



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 11TH DECEMBER 2012

SUBJECT: DOG CONTROL ORDERS

REPORT BY: CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To report on the outcome of a public consultation exercise and to seek Members' views on proposals to introduce a Dog Control Order to exclude dogs from enclosed children's play areas and Multi Use Games Areas (MUGAs).

2. SUMMARY

- 2.1 All recreational land within the County Borough has been designated under the Dogs (Fouling of Land) Act 1996 making it an offence for a person to fail to clean up after their dog on such land. Living Environment Scrutiny Committee considered a Report in March of this year and endorsed proposals to progress the introduction of a Dog Control Order which would have the effect of excluding dogs from enclosed children's play areas and MUGAs.

- 2.2 A public consultation exercise was undertaken, as required by the Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations 2007, to which there were 33 responses. 92% of respondents who expressed a preference were in favour of the proposal. It is therefore proposed to seek approval from Cabinet to make Dog Control Orders in relation to the following:

- a) The exclusion of dogs from enclosed children's play areas and from Multi Use Games Areas (MUGAs);
- b) Failing to remove dog faeces from enclosed children's play areas and from Multi Use Games Areas (MUGAs).

If a Dog Control Order is made in respect of land any designation under the Dogs (Fouling of Land) Act 1996 ceases to have effect hence the need for the second proposed Order.

3. LINKS TO STRATEGY

- 3.1 Improving the look and feel of our streets and parks, and making Caerphilly a safer place to live and work are current priorities within the Corporate Improvement Plan.

4. THE REPORT

- 4.1 Living Environment Scrutiny Committee considered a Report in March of this year and endorsed proposals to progress the introduction of a Dog Control Order which would have the

effect of excluding dogs from enclosed children's play areas and MUGAs. The Committee was informed that in the 2011 Household Survey 49% of respondents felt that dog fouling was a big problem in their neighbourhood and local town centre. As well as being unpleasant dog fouling presents a particular public health concern in that the eggs of the roundworm toxocara may be present in the faeces of infected dogs.

- 4.2 In 1997 Caerphilly County Borough Council adopted powers under the Dogs (Fouling of Land) Act 1996 to prevent fouling of public land by dogs. All recreational parks land is covered by the legislation. If a dog fouls on designated land and a person who is in charge of the dog fails to remove the faeces that person is guilty of an offence provided that he or she has no reasonable excuse. A person convicted of an offence under the Act is liable to a fine of up to £1,000. Alternatively, the opportunity to pay a fixed penalty may be offered in place of prosecution. The current fixed penalty is £75, which is discounted to £50 if paid within 14 days. 59 Fixed Penalty Notices were issued for dog fouling during 2011/12.
- 4.3 Local authorities, Community and Town Councils may make Dog Control Orders, providing that they are satisfied that an order is justified and have followed the necessary procedures. Under the Clean Neighbourhoods and Environment Act 2005 a Dog Control Order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

There are five offences which may be prescribed in a Dog Control Order:-

- (i) Failing to remove dog faeces;
- (ii) Not keeping a dog on a lead;
- (iii) Not putting and keeping a dog on a lead when directed to do so by an authorised officer;
- (iv) Permitting a dog to enter land from which dogs are excluded;
- (v) Taking more than a specified number of dogs onto land.

The penalty for committing an offence contained in a Dog Control Order is a maximum fine of £1,000. Alternatively, the opportunity to pay a fixed penalty may be offered in place of prosecution. Local Authorities can specify the amount of fixed penalty in relation to their own Dog Control Orders and are also able to allow for the payment of a lesser amount if the fine is paid within a specified time period. Where no local amount is specified, the fixed penalty is set at £75.00.

