

WEST AