

SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS

MEETING: Place Scrutiny Committee

DATE: 19th April 2023

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To scrutinise progress on plans to introduce a Public Spaces Protection Order, (PSPO), 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 findings of engagement with relevant stakeholders on dog fouling in public spaces and endorse the proposal for a draft PSPO, when progressed, to include for the offence of a person in charge of a dog which has defecated on any public space in the county failing to remove the faeces from the land, as detailed in paragraph 3.8.
- 2.2 Members consider and decide on the potential inclusion in a draft PSPO of an offence if a person in charge of a dog does not have the appropriate means to pick up any faeces deposited by that dog, as detailed in paragraph 3.11.
- 2.3 Members consider and comment on the Council's current considerations and proposed continued engagement with relevant stakeholders on the potential introduction of Dogs on Leads and Dog Exclusion Areas in a draft PSPO.
- 2.4 That a further report is presented to this Committee, following engagement with relevant stakeholders (as outlined in 2.3 and 3.18), to consider a draft PSPO, if one is considered to be needed and endorse a public consultation on it.
- 2.5 That a report is then provided to this Committee, further to public consultation feedback on the draft PSPO, for pre-decision scrutiny before the Order goes to Cabinet or Individual Cabinet Member, (Cabinet Member for a Sustainable Economy), for decision.

3. KEY ISSUES:

- 3.1 As agreed by Strong Communities Select Committee on the 12th March 2020 a public consultation, having initially been delayed by the onset of the Covid pandemic, was undertaken between July and October 2021 on the introduction of a Public Spaces

Protection Order for dog controls, potentially covering fouling, dogs on leads and dog exclusion areas.

- 3.2 The findings of the public consultation, resulting in 1334 responses, were reported to the Stronger Communities Select Committee on the 10th March 2022.
- 3.3 The Committee endorsed the recommendation for a draft PSPO, when progressed, to include for the following offence: **A person in charge of a dog when in a public space in the county failing to put a dog on a lead, of no more than 2 metres length, when directed to do so by an authorised officer where the dog is considered to be out of control, or causing alarm or distress or to prevent a nuisance.**
- 3.4 The Committee also endorsed the recommendation for the findings of the public consultation to be shared with relevant stakeholders responsible for public spaces in the county, to establish what controls, if any, they considered necessary and to identify any dogs on leads / dog exclusion areas.
- 3.5 **Dog Fouling.** Currently the issue of dog fouling is addressed in the County through the Dogs (Fouling of Land) Act 1996. However the offence of failing to remove the faeces only covers certain designated land. Crucially it does not include all public spaces.
- 3.6 As provided in the previous Committee report there was widespread support in the public consultation (87%) of responses, including from the Dogs Trust, on a blanket approach requiring dog owners to remove dog faeces if their dog fouls any land to which the public have access across the county.
- 3.7 However minimal response had been received from the larger private landowners responsible for public spaces. These have therefore been engaged further and positive responses now received from many including Brecon Beacons National Park, National Trust, Woodland Trust, a number of the Housing Associations and Town + Community Councils. No objections have been raised to the proposed provision requiring people to clean up after their dogs if the fouling is in a public space in the county.
- 3.8 It is therefore recommended that when a draft PSPO is progressed and consulted on it includes for the offence of **A person in charge of a dog which has defecated on any public space in the county failing to remove the faeces from the land forthwith unless they can show that:**
 - (a) they have 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 their failing to do so;
- 3.9 There is a clear need to carefully consider the potential impact of a PSPO on different sections of our communities. Exemptions to the offence will therefore need to be included for persons with certain disabilities who are not being able to pick up dog faeces; and for working dogs such as those used in law enforcement, farm dogs used to drive animals etc.
- 3.10 **Appropriate means for picking up dog faeces.** This was not included in the July to October 2021 public consultation but has since been proposed for consideration following the recent stakeholder consultation.

