

GWYNEDD COUNCIL CABINET



Report to a meeting of Gwynedd Council Cabinet

Date of meeting: 27 July 2021
Cabinet Member: Councillor Catrin Wager
Contact Officer: Steffan Jones, Head of Highways and Municipal
Contact Tel No: 32402
Title of Item: Public Spaces Protection Order (PSPO): Dog control

1. THE DECISION SOUGHT

The Cabinet is requested to:

- Approve the introduction of a Public Spaces Protection Order (PSPO) in relation to dog control throughout the County in accordance with the Proposed Order appended (**Appendix 1a**), on the basis that it is satisfied that the test under section 59 of the Anti-social Behaviour, Crime and Policing Act 2014 has been met.
- Approve the costs of introducing PSPO (one-off funding and subsequent annual funding bid).
- Authorise the Head of Highways and Municipal to undertake the introduction of the PSPO.

The reason why the decision is required:

- The making of a PSPO is a function held by Local Authorities only. In accordance with the Constitution of the Local Authority, the making of such an order is an executive function the responsibility for which lies with the Cabinet.

2. INTRODUCTION

The Anti-social Behaviour, Crime and Policing Act 2014 (the "2014 Act") provides a framework of powers for individuals and organisations to tackle anti-social behaviour in public spaces. The Act provides the power for Local Authorities to introduce a Public Spaces Protection Order ("PSPO") to deal with particular nuisance(s) or problem(s) in a particular area. These problematic behaviours are behaviours determined to have a detrimental impact on the quality of life of local communities. Such orders can last for up to 3 years.

Such behaviours can encompass, among other matters, behaviours in relation to dog control.

Before making such an order, the Local Authority must be satisfied that the test under section 59 of the Act has been met, that is –

- that there is reasonable ground for believing that these activities in a public place have had, or are likely to have, a detrimental effect on the quality of life of people in the locality;
- that these activities are or likely to be persistent and continuing in their nature;
- that these activities are or likely to be unreasonable; and
- that they justify the restrictions outlined.

In addition, before making an order, the Local Authority must consult with the Police and the wider community.

The PSPO works by allowing behaviours to be challenged and to give the individual an opportunity to end the activity in most circumstances. If this is not possible enforcement steps can be taken, including the introduction of a fixed penalty notice and/or prosecuting for the offence of failure to comply with a requirement or prohibition in a PSPO.

A report was presented to the Cabinet on 18 May 2021 recommending that the Cabinet approve a process of considering whether a PSPO should be introduced throughout the county in relation to dog control, with the matter returning to Cabinet to decide whether the PSPO should be introduced.

That report provided a prima facie case for introducing a PSPO, based on the provisions of the old Dog Control Orders made by the Authority in 2013¹ but with the following differences:

Beach location	Arrangements under the Dog Control Orders	Arrangements under the Proposed Order
Tywyn	Seasonal dog exclusion on the beach between a point west of Warwick Place Road and point west of the northern end of Plas Edwards	Seasonal dog exclusion on the beach between point west of Warwick Place Road and point west of Pier Road
Fairbourne	Seasonal dog exclusion on the beach between the pillbox on the southern end of the beach and point west of the golf course	Seasonal dog exclusion on the beach between point south of the pillbox on the southern end of the beach and point west of Beach Road junction

¹ Before the 2014 Act came into force, the Local Authority's power to tackle dog control problems derived from the Clean Neighbourhoods and Environment Act 2005 and the Dog Control Orders (Miscellaneous Provisions) (Wales) Regulations SI 2007/702. Pursuant to these pieces of legislation, the Authority made the following Dog Control Orders: Dogs Exclusion (Gwynedd Council) Order 2013, The Fouling of Land by Dogs (Gwynedd Council) Order 2013, and The Dogs on Lead by Direction (Gwynedd Council) Order 2013.

