

SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS

MEETING: Strong Communities Select Committee

DATE: 12th March 2020

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To seek endorsement from Members to commence public consultation on the introduction of a Public Spaces Protection Order for dog controls in Monmouthshire under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014.

2. RECOMMENDATIONS:

- 2.1 Members consider the proposed approach, comment accordingly and endorse the proposal for public consultation on the introduction of a Public Spaces Protection Order (PSPO) for dog controls, potentially relating to fouling, exclusion areas and dogs on leads areas.
- 2.2 The findings of the public consultation and appraisal of the options are reported back to Stronger Communities Select Committee, together with recommendations on the merits of making a Public Spaces Protection Order and the detail of controls to be included in such an Order.
- 2.3 Following the second report to Stronger Communities Select Committee a further public consultation is commenced on a draft Public Spaces Protection Order if one is considered to be needed.
- 2.4 In the context of public consultation feedback a third report is then provided to Stronger Communities Select Committee for pre-decision scrutiny before the Order goes to Cabinet or Individual Cabinet Member, (Cabinet Member for Social Justice & Community Development), for decision.

3. KEY ISSUES:

- 3.1 Despite the efforts of responsible dog owners and many partners, dog fouling continues to be a problem nationwide. As provided in Keep Wales Tidy 'Litter in Wales Understanding Littering and Litterers Executive Summary Report 2010', the Welsh public considers dog fouling the environmental problem which has the greatest impact on the look and feel of a

neighbourhood. This position is reflected in Monmouthshire with a significant number of complaints to Members and Officers.

- 3.2 A working group has been established in Monmouthshire since early 2015 comprised of a number of Town and Community Councils, (currently 22 involved), working in partnership with Environmental Health and Waste and Street Services. The primary focus of the Group is to raise awareness of the anti-social nature of dog fouling, and help develop a social conscience that dog owners should 'pick up' under the brand **Give Dog Fouling the Red Card**. This collaborative working has helped target 'hot spot' areas, fund signage with consistent messaging, and deliver awareness raising days several times a year in locations where fouling has been highlighted as a problem.
- 3.3 The legislative backdrop to this ongoing work is the **Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998** which is provided in Appendix 1. The Order which came into force on the 29th June 1998 designates the areas of land in Monmouthshire, Part 1 by description, Part 2 specifically, to which the provisions of the Dogs (Fouling of Land) Act 1996 apply. Currently if a dog defecates at any time on designated land in Monmouthshire and a person who is in charge of the dog fails to remove the faeces from the land forthwith, that person is guilty of an offence unless there is a reasonable excuse for failing to do so.
- 3.4 However as with many issues relating to the quality of our local environment, dog fouling continues to prove a complex issue to tackle. Many factors influence whether persons 'pick up' after their dogs such as time of day, weather, footfall, the location, facilities (bags, bins) etc. While there has been a generally improving picture in Monmouthshire, complaint levels to Environmental Health remain substantial:
- 2015 – 120 complaints
 - 2016 – 100 complaints
 - 2017 – 122 complaints
 - 2018 – 90 complaints
 - 2019 – 89 complaints
- 3.5 In addition Keep Wales Tidy carry out an annual All Wales Local Environmental Audit to provide a 'snap shot' of litter, which includes dog fouling, across local authority areas. The 2019 – 20 survey encountered dog fouling on 16.7% of streets across Monmouthshire, (48 streets surveyed), and while no streets were found to have a significant or a severe presence, it is the highest recorded in the county since 2013 – 14 and significantly higher than the national average of 8.8%.
- 3.6 It is clear from research that a holistic approach is needed to help bring about behavioural change and long lasting impact. It is important therefore that collaborative working on a local level continues through initiatives such as the Give Dog Fouling the Red Card group.
- 3.7 It is important as well for the Authority to make full use of the tools provided by legislation. The Anti-social Behaviour, Crime and Policing Act 2014 introduced new powers for use by councils to address anti-social behaviour including Public Spaces Protection

Orders (PSPOs). Under the provisions of the Act local authorities must be satisfied on reasonable grounds that the activity subject to an Order:

- has, or is likely to have, a detrimental effect on the quality of life of those in the locality.
- is, or is likely to be, persistent or continuing in nature.
- is, or is likely to be, unreasonable.
- justifies the restrictions being imposed.

