

THE VALE OF GLAMORGAN COUNCIL

CABINET: 17TH JUNE, 2019

REFERENCE FROM ENVIRONMENT AND REGENERATION SCRUTINY
COMMITTEE - 4TH APRIL, 2019

“915 PUBLIC SPACES PROTECTION ORDERS - DOG CONTROLS (REF) -

Cabinet, on 18th March, 2019 had endorsed the proposed introduction of a Vale of Glamorgan wide Public Space Protection Order (PSPO) under the provision of the Anti-Social Behaviour, Crime and Policing Act 2014, for the control of dogs. This was subject to consideration by the Scrutiny Committee.

The Operational Manager Neighbourhood Services – Operations presented the report which outlined that the proposals were based on current by-law controls and had been amended so that they were largely in accord with the results of the widespread public consultation exercise that had been undertaken.

In 2017 a staff survey was undertaken of those who maintained and worked in the parks, countryside and beaches within the Vale of Glamorgan. Though it involved a relatively small sample of employees the survey found 93% claimed there is an issue with people not removing dog faeces and 81% claimed this problem was all year round. Staff responsible for maintaining the featured parks had expressed their frustration with irresponsible dog owners and claimed that the problem with dog fouling was under reported to the Council.

The Local Environmental Audit and Management System (LEAMS) report undertaken by Keep Wales Tidy for 2018 / 2019 revealed the presence of dog fouling on 7.8% of the streets sampled. Whilst this figure was lower than previous years, any such incidence gave cause for concern.

A report was presented to Cabinet on 19th February 2018 seeking authority to undertake an 8-12 week statutory consultation exercise on the proposed PSPO (Dog Controls) in the Vale of Glamorgan under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. Authority was granted for the consultation to be undertaken.

The consultation was undertaken between 27th June and 22nd August 2018. The Consultation was largely based on existing byelaws, though some additional controls of dogs on sports fields were suggested and this was based on the opinions voiced by staff responsible for maintenance of our public open spaces and previous incidences of football and rugby players who had experienced dog fouling problems on their sports fields over a number of years. A copy of the draft Order and control schedule was attached at Appendix 1.

Stakeholders were invited to share their views during the consultation. An online survey and a series of drop-in events also took place throughout the consultation period. 1,763 responses were made to the survey with 97% of those being Vale of Glamorgan residents. A copy of the consultation report was attached at Appendix 2. This document also included details of the controls proposed and the suggested amendments.

The public were asked if there should be a requirement for dog owners to remove their dog faeces. The results of the consultation showed there was overwhelming support for this proposed control. 99% of respondents to the survey either strongly agreed or agreed that dog faeces should be removed by the dog owner from all public spaces. Many stakeholders including Vale of Glamorgan Council Elected Members, Community Councils, Kennel Club, RSPCA Cymru and Dogs Trust supported the proposed control for owners to pick up dog faeces of their dog.

As a consequence no amendments had been made to the requirement of dog owners to pick up after their dog had fouled and it was recommended that this requirement be included in the PSPO (Dog Controls). It should be noted that the Dog (Fouling of Land) Act 1996 enabled Local Authorities to impose fixed penalty notices on owners who did not pick up after their dog had fouled on any land to which the public were entitled or permitted to have access. This legislation would continue to be used on areas of public land not covered by any PSPO.

A prohibition of dogs in entering certain specified areas and a separate requirement for dogs to be on leads

Concerns were raised during the consultation relating to anti-social behaviour associated with unruly dogs and the impact on those wanting to enjoy open spaces.

The proposed areas for dog prohibitions mainly relate to children's play areas. There was support from the consultation for this prohibition to be introduced and in most cases such controls already existed, though via bye-laws.

There were several areas where parks have children's play areas which were not currently fenced off. In such areas it was proposed that a control be introduced for dogs to be on a lead. This would prevent errant dogs from coming into contact with children; it would also help to ensure that such areas remained free of dog fouling. It might be necessary to review the number of children's play areas that were not fenced off currently and consider whether it would be appropriate to do so in future when finances become available, as fencing off play areas would remove the need for a requirement for dogs to be on leads in areas immediately surrounding the play areas.

On reviewing the consultation responses it would appear that the existing byelaws relating to dogs being on leads in certain areas such as the former Lido area in Barry were no longer appropriate or necessary. Therefore it was proposed to remove the requirement for dogs to be on leads in certain areas where there was little evidence of anti-social behaviour associated with dogs being out of control.

