

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2020 – 21

**PUBLIC SERVICE DELIVERY, COMMUNITIES & PROSPERITY SCRUTINY
COMMITTEE**

**REPORT OF THE SERVICE DIRECTOR COMMUNICATIONS AND
DEMOCRATIC SERVICES**

23 SEPTEMBER 2020

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

1. PURPOSE OF THE REPORT

- 1.1 The report (attached as Appendix 1) informs Members of the outcomes of the public consultation exercise and (ii) seeks Cabinet's authority to extend the two Public Spaces Protection Orders relating to dog controls in Rhondda Cynon Taf (the Dog Control PSPO's), subject to any amendments they may wish to consider in response to the consultation
- 1.2 This report seeks the feedback of the Public Service Delivery, Communities & Prosperity Scrutiny Committee to inform a recommended way forward to be reported to the Cabinet.

2. RECOMMENDATIONS

It is recommended that Members of the Public Service Delivery, Communities & Prosperity Scrutiny Committee:

- 2.1 Consider and form a view on this the proposals; and
- 2.2 Requests the Service Director – Democratic Services to formally feedback the decisions of this committee to Cabinet, before it determines the proposed Extension and Variation to Rhondda Cynon Taf CBC's Dog Control Public Spaces Protection Orders

3. BACKGROUND

- 3.1 Following discussions between the Chair and Vice Chair of the Public Service Delivery, Communities and Prosperity Scrutiny Committee it was agreed that the Public Service Delivery, Communities and Prosperity Scrutiny Committee

should have the opportunity to undertake pre scrutiny and influence the content of the proposals prior to the consideration of the Cabinet.

- 3.2 Attached as Appendix 1 is a joint report of the Director Of Public Health, Protection And Community Services And Group Director Prosperity, Development And Frontline Services which asks Cabinet to consider the responses to the public consultation, as detailed in Appendix 1, and determine whether any amendments are required to the existing prohibitions and requirements in relation to the PSPO's as detailed in Appendix 2 to the report;
- 2.3 Subject to 2.2 above, extends the Dog Control PSPOs as detailed in Appendix 2A and 2B to the report; and
- 2.4 Subject to 2.3 above, gives delegated authority to the Director of Public Health, Protection and Community Services, in consultation with the Group Director, Prosperity, Development and Frontline Services, to produce the final PSPOs relating to Dog Controls and ensure their publication on the Council's website.
- 2.5 The Director Of Public Health, Protection And Community Services And Group Director Prosperity, Development And Frontline Services will be in attendance at the meeting to respond to Members' queries.

4. EQUALITY AND DIVERSITY IMPLICATIONS

- 4.1 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.
- 4.2 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.
- 4.3 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.

- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.

5. FINANCIAL IMPLICATIONS

- 5.1 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.

6. LEGAL IMPLICATIONS AND LEGISLATION CONSIDERED

- 6.1 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.
- 6.2 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.

- 6.3 A public spaces protection order may be extended more than once.
- 6.4 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.
- 6.5 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.

- 6.6 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.

- 6.7 Where an order is varied, the order as varied must be published in accordance with regulations made by the Secretary of State.
- 6.8 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.
- 6.9 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.

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

7.1 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”*:

7.2 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.*

8. CONCLUSION

8.1 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.

- 8.2 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.
- 8.3 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.
- 8.4 Scrutiny is now asked to consider and form a view on the proposals before these are formally considered by Cabinet