

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

25 JUNE 2020

**PROPOSED EXTENSION AND VARIATION TO RHONDDA CYNON TAF CBC'S
DOG CONTROL PUBLIC SPACES PROTECTION ORDERS**

**JOINT REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION AND
COMMUNITY SERVICES AND GROUP DIRECTOR PROSPERITY,
DEVELOPMENT AND FRONTLINE SERVICES IN DISCUSSIONS WITH THE
RELEVANT PORTFOLIO HOLDERS, COUNCILLORS A. CRIMMINGS AND R.
LEWIS**

1. PURPOSE

- 1.1 The two Public Spaces Protection Orders related to dog controls within Rhondda Cynon Taf are due to expire on the 30th September 2020. At any point before expiry of these orders, the Council can vary or extend them by up to three years if it considers it necessary to prevent the original behaviour from occurring or recurring.
- 1.2 This report revisits the terms of the two existing orders and asks the Cabinet to approve, in principal the proposal to extend and vary those orders and to authorise officers to publicise the proposed orders and to consult as required by the Anti-Social Behaviour, Crime and Policing Act 2014.

2. RECOMMENDATIONS

- 2.1 To approve in principle, the proposal to extend and vary the two Public Spaces Protection Orders for dog control within Rhondda Cynon Taf, for a further period of three years from 1st October 2020, in the form set out at Appendix B1 and B2 of the report;
- 2.2 Subject to 2.1 above, to authorise officers to publicise the proposed orders and to carry out a consultation exercise as required by the Anti-Social Behaviour, Crime and Policing Act 2014; and
- 2.3 Subject to 2.1 and 2.2 above, receive a further report detailing the responses to the consultation and any recommendations for amendments to the proposed orders.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Dog fouling remains a significant concern for the Council and for those who live, work and visit the County Borough. Dog Fouling is unpleasant and is a serious risk to human health, particularly amongst children.
- 3.2 The Public Spaces Protection Orders in relation to dog controls has allowed the Council to introduce a range of reasonable and proportionate restrictions on the

use of publicly accessible land across the County Borough and helped control the harmful activities of irresponsible dog owners whilst allowing responsible dog owners to continue to exercise their dogs without undue restrictions.

- 3.3 Despite the introduction of the orders in October 2017 however there remains a minority of dog owners who do not clean up after their dogs or keep them under control. Therefore officers consider it vital the orders, which would ordinarily expire on 30th September 2020, are renewed for a further period in order to maintain the significant benefits the orders have had in relation to dog fouling and ensure appropriate powers remain in place to deal with the minority who continue to flout the laws.

4. BACKGROUND

- 4.1 Dog fouling is unsightly, unpleasant and can lead to toxocariasis in humans. Toxocariasis causes serious illness and even blindness. It is caused by a parasite that lives in dogs' digestive systems. Eggs are present in the faeces of infected animals. If infected material is ingested, the eggs hatch into larvae and can cause toxocariasis. The disease can be controlled if dog faeces are disposed of immediately in a responsible manner.
- 4.2 The Anti-Social Behaviour, Crime & Policing Act 2014 (the 'Act') introduced provisions whereby a local authority can make Public Spaces Protection Orders ('PSPOs'). A PSPO is designed to deal with a particular nuisance or problem in an area. The behaviour must be having a detrimental effect on the quality of life of those in the community, it must be persistent or continuing and it must be unreasonable. PSPOs are designed to ensure that the law-abiding majority can enjoy public space, safe from anti-social behaviour.
- 4.3 The majority of dog owners are responsible, clean up after their dogs and keep them under control. However, a minority of irresponsible dog owners create significant problems. The Council receives many complaints each year about dog fouling in public places. In addition, despite the introduction of the Dog Control PSPO's some of our playing fields need to be checked for dog fouling before they can be used; on occasion individuals wishing to use the playing fields for sport are doing this.