Cricieth - Marine	Seasonal dog exclusion on the entire beach	No seasonal dog exclusion on the beach
Abersoch	Seasonal dog exclusion on the beach between the harbour and point east of Lôn Golf	Seasonal dog exclusion on the beach between Pen Bennar and point east of Lôn Golf
Porthor	Seasonal dog exclusion on the entirety of Porthor Beach	Seasonal dog exclusion on Porthor Beach east of Porthor Cafe

There is a copy of the Proposed Order at **Appendix 1a**.

Based on the case presented at the time, the Cabinet decided that there was justification to proceed to the next step and hold a public consultation. The Cabinet will now need to consider the findings of the consultation and, on the basis of that consultation, decide whether it approves the introduction of a PSPO.

The PSPO will deal with three aspects of dog control:

1. Dogs exclusion: Dogs will be banned from 18 specified beaches between 1 April and 30 September every year. The exclusion zones on these beaches have been delineated in detail in plans (maps) attached to the Proposed Order. In addition, dogs will be banned year-round from the following places: open-air public places where there is a “Dogs Exclusion Zone” sign or similar wording; childrens playgrounds; recreation grounds within boundaries of schools, colleges and universities; sporting grounds and sporting facilities
2. No fouling: When a dog defecates, whoever is responsible for the dog will need to remove the faeces immediately. This rule will apply year-round to all open-air areas to which the public have access.
3. Dogs on lead by direction: Whoever is responsible for a dog must put it on a lead, if a person duly authorised by the Local Authority so directs. This rule will apply year-round to all open-air areas to which the public have access.

3. REASON AND JUSTIFICATION FOR DECISION

The public consultation was launched on 24 May 2021 and concluded on 21 June 2021.

A press release was published and a campaign to raise awareness of the consultation was carried out on the Authority’s social media platforms. A copy of the Proposed Order and information pack was uploaded to the Authority’s website together with hard copies in every library / Siop Gwynedd throughout the county.

Email messages were sent to key stakeholders inviting them to contribute to the consultation, including (but not limited to) North Wales Police, North Wales Police and Crime Commissioner, community and town councils, the education sector, Betsi Cadwaladr University Health Board, Snowdonia National Park Authority, major land holders and dog owners organisations.

In addition, a questionnaire was circulated on the website in order to facilitate public participation in the consultation.

A total of 1,324 responses were received to the questionnaire. In addition, a total of 7 separate emails or messages were received expressing opinion on the consultation.

A detailed report of the responses received from the consultation is included in **Appendix 2**.

In summary, the response to the consultation via the questionnaire confirms the following:

- 80% of the opinion that dog fouling is a problem in their area
- 78% in favour of a seasonal dog exclusion from the 18 beaches specified in the Proposed Order.
- 74% in favour of a year-round ban on dogs from open-air public lands where there is a 'Dog Exclusion Zone' sign.
- 95% in favour of a year-round ban on dogs from childrens playgrounds.
- 89% in favour of a year-round ban on dogs from recreation grounds at schools, colleges etc.
- 93% in favour of a year-round ban on dogs from sporting grounds.
- 85% in favour of a year-round ban on dogs from other sporting facilities.
- 99% in favour of a rule that people must clean up after their dogs defecating in a public place.
- 95% in favour of a rule allowing an authorised officer to ask anyone responsible for a dog to place it on a lead.
- 61% of the opinion that no further rule or rules need to be included beyond what is already in the Proposed Order.

Altogether, a clear majority of the responses received via the questionnaire were supportive of the contents of the Proposed Order as it is. There was no consensus in favour of expanding the scope of the PSPO to include further rules.

In the circumstances, it is recommended that the criteria under section 59 of the 2014 Act have been met and that the Cabinet can proceed to approve a PSPO as per the Proposed Order.

An equality assessment prepared in accordance with the Equality Act 2010 has been attached at **Appendix 3**. This assessment is an update following the consultation of the one prepared with the first report to Cabinet on 18 May 2021. While the updated assessment addresses issues raised in consultation, it was concluded that no valid reason has been disclosed not to proceed with the process of introducing the PSPO as per the Proposed Order.

