

ENVIRONMENT AND PUBLIC PROTECTION SCRUTINY COMMITTEE

7 MARCH 2022

EXTENSION OF PUBLIC SPACE PROTECTION ORDER (CARMARTHENSHIRE DOG ORDERS)

Purpose:

To approve the extension of the existing Public Spaces Protection Order 2016 for the county of Carmarthenshire.

To consider and comment on the following issues:

- 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 2022
- 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.

Reasons:

The Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 came into force on the 1st July 2016. It was initially made for a period of 3 years (the maximum period). In 2019 the Order was extended for a further period of 3 years with effect from the 1st July 2019. The current order is therefore due to expire at the end of June.

Relevant scrutiny committee to be consulted	Yes-
Scrutiny committee and date	7 th March 2022

Cabinet Decision Required	Yes 14 th March 2022
Council Decision Required	No

CABINET MEMBER PORTFOLIO HOLDER:-

Cllr. Philip Hughes (Public Protection)

Directorate: Environment	Designations:	Tel: 01267 224500
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EXECUTIVE SUMMARY

ENVIRONMENT AND PUBLIC PROTECTION SCRUTINY COMMITTEE

7 MARCH 2022

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 alike. 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 Carmarthenshire County Council (Dog Control) Public Spaces Protection Order 2016 came into force on the 1st July 2016. It was initially made for a period of 3 years. In 2019 the Order was extended for a further period of 3 years with effect from the 1st of July 2019. It is therefore due to expire from the 30th of June 2022.
- 1.8 Public Spaces Protection Orders can be extended for further periods of up to 3 years at a time.

2. Legal Test

- 2.1 Before the time when a public space's 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.

3. Evidence and Reasons

- 3.1 Since the 2016 Order came into force there have been 3002 (Up to 31/12/2021) complaints received in relation to dog fouling; 100 fixed penalty tickets have been issued and 6 prosecutions have been implemented for offenders who failed to pay the fixed penalty notice.
- 3.2 In the last 6 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 2022, or to prevent an increased in the frequency or seriousness of the behaviour after that date.
- 3.4 A PSPO or an order extending it, can only last for a maximum of 3 years. Therefore, they must be reviewed every 3 years to see if a further extension is required. As part of the review, approval was given by Cabinet Member Decision for Public Protection on the 2nd of September 2021 that the authority sought the views of a number of consultees on the extension of the 2016 Order. This consultation period opened on Monday 1st November and closed on Friday 17th December 2021. 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 The consultation exercise was not a full public consultation. It was a targeted consultation, undertaken with a number of statutory consultees and other relevant stakeholders.
- 4.2 It is clear that a number of responses have been received from individuals and organisation who we did not invite to respond. It is likely that some of the consultees have distributed the consultation documents to other people and organisations, who have then replied to it.
- 4.3 In addition, some of the respondents have not identified who they are. Therefore, we do not know whether these responses are from consultees who were invited to respond to the proposals, or from other people and organisations.
- 4.4 We consulted with the following: -
- The Chief of Police and the local policing body for the area affected by the order
 - Police and Crime Commissioner for Dyfed Powys Police
 - County Councillors
 - The Town and Community Councils.
 - The Kennel Club
 - Dog's Trust
 - Local Access forum
 - Carmarthenshire Disabled Access Group
 - CCC's Public Rights of Way.
 - Brecon Beacons National Park
- 4.5 A summary of responses is provided below: -
- 43 responses were received (these are as follows): -
- 3 County Councillors
 - 12 Town & Community Councillors
 - 22 Other Organisations or Group
 - 6 Anonymous
- 85% of respondents supported the extension of the current PSPO for a period of 3 years.
- It was noted that the authority received multiple response from one County Councillor and 14 responses from individuals / groups that weren't invited to comment. The six responses (14%) that disagreed with extending the current orders were ALL from people and organisations that were not invited by us to respond to the consultation.
 - Four (9%) of the respondents may have misunderstood the current order, as they responded with comments which indicated that they opposed keeping Dogs on leads at all times. The current order does not require dogs to be kept on leads at all times.

- Two (5%) respondents did not indicate if they agreed or disagreed in the renewal of the existing orders.
- Four (9%) respondents indicated that they agreed with the order but did not record their details of who they represented.
- Finally, all seventeen respondents (that we can identify) who were invited to respond to the consultation agreed with the extending the PSPO (100%). We have also 6 unknown respondents and 7 that indicated who they were responding as; but no details were provided of who they were. This has no bearing on the outcome as 85% the respondents were supportive of the proposals in any event.
- The Kennel Club & Dogs Trust provided a comprehensive response / report on the authority's PSPO's (See Appendix 5 & 6).

4.6 A number of respondents had made suggestions comments through the consultation exercise, the comments and responses are available to view on Appendix 8 PSPO (Dog Control) Qualitative analysis of Consultation with responses. Three Community Councils suggested that we consider introducing additional dog controls on Sports Pitches / Park areas. The purpose of this consultation was to consider extending the duration of the current order. The Authority can consider additional controls, but they would need to be evidence based and subject to a separate consultation.

4.7 The Kennel Club do not appear to object to extension of the current order, but they have asked us to consider amending paragraph 13 of the order (which states that the dog exclusion provisions in the order don't apply to assistance dogs which have been trained by a "registered charity").
We have previously considered this issue in some detail. Our concern here is that paragraph 13 could be open to potential abuse if the reference to "registered charities" is removed. People could try to argue that the provision excluding dogs from children's play areas does not apply to their pet on the basis that they have trained it themselves to provide them with some level of assistance.

We accept that not all assistance dogs are trained by registered charities and will endeavour to adopt a fair and sensible approach in these other cases, when making our enforcement decisions. If we are satisfied that a dog has been properly trained (by somebody other than a registered charity) to provide a disabled person with meaningful assistance, we would not consider it in the public interest to enforce the exclusion.

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 further 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 of July 2022
- 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 further extended.

REPORT ATTACHED?

No, the following appendices are attached: -

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

Appendix 2 - Draft Extension Order 2022

Appendix 3 – Summary report of PSPO Consultation.

Appendix 4 – Finalised Data of PSPO Consultation Nov – Dec2021.

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

Appendix 6 - Detailed Response from the Dogs Trust to Carmarthenshire County Council's Public Spaces Protection Order Consultation

Appendix 7 – Equality Impact Statement

Appendix 8 - PSPO (Dog Control) Qualitative analysis of consultation with responses.

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** **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 and 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 7).

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 Head of Waste & Environmental Services

1. Scrutiny Committee – yes – 7th March 2022

2. Local Member(s) - Yes : Affects whole authority area

3. Community / Town Council –

Yes All affected and included as part of consultation exercise

4. Relevant Partners – Consulted with following:-

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

5. Staff Side Representatives and other Organisations - N/A

**CABINET MEMBER PORTFOLIO
HOLDER AWARE/CONSULTED:**

YES

**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/contents
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	The Kennel Club canine code Our codes The Kennel Club