5. CURRENT DOG CONTROL PSPOs

- 5.1 This report revisits the terms of the following two Public Space Protection Orders which came into effect on 1st October 2017:

[RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL \(DOG CONTROL\) PUBLIC SPACES PROTECTION ORDER 2017 \(attached at Appendix A1\)](#)

[RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL \(DOG CONTROL – ABERDARE PUBLIC PARK\) PUBLIC SPACES PROTECTION ORDER 2017 \(attached at Appendix A2\)](#)

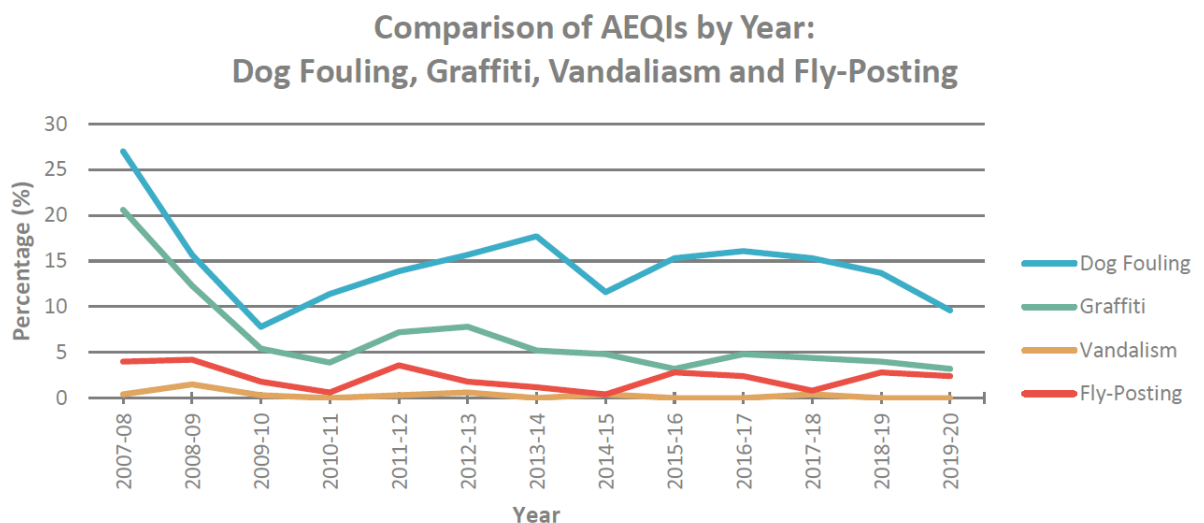
(the "Dog Control PSPO's")

- 5.2 This report reviews the impacts of the Dog Control PSPOs and considers the case for varying and extending them for a further three years, as permitted by the Act.
- 5.3 The introduction of the Dog Control PSPOs, following a public consultation exercise, created transparency and consistency within Rhondda Cynon Taf and gave authorised officers the ability to issue fixed penalty notices for offences that were not able to be previously enforced.
- 5.4 The activities prohibited by the Dog Control PSPOs are:
- (i) The prohibition of Dog Fouling in all Public Places within Rhondda Cynon Taf;
 - (ii) A requirement for a person in charge of a dog to keep that dog on a lead at all times in Cemeteries owned and/or maintained by the Council;
 - (iii) A requirement for a person in charge of a dog at all times to carry bags or other suitable means for the disposal of dog faeces;
 - (iv) A requirement for a person in charge of a dog to follow a direction given by an Authorised Officer, if they deem reasonably necessary, that a dog be put and kept on a lead in a Public Place within Rhondda Cynon Taf for such period and/or in such circumstances as directed by the Authorised Officer; and
 - (v) A prohibition excluding dogs from all Schools, Playgrounds and Marked Sports Pitches owned and/or maintained by the Council.
- 5.5 In relation to the Dog Control PSPO covering Aberdare Park there is a specific requirement for a person in charge of a dog to keep that dog on a lead at all times in Aberdare Public Park. This requirement is consistent with existing provisions that have been in place since 1866 (local bye law) and with the expectations of many users of the park. Further detail in respect of this particular requirement can be found in the report presented to Cabinet in [September 2017](#) prior to the commencement of this PSPO.
- 5.6 The Dog Control PSPOs were not put forward as a means of unduly restricting the exercising or recreation of dogs across the County Borough. The reason for making the Dog Control PSPOs was to address the detrimental effect on the quality of life of those in the locality caused by the irresponsible behaviour of a small minority of dog owners; and to set out a clear standard of behaviour to which all dog owners were required to adhere.
- 5.7 The Council currently employs 20 officers who are authorised to enforce the Dog Control PSPOs in line with the Council's enforcement policy. The penalty for committing an offence of failing to comply with a PSPO without reasonable excuse is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty of £100 may be offered in place of prosecution.

