



CABINET – 10TH NOVEMBER 2021

SUBJECT: PUBLIC SPACES PROTECTION ORDER - DOG CONTROL ON SPORTS PITCHES

REPORT BY: CORPORATE DIRECTOR FOR ECONOMY AND ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 To update Cabinet on the outcome of a 10 week public consultation regarding a proposed amendment to the Public Spaces Protection Order (PSPO) to include the exclusion of dogs from marked sports pitches.
- 1.2 To seek Cabinet approval for the proposed Public Spaces Protection Order (PSPO) to include the exclusion of dogs from marked sports pitches on a seasonal basis.

2. SUMMARY

- 2.1 Public Spaces Protection Orders 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, these Orders provide an opportunity to enhance the Council's enforcement ability to respond to public opinion regarding dog fouling.
- 2.2 The existing Public Spaces Protection Order includes the following restrictions:
 - 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 up 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.
- 2.3 At its meeting on 22nd July 2020, Cabinet received a report presenting a review of the current position regarding dog fouling. Since implementation of the original Order Cabinet resolved to undertake a 10 week public consultation exercise on the proposal to amend the Public Spaces Protection Order to include a provision to exclude dogs from marked sports/playing pitches. In view of the impacts of the pandemic this was to be done when it became possible to carry out meaningful consultation with the public and relevant stakeholders.

- 2.4 On 11th June 2021 a full public and stakeholder consultation was carried out for a period of 10 weeks. The consultation was carried out using an online questionnaire and was preceded by wide scale communication and engagement e.g. via the local press media, and the Council's website, social media accounts.
- 2.5 85% of respondents to the survey agreed with keeping the current restrictions within the PSPO. 53.5% of the respondents agreed with the proposal of banning dogs from marked sports pitches whilst 43.8% disagreed, while 2.7% did not know. Having regard to the requirements of the Act and the responses to the consultation it is considered that the conditions required to retain the existing provisions of the Public Spaces Protection Order and the addition of the exclusion of dogs from marked sports pitches have been satisfied. The proposed draft Public Spaces Protection Order is included at Appendix 2.
- 2.6 The consultation outcome and proposed Order was considered by Environment and Sustainability Scrutiny Committee at its meeting on 26th October 2021 and the views and comments of Scrutiny Committee are detailed in the consultation section (Section 10) of this report.

3. RECOMMENDATIONS

- 3.1 That the views and comments of Environment and Sustainability Scrutiny Committee to Cabinet be noted as detailed in the consultation section (Section 10) of this report.
- 3.2 That Cabinet approve the draft Public Spaces Protection Order (PSPO) attached at Appendix 2 to include the exclusion of dogs from marked sports pitches.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To protect public health and well-being.

5. THE REPORT

- 5.1 Dog fouling is unsightly, unpleasant and can lead to serious illness in humans such as Toxocariasis; which can develop from direct contact with contaminated dog's faeces and in some cases potentially lead to blindness. Particular concern is therefore raised in relation to children and other sports pitch users coming into contact with dog faeces.
- 5.2 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.
- 5.3 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.

- 5.4 In September 2017 Cabinet approved and adopted the Public Spaces Protection Order 2017; the Order includes the following restrictions:
- 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.
- 5.5 In October 2020 the existing PSPO with regard to dog control was extended for a further year under Officer delegated powers, in consultation with the relevant Cabinet Member. This was done to allow time for a full public consultation on the matter of banning dogs from marked sports pitches.
- 5.6 The proposal was put forward as it is believed the exclusion of dogs from playing pitches will benefit children, youth and adults that play sport on marked sports pitches, as it will help provide a clean and safe area for sports to be played on and help maximise people's health and wellbeing.
- 5.7 It is accepted that the majority of dog owners are responsible and clean up after their dogs.
However there continues to be a growing concern across the Borough in relation to dog fouling, specifically in relation to dog fouling on sports pitches.
- 5.8 It is unlikely that dog owners can remove all of the dog faecal matter from the surface of sports pitches and that the remains will still contain large numbers of the round worm parasites which can cause toxocariasis in humans and these can last in soil for up to 2 years.
- 5.9 The proposal is intended to apply only to marked sports pitches as if a pitch is not marked the dog owner will be unclear as to where the exclusion applies and this will also make enforcement clearer. Members are asked to note that sports pitches are only marked during their respective seasons (autumn / winter for Football and rugby) and not all year round.
- 5.10 A report was presented to Cabinet on 22nd July 2020 seeking authority to undertake a 10 week public consultation exercise on the proposed PSPO including the banning of dogs from marked sports pitches. In view of the impacts of the pandemic this was to be done when it became possible to carry out meaningful consultation with the public and relevant stakeholders.
- 5.11 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 consultation with Gwent Police. The consultation was undertaken between 11th June 2021 for a period of 10 weeks, this was preceded by wide scale communication and engagement e.g. via the local press media, and the Council's website and social media accounts. Communication continued throughout the consultation period with a view to raising awareness of the consultation and increasing the response rate.

