

ENVIRONMENTAL & PUBLIC PROTECTION SCRUTINY COMMITTEE

17 MAY 2019

EXTENSION OF PUBLIC SPACE PROTECTION ORDER (CARMARTHENSHIRE DOG ORDERS)

To consider and comment on the following issues:

- 1) That the duration of the Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 be extended for a further period of 3 years with effect from the 1st July 2019.
- 2) That the Council makes an Extension Order to give effect to the above extension and endorses the 2016 Order with suitable wording to reflect the fact that the duration of the 2016 order has been extended.

Reasons:

The Original Order came in to force on the 1st July 2016. It was made for a period of 3 years, and is due to expire shortly, for this reason we need to consider extending it. If the existing order is not extended, the current controls will no longer apply from the 1st July.

To be referred to the Executive Board / Council for decision:

YES- Executive Board on 3rd June 2019

Executive Board Member Portfolio Holders:

Cllr. Philip Hughes

Directorate: Environment	Designations:	Tel Nos. / E-Mail Addresses:
Name of Head of Service: Ainsley Williams	Head of Waste & Environmental Services	01267 224500 AIWilliams@carmarthenshire.gov.uk
Report Author: Michael Roberts	Local Environment Quality Policy Officer	01267 225806 MJRoberts@carmarthenshire.gov.uk

EXECUTIVE SUMMARY

ENVIRONMENTAL & PUBLIC PROTECTION SCRUTINY COMMITTEE

17 MAY 2019

EXTENSION OF PUBLIC SPACE PROTECTION ORDER (CARMARTHENSHIRE DOG ORDERS)

1. Background to the 2016 Order

- 1.1 People who fail to clean up after their dogs on publicly accessible land cause nuisance to others. The presence of dog faeces is a potential hazard to all members of the public. It causes risks to health, defaces land and has the potential to deface people and their property.
- 1.2 When not properly supervised and kept under control, dogs that are allowed off a lead in public areas can cause road traffic accidents, and can cause nuisance or injury to members of the public and to other animals.
- 1.3 Dogs in children's play areas can become aggressive if startled. They can also defecate in these areas, defacing and causing a health risk to the young children that use them.
- 1.4 In 2016, the Council made the Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 ("the Original Order") to address the above behaviour on the basis that it had and was likely to continue to have, a detrimental effect on the quality of life of people within Carmarthenshire (Appendix 1).
- 1.5 The Original Order sought to prevent or reduce the detrimental effects referred to above, by imposing reasonable restrictions and requirements on people whilst in charge of dogs on public land.
- 1.6 Subject to a number of exemptions and restrictions, the Original Order required people:
 - To clean up after their dogs on all public land in the County;
 - To put and keep their dog on a lead of not more than 2 metres in length when directed to do so by an authorised officer of the Council, where such restraint is reasonably necessary to prevent a nuisance, or behaviour by the dog that is likely to cause annoyance or disturbance to any other person, or the worrying or disturbance of any animal.
 - Not to take their dog onto, or permits their dog to enter or remain on any enclosed children's play areas in the County.
- 1.7 The Original Order came in to force on the 1st July 2016. It was made for a period of 3 years, and is due to expire shortly, for this reason we need to consider extending it. If the existing order is not extended, the current controls will no longer apply from the 1st July.
- 1.8 Public Spaces Protection Orders (PSPO) can be extended for further periods of up to 3 years at a time.

2. Legal Test

- 2.1 Before the a public spaces protection order expires, 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.

3. Evidence and Reasons

- 3.1 Since the 2016 Order came in to force there have been 396 complaints received in relation to dog fouling; 73 fixed penalty tickets have been issued and 7 prosecutions have been implemented for offenders who failed to pay the fixed penalty notice.
- 3.2. In the last 3 years no directions have been issued requiring individuals to place their dog on a lead of no more than 2m in length. We did not expect these powers to be widely used, as they were intended for use only where it is necessary to place a dog on a lead in order to deal with ongoing acts of nuisance. They also require authorised officers to be “in the right place at the right time” to be able to defuse incidents. We do continue to receive complaints about dog related nuisance on public land and remain of the view that this is useful power which enables officers to deal with any incidents which they may come across.

A small number of complaints have been received about dogs in play areas and enforcement action has been taken against 1 person. We believe that the provision excluding dogs from children’s play areas and the accompanying signage which we have erected at relevant sites have served as an effective deterrent.

- 3.3 The Council is satisfied that it is necessary to extend the duration of the Original Order for a further 3 years in order to prevent the occurrence or recurrence of the behaviour set out set out above after the 1st July 2019, or to prevent an increased in the frequency or seriousness of the behaviour after that date.
- 3.4 It is a requirement the PSPO be reviewed after 3 years. As part of the review, approval was given by CMT on the 18th February 2019 that the authority sought the views of a limited consultees on the extension of the 2016 Order. This consultation period opened on Friday 15th February 2019 and closed on Friday 29th March 2019. There is also a requirement to publish details of the proposed extension on the authority’s web site, this was undertaken and is currently available for the public to view.

