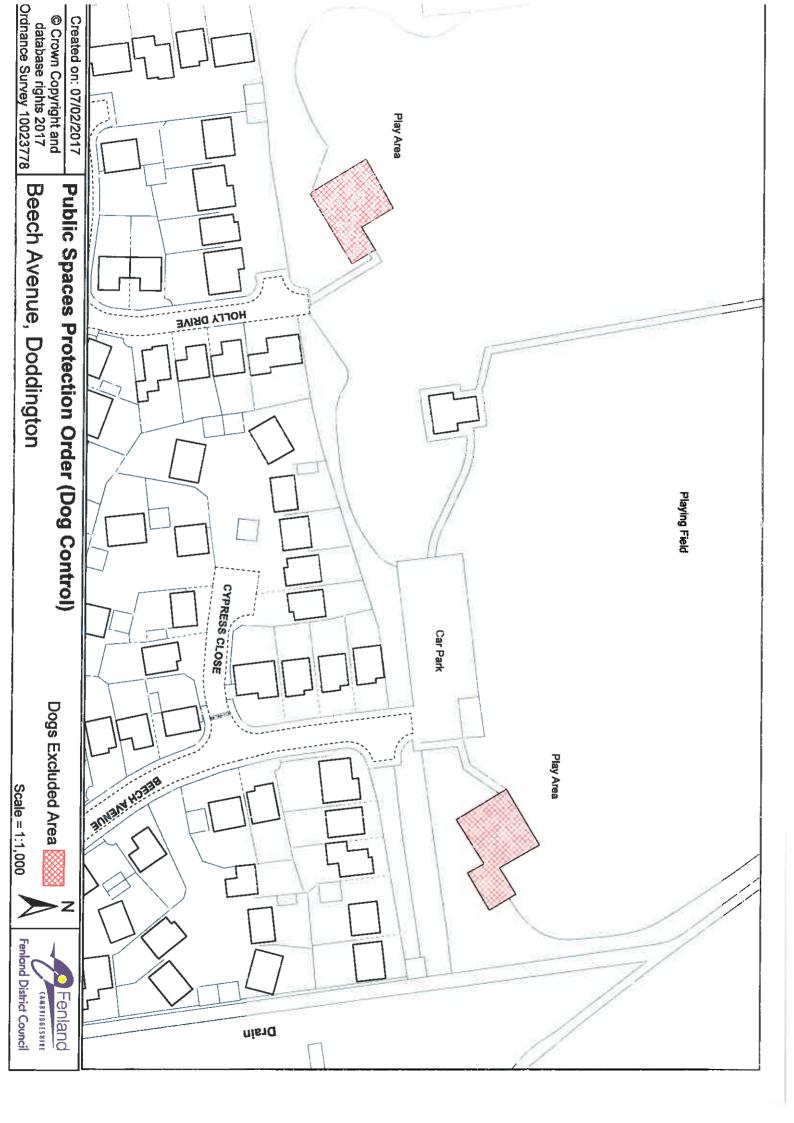




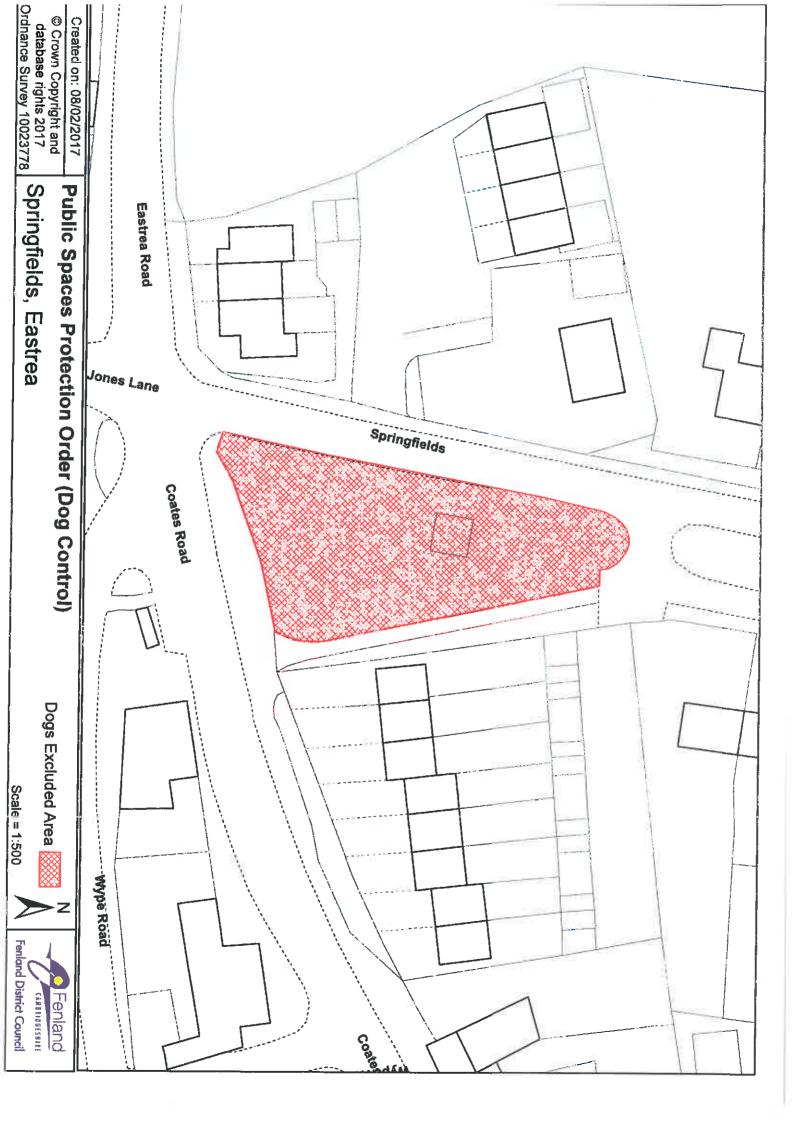












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Ordnance Survey 10023778 Created on: 08/02/2017 Public Spaces Protection Order (Dog Control) Thornham Way, Eastrea Dogs Excluded Area Scale = 1:850 VèW medinodt Fenland District Council



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Ordnance Survey 10023778 Created on: 08/02/2017 West Drive West Drive, Friday Bridge **Public Spaces Protection Order (Dog Control)** Dogs Excluded Area Scale = 1:800





