

Summary of Call-in and Determination

Decision of Cabinet – 6th January 2015

‘Public Space Protection Order (Coventry Dog Control)’

Cabinet Member Responsible – Councillor Townshend

The Cabinet had agreed to:

1. The creation of a City-wide Public Space Protection Order (Coventry Dog Control) incorporating the following controls: Fouling of land by dogs; dogs on leads; dogs on leads by direction; and dogs exclusion and Dogs (specified maximum) subject to the following amendments to Appendix 5:-
 - (i) That the following changes be made to the proposed Public Space Protection Order (Coventry Dog Control).
 - (a) That Schedule B: Dogs on leads point 3 be amended to read: All churchyards and graveyards, including green burial areas, and
 - (b) That Schedule B: Dogs on leads point 5 remains unchanged from the original proposal, so that it reads ‘all sports grounds, fields, parks and pitches, which are maintained by the local authority and are not subject to ‘Dog Exclusion’, but only when in use for officiated sporting matches’ .
 - (c) That the ‘General Point’, which deals with exclusions to the Order be amended to read:

Nothing in this Public Space Protection Order applies to a person who:

- (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948, or “severely sight impaired” or “sight impaired” under the Care Act 2014; or
- (b) has a disability which affects his mobility, manual dexterity, physical co-ordination, or ability to lift, carry, or otherwise move everyday objects, in respect of a dog trained by a “prescribed charity” and upon which he relies for assistance;
- (c) each of the following is a "prescribed charity"
 - (i) Dogs for the Disabled (registered charity number 700454)
 - (ii) Support Dogs (registered charity number 1088281)
 - (iii) Canine Partners for Independence (registered charity number 803680)
 - (iv) Hearing dogs for deaf people (registered charity number 293358)
 - (v) Any charity created subsequent to this Order, which covers the issues detailed in point b. above.

2. The consultation and consideration of the views from the 'park friends groups' (paragraph 2.3) concerning the areas within parks to be covered by the Public Space Protection Order prior to its implementation.
3. Setting the level of the Fixed Penalty Notice payable for breaches of the Public Space Protection Order at £100, but reduced to £60 if paid within 14 days.
4. Launching an education campaign prior to the launch of the Public Space Protection Order and operate an 'advisory notice' system of fixed penalty notice for the new offences under the Public Space Protection Order for a three month period. However, it is proposed that Dog fouling offences will continue to receive a Fixed Penalty Notice, from the Public Space Protection Order implementation date at the new proposed rate
5. There be a review of these arrangements at the relevant Cabinet Member meeting on or before 31st December 2015.
6. That a Cabinet Consultative Committee be created. This Committee will:
 - i) Have a scope to monitor the efficacy and effectiveness of the Public Space Protection Order (Coventry Dog Control) and make such recommendations to Cabinet as are deemed necessary
 - ii) Have the Chairperson appointed by the Council Leader
 - iii) Remain in existence for a maximum period of 12 months
 - iv) Have a maximum membership of 12 persons (including the Chairperson)
 - v) Meet as often as is deemed necessary.

Called in by Councillors Taylor, Bailey and Skinner

The reasons for the Call-in are:

There is ambiguity of wording and definitions are not precise and clear. There needs to be clear geographical definitions concerning:

- Schedule B Dogs on Leads – footway or footpath
- Schedule D Dogs exclusion – multi-use games areas
- Schedule D Dogs exclusion – enclosed sport and recreational facilities
- The "General Point" fails to adequately clarify the situation for Puppy Walkers, by stipulating exceptions for the blind/disabled owners, rather than referring to the actual assistance dog or dog-in-training.

Also, they are not consistent with the Anti-social Behaviour, Crime and Policing Act 2014, Section 59(4), which states that "A public spaces protection order is an order that identifies the public space referred to in subsection (2) ("the restricted area") and –

- (a) Prohibits specified things being done in the restricted area,
- (b) Requires specified things to be done by persons carrying on specified activities in that area, or
- (c) Does both of those things.

There is no conditionality attached to recommendation 1, in so far as the geographical areas are not clearly defined, which is a requirement of the Act.

That the Council did not follow its own procedure in that there I a public meeting on 13th January, after the decision was taken.

That the Council, by passing the resolution, is able to change the scope of the PSPO at any time without the need for consultation and scrutiny, which is not what the act is intended for.

Determination of Call-in

There is one reason for the call-in being accepted. There are five reasons why the call-in was not accepted.

The Call-in has been accepted for the following reason:-

There is ambiguity of wording and definitions are not precise and clear. There needs to be clear geographical definitions concerning:

1. The “General Point” fails to adequately clarify the situation for Puppy Walkers, by stipulating exceptions for the blind/disabled owners, rather than referring to the actual assistance dog or dog-in-training

N.B. The legislation for this new order refers to a restricted area and not ‘geographical areas’. It is for the Council to determine what those areas are and how they are described.

The Call-in has NOT been accepted for the following reasons:-

There is ambiguity of wording and definitions are not precise and clear. There needs to be clear geographical definitions concerning:

1. **Schedule B Dogs on Leads – footway or footpath**

The definition of footway and footpath will have their ordinary meaning that has been established in law for a substantial period of time and which has been included in previous Council orders. The legislation for this new order refers to a restricted area and not ‘geographical areas’. It is for the Council to determine what those areas are and how they are described.

There is ambiguity of wording and definitions are not precise and clear. There needs to be clear geographical definitions concerning:

2. Schedule D – multi-use games areas and enclosed sports and recreational facilities

The report and the Order refer only to those areas that are clearly signed. Paragraphs 1.3.1 b. and 2.3 also refer to both these areas being within parks. It was explained that the Order "...should on the whole, consolidate and reinforce the existing areas which are currently designated and signed as dogs on leads, or dogs prohibited areas". It therefore applies that any remaining areas will be those that would be clearly signed.

It is also useful to note that, during the consultation on the proposed order, over 70% of 812 of respondents to the question on what areas should the Order be applied to, agreed that MUGAs should be included within the Order. This supports the position that there is no ambiguity of wording or definition of what MUGAs are and is a well established term.

3. Also, they are not consistent with the Anti-social Behaviour, Crime and Policing Act 2014, Section 59(4), which states that "A public spaces protection order is an order that identifies the public space referred to in subsection (2) ("the restricted area") and –

- (a) Prohibits specified things being done in the restricted area,**
- (b) Requires specified things to be done by persons carrying on specified activities in that area, or**
- (c) Does both of those things.**

There is no conditionality attached to recommendation 1, in so far as the geographical areas are not clearly defined, which is a requirement of the Act.

The legislation refers to the requirement to identify public space and not 'geographical areas'. It is for the Council to determine what those areas are and how they are described. The Cabinet designated certain areas that will be clearly signed.

4. That the Council did not follow its own procedure in that there is a public meeting on 13th January, after the decision was taken.

Any meeting on 13 January would not form part of the consultation process leading up to the 6 January Cabinet decision to approve the Order. The Order approved at Cabinet will remain unless a subsequent decision is made. There is no prohibition on the Council holding meetings after a decision is made. See paragraph 2.3 of the report to Cabinet for example.

- 5. That the Council, by passing the resolution, is able to change the scope of the PSPO at any time without the need for consultation and scrutiny, which is not what the act is intended for.**

The Cabinet recommendations do not provide for changes in the scope of the PSPO. The legislation sets out the process for the Council to follow in the event that it wishes to vary/revoke a PSPO.