

**SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS**

**MEETING: Place Scrutiny Committee**

**DATE: 25<sup>th</sup> May 2023**

**DIVISION/WARDS AFFECTED: All**

**1. PURPOSE:**

- 1.1 To provide the Committee with an opportunity to scrutinise the draft Public Spaces Protection Order (PSPO) for dog controls in Monmouthshire proposed to be introduced under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, prior to public consultation on the Order.

**2. RECOMMENDATIONS:**

- 2.1 Members consider and comment on the proposed draft PSPO (Appendix One) for dog controls in Monmouthshire.
- 2.2 Any amendments proposed by Members to the draft PSPO are incorporated into the Order prior to public consultation.
- 2.3 That a report is then provided to this Committee, following 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 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.
- 3.2 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.'*

- 3.3 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.
- 3.4 This is the fourth report to Scrutiny Committee on the potential introduction of a PSPO for dog controls in the county.
- 3.5 **12<sup>th</sup> March 2020 report to Strong Communities Select Committee.** Members endorsed a public consultation to be undertaken on the introduction of a PSPO. This consultation delayed by the onset of the Covid pandemic, was undertaken between July and October 2021.
- 3.6 **10<sup>th</sup> March 2022 report to Strong Communities Select Committee.** Members were informed of the findings of the 3 month public consultation, which included over 1300 completed questionnaires. Members endorsed:
- the findings of the public consultation to be shared with relevant stakeholders (including Town and Community Councils and relevant council departments) responsible for public spaces in the county, to establish what controls, if any, they considered were needed and to identify specific locations accordingly.
  - the 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.***
- 3.7 **19<sup>th</sup> April 2023 report to Place Scrutiny Committee.** Members were informed of the findings of engagement with relevant stakeholders. Members endorsed:
- the proposed continued engagement with relevant stakeholders on the potential introduction of Dogs on Leads and Dog Exclusion Areas in a draft PSPO.
  - the draft PSPO, when progressed, to include for the following offences:  
***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;***  
***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.***

- 3.8 The aforementioned three offences endorsed by Committee, with phrasing slightly amended for legal clarity, have been included in the draft PSPO.
- 3.9 Following the most recent report to Place Committee on the 19th April 2023 engagement continued with Town and Community Councils and the relevant council departments on the Dogs on Leads and Dog Exclusion Areas to be included in the draft PSPO.
- 3.10 **Exemptions.** In compliance with the duties expressed within the Equality Act 2010, an Equalities Impact Assessment has been undertaken to determine how the PSPO may impact on groups with protected characteristics. This is provided in the Integrated Impact Assessment, Appendix Two. The draft PSPO includes relevant exemptions for disabled persons and working dogs.
- 3.11 Articles 10 and 11 of the Human Rights Act 1998 regarding freedom of expression and freedom of assembly and association have been considered and no issues have been identified.
- 3.12 **Consultation.** There are requirements under the Anti-Social Behaviour, Crime and Policing Act 2014 regarding consultation before introducing a PSPO. Local authorities are obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. There are no statutory requirements about the length of the consultation process.
- 3.13 A 2 month wide ranging open public consultation on the draft PSPO is proposed which will include, but not limited to:
- the Chief Officer Gwent 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.
  - large private landowners with responsibility for public spaces in the county such as Registered Social landlords, CADW, National Trust, Woodland Trust, Natural Resources Wales and Bannau Brycheiniog.
  - vulnerable user groups identified by the Integrated Impact Assessment.
- 3.14 Following public consultation a further report to be provided to Place Scrutiny Committee with feedback and the proposed PSPO Order for pre-decision scrutiny before the Order goes to Cabinet or Individual Cabinet Member, (Cabinet Member for a Sustainable Economy), for decision.
- 3.15 **Resources.** Initial estimates are that 350 signs are needed (circa £30000). This crosses Directorate responsibility and includes signage needed for Dogs on Leads / Exclusion Areas in some public spaces which are the responsibility of Town / Community Councils and private landowners. Cost allocation to be considered in the next report which presents the PSPO Order for pre-decision scrutiny.

- 3.16 **Enforcement.** The introduction of a PSPO would mean that the existing Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998, would no longer have effect.
- 3.17 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 Designation Order of £75 discounted to £50 for early payment.
- 3.18 A constable or an authorised person of the council may issue a FPN for breach of a PSPO. Noting the PSPO crosses Directorate responsibility, delegated authority to council officers for issuing a FPN to also be considered in the next report for pre-decision scrutiny.

#### **4. INTEGRATED IMPACT ASSESSMENT, (includes equality, future generations, social justice, safeguarding and corporate parenting):**

- 4.1 The completed Integrated Impact Assessment is provided in Appendix Two, attached.
- 4.2 Vulnerable user groups to be directly consulted on the draft PSPO and the proposed exemptions.

#### **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 option of introducing a PSPO to deal with dog control issues in the county.

#### **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 and restricting access to certain areas appears to be a justified, proportionate response to the ongoing issue.

- 7.2 To enable further scrutiny on the draft PSPO prior to public consultation.
- 7.3 To enable further scrutiny on the PSPO before the Order goes to Cabinet or Individual Cabinet Member, (Cabinet Member for a Sustainable Economy), for decision. 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, 12<sup>th</sup> March 2020.

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

Report to Place Scrutiny Committee, 'Public Spaces Protection Order for Dog Controls' 19<sup>th</sup> April 2023

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**Appendices**

Appendix One: Draft Public Spaces Protection Order.

Appendix Two: Integrated Impact Assessment.