

SUBJECT: PUBLIC SPACES PROTECTION ORDER FOR DOG CONTROLS

MEETING: Place Scrutiny Committee

DATE: 1st February 2024

DIVISION/WARDS AFFECTED: All

1. PURPOSE:

- 1.1 To inform Members of the findings of a public consultation on the draft Public Spaces Protection Order, (PSPO), for dog controls in Monmouthshire under the provisions of the Anti-Social Behaviour, Crime and Policing Act 2014 (the Act).
- 1.2 To provide Committee with an opportunity to scrutinise the proposed PSPO, amended following public consultation.
- 1.3 To seek endorsement from Members to progress the PSPO to Cabinet or Individual Cabinet Member, (Cabinet Member for a Sustainable Economy & Deputy Leader), for decision.

2. RECOMMENDATIONS:

- 2.1 Members consider and comment on the findings of the public consultation (Appendices One and Two) on the draft PSPO for dog controls in Monmouthshire.
- 2.2 Members consider the proposed PSPO, amended following the public consultation (Appendix Three) and endorse its progress, subject to any recommendations made, for consideration by Cabinet or Individual Cabinet Member, (Cabinet Member for a Sustainable Economy), for decision.
- 2.3 Members consider the proposed allocation of costs for implementation of the PSPO signage (as detailed in 3.15) and agree to apportion to respective landowners.

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 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 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.’*
- 3.3 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 fifth report to Scrutiny Committee on the potential introduction of a PSPO for dog controls in the county. The process commenced in March 2020 when Members endorsed a public consultation on the potential introduction of a PSPO. That initial consultation, undertaken between July and October 2021, resulted in over 1330 responses, broadly supporting the plans to introduce a PSPO. The subsequent reports to Scrutiny and further engagement with key stakeholders, including Town and Community Councils, helped guide the development of a draft PSPO.
- 3.5 The draft PSPO was open to public consultation from the 2nd October to the 25th November 2023.
- 3.6 **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.
- 3.7 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.
- 3.8 **Results of the Public Consultation.** There were 516 completed questionnaires, of which 515 were completed online and 1 paper copy return. The vast majority 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 detailed analysis of the results has been provided in Appendix One and direct responses from the Dogs Trust, Kennel Club and RSPCA in Appendix Two, but a summary of the headlines with regard to the proposed dog controls is as follows:-

- 3.9 **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.

- 3.10 **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.

- 3.11 **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.

- 3.12 **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 broadly summarised in Appendix One. Two proposed exclusion areas, in particular, attracted significant comment which therefore merit bringing to the attention of Members:

- 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 / Community 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.

- 3.13 **Provision Five, Dog 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 range of comments submitted are summarised in Appendix One. There was one area in particular that received negative comment:

- Gilwern recreation ground. The aforementioned petition in 3.12 argued that the proposed leads only area, shown hatched on the map, is the only area for dogs to run freely off the lead; and there are no current issues with dogs being off the lead.

- 3.14 **Consultation Outcomes – Amendments to the draft PSPO.** The consultation feedback has been considered and the draft PSPO amended and provided in Appendix Three. The main points to highlight for Members 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 and have requested, in recognition that there is no current football team using the pitch, that the designation of the pitch is changed from Exclusion to Leads Only. However, they consider the area of the recreation ground marked as Leads Only in the consultation should remain as such as the area is widely used by children and all dogs should therefore be under close control. These amendments are shown in Maps 110 and 111 in the proposed PSPO provided in Appendix Three. The Community Council recognise 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. This is owned by Monmouthshire County Council with responsibility primarily with the Children and Young People (CYP) Directorate. The concerns of local residents (3.12) have been considered by CYP management but the view is that given the primary use by school children the field should be a dog Exclusion area in order to ensure the safe delivery of the school

curriculum and also the range of after school activities plus those during school holidays. The area is shown in Map 139 in Appendix Three.

- 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 22 and 23) on the request of the landowner Llantilio Pertholey Community Council, again in keeping with the theme of providing added protection to such areas.
- Members are requested to note that Map 63 relating to the Castle Dell Park Play Area, Chepstow, may change before any formal adoption of the Order, subject to the outcome of Planning Application DM/2023/01562 for replacement and slight relocation of the play area.
- The changes to the proposed PSPO mean there are 183 Exclusion Areas (of which 120 children's play areas, 22 marked sports pitches / playing fields, 35 school / leisure centre grounds) and 17 Dogs on Leads areas (of which 5 Cemeteries, 3 Skateparks and 2 Castles).

3.15 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:** As set out in recommendation 2.2 it is proposed for the PSPO to go to Cabinet or Individual Cabinet Member for decision, date to be determined. Should the PSPO not be adopted the Council's existing dog fouling controls remain in place under Monmouthshire County Council (Fouling of Land by Dogs) (Monmouthshire) Designation Order (No 1) 1998. Note, this 1998 Order is to be revoked if the PSPO is adopted.
- **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 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, but at present no budget has been identified for these costs in 2024/25.

- **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 Health and Protection, the Head of Waste and Street Services and the Head of Policy and Engagement to authorise officers to issue a FPN.
 - To adopt the general approach to serving Fixed Penalty Notices under the provisions of the Act, as set out in the Authority's existing enforcement policy for dog fouling / littering.
 - Agree the Fixed Penalty Notice 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, although the delegated authority will need updating for consideration and approval of Cabinet / Individual Cabinet Member when the PSPO is presented for decision.

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 review 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 Four.

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.

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 going to Cabinet / 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 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
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 Place Scrutiny Committee, 'Public Spaces Protection Order for Dog Controls'
25th May 2023.

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

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Appendices

Appendix One: Public Spaces Protection Order Consultation

Appendix Two: Consultation Responses from Dogs Trust, Kennel Club and RSPCA

Appendix Three: Public Spaces Protection Order

Appendix Four: Integrated Impact Assessment.