3.8 When assessing what is 'unreasonable' activity, there is a need to balance the rights of the community to enjoy public spaces, with the civil liberties of individuals and groups who may be affected by any restrictions imposed. Early engagement with our communities is therefore essential in order to fully understand the many views that are likely, consider the evidence of need for a PSPO and what it needs to contain.

3.9 **A 3 month** wide ranging open public consultation is therefore proposed which will include, but not limited to, the Chief of Police, the Office of the Police and Crime Commissioner, elected Members, Council Officers, the general public and external agencies, especially those with a vested interest such as Keep Wales Tidy, Dogs Trust and the Kennel Club. The consultation will explain that the aim is to help ensure there is a balance so that dog owners can enjoy their dogs and ensure their welfare, whilst at the same time others can still enjoy public spaces without interference or impact from dogs and irresponsible dog ownership.

3.10 The consultation will seek views on the need for dog controls such as, but not limited to, the following areas:

Dog Fouling

- To make it an offence to fail to remove dog faeces from any land to which the public have access across the county.

Dog Exclusion Areas

- Such as school grounds, children's play areas and marked sports pitches.

Dogs on Leads Areas

- Specified areas such as cemeteries.
- On any land to which the public have access when directed to do so by an Authorised Officer where a dog is considered to be out of control or causing alarm and distress.

3.11 As is the case with the existing Order, breach of a PSPO is a criminal offence with a fine liable on prosecution in court of up to £1000. Authorised Officers can issue a Fixed Penalty Notice (FPN) to offer the recipient the opportunity to discharge liability for the offence. FPN levels for breach of a PSPO were agreed by Cabinet on the 7 September 2016 and are £100 payable within 14 days, reduced to £75 if paid within 10 days. This reflects a slight increase for breach of the existing Order of £75 discounted to £50 for early payment.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION, (includes social justice, safeguarding and corporate parenting):

- 4.1 The completed 'Equalities & Future Generations Evaluation' form is provided as Appendix Two, attached.
- 4.2 There is a clear need to consider carefully the potential impact of a PSPO on different sections of our communities. For example exemptions for particular groups may be appropriate such as those using assistance dogs, emergency services etc. The public consultation is proposed to ensure the varied needs of our communities are considered fully with any resultant PSPO positively impacting the wellbeing goal of a healthier Wales.

5. OPTIONS APPRAISAL:

- 5.1 To continue using the Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998 or, as proposed, to fully consider the legislative tools available in dealing with dog control issues in the county. The findings of the public consultation will help properly inform the next steps with an appraisal of the options presented in a second report to Stronger Communities Select.

6. EVALUATION CRITERIA:

- 6.1 A progress report to Stronger Communities Select one year after implementation of a PSPO.
- 6.2 A PSPO can be made for a maximum duration of up to three years, after which it may be extended if certain criteria under the Act are met. This includes that an extension is necessary to prevent activity recurring. Extensions can be repeated, with each lasting for a maximum of three years. A further consultation process is required if a PSPO time period is to be extended.

7. REASONS:

- 7.1 To ensure fair, transparent, efficient and effective discharge of powers available to the Council under the Act.

8. RESOURCE IMPLICATIONS:

- 8.1 Costs of consultation to be absorbed by existing budgets. If a PSPO for dog controls is introduced there will be cost implications including for signage and enforcement, to be considered when appropriate in later reports.

9. CONSULTEES:

Social Care & Health DMT
Strategic Leadership Team

Head of Public Protection
Head of Waste & Street Services
Monitoring Officer and Head of Legal Services
Chief Operating Officer for Mon Life
Environment & Culture Manager
Head of Governance, Engagement and Improvement
Youth Offending Team Service Manager

10. BACKGROUND PAPERS:

Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers
Statutory guidance for frontline professionals. Updated August 2019.

11. AUTHOR:

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12. CONTACT DETAILS:

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Appendices

Appendix One: Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire)
Designation Order (No 1) 1998
Appendix Two: Equality & Future Generations Evaluation