6. EXTENSION AND VARIATION OF THE DOG CONTROL PSPOS

- 6.1 At any point before expiry of the Dog Control PSPOs the Council can extend them by up to three years if it considers it is necessary to prevent the original behaviour from occurring or recurring.
- 6.2 According to section 60(2) of the Act, before the time when a PSPO is due to expire, the local authority that made the PSPO may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent-
1. Occurrence or recurrence after that time of the activities identified in the Order, or
 2. An increase in the frequency or seriousness of those activities after that time.
- 6.3 Section 61 of the Act makes provision for the Order to be varied by increasing or reducing the affected area, or by altering or removing a prohibition or requirement included in the Order or by adding a new one. For an order to be able to be varied, the Council must be satisfied that, on reasonable grounds, the following two conditions are met.
- The first condition is that:
- a. Activities carried on in a public place within the Council's area have had a detrimental effect on the quality of life of those in the locality; or,
 - b. It is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- The second condition is that the effect or likely effect, of the activities:
- a. Is or is likely to be, of a persistent or continuing nature;
 - b. Is, or is likely to be, such as to make the activities unreasonable; and,
 - c. Justifies the restrictions imposed by the notice.
- 6.4 Any such variations will need to be subject to public consultation.
- 6.5 A number of Community Councils have approached the Council since the commencement of the original Dog Control PSPO and enquired as to whether the order could be extended to cover particular areas (such as recreation fields) they have responsibility for. It is therefore proposed that certain specific areas of land used as parks and/or sports pitches be added to the proposed Dog Control PSPO covering land for whom responsibility lies with Llanharan Community Council; Pontyclun Community Council and Llanharan Community Council.
- 6.6 If the Dog Control PSPOs are to be extended this must be done before the time the Orders are due to expire, on 30th September 2020. In the event of the orders not being extended, they would lapse on 1st October 2020 at which point there would be no restrictions on dogs in Rhondda Cynon Taf (save for any enforceable local byelaws).

- 6.7 Officers consider it reasonable to assume that anti-social behaviour in regards to dog controls in the restricted areas would reoccur, and/or increase in the frequency and/or seriousness if the Orders are not extended. There would continue to be a positive effect on local environmental quality with the proposed extended and varied orders and continued enforcement against dog fouling and irresponsible dog owners.
- 6.8 [Consultation feedback](#) received prior to the introduction of the Dog Control PSPOs in 2017 highlighted that there was overwhelming public support for the introduction of the orders and prohibitions and requirements in relation to the control of dogs. Over 90% of respondents supported the Council’s proposed approach to dealing with dog fouling and that dog fouling should be prohibited.
- 6.9 A report published by Keep Wales Tidy entitled ‘An Analysis of Local Environmental Quality in RCT 2019/2020’ showed that the cleanliness indicator for RCT was the highest recorded level to date. It further showed a decreased presence of dog fouling. For only the second time since 2007-2008 dog fouling was found on fewer than 10% of streets across the County Borough. From the table below it is possible to conclude the reduction correlates with the introduction of the Dog Control PSPOS in 2017-2018 with a clear downward trajectory in the instances of recorded levels of dog fouling (AEQIs – Adverse Environmental Quality Indicators):



- 6.10 Therefore factoring in the above it is therefore proposed to extend and vary the Dog Control PSPOs, for a further period of three years from 1st October 2020, in the form set out at Appendix B1 and B2 to this report.

7. CONSULTATION

- 7.1 In accordance with the Act if the recommended proposed extension and variation of the Dog Control PSPOs is approved in principle the Council is then required to consult the Chief Officer of Police for the area, community councils, community representatives the Council thinks it appropriate to consult and the

owner or occupier of land (not owned or occupied by the Council) within the restricted areas.