- 5.12 Consultation was carried out using a questionnaire made available for online completion and pdf for printing if required, via the Council's Website and shared on social media. The survey was also provided in paper format at some key Council venues and with paper and alternative formats available on request. Signs and banners advertising the consultation were placed at Council Parks and local libraries throughout the borough.
- 5.13 Stakeholders such as the Kennel Club, Dogs Trust, RSPCA, Parent Network, Voluntary Sector, Community Safety Networks were contacted directly via e-mail or in writing and invited to respond to the survey.
- 5.14 Overall 1540 respondents completed the questionnaire. 96% of these were residents in Caerphilly County Borough and 65% who responded were dog owners.
- 5.15 The public were asked if they agreed with the current dog control restrictions in the existing PSPO. 85% of respondents to the survey agreed with keeping the current restrictions within the PSPO.
- 5.16 The response to the proposal of banning dogs from marked sports pitches was more mixed. 53.54% of the respondents agreed with the proposal of banning dogs from marked sports pitches whilst 43.84% disagreed, while 2.7% did not know. However this does demonstrate a clear majority of those who responded agreed with the proposal.
- 5.17 The responses to the consultation showed a significant difference in the views of dog owners compared with non dog owners with 34% of dog owners agreed with the proposal compared to 89% of non-dog owners
- 5.18 Some of the various reasons given for supporting the proposal were to ensure a safe and clean environment for children and adults to exercise and to further encourage responsible dog ownership. Those involved with sports clubs also highlighted how often games are delayed or halted to deal with dog excrement on the pitch. A range of comments were provided by the respondents and are detailed with the survey summary attached as Appendix 1.
- 5.19 A common reason given by the 43.8% that disagreed was that this unfairly punished responsible dog owners who pick up after their dog and the proposals restrict areas where dogs can be adequately exercised. Another reason for those disagreeing was that this will unfairly affect those with limited mobility who are not able to travel far to exercise their dogs. A range of comments were provided by the respondents and are detailed with the survey summary attached as Appendix 1. However the proposed exclusion of dogs will only apply to marked council owned sports pitches. Therefore, there will still be areas in the local parks and green spaces other than the sports pitches where dogs can be exercised.
- 5.20 Stakeholder responses from organisations such as the Kennel Club and RSPCA disagreed with the proposal (Appendix 2) stating that they would restrict areas where dogs can be exercised and that not all people can travel distances to exercise their dogs. They also pointed out that although dog faeces can be a nuisance to the people that use the sports pitches, they can, should and are easily removed by responsible dog owners; so imposing the restriction on all will punish responsible dog owners.
- 5.21 With regard to the comments of availability of greenspace in the Borough, in 2020, the Council formally adopted a Green Infrastructure Strategy, which is used as a core guidance document for green space development and management across the county borough. Green Infrastructure (GI) is the network of natural and semi-natural features, green spaces, rivers and lakes that intersperse and connect places. The county

borough is covered by 88% of primary typology i.e. amenity greenspace, green corridors, natural and semi natural green spaces, parks and gardens and other locations such as allotments, farms, cemeteries and churchyards etc. which in turn allows residents lots of options for the physical exercising of dogs. In addition, the county borough has over 800 KM of Public Rights of Way to undertake physical activity with or without dogs.

5.22 The proposed amended PSPO, as with the existing PSPO, will be enforced by a team of Enforcement officers and Community Safety Wardens employed within Public Protection who are authorised to issue fixed penalty notices. All officers have received appropriate training to ensure consistency of approach.

5.23 Since the introduction of the PSPO in October 2017 over 2136 complaints of dog fouling have been investigated. 64 Fixed Penalty Notices have been served for either dog fouling or for failing to carry bags to clean up dog waste. There have also been 28 prosecutions of those who refused to pay the fine.

5.24 **Conclusion**

Having regard to the requirements of Section 59 of the Act set out in paragraph 5.2 above and the responses to the consultation outlined above it is clear that the conditions required to retain the existing provisions of the Public Spaces Protection Order have been satisfied. Additionally, dog fouling on sports pitches has continued to be a cause of concern since the making of the original Order in 2017. 53.54% of respondents to the public consultation are in favour of an additional restriction to exclude dogs from marked sports pitches. It is therefore proposed to include this additional provision as set out within the draft Order at Appendix 2.

5.25 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.

