



CABINET - 6TH SEPTEMBER 2017

SUBJECT: CAERPHILLY COUNTY BOROUGH COUNCIL (DOG CONTROL) PUBLIC SPACES PROTECTION ORDER 2017

REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES

1. PURPOSE OF REPORT

- 1.1 To advise Cabinet of the outcome of the Council's statutory consultation on proposals included in a draft Public Spaces Protection Order to tackle irresponsible dog ownership and dog fouling.
- 1.2 To seek a Cabinet decision to bring into being the draft Public Spaces Protection Order attached at Appendix 4 to the report under, the Anti-social Behaviour, Crime and Policing Act 2014 providing additional legal powers for dog control.

2. SUMMARY

- 2.1 Public Spaces Protection Orders (PSPOs) were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 and can be used to regulate activities in particular public places to ensure that the law-abiding majority can use and enjoy public spaces safe from anti social behaviour. As such, they provide an opportunity to enhance the Council's enforcement ability to respond to public opinion regarding dog fouling. This opinion manifested itself through complaints to officers and Members, the Council's Household Survey, and concerns raised through the Your Voice process.
- 2.2 At its meeting on 18th January 2017 Cabinet endorsed proposals to undertake statutory consultation on various provisions which may be included in a Public Spaces Protection Order relating to Dog Control, some of which replace existing powers whilst others are new.
- 2.3 The overview of the consultation responses (summary report) is attached at Appendix 2. The statutory public consultation provided support for action against irresponsible dog owners even though the majority of responses received were from dog owners themselves. There was strong agreement with all of the proposals

3. LINKS TO STRATEGY

- 3.1 The prevention of dog fouling contributes to the Healthier and Greener themes of the single integrated plan, Caerphilly Delivers. Responsible dog ownership supports the Council's Medium Term Priority to promote the benefits of an active and healthy lifestyle.
- 3.2 The report seeks to highlight that the promotion and encouragement of good dog ownership can contribute to the following well-being goals within the Well-being of Future Generations Act (Wales) 2015:

- A sustainable Wales
- A prosperous Wales
- A more equal Wales
- A Wales of more cohesive communities
- A globally responsible Wales

4. THE REPORT

- 4.1 Public Spaces Protection Orders were introduced by the Anti-social Behaviour, Crime and Policing Act 2014 (the Act) and can be used to regulate activities in particular public places, to ensure that the law-abiding majority can use and enjoy public spaces, safe from anti-social behaviour. Whilst the Act allows local authorities to regulate activities in public places, the legislation specifies certain requirements which must be considered prior to making an Order.
- 4.2 A local authority may make a Public Spaces Protection Order if it is satisfied on reasonable grounds that two conditions are met. The first condition is that activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality or it is likely that the activities will be carried on in a public place and that they will have such an effect. The second condition is that the effect or likely effect is likely to be of a persistent or continuing nature, is likely to be such as to make the activity unreasonable, and justifies the restriction imposed by the Order.
- 4.3 At its meeting on 18th January 2017 Cabinet endorsed recommendations to include the following restrictions in a draft order, and to commence the statutory order making process including consultation.
- Excluding dogs from all enclosed children's play and multi-use games areas
 - Requiring dogs to be kept on leads in enclosed memorial gardens
 - Requiring dog owners to remove dog faeces in public places
 - Requiring dog owners to carry an appropriate receptacle for dealing with the waste that their dogs produce (that is to always have the means to pick their dog faeces)
 - Requiring dog owners to put their dogs on a lead when directed to do so by an authorised officer on any public land where the dog is considered to be out of control or causing harm or distress to prevent a nuisance
- 4.4 The Act requires that before it can make a PSPO the Council must carry out the *necessary consultation*, the *necessary publicity* and the *necessary notification*. This includes the publication of the text of the proposed PSPO on the Council's Website, consultation with Gwent Police and other community representatives the Council considers appropriate to consult, together with notification to Community Councils across the County Borough.
- 4.5 The consultation was undertaken in accordance with the aforementioned requirements and was open to residents and stakeholders from 19th June to 24th July 2017 and was preceded by wide scale communication via the local press, the Council's website, and social media accounts.
- 4.5 The key consultation tool was a questionnaire (Appendix 1). This was made available bilingually to residents for online completion via the Council's Website and shared on social media. The survey was also provided in paper format at some key Council venues and paper and alternative formats were available on request.
- 4.6 Stakeholder groups were contacted directly via e-mail or in writing and invited to respond to the survey. Those contacted include the Kennel Club, Dogs Trust, RSPCA, Farmers Unions, Horse Society, Open Spaces Society, Ramblers, Parent Network, and Welsh Language groups, Voluntary Sector, Community Safety networks.

4.7 A total of 289 questionnaires were completed online. A number of additional written responses were received from individuals and stakeholders.

61% of those who responded were dog owners.

4.8 A summary of the consultation responses is included at Appendix 2. Set out below are the percentages for each proposal with recommendations in relation to the proposed content of the draft Order for Members' consideration.

4.9 **Excluding dogs from Children's Play Areas and Multi Use Games Areas**

The consultation covered all enclosed children's play areas and multi use games areas within the County Borough. 86% of survey respondents agreed with this proposal.

