

SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS

MEETING: Strong Communities Select Committee

DATE: 10th March 2022

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To inform Members of the findings of a public consultation 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.
- 1.2 To seek endorsement from Members to progress consultation with stakeholders responsible for public spaces in the county, including relevant council departments, town and community councils and private landowners, regarding the controls needed (dog fouling, dogs on leads / exemption locations) and areas in the county to be covered in a PSPO by such controls.
- 1.3 To seek endorsement from Members for a draft PSPO, when progressed, to include: an offence for 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.

2. RECOMMENDATIONS:

- 2.1 Members consider the findings of the public consultation and comment accordingly on the potential introduction of a PSPO for dog controls relating to fouling, exclusion areas and dogs on leads areas for public spaces in the county.
- 2.2 Environmental Health share the findings of the public consultation on dog fouling and dogs on leads / exemption areas, with relevant stakeholders responsible for public spaces in the county, to establish what controls, if any, they consider are needed and to identify specific locations accordingly.
- 2.3 Members consider, comment on and endorse the proposal for a draft PSPO, when progressed, to include for the following offence: for 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.

- 2.4 That a third report is presented to this Committee, following engagement with relevant stakeholders (as outlined in 2.2), to endorse a further public consultation on a draft Public Spaces Protection Order, if one is considered to be needed.
- 2.5 That a fourth and final 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 Social Justice & Community Development), for decision.

3. KEY ISSUES:

- 3.1 A report to Members on the 12th March 2020 illustrated that, despite the efforts of responsible dog owners and many partners, dog fouling continues to be a problem in public spaces in the county. Fouling issues are often the trigger for requests for controls to be introduced in public spaces such as dogs on leads or exemption areas. While it is important that collaborative working on a local level continues through initiatives such as the Give Dog Fouling the Red Card group, it is also important that the Authority makes full use of the tools provided by legislation.
- 3.2 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.
- 3.3 The aim is to stop the unreasonable behaviour in public spaces by introducing restrictions on the use of an area. A public space is defined as ***'any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.'***
- 3.4 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. The March 2020 report recommendation to Members to endorse a public consultation on the introduction of a PSPO for dog controls, was agreed.
- 3.5 The public consultation was delayed by the emergence of Covid 19. A wide ranging 3 month consultation was undertaken from the 26th July to 26th October 2021. This comprised a bilingual introductory note explaining the PSPO considerations and a questionnaire. It was provided on the Council's website for completion online, with a paper copy available on request. Awareness to the survey was raised on the Council's social media accounts and direct messaging including to elected members, local business

groups, dog interest organisations (RSPCA, Dogs Trust, Kennel Club), private landowners with responsibility for public areas and registered sports clubs.

- 3.6 The introductory note and questionnaire is provided in Appendix 1. A total of 1330 were completed online and 4 paper copy returns, the vast majority 1264 (94.8%), marked as completed by residents; 931 (69.8%) of the returns by dog owners.
- 3.7 The consultation sought views on the need for dog controls in a PSPO with regard to fouling, dog exemption areas and dogs on leads. The summary headlines are as follows, with a more detail analysis of the results inserted, for ease of reference, in each relevant section of the questionnaire in Appendix 1.
- 3.8 **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, as detailed in the Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998, in Part 1 by general description and Part 2 specifically. It does not include all public spaces.
- 3.9 PSPOs enable a more wide ranging application and may apply to any public place as defined in paragraph 3.3.
- 3.10 The consultation results provide:
- 798 (59.8%) consider dog fouling to be a problem, 536 (40.2%) that it is not.
 - Of the 798 who said fouling is a problem the majority 646 (81%) state they notice uncollected dog waste *Always / Frequently*, while 152 (19%) *Sometimes / Rarely*.
 - Of the 931 dog owners, 470 (50.5%) said that it is a problem, 461 (49.5%) that its not.
 - Of the 403 non dog owners, 328 (81.4%) said that it is a problem, 75 (18.6%) that its not.
 - 795 (59.6%) said they typically see uncollected dog waste on pavements or public footpaths; 158(11.8%) on parkland; 78 (5.8%) on sports pitches; 19 (1.4%) on playgrounds; 6 (0.5%) in cemeteries; 278 (20.8%) other locations.
 - 1163 (87.2%) support a control requiring dog owners to remove dog faeces if their dog fouls any land to which the public have access across the county; 171 (12.8%) do not.
 - A response was received from the Dog's Trust (full response provided in Appendix 2) which included the following:

Dogs Trust consider 'scooping the poop' to be an integral element of responsible dog ownership and would fully support a well-implemented order on fouling. We urge the Council to enforce any such order rigorously. In order to maximise

compliance we urge the Council to consider whether an adequate number of disposal points have been provided for responsible owners to use, to consider providing free disposal bags and to ensure that there is sufficient signage in place.

