

SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS

MEETING: Cabinet

DATE: 10th April 2024

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To consider the proposed Public Spaces Protection Order, (PSPO), for dog controls in Monmouthshire developed through public consultation and appraisal by Place Scrutiny Committee on the 1st February 2024.

2. RECOMMENDATIONS:

- 2.1 To approve the adoption of the PSPO for dog controls in Monmouthshire (Appendix Two), to be introduced under the provisions of the Anti-Social Behaviour Crime and Policing Act 2014, commencing on the 1st June 2024 and remaining in force for 3 years ending on the 31st May 2027.
- 2.2 To update the Council's constitution to give delegated authority to Officers for enforcement powers for breach of the PSPO, namely the Head of Public Protection, the Head of Neighbourhood Services and the Chief Officer People, Performance and Partnerships.

3. KEY ISSUES:

- 3.1 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 Council's 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 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. Importantly the Order, provided in Appendix One, does not include all public spaces.

- 3.3 The Anti-social Behaviour, Crime and Policing Act 2014 (the Act) introduced new powers for use by Councils to address anti-social behaviour, including 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.
- 3.4 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 in the Act 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.’*
- 3.5 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.
- 3.6 The process of considering a PSPO on dog controls and what it should encompass started in March 2020 when Members of the Strong Communities Select Committee endorsed a public consultation. The initial consultation, delayed by the emergence of Covid 19, was undertaken between July and October 2021 and resulted in over 1330 responses, broadly supporting the plans to introduce a PSPO. Three subsequent reports to Scrutiny and further engagement with key stakeholders, including Town and Community Councils, helped guide the development of a draft PSPO in readiness for further public consultation undertaken between the 2nd October and the 25th November 2023.
- 3.7 **Public Consultation.** This was undertaken in accord with the requirements of the Act and included the following bilingual documents:
- the draft PSPO.
 - a consultation questionnaire.
 - a summary of the proposals including a frequently asked questions page.
- 3.8 The consultation 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 to key stakeholders including to:
- Chief Superintendent and Chief Inspector for the East Gwent Local Policing Area
 - Police and Crime Commissioner for Gwent
 - Elected Members including County Councillors, MP and AM
 - Town and Community Councils
 - Dogs Trust, Kennel Club and RSPCA
 - Registered Social Landlords
 - Local business forums
 - Key large landowning organisations - CADW, National Trust, Woodland Trust, Natural Resources Wales, Bannau Brycheiniog, Canal and Rivers Trust.

- Relevant MCC sections with responsibility for public spaces.

3.9 **Results of the Public Consultation.** There were 517 completed questionnaires, the vast majority of which, 481 (93%), were marked as completed by residents; 331 (62%) of the returns by dog owners. In addition, there were a number of direct responses from the aforementioned key stakeholders. A summary of the headlines with regard to the proposed dog controls is as follows:

3.10 **Provision One, Dog Fouling.** Proposal: Require person in charge of a dog to clean up if the dog defecates on any public land in the county.

This received strong support with 479 (93%) of completed questionnaires and also key stakeholders in favour.

3.11 **Provision Two, Dog Bags.** Proposal: Require person in charge of a dog to have an appropriate means (e.g. a dog poo bag) to pick up any faeces deposited by that dog and to show they have bag(s) if requested to do so by an authorised officer.

This received strong support with 456 (88%) of completed questionnaires in favour. The Dogs Trust though questioned whether this is practical to enforce; and the Kennel Club in particular raised concern of the potential for responsible dog owners to be penalised unfairly if they were perhaps approached at the end of a walk having collected their dog's faeces and disposed of it and in doing so used the last of their bags. These concerns are understood, but it is hoped that the provision in particular will enable 'intel' led enforcement for officers to approach dog walkers where concern has been raised that they routinely do not pick up and enable early engagement with them.

3.12 **Provision Three, Dog on Lead by Direction.** Proposal: Require person in charge of a dog when in any public space to put the dog on a lead, of no more than two 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 received strong support with 440 (85%) of completed questionnaires and also key stakeholders in favour.

3.13 **Provision Four, Dog Exclusion Areas.** Proposal: The introduction of a number of dog exclusion areas, identified through consultation as high public health risk areas and requiring further protection from dog fouling.

Maps were provided in Annex 1 of the Draft Order, with a total 178 proposed exclusion areas, mainly children's play areas, marked sports pitches and school / leisure centre grounds.