- 3.11 The offence for consideration in the draft PSPO is **A Person in Charge of a dog must have with them an appropriate means to pick up any faeces deposited by that dog, and must produce this if requested to do so by an Authorised Officer.**
- 3.12 For context, to assist Members considerations, 15 of the 22 Welsh Local Authorities have a PSPO for dog controls and of these 8 make it an offence if a dog owner does not carry an appropriate receptacle / bag.
- 3.13 **Dogs on Leads Areas and Dog Exclusion Areas.** The provision of such areas were considered in the 2021 public consultation. Responses given for agreeing to such areas include owners having more control over their dogs so reducing the amount of uncollected faeces; reduce fouling levels on marked sports pitches / school grounds; and safety of children from out of control dogs. Reasons given in disagreement include dogs can be under control without being on leads and dogs require off lead exercise.
- 3.14 As agreed by Members in the March 2022 report, a summary of the public consultation has been shared and a view sought from relevant stakeholders responsible for public spaces in the county, including relevant sections of the council, each Town and Community Council and large private landowners.
- 3.15 **Dog Exclusion Areas.** The Council's Grounds and Cleansing section has proposed that dogs should be excluded from all marked sports pitches and children's play areas in the county. The majority of these will be owned by the county council (circa 10 marked pitches and 99 play areas) but a number are otherwise owned by Town and Community Councils (7 pitches and 13 play areas) and Housing Associations (9 play areas). There are also a number of other exemption areas proposed by stakeholders (8 in total to date).
- 3.16 The Council's Children and Young People and Mon Life Directorates have proposed that dogs should be excluded from all all school and leisure centre fields in the county. There are 34 in total.
- 3.17 **Dogs on Leads Areas.** The Council's Estates section has proposed 5 'open' cemeteries in the county; the Grounds and Cleansing section 4 skate parks and 1 garden (Linda Vista). Again there are also a number of other Leads Areas proposed by other stakeholders (7 to date).
- 3.18 A list of the proposed Dog Exclusion / Leads Areas has been sent to the relevant Town and Community Councils and landowners if privately owned, to seek their agreement or otherwise comment. It is hoped that this will result in an agreed definitive list of areas to be included in a draft PSPO.
- 3.19 There will be a cost for introducing Dog Exclusion / Leads Areas, as each location will need signs to make users aware of the restrictions in place. In addition some locations may need fences or other means for enclosing or otherwise demarcating designated areas.
- 3.20 Detail of costs to be provided with the draft PSPO in the next report if Members agree to progress but initial estimates are that 400 signs are needed (circa £35000). This crosses

Directorate responsibility and so the cost allocation will need consideration, again to be considered in the next report.

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 One, attached.

4.2 There is a clear need to consider carefully the potential impact of a PSPO on different sections of our communities. Consultation responses include concerns for persons with certain disabilities not being able to pick up dog faeces, and consideration will need to be given to the application of appropriate exemptions in this regard. A PSPO will need to ensure the varied needs of our communities are considered, 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 with regard to fouling or, as proposed, to further fully consider the legislative tools available in dealing with dog control issues in the county.

5.2 To continue engagement with relevant Town and Community Councils and landowners with responsibility for public spaces to list the areas where Dogs on Leads and Dog Exclusion restrictions are needed.

5.3 To consider the outcomes of the engagement in a further report to Place Scrutiny Committee, and to seek endorsement of a public consultation on a draft Public Spaces Protection Order.

6. EVALUATION CRITERIA:

6.1 A progress report to Place Scrutiny Committee 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 Despite the efforts of responsible dog owners and collaborative working through initiatives such as the Give Dog Fouling the Red Card group, dog fouling continues to be a problem. Requiring people to clean up after their dogs which foul on any public space in the county, appears to be a justified, proportionate response to the ongoing issue.

- 7.2 To ensure the potential requirement / offence for persons in charge of a dog in a public space to carry a means for collecting dog mess is fully considered.
- 7.3 There will be costs attributable to the introduction of Dogs on Leads / Exclusion Areas so continued Member scrutiny and support is crucial if this is to be progressed.
- 7.4 To enable further scrutiny on the draft PSPO prior to public consultation.
- 7.5 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 enclosing or otherwise demarcating designated areas, signage and enforcement, to be considered in later reports.

9. CONSULTEES

Chief Officer Social Care and Health
Head of Public Protection
Estates Development Manager, Landlord Services
Head of Waste & Street Services
Chief Officer People and Governance
Chief Operating Officer for Mon Life
Chief Officer Children and Young People
Environment & Culture Manager
Youth Offending Team Service Manager

10. BACKGROUND PAPERS:

Report to Strong Communities Select Committee 'Public Spaces Protection Order' for Dog Controls, 12th March 2020.

Report to Strong Communities Select Committee 'Public Spaces Protection Order' for Dog Controls, 10th March 2022.

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Appendices

Appendix One: Equality & Future Generations Evaluation