- 3.11 It is evident from the consultation that the failure to ‘pick up’ after a dog has fouled continues to be an important issue in our environment which has a detrimental effect on the quality of life. This is likely to continue, despite the continuing efforts of responsible dog owners and the ongoing collaborative work with Town and Community Councils.
- 3.12 Therefore a provision in a draft PSPO 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 fouling problems. A public space may be privately owned, eg by the Canal and Rivers Trust, Registered Social landlords, Woodland Trust, NRW etc. These and other landowners were included in the consultation but minimal response received. It is therefore recommended that a further approach is made to inform them of the findings of the consultation, and seek their endorsement for all public space to be included in a draft PSPO.
- 3.13 **Dogs on Leads by Direction.** Of those who responded to the consultation 1073 (80.4%) agreed to a new offence for 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. This proposal was ‘*enthusiastically*’ supported by the Dogs Trust in their response:
- We consider that this order is by far the most useful, other than the fouling order, because it allows enforcement officers to target the owners of dogs that are allowing them to cause a nuisance without restricting the responsible owner and their dog. As none of the other orders, less fouling, are likely to be effective without proper enforcement we would be content if the others were dropped in favour of this order.*
- 3.14 In view of this consistent consultation response it is recommended that when a draft PSPO is progressed and consulted on it includes a county wide offence **for 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.** This is a fair, proportionate means of dealing with dog control issues as they occur.
- 3.15 **Dogs on Leads Areas and Dog Exclusion Areas.** These were considered in the consultation in response to concerns regarding fouling, dogs not properly controlled and the need for certain areas to be child or sporting user friendly.
- 3.16 A summary of the consultation responses is provided in the table below:

	Dogs on Leads Areas	Dog Exclusion Areas
Children’s playgrounds	1237 (92.7%) agree / strongly agree.	955 (71.6%) agree / strongly agree.
Marked sports pitches	1000 (75%) agree / strongly agree	743 (55.7%) agree / strongly agree.

School grounds	1239 (92.8%) agree / strongly agree.	897 (67.2%) agree / strongly agree.
Cemeteries	1141 (85.5%) agree / strongly agree.	676 (50.7%) disagree / strongly disagree.

- 3.17 Specifically with regard to Dogs on Leads Areas over 2100 comments were received for the 2 open dialogue questions. Reasons 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 for those in disagreement include dogs can be under control without being on leads and dogs require off lead exercise.
- 3.18 Other public spaces are proposed in a number of survey responses for dogs to be kept on a lead including parks, canal tow paths etc as detailed in Appendix 1.
- 3.19 The Dogs Trust accepted that *'there are some areas where it is desirable that dogs should be kept on a lead'* but *'urge the Council to consider the Animal Welfare Act 2006 section 9 requirements (the 'duty of care') that include the dog's need to exhibit normal behaviour patterns – this includes the need for sufficient exercise including the need to run off lead in appropriate areas'*.
- 3.20 Specifically with regard to Dog Exclusion Areas over 1650 comments were received for the 2 open dialogue questions. Again the main themes for those who agree / disagree and other public spaces proposed are given in Appendix 1.
- 3.21 The Dogs Trust *'accepts that there are some areas where it is desirable that dogs should be excluded, such as children's play areas, however we would recommend that exclusion areas are kept to a minimum and that, for enforcement reasons, they are restricted to enclosed areas'*. The Trust advised *'excluding dogs from all sports pitches for long stretches of the year is unnecessary. In some cases sports pitches may account for a large part of the open space available in a public park, and therefore excluding dogs could significantly reduce available dog walking space for owners'*.
- 3.22 The consultation shows that there are public spaces where the control of dogs can be cause for concern, particularly children's playgrounds and school grounds. However the appropriateness and practicality of such controls needs further detailed consideration. There will be cost implications attributable to controls not least ensuring the areas concerned are properly enclosed or otherwise demarcated, sign posted and other provisions such as 'tying up posts'. Again some of these public spaces will be privately owned, for example by Registered Social landlords, Woodland Trust, NRW etc and there will be an expectation for any costs to be borne by the landowner.
- 3.23 It is therefore recommended that a further approach is made to the stakeholders with responsibility for the areas under consideration, including relevant sections of the council, together with each Town and Community Council, to inform of the findings of the

consultation and seek their view on the need for controls, if any, the nature of such controls and the location(s) concerned.

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 Three, 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 any draft PSPO. A common theme in the responses was concern regarding the impact of restricting access to parks, playing fields etc may have on persons with mobility issues. Walking dogs in such areas is cited as benefiting both dog and the owner. This will be conveyed to the stakeholders to take account of in their Dogs on Leads / Exclusion Area considerations. Any 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 or, as proposed, to further fully consider the legislative tools available in dealing with dog control issues in the county.
- 5.2 The findings of the public consultation to help properly inform the next steps. In particular engagement with the sections in the council and other stakeholders responsible for public spaces, together with Town and Community Councils, to list the areas where controls are needed, their nature and reasons why needed. To consider the outcomes of the further engagement in a third report to Stronger Communities Select, and to seek endorsement of a further public consultation on a draft Public Spaces Protection Order

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 enclosing or otherwise demarcating designated areas, 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 Commercial, Property, Fleet & Facilities
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.

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

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12. CONTACT DETAILS:

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Appendices

Appendix One: Public consultation on plans to introduce a PSPO on dog controls in the county, 26th July to 26th October 2020, including results analysis.

Appendix Two: Consultation response from Dogs Trust dated 13th August 2021.

Appendix Three: Equality & Future Generations Evaluation