4. Summary of responses received to the Limited Consultation

4.1 Between February and March 2019 the Council undertook a statutory consultation to gather the views of key stakeholders on the authority's proposals of extending the current Public Spaces Protection Orders. Consultees were asked whether they supported the extension of the orders, with a section where comments can be made by the consultees.

4.2 We consulted with the following:-

- The Chief of Police and the local policing body for the area affected by the order
- County Councillors
- The Town and Community Councils.
- The Kennel Club
- Local Access forum
- Carmarthenshire Disabled Access Group
- CCC's Public Rights of Way.
- Brecon Beacons National Park

4.3 A summary of responses is provided below:-

35 responses were received (these are as follows):-

- 4 County Councillors
- 23 Town & Community Councils
- 7 Other Organisations or Group
- 1 Anonymous

100% of respondents supported the extension of the current PSPO for a period of 3 years.

4.4 It was noted that the authority received multiple response from two Community Councils and 4 responses from individuals / groups that weren't invited to comment. We have decided to take all the responses into account. This has no bearing on the outcome as all the respondents were supportive of the proposals.

The Kennel Club provided a comprehensive response / report on the authority's PSPO's (See Appendix 5)

4.5 A number of respondents suggested that we consider introducing additional dog controls/restrictions to wider areas. However, the purpose of this consultation was to consider extending the duration of the current order.

The Authority could consider additional controls in future if necessary, but they would need to be evidence based and subject to a separate consultation.

4.6 The Kennel Club asked the authority to consider a broader definition of the term "assistance dog" for the purposes of the exclusions in the 2016 Order, to allow for owner trained assistance dogs. We already allow flexibility when considering whether a disabled person's dog is acting as an assistance dog. If we are satisfied that a disabled person relies on assistance dog which has not been trained by a registered charity, we will not consider it in the public interest to prosecute them if they breach the exclusion order. However, it will be up to the disabled person to provide us with evidence to show that the dog is suitably trained and that they rely on it for assistance. We will consider each case on its merits. Our Equality Impact Statement reflects this.

5. Procedure

5. 1 To extend the duration of the 2016 Order a new Extension Order will need to be made. A draft order can be found in Appendix 2.
5. 2 The Council will also need to endorse the original 2016 sealed order with suitable wording to reflect the fact that the duration of the 2016 order has been extended. This is necessary because after the order has been extended we are required to publish a copy of the original order "*as extended*".

6. Recommendation

It is recommended:-

- a) That the duration of the Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 be extended for a further period of 3 years with effect from the 1st July 2019
- b) That the Council makes an Extension Order to give effect to the above extension and endorses the 2016 Order with suitable wording to reflect the fact that the duration of the 2016 order has been extended.

Appendices: -

**Appendix 1 – Carmarthenshire County Council (Dog Control)
Public Spaces Protection Order 2016**

Appendix 2 - Draft Extension Order 2016

Appendix 3 – Summary report of PSPO Consultation.

Appendix 4 – Finalised Data of PSPO Consultation

**Appendix 5 - Detailed Response from the Kennel Club to Carmarthenshire County
Council's Public Spaces Protection Order Consultation**

Appendix 6 – Equality Impact Statement

DETAILED REPORT ATTACHED?

NO

IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report.

Signed: A I Williams

Title: Head of Waste & Environmental Services

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
YES	YES	NONE	NONE	NONE	NONE	NONE

1. Policy, Crime & Disorder & Equalities

This matter falls within Community Safety and Public Health Policies and Initiatives. These proposals will support the Council's aims with regard to reducing environmental Crime and Safeguarding Public Health.

An Equality Impact Assessment in respect of the proposal is attached to the detailed report (Appendix 6).

2. Legal

Introduction of the PSPO (Dog Control Orders) is not a legal duty, but is a discretionary power. However, there are benefits in extending the current order, and this would be done in compliance with all the relevant legislation and in consultation with the Council's Legal Services Department.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below:

Signed: A I Williams

Title: Head of Waste & Environmental Services

Local Member(s) – N/A

Community / Town Councils – N/A; affects whole Authority area

Relevant Partners – To be consulted

- The Chief of Police and the local policing body for the area affected by the order
- County Councillors
- The Town and Community Councils.
- The Kennel Club
- Local Access forum
- Carmarthenshire Disabled Access Group
- CCC's Public Rights of Way.
- Brecon Beacons National Park

Staff Side Representatives and other Organisations – N/A

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

These are detailed below:

Title of Document	File Ref No. / Locations that the papers are available for public inspection
The Anti-Social Behaviour, Crime and Policing Act 2014 Statutory guidance for frontline professionals (Updated 2017)	Home Office- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf
2014 DEFRA Dealing Practitioner's Manual on dealing with irresponsible dog ownership	DEFRA- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/373429/dog-ownership-practitioners-manual-201411.pdf
The Anti-social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014	Legislation. gov.uk http://www.legislation.gov.uk/ukpga/2014/12/content
Anti – Social Behaviour, Crime and Policing Act 2014. (Statutory Instruments).	Home Office https://www.legislation.gov.uk/uksi/2014/2591/pdfs/uksi_20142591_en.pdf
The Kennel Club - Responsible Dog Ownership	The Kennel club website http://www.thekennelclub.org.uk/responsible-dog-ownership