The Council currently excludes dogs from all enclosed children's play areas and multi use games areas (MUGAs) within the County Borough under existing Dog Control Orders and is proposing to continue within the proposed Order. A list of all the enclosed children's play areas /MUGAs are in Appendix 3.

Proposal

It is recommended that the Order is made to include the provision which makes it an offence to allow dogs into all enclosed children's play areas and multi-use games areas within the County Borough. It is considered that this is a proportionate response required to protect young children.

4.10 **Dogs on Leads in Enclosed Memorial Gardens**

The proposal to require that dogs are put on leads at all times in enclosed memorial gardens was supported by 92% of survey respondents. Responses emphasised the need for respect.

Proposal

It is recommended that the Order is made to include the provision requiring dogs to be put on leads at all times in enclosed memorial gardens in the County. This is considered a proportionate response. The memorial gardens included in this proposal are listed in Appendix 3.

4.11 **Dog Fouling**

Currently the issue of dog fouling is addressed through the Dogs (Fouling of Land) Act 1996, however the offence under this Act only covers certain designated land and therefore does not apply universally to all public land in the County Borough. PSPOs provide for a more wide ranging application of controls including dog fouling and may apply to all public places in the County Borough. This means a place to which the public or any section of the public have access on payment or otherwise as of right or by virtue of express or implied permission.

Under the Dogs (Fouling of Land) Act 1996 the fixed penalty is set at £75 reducing to £50 if paid within 7 days. Cabinet have previously resolved to set the fixed penalty for breaches of a Public Spaces Protection Order in Caerphilly at £100. Therefore should Cabinet approve the proposed Order the level of fixed penalty for dog fouling offences in the County will increase to £100 or a discounted amount of £75 if paid within 7 days.

97% of those who responded to the consultation agreed with the proposal to continue existing powers that makes it an offence for a person in charge of a dog to fail to clean up its faeces. It is clear that the failure to "pick up" after a dog has fouled is an important issue in the local environment generally, which has a detrimental effect on the quality of life.

Proposal

It is recommended that the Order is made to include the provision requiring people to clean up after their dogs on all public land in the county. This is considered to be a proportionate and balanced response to the dog fouling problems in the county.

4.12 Carrying an Appropriate Receptacle

The consultation resulted in 90% of respondents agreeing with the proposal to introduce a new offence that would require dog walkers to carry an appropriate receptacle for dealing with the waste that their dog or dogs produce.

Whilst there was general overall agreement, a number of respondents felt that this would be difficult to enforce and that more dog waste bins would be required or that bins would need to be emptied more regularly. It was also felt that this proposal would need to be part of an effective communication campaign to ensure responsible dog owners are reminded to carry a supply of appropriate receptacles with them.

Proposal

It is recommended that the Order is made to include the provision to require a person in charge of a dog to carry an appropriate receptacle for dealing with the waste that their dog or dogs produce, within the County Borough. This is proportionate response and will help improve responsible dog ownership.

4.13 Dogs on Leads by Direction

Of those who responded to the survey, 92% agreed with the proposal to make it an offence to fail to put a dog on a lead 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.

Proposal

Due to the consistent consultation response it is recommended that the Order is made to include a County-wide provision requiring dogs to be placed on a lead when directed to do so by an authorised officer of no more than two metres in length 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 and balanced means of dealing with dog control issues as they occur, whilst allowing people to exercise their dogs off a lead provided that they are under control and not causing a nuisance.

4.14 Marked Sports Pitches and Playing Fields

In addition to the decision to proceed with the above proposals Cabinet also resolved at its meeting on 18th January 2017 that the proposal to exclude dogs from all council owned marked sports/playing pitches on a seasonal basis should be omitted at this stage of the process, and be reviewed after a period of 12 months and once the impact of the above provisions can be established, and consideration be given to implementing an awareness raising campaign, in relation to sports pitches and responsible dog ownership. If there is evidence that the proposals contained in the draft Order are not adequate to deal with the current problems, the Council will be able to make further PSPOs at that stage to address any continuing problems.

4.15 Publicity

Should Cabinet approve the making of the Public Spaces Protection Order it will be published on the Council's website and appropriate notices placed on or adjacent to the areas affected by the Order (where appropriate) to let members of the public know the Order has been made and its effect. Appropriate signage where dogs are excluded or required to be placed on a

lead will be positioned on all children's play areas and multi use games areas, and memorial gardens outline in Appendix 3.

4.16 Conclusion

Having regard to the requirements of Section 59 of the Act set out in paragraph 4.2 above and the responses to the consultation outlined above it is clear that the conditions required to make a Public Spaces Protection Order have been satisfied in relation to all of the provisions contained in the draft Order attached at Appendix 4.

Based on the information set out above Members are asked to endorse the making of the Public Spaces Protection Order as set out in Appendix 4 to this report. It is considered that the provisions of the draft order are a fair, balanced and proportionate response to the current problems and addresses the views of the consultees. They are necessary and proportionate in terms of the controls that they impose, whilst recognising the right of dog owners and their needs for areas where they can exercise their dogs off lead for animal welfare reasons.