- 7.2 The Council is also required to publish the text of the proposed draft extended and (if relevant) varied order on its website.
- 7.3 It is therefore proposed the Council undertakes a comprehensive consultation exercise with the public, relevant bodies and other interested parties in accordance with the Act's requirements on the proposal to extend and vary the Dog Control PSPOs as outlined in the report.
- 7.4 Subject to that consultation exercise being initiated by Cabinet, officers would report the outcome of the consultation to the Public Service Delivery, Communities & Prosperity Scrutiny Committee in the first instance and thereafter to Cabinet for any final decision(s) on the proposals.
- 7.5 Given the current situation in relation to COVID-19 the Council's Consultation and Engagement Officer has developed a revised approach to consultation and how the Council can best engage with the public and key stakeholders during these times, in particular with those who would have ordinarily attended 'face to face' engagement events (should this approach be deemed prohibitive due to legislative restrictions and/or administrative/safety issues) as well as those who may digitally excluded.

8. EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 The Council must be able to demonstrate that a PSPO is a necessary and proportionate response to the problems caused by the activities of dogs and those in charge of them. The Council is required to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs. This must take into consideration the need for people, particularly 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 restrictions.
- 8.2 In developing the original PSPO an Equality Impact Assessment was undertaken to ensure that:
 - The Council meets the requirements of the Public Sector Equality Duties, and
 - Due regard has been taken of the likely impact of the decision in terms of equality and discrimination.
- 8.3 This exercise has been refreshed and it is considered the impact on residents, visitors and businesses is expected to continue to be positive, as these proposals should continue to act as a deterrent to irresponsible dog ownership. Taking into account the exemptions set out in 8.4 and 8.5 below there is no adverse impact on any other Protected Grounds from its adoption through to its potential variation and extension.

- 8.4 The provisions of the proposed Dog Control Orders would not apply to a person who:
- (i) is registered as partially sighted or blind, in a register compiled under section 29 of the National Assistance Act 1948;
 - (ii) is registered as “sight-impaired”, “severely sight impaired” or as “having sight and hearing impairments which, in combination, have a significant effect on their day to day lives”, in a register compiled under section 18 of the Social Services and Well-Being (Wales) Act 2014;
 - (iii) has a disability which affects their mobility, manual dexterity, physical coordination, or ability to lift, carry, or otherwise move everyday objects, such that he cannot reasonably be expected to remove the faeces; or (iv) has some other disability, such that he reasonably cannot be expected to remove the faeces.
- 8.5 The provisions of the orders would not apply to a dog trained by a registered charity to assist a person with a disability and upon which a disabled person relies for assistance.
- 8.6 For the purposes of the orders, a ‘disability’ means a condition that qualifies as a disability for the purposes of the Equality Act 2010 and upon which a disabled person relies for assistance.
- 8.7 Nothing in the Order shall apply to the normal activities of a working dog whilst the dog is working. This includes dogs that are being used for work in connection with emergency search and rescue, law enforcement and the work of HM Armed Forces and farm dogs that are being used to herd or drive animals.

9. FINANCIAL IMPLICATIONS

- 9.1 Should the proposed orders be extended there would be a need to amend existing signage to reflect this however any associated costs would be met from existing budgets.

10. LEGAL IMPLICATIONS AND LEGISLATION CONSIDERED

- 10.1 Section 60(2) of the Act states that before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—
- (a) occurrence or recurrence after that time of the activities identified in the order, or
 - (b) an increase in the frequency or seriousness of those activities after that time.
- 10.2 An extension under this section—
- (a) may not be for a period of more than 3 years;
 - (b) must be published in accordance with regulations made by the Secretary of State.