Certain areas of high footfall had also been included within the requirements for dogs to be kept on a lead. These included the Promenades at Barry Island and Penarth.

A prohibition of dogs in entering certain specified areas/ beaches between 1st May and 31st September.

Seasonal restriction (1st May – 31st September) were in place for 5 beaches under existing bylaws. Following the consultation and a review of the existing controls it was deemed that it would be appropriate to remove the seasonal prohibitions for dogs at Cold Knap and Penarth Beach and retain seasonal dog prohibitions at Whitmore Bay, Dunraven Bay and Cwm Colhuw. There were a number of anomalous dog areas under the former Bye-Laws such as the breakwater at the Knap and the access path to Jacksons Bay. These had been addressed under the PSPO with dogs on leads or no controls being suggested for these areas in future.

From reviewing the usage of the named beaches and results of the consultation it was evident that Cold Knap and Penarth Beach were not considered as high footfall bathing beaches and a seasonal prohibition of dogs seemed unreasonable.

Therefore it was proposed that seasonal prohibition of dogs at Whitmore Bay, Dunraven Bay and Cwm Colhuw only were included within the proposed PSPO (Dog Controls).

Due to the high footfall at both the promenades at Whitmore Bay and Penarth Esplanade and Pier it was proposed that these areas had dogs on leads controls all year round. Whilst not a feature of the consultation responses, both areas featured high levels of pedestrian activity all year round and previously had seasonal dogs on leads controls. It seemed sensible to continue with such controls but for the full year. In the case of Penarth this would also permit owners with dogs on leads to access the Pier.

A prohibition of dogs on marked sports pitches

The proposed prohibition of dogs on sports pitches was the most contentious proposals attracting extreme feelings from both “for” and “against” the proposed control. A further small scale survey was undertaken by Council officers and volunteers and it appeared that whilst there was evidence to suggest that dogs on sports pitches was currently an issue that caused anti-social behaviour, this evidence was limited.

Enforcement of this particular proposal might be difficult especially where sports pitches predominantly were in seasonal use or were not fenced off from the surrounding area.

The sports community remained largely silent on this proposal during the consultation. Though 57% of those who responded believed that dogs should be prohibited from sports fields when marked, the mechanism for doing this was challenged as even with the best intentions of a responsible owner, a dog could stray onto a marked sports pitch if not constrained by a lead. It followed therefore that all dogs would really have to be on a lead in these areas to best support such a control.

This was not pragmatic across all areas as often the sports field was the only area locally where a dog could be exercised.

Officers had given this issue considerable thought, as it was clearly the wished to have a set of balanced controls which allowed the majority of individuals to enjoy the open spaces, whilst penalising those who were irresponsible. The problem with this as a blanket control was that it risked penalising many, the majority of whom were responsible dog owners.

Further, there was little evidence that dogs on marked sports pitches would meet the legal test required to introduce this control, so it was therefore recommended that this control be removed from any proposed PSPO (Dog Controls) at this time.

Having taken into account the outcome of the public consultation the number of areas with restricted access currently was 80 (existing under current byelaws), it was proposed in this report that those areas were reduced to 62 areas. Also the number of areas requiring dogs on leads was currently 27 (under existing byelaws) and the report proposed that this number was reduced to 14 areas. A copy of the control schedule now proposed following the Consultation was attached at Appendix 3.

The Chairman then invited Mrs Hazel Thomas, member of the public, to make her verbal representations to the Committee.

Mrs Thomas outlined that Dog fouling was a serious health concern and she asked whether the Vale Council realised that all dog faeces went into bins which included recycling. She asked whether there was a possibility for this Council to provide suitable receptacles for dog poo bags in and around Barry.

Councillor Lis Burnett, not a Member of the Committee but with permission to speak, stated that the Council needed to learn from the consultation exercise as people had said that they were not talked to. Councillor Burnett outlined that the Council needed to talk directly to those affected and it seemed that the Council was not listening to the views presented.

Councillor Kevin Mahoney, not a Member of the Committee but with permission to speak, stated that he was frustrated that the will of the dog owning community had been forced onto the Vale Council, referring to the many instances of dog fouling on sports pitches across the Vale. Councillor Mahoney referred to the irresponsible dog owners that allowed their dogs to foul on public pitches which was a criminal offence and so owners needed to be properly prosecuted. Councillor Mahoney commented on the arrogance of some dog owners in not being willing to clean up the mess of their dogs and he asked for a complete ban on dogs on sports pitches.