In accordance with the Well-being of Future Generations (Wales) Act 2015 this report has also considered the principles in the legislation, specifically the concept of the 5 ways of working as shown below:

Long term: The PSPO will remain in place for 3 years, with the intention of changing people's attitudes towards their behaviour in public places in terms of dog control. In the longer term, it is hoped that this will contribute to more responsible attitudes and respect towards safeguarding our communities and an understanding of the need to consider the effect on others.

Prevention: The PSPO will help to reduce the number of antisocial behaviour incidents in terms of dog control, and will help to prevent a deterioration in the situation in the future.

Integration: The PSPO addresses the characteristics of a number of organisations (Gwynedd Council, Police, community councils, community/dog-owner groups). It will also contribute towards the objectives of the Police namely to reduce offences and make the streets and public spaces safer for residents and visitors and towards the Authority's ambition of seeing communities succeeding and thriving

Collaboration: This development will be as a result of consultation with Police, community councils, community groups and dog owners.

Inclusion: Various departments of the Authority have been involved with initial discussions, and public consultation has now happened before a final decision is made on the application.

Following receipt of instructions during the consultation period, minor typographical or technical amendments have been made to the Proposed Order. These amendments do not affect the scope or intended effect of the Proposed Order.

4. FINANCIAL COSTS

The report dated 18 May 2021 referred to the need to replace signs to reflect the new order. We anticipate this to be a one-off cost of £18k. The feedback from the consultation questionnaire also provided useful and very important guidance on areas where the public consider that extra resources need to be prioritized in terms of enforcement. There was a clear desire to see more enforcement presence and also a strong expectation that the Council would provide more dog waste bins.

Without a financial commitment from the Council it will not be possible to fully implement the PSPO and therefore the table below summarises the financial requirements highlighted above.

ACTIVITY	Costs Year 1	Costs Subsequent years
Warning Signs - land and beaches Erection of new signs, removal of old ones, annual maintenance and renewal.	£ 18,000	£ 3,000
Dog Fouling Bins Providing additional suitable waste containers, bag dispensers, servicing and safe disposal of waste.	£ 12,500	£ 5,000
Enforcement Capacity Employ 2 Street Enforcement Wardens (Dog Control) who will have a brief only on GDMC but with a strong emphasis on raising awareness. Cost includes transport.	£ 67,620	£ 67,620
TOTAL	£ 98,120	£ 75,620

5. NEXT STEPS AND TIMETABLE

The Cabinet to approve introducing the dog control PSPO as per the Proposed Order.

If approved, the Local Authority shall make the Order under seal as soon as possible but no sooner than 5 clear days following publication of the Cabinet's decision.

If approved, the Local Authority will publish the sealed Order on the Council website.

If approved, the Local Authority will erect signage it considered appropriate throughout the county to draw people's attention to the existence and effect of the Order.

6. ANY CONSULTATIONS UNDERTAKEN BEFORE MAKING THE DECISION

The consultations thus far are as per what is noted in this report.

Appendices

Appendix 1a - Proposed Order

Appendix 1b - Maps

Appendix 2 - Consultation Report

Appendix 3 - Equality Assessment

7. VIEWS OF STATUTORY OFFICERS

Monitoring Officer:

The report has been the subject of input from Legal Services. No observations to add in relation to propriety.

Head of Finance:

The Cabinet could consider funding one-off costs of £30,500, plus £67,620 from this year's additional revenue budget from the Transformation Fund. However, funding this permanent revenue cost could mean the Council having to realize further financial savings in other areas by 2022/23. However, in this particular case, despite the risk, I understand how the implementation would address the priorities of the people of Gwynedd. I understand that if the Cabinet is to give due consideration to prioritizing the bid for £75,620 from a permanent revenue budget. Effectively, a decision on this now would prejudice a 'bid' for resources in the 2022/23 budget, and if the Cabinet confirms the priority, then we will plan accordingly.