- 10.3 A public spaces protection order may be extended more than once.
- 10.4 Section 61 states that where a public spaces protection order is in force, the local authority that made the order may vary it—
- (a) by increasing or reducing the restricted area;
 - (b) by altering or removing a prohibition or requirement included in the order, or adding a new one.
- 10.5 A local authority may make a variation that results in the order applying to an area to which it did not previously apply only if the conditions in section 59(2) and (3) are met as regards activities in that area.
- These are:
- The first condition is that—
- (a) 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
 - (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.
- The second condition is that the effect, or likely effect, of the activities—
- (a) is, or is likely to be, of a persistent or continuing nature,
 - (b) is, or is likely to be, such as to make the activities unreasonable, and
 - (c) justifies the restrictions imposed by the notice.
- 10.6 A local authority may make a variation that makes a prohibition or requirement more extensive, or adds a new one, only if the prohibitions and requirements imposed by the order as varied are ones that section 59(5) allows to be imposed.
- The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order—
- (a) to prevent the detrimental effect from continuing, occurring or recurring, or
 - (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.
- 10.7 Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.
- 10.8 A local authority, in deciding whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long and whether to vary a public spaces protection order (under section 61) and if so how must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
- 10.9 A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before extending the period for which a public spaces protection order has effect or varying it.

“the necessary consultation” means consulting with—

- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
- (b) whatever community representatives the local authority thinks it appropriate to consult;
- (c) the owner or occupier of land within the restricted area;

“the necessary publicity” means—

- (a) in the case of a proposed order or variation, publishing the text of it;
- (b) in the case of a proposed extension or discharge, publicising the proposal;

“the necessary notification” means notifying the following authorities of the proposed order, extension, variation or discharge—

- (a) the community council (if any) for the area that includes the restricted area.

The requirement to consult with the owner or occupier of land within the restricted area—

- (a) does not apply to land that is owned and occupied by the local authority;
- (b) applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

11. LINKS TO THE COUNCILS CORPORATE PLAN AND FUTURE GENERATIONS – SUSTAINABLE DEVELOPMENT

11.1 The proposals in this report are consistent with the priorities of the Council’s Corporate Plan, in particular *“Place – creating neighbourhoods where people are proud to live and work”*:

11.2 These proposals are also consistent with the Well-being Goals under the Wellbeing of Future Generations (Wales) Act 2015:

- *A healthier Wales – a society in which people’s physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood.*
- *A Wales of cohesive communities – attractive, viable, safe and well connected communities.*

12. CONCLUSION

12.1 Dog fouling remains a significant concern for the Council and for those who live, work and visit the County Borough and is a serious risk to human health, particularly amongst children.

- 12.2 The Public Spaces Protection Orders in relation to dog controls has allowed the Council to introduce a range of reasonable and proportionate restrictions on the use of publicly accessible land across the County Borough and helped control the harmful activities of irresponsible dog owners whilst allowing responsible dog owners to continue to exercise their dogs without undue restrictions.
- 12.3 Despite the introduction of the orders in October 2017 however there remains a minority of dog owners who do not clean up after their dogs or keep them under control. Therefore officers consider it vital the orders, which would ordinarily expire on 30th September 2020, are renewed for a further period in order to maintain the significant benefits the orders have had in relation to dog fouling and ensure appropriate powers remain in place to deal with the minority who continue to flout the laws.
- 12.4 Cabinet is now asked to consider initiating the necessary consultation to extend, and if appropriate vary the Dog Control PSPOs as outlined in the report.

Relevant Scrutiny Committee

Public Service Delivery, Communities & Prosperity Scrutiny Committee



**LOCAL GOVERNMENT ACT 1972
AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

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LEWIS**

Background Papers

- a) Public Spaces Protection Orders (Dog Controls) – Joint Report of Director of Highways & Streetcare Services & Service Director of Public Health & Protection in discussion with the relevant Portfolio Holders, Councillor A Crimmings and Councillor J Rosser: 22nd June 2017
- b) Public Spaces Protection Orders (Dog Controls) – Aberdare Park - Joint Report of Director of Highways & Streetcare Services & Service Director of Public Health & Protection in discussion with the relevant Portfolio Holders, Councillor A Crimmings and Councillor J Rosser: 28th September 2017
- c) Anti-social Behaviour, Crime and Policing Act 2014 – Chapter 12
- d) Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers: statutory guidance

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