This received majority support with 330 (64%) of completed questionnaires in favour. As expected though the proposal attracted a range of views. Two proposed exclusion areas, in particular, had significant comment:

- Gilwern sports pitch. A petition was received, signed by over 130 households, arguing against the proposed exclusion area on the football pitch on the basis of it not currently being used by a football team and the pitch being mainly used to exercise dogs.
- Magor Church In Wales School, Sports Field / Sycamore Playing Field. There were 30 completed questionnaires against this proposal with the main arguments posed that the field is used by the community outside school hours and one of the last central secure areas in Magor where dogs can be let off a lead.

With regard to key stakeholders the Dogs Trust, Kennel Club and RSPCA did not object to there being exclusion areas providing there was a specific and reasonable justification for a designation. In common with their comments on proposed 'Dogs on Leads' areas (Provision Five) they emphasised the need for the areas restricting dog access / use to be kept to a minimum and for dog owners to provide their dogs with appropriate daily exercise, including regular opportunities to walk and run. The RSPCA in particular encouraged a more flexible approach to allowing dogs on council owned marked sports pitches and that Provision One (pick up dog fouling) goes some way to mitigating the issues associated with concerns associated with pitches.

- 3.14 **Provision Five, Dogs on Leads Areas.** Proposal: The introduction of a number of areas where a dog needs to be kept on a lead of no more than two metres in length.

Maps were provided in Annex 1 of the Draft Order, with a total 17 proposed areas. This received majority support with 374 (72%) of completed questionnaires in favour.

Again the proposal attracted a range of comments but there was one area in particular that received negative comment. This was Gilwern recreation ground (which includes the marked sports pitch referred to in 3.13 and proposed to be excluded). The aforementioned petition argued that the recreation ground is the only area for dogs to run freely off the lead and there are no current issues with dogs being off the lead.

- 3.15 **Consultation Outcomes – Amendments to the draft PSPO.** The findings of the public consultation summarised in 3.7 to 3.14, which included some amendments to the draft PSPO, were presented to Place Scrutiny Committee on the 1st February 2024. Members considered the proposed PSPO and endorsed its progress for consideration by Cabinet. The main points to highlight for Cabinet are:

- Gilwern sports pitch and recreation ground. The resident's petition was brought to the attention of Llanelly Community Council who own the land concerned. The Council met, considered the points made but have requested that the proposals included in the 2023 public consultation remain i.e. the games areas (children's play area, multi use games area, marked sports pitch and cycle track) are included in the PSPO as Exclusion Areas; the recreation ground, including the skate park, is included as a Dogs on Leads area. These are shown in maps 108 and 109 respectively in the PSPO provided in Appendix Two. It should be noted that the Community Council recognises the need for local residents to exercise their dogs off lead and have indicated intent to liaise with this Council's Grounds team to explore the use of a nearby field to help in this regard.

- Magor Church In Wales School Sports Field / Sycamore Playing Field. This is owned by Monmouthshire County Council with responsibility primarily with the Children and Young People (CYP) Directorate. The report to Place Scrutiny 1st February 2024 explained that while concerns of local residents (3.13) have been considered by CYP management, the view was that given the primary use by school children the field should be a dog Exclusion Area, as presented in the public consultation, in order to ensure the safe delivery of the school curriculum and also the range of activities outside normal school hours. However, since the report to Scrutiny, in recognition of the terms of a deed made between this Council and Magor with Undy Community Council in May 2016, which includes for community use of the field for dog walking, the designation shown in map 139 of the PSPO has been changed from the previously proposed Exclusion Area to a Dogs on Leads Area.
- Additional dog Exclusion maps have been added for the play areas which are part of the Persimmon Homes development at Rockfield, Monmouth (Maps 167, 168 and 169 respectively). This is in keeping with the theme of providing added protection to such areas.
- Additional dog Exclusion maps have been added for Mardy Park Play Area and Playing Field, Abergavenny (Maps 126 and 127) on the request of the landowner Llantilio Pertholey Community Council, again in keeping with the theme of providing added protection to such areas.
- The boundaries for the Castle Dell Park Play Area, Chepstow (Map 61 Exclusion Area) have been altered to reflect recent planning approval for replacement and slight relocation of the play area.
- Sudbrook Cricket Club, Caldicot, had been included in the draft PSPO as an Exclusion Area but this designation has been removed on request from the Club who wish to manage access for dogs themselves.
- The changes to the proposed PSPO mean there are 180 Exclusion Areas (of which 122 children's play areas, 22 marked sports pitches / playing fields, 34 school / leisure centre grounds) and 20 Dogs on Leads areas (of which 5 Cemeteries, 3 Skateparks and 2 Castles).