6. **ASSUMPTIONS**

6.1 There are no assumptions associated with this report.

7. **SUMMARY OF INTEGRATED IMPACT ASSESSMENT**

7.1 An Integrated Impact Assessment has been undertaken. The exclusion of dogs from playing pitches will benefit children, youth and adults that play sport on marked sports pitches, as it will help provide a clean and safe area for sports to be played on. There could be a negative impact upon older people or people with disabilities who have limited mobility if they have to travel to other locations to exercise their dogs however the proposed exclusion of dogs will only apply to marked council owned sports pitches. Therefore, there will still be areas in the local parks and green spaces other than the sports pitches where dogs can be exercised.

7.2 Please see full IIA assessment in the link as follows:

[Link to Integrated Impact Assessment](#)

8. FINANCIAL IMPLICATIONS

- 8.1 There will be a cost of producing and erecting new signage in the designated areas, amounting to circa £2000. This will be funded from existing Environmental Health budgets.
- 8.2 The income that is generated by the imposition of fixed penalty notices or recovery of court costs is included in the revenue budget.

9. PERSONNEL IMPLICATIONS

- 9.1 The proposed amended PSPO, as with the existing PSPO, will be enforced by a team of Enforcement officers and Community Safety Wardens employed within Public Protection who are authorised to issue fixed penalty notices. Any 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.

10. CONSULTATIONS

- 10.1 This report has been sent to the consultees listed below and all comments received are reflected in this report. A public consultation was undertaken between 11th June 2021 for a period of 10 weeks. Consultation was carried out using a questionnaire made available for online completion and pdf for printing if required, via the Council's Website and shared on social media. Stakeholders such as the Kennel Club, Dogs Trust, RSPCA, Parent Network, Voluntary Sector, Community Safety Networks were contacted directly via e-mail or in writing and invited to respond to the survey.
- 10.2 The consultation outcome and proposed Order was considered by Environment and Sustainability Scrutiny Committee at its meeting on 26th October 2021:
- One Member questioned the logic of only applying the Protection Order to marked sports pitches. He felt that extending the order to all sports pitches would allow irresponsible dog owners to be challenged during the summertime when posts were removed and pitches were unmarked. The Member held the view that sports pitches should be treated equally all-year round and that the effects of dog excrement remained in the soil for a period of 2 years. The Head of Public Protection, Community and Leisure Services advised that restrictions on an all-year round basis had been considered, but it was felt that applying them to sports fields that were unmarked would be confusing for dog owners.
 - One Member expressed agreement with having an all-year round Protection Order and outlined how his local rugby club started pre-season training on their pitch in late summer when it was still unmarked.
 - In agreement another Member explained how many cricket pitches were unmarked and that the boundary was only marked out on the matchday itself. He felt the proposal did not sufficiently protect those playing cricket.
 - One Member expressed the view that an all-year round protection order for all sports pitches would make the Protection Order easier for officers to enforce..

11. STATUTORY POWER

- 11.1 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

Author: Gary Mumford, Senior Environmental Health Officer

Consultees: Cllr Nigel George, Cabinet Member for Waste, Public Protection & Street Scene
Councillor Tudor Davies, Chair of Environment & Sustainability Scrutiny Committee
Councillor Adrian Hussey, Vice Chair of Environment & Sustainability Scrutiny Committee
Mark S. Williams, Corporate Director for Economy & Environment
Rob Hartshorn, Head of Public Protection, Community and Leisure Services
Ceri Edwards, Environmental Health Manager
Rob Tranter, Head of Legal Services & Monitoring Officer
Anwen Cullinane, Senior Policy Officer (Equalities & Welsh Language)
Steve Harris, Head of Financial Services & S151 Officer
Lynne Donovan, Head of People Services
Mike Headington, Green Spaces and Transport Services Manager
Liz Sharma, Consultation and Public Engagement Officer
Supt. Mark Hobrough, Gwent Police
Ch. Insp. Amanda Thomas, Gwent Police
Insp. Gavin Clifton, Gwent Police
Insp. Andrew Boucher, Gwent Police
Insp. Richard Tovey, Gwent Police
Jared Lougher, Sport & Leisure Development Manager
Lisa Lane, Head of Democratic Services and Deputy Monitoring Officer

Background Papers:

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.

Cabinet report 6th September 2017 – Caerphilly County Borough Council (Dog Control) Public Spaces Protection Order 2017

Environment & Sustainability Scrutiny Committee report 29th October 2019 – Public Space Protection Order – Dog Control on Sports Pitches.

Cabinet report 22nd July 2020 - Public Space Protection Order – Dog Control on Sports Pitches.

Environment & Sustainability Scrutiny Committee report 26th October 2021 – Public Space Protection Order – Dog Control on Sports Pitches.

Appendices: The documents attached are not fully accessible for further information please contact the report author.

Appendix 1 Consultation Summary Report

Appendix 2 Draft Public Spaces Protection Order