5. WELL-BEING OF FUTURE GENERATIONS

5.1 The Well-being of Future Generations (Wales) Act became law in April 2015. The Act is about improving the social, economic, environmental and cultural well-being of Wales. It will make public bodies listed in the Act think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. It will have a significant impact on all Council policies and priorities and has the potential to significantly affect the way we plan and deliver services and how we engage with individuals and communities within the Caerphilly county borough.

5.2 This proposals contribute to the Well-being Goals as set out in Links to Strategy above, as follows:

- Resilient. The proposals will contribute to a cleaner, safer environment by removing the likelihood of dog faeces and associated environmental issues
- Healthier. The proposals are intended to minimise the public to the exposure to risk including the prevention of spread of disease from dog faeces and preventing injury from dog bites or the fear of walking in areas where dogs are being exercised without due control by their owners. It would also allow person to exercise with or without their animals in a safer more controlled environment.
- More equal. The exemptions included will allow for all groups to be involved
- Cohesive communities – The consultation process has allowed all persons to be involved and will allow communities to be involved in making the proposals sustainable
- Vibrant culture and thriving Welsh language – The underlying objective is to enable people to participate safely in sport and recreation
- Globally responsible –The proposals are intended to improve the environment within parks and all areas within the county Borough

5.3 The proposals are consistent with the five ways of working as defined within the sustainable development principle:

- Involvement - The proposals have been out to consultation where the views of the public have been sort on all the proposals. The proposals are intended to improve the area and make it safer for individuals to go about their daily routines without added risk. The involvement of the public as a whole from the outset will create ownership and participation to allow the orders to have a meaningful outcome. This would include actively encouraging individuals to report issues and incidents.
- Collaboration - Outside stakeholders including the RSPCA, Kennel Club have also been involved and their views have been included in the considerations to allow the proposals to be subsequently sustainable
- Long Term - The proposals look to reduce the public to both short term and long term risks

relating to dog ownership and will seek to improve the living environment.

- Integration. The proposals contribute to health objectives through disease prevention. They also contribute to resilient objectives by promoting and ensure a clean safe environment.
- Prevention - The proposals are intended to minimise the public to the exposure to risk including the prevention of spread of disease from dog faeces and preventing injury from dog bites or the fear of walking in areas where dogs are being exercised without due control by their owners etc.

6. EQUALITIES IMPLICATIONS

- 6.1 Dog Control Order and dog fouling legislation provides 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.
- 6.2 An equalities impact assessment has been undertaken and used to inform the proposals resulting from the consultation and as a result the draft Order at Appendix 4 to this report makes provisions for exemptions.

7. FINANCIAL IMPLICATIONS

- 7.1 The cost of producing and erecting new signage in the designated areas is estimated to be £20,000 which can be met from service reserves.

8. PERSONNEL IMPLICATIONS

- 8.1 There has been a temporary increase in workload to conduct the consultation and to develop the PSPOs. If the draft Order is endorsed the additional restrictions imposed may increase the potential for staff to be placed in confrontational situations. It would be important to ensure that the necessary training and procedures are in place so that staff are able to assist with the expectations in relation to enforcement of these proposals. Increased workload for follow up enforcement requirement when orders are introduced.

9. CONSULTATIONS

- 9.1 This report has been sent to the consultees listed below and all comments received are reflected in this report.

10. RECOMMENDATIONS

- 10.1 It is recommended that Cabinet:-

1. Note the outcome of the statutory consultation relating to the provisions contained in the draft Public Spaces Protection Order.
2. Agree to make the proposed Public Spaces Protection Order as set out in Appendix 4 to this report.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To protect public health whilst providing suitable amenity for dog owners and to ensure that the council is compliant with its statutory obligations.

12. STATUTORY POWER

- 12.1 Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014
The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014

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Consultees: Councillor Eluned Stenner, Cabinet Member for Environment & public Protection
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Mike Eedy, Finance Manager
Shaun Watkins, Human Resources Manager
Mark S. Williams, Head of Community & Leisure Services
Mike Headington, Acting Parks Manager
Liz Sharma, Research Officer

Background Papers:

Report to Health Social Care and Wellbeing Scrutiny Committee 12th December 2016– Outcome of Informal Consultation on the Provisions to be Included in a Public Spaces Protection Order Relating to Dog Control

Report to Cabinet – 18th January 2017 Outcome of Informal Consultation on the Provisions to be Included in a Public Spaces Protection Order Relating to Dog Control

Full [redacted] Consultation Responses

The Anti-Social Behaviour, Crime and Policing Act 2014. Statutory guidance for frontline professionals. Home Office.

2014 DEFRA Practitioners guide on dealing with irresponsible dog ownership.
DEFRA

Appendices:

Appendix 1 of 4 Consultation Questionnaire
Appendix 2 of 4 Consultation Responses Summary Report
Appendix 3 of 4 List of enclosed children's playing areas, multi use games areas, enclosed memorial gardens
Appendix 4 of 4 Proposed Public Spaces Protection Order (which includes the list of enclosed playing areas, multi use games areas and enclosed memorial gardens as referred to in Appendix 3 above).