3.16 Implications of the PSPO.

- **Policy:** The proposal will contribute positively to the council's corporate key priorities. It will contribute to a cleaner environment and a reduction in the health and safety risks associated with direct exposure to dog fouling. Focused and proportionate enforcement action will contribute to positive behaviour change, which will continue to be supported by the ongoing awareness raising work of the County and Town and Community Councils through schemes such as the Give Dog Fouling the Red Card working group.
- **Legal:** If the PSPO is adopted the Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998 will be revoked. If the PSPO is

not adopted the existing 1998 Order will remain in force. It is proposed that the PSPO is made for the maximum allowable period of three years.

- **Financial:** Following approval, the local authority must publish the PSPO on its website and erect on or adjacent to the public place to which the Order relates sufficient signs to draw the attention of any member of the public using that place that the PSPO has been made and its effect. There are 200 proposed Exclusion and Leads Only areas and it is estimated that approximately 315 signs are needed for these areas. An additional 300 signs are needed to display where there are no restricted access controls but are required to bring to the attention of dog walkers the need to pick up. This total cost of the signs is anticipated to be circa £37000 plus vat. Of the 200 restricted access areas: 28 sites are owned by Town and Community Councils, 5 by Monmouthshire Housing Association (MHA) and 8 are leased to Sports Clubs. It is proposed that the site owner / club lessee are requested to meet the cost of the signage for their individual areas. This leaves circa £30000 plus vat to be met by this council and discussion has started with Communities and Place and other involved Directorates as to how best to meet this budget need.
- **Enforcement:** 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. A report was presented to Cabinet on the 7 September 2016 to consider the Council's approach to discharging its responsibilities under the Anti-Social Behaviour, Crime and Policing Act 2014. Cabinet agreed to the recommendations of the report, which is provided as a background paper, namely:
 - Delegated authority to the Head of Public Protection, the Head of Waste and Street Services and the Head of Governance, Engagement and Improvement. to authorise officers to issue a FPN.
 - To adopt the general approach to serving FPNs under the provisions of the Act, as set out in the Authority's existing enforcement policy for dog fouling / littering.
 - Agree the FPN enforcement charges of £100 payable within 14 days, reduced to £75 if paid within 10 days.

These established principles enable a cross directorate approach to enforcement. Recommendation 2.2 is for the updating of the delegated authority to authorise officers to issue a FPN for breach of the PSPO to the Head of Public Protection, the Head of Neighbourhood Services and the Chief Officer People, Performance and Partnerships.

It should be noted that adding FPN responsibilities to officers for this purpose will be problematic as this is additional to their substantive roles e.g. Environmental Health Officers and Civic Enforcement Officers. The issue of dog control enforcement will form part of the litter and parking reviews being led by Communities and Place Directorate in the coming months.

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 Three.

4.2 The proposal has no implications in relation to any of the protected characteristics:

- Guide/Assistance Dogs are not prohibited from Dog Exclusion Areas.
- Officers will ensure that all PSPO signage is in accordance with the Equality Act 2010. Appropriate exemptions are included in the PSPO for persons who cannot be reasonably be expected to pick up after their dog.

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 introduce a PSPO to deal with dog control issues in the county.

5.2 The PSPO is recommended particularly as it will require dog faeces to be picked up from all public spaces as distinct to just designated areas as under the current 1998 Order; and it enables targeting and further protection of high public health risk areas such as children's play areas and marked sports pitches. The usefulness of a PSPO is reflected in 18 of the Local Authority areas in Wales currently having a PSPO with dog control measures in place.

6. EVALUATION CRITERIA:

6.1 A progress report to Place Scrutiny Committee one year after implementation of the 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 ensure fair, transparent, efficient and effective discharge of powers available to the Council under the Act.

8. RESOURCE IMPLICATIONS:

8.1 A direct cost of signage of circa £37000 plus vat. Of this approximately £30000 will need to be provided from the Council's budget. The remaining £7000 approx. to be requested from the private site owners (Town / Community Councils, MHA and sports clubs leasing land).

9. CONSULTEES

Chief Officer Social Care, Safeguarding and Health
Chief Officer Communities and Place
Chief Officer People, Performance and Partnerships
Chief Officer Children and Young People
Chief Officer Law and Governance
Chief Officer Customer, Culture and Wellbeing
Head of Public Protection
Head of Neighbourhood Services
Estates Development Manager, Landlord Services
Environment & Culture Manager
Youth Offending Team Service Manager

10. BACKGROUND PAPERS:

Report to Place Scrutiny Committee, 'Public Spaces Protection Order for Dog Controls' 1st February 2024 including Appendix One Consultation Summary.

Report to Cabinet, 'Anti-Social Behaviour, Crime and Policing Act 2014' 7th September 2016.

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Appendices

Appendix One: Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998.

Appendix Two: MCC (Dog Control) Public Spaces Protection Order 2024.

Appendix Three: Integrated Impact Assessment.