- 4.4 The Dogs (Fouling of Land) Act 1996 was repealed so no further land can be designated under the Act, but any orders made under the 1996 Act continue to have effect indefinitely and enforcement through fixed penalty notices and prosecution can continue as normal. However, if any type of Dog Control Order is made that applies to land already subject to the 1996 Act, the 1996 Act ceases to have effect in respect of the land subject to the Dog Control Order.
- 4.5 The Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations 2007 prescribe the procedure for making a Dog Control Order. It is important for any Authority considering a Dog Control Order to be able to demonstrate such an Order is a necessary and proportionate response to problems caused by the activities of the dogs and those in charge of them. The Council needs to balance the interests of those affected by the activities of dogs, bearing in mind the need for parks users, in particular children, to have access to dog free areas and areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restriction. Any failure to give due consideration to these factors could make any subsequent Dog Control Order vulnerable to challenge in the courts. Local Authorities are also advised to consider how easy a Dog Control Order would be to enforce, since failure to properly enforce could undermine the effect of an order.

- 4.6 Before it can make a Dog Control Order the Council must consult upon its proposals and consider any representations that have been made. A public consultation exercise was undertaken during September of this year comprising of a Notice on the Council website, Notices on the enclosed children's play areas and MUGAs subject to the proposed Order, a media release, and an email to all Members.
- 4.7 There were 33 responses to the public consultation. 24 (92%) of respondents who expressed a preference were in favour of the proposal and 2 were against. The remaining 7 respondents took the opportunity to raise questions about other issues without commenting either way on the merits of the proposed Order.
- 4.8 Of the 24 respondents supporting the proposals 5 felt that the proposals should go further: 2 were in favour of the exclusion of dogs extending to sports pitches; 1 was in favour of extending the exclusion to school fields; 1 was in favour of extending to include both sports pitches and school fields; and 1 stated that dogs should be kept on leads in all public places. When considering this issue in March Members asked that proposals for Dog Control Orders in relation to enclosed children's play areas be progressed and that subsequently a further Report be brought before the Committee so that Orders for other areas such as sports pitches could be given full consideration.
- 4.9 Given the overwhelming support of respondents for the proposals Members are asked to recommend to Cabinet that they approve Dog Control Orders in relation to the following:
- a) The exclusion of dogs from enclosed children's play areas and Multi Use Games Areas (MUGAs);
 - b) Failing to remove dog faeces from enclosed children's play areas and Multi Use Games Areas (MUGAs).

As explained in 4.4 above if a Dog Control Order is made in respect of land any designation under the Dogs (Fouling of Land) Act 1996 ceases to have effect hence the need for the second proposed Order. The proposed Orders are attached in the Appendix to this Report.

5. EQUALITIES IMPLICATIONS

- 5.1 The Dogs (Fouling of Land) Act 1996 does not apply to any person who is registered blind. Dog control orders provide exemptions in particular cases for registered blind people, deaf people and for other members of the public with disabilities who make use of trained assistance dogs.

6. FINANCIAL IMPLICATIONS

- 6.1 Where a Dog Control Order applies to an area of land, appropriate signage must be erected informing the public of the effect of the order. There are 97 enclosed children's play areas and 25 MUGAs which would require signage at a total cost of approximately £10,000. These costs will need to be found from within existing budgets. The cost of enforcement will be met from within existing budgets; there may be some additional income to the Council as a result of fines received from Fixed Penalty Notices.

7. PERSONNEL IMPLICATIONS

- 7.1 None.

8. CONSULTATIONS

- 8.1 A public consultation exercise was undertaken in September of this year and the details are reported above. Caerphilly Youth Forum has been consulted on this proposal and indicated their support. There are no consultation responses that have not been reflected in this report.

9. RECOMMENDATIONS

- 9.1 Regeneration and Environment Scrutiny Committee are asked to recommend to Cabinet that they make Dog Control Orders in respect of:
- a) The exclusion of dogs from enclosed children's play areas and from Multi Use Games Areas (MUGAs);
 - b) Failing to remove dog faeces from enclosed children's play areas and from Multi Use Games Areas (MUGAs).

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To establish additional controls to address responsible dog ownership within the County Borough.

11. STATUTORY POWER

- 11.1 Section 55 of the Clean Neighbourhoods and Environment Act 2005

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Background Papers:

Welsh Government Guidance on Section 55 to 67 of the Clean Neighbourhoods and Environment Act 2005;

Report to Living Environment Scrutiny Committee of 20th March 2012 entitled 'Dog Control Orders'.

Appendices:

Appendix 1 - Proposed Dog Control Orders