A Committee Member agreed with the comments outlined by Councillor Mahoney, stating that for 50 years he had been involved with sports clubs and had regularly picked up dog mess before sports games. The Committee Member stated that this was a problem for the dog community but he also outlined the failure of many sports clubs in not taking part in the consultation exercise and outlining their views. The Committee Member stated that dogs needed to be kept on a lead as enforcement was difficult for the Vale when there were only five or so officers covering the entire

county. The responsibility therefore laid with dog owners and it was right for the Council to prosecute where necessary.

A Committee Member then asked a series of questions, the first was why had the ban been removed from 'Pebble Beach', the second question was whether fences had been considered for sports pitches and the third question was whether better signage would be erected. In reply, the Operational Manager stated that in relation to 'Pebble Beach' there was not enough evidence of a problem to justify a ban. With regards to fences, he stated that if this was a formal recommendation from the Committee then this would be reported back to Cabinet. The Operational Manager also outlined that fencing was costly and would require a large capital investment. In terms of signage, the Operational Manager outlined that this was very important as the Council would not be able to carry out enforcement without the proper signage. This would need to indicate what the resulting penalty would be and would need to be clearly displayed. It may also be possible to include a Code of Conduct.

In reply to a query regarding the use of receptacles, the Operational Manager stated that these were very important, but as there were limited resources there needed to be a specific problem in order for these to be put in place. The Operational Manager outlined that not putting dog mess into a bin or receptacle was littering and so this was an offence but it was impractical to put bins everywhere. In clarifying the resources available, the Operational Manager advised that the current budget was approximately £50,000 of which the budget for bins was around £10,000 to £15,000. This he stated was very small.

A Committee Member stated that the Council needed to undertake more enforcement and more prosecutions. In reply, the Operational Manager stated that the Enforcement Service was being brought back in-house and so this meant that the Council would have greater control. He stated that the Council would look to prosecute where there had been intelligence, with the time and date of the offence reported so that the Council would deploy officers to investigate. He advised that in order to prosecute an officer needed to witness the offence with the police also able to prosecute offenders. Members noted that during the last financial year, six individuals had been successfully prosecuted.

A Committee Member stated that local Ward Members needed to indicate to the service where bins were required. He also stated that members of the public may not be fully aware that dog mess could be deposited into ordinary litter bins. In terms of sports pitches, he asked whether a ban on dogs could be imposed during the sporting season. The Member then referred to Appendix 4 of the report and stated that there was an error in relation to Central Park as he was sure that there was a ban in place. The Member also referred to Hatch Quarry stating that this area and not just the play area had been dog free for some time. The Member also referred to Whitmore Bay and the need to highlight that this was the beach area. In coming back on the Members comments, the Operational Manager confirmed that larger replacement bins were being installed that would take all sorts of waste. In relation to Central Park, he confirmed that there was a total ban and the indication for dogs being allowed on a lead was a mistake. For Hatch Quarry he stated that he would have to confirm the area to which the ban related to. In regards to Whitmore Bay, he

advised that the ban related to two separate areas, so there would be distinction between the two.

The Chairman, in summarising the debate, outlined that the Council needed to undertake better consultation and engagement and asked whether the Committee should support the increased use of receptacles. The Chairman referred to a previous point in relation to sports pitches and whether a ban could be imposed during the sports season. The Committee noted that this may be difficult for certain sports in which there was not an 'off season'. The Committee agreed that it may be appropriate for the ban to be in place when a game or activity was taking place.

The Operational Manager commented that a review of the proposals would be undertaken after a 12 month period in order to assess the effectiveness of the orders and to look at the resources in place. The Chairman asked whether any further report could also include an analysis of where issues occurred.

Subsequently it was

RECOMMENDED -

- (1) T H A T Cabinet be asked to consider how the Council can carry out consultation and engagement in a better way.
- (2) T H A T the Committee receive an update report in 12 month's time on the effectiveness of Dog Control Orders, which also included an assessment of assets (including receptacles), and with an analysis of where issues occurred and possible solutions.

Reasons for recommendations

- (1) In order for the Cabinet to consider how the Council can better engage with members of the public.
- (2) For the Committee to receive an update report on the effectiveness of Dog Control Orders and also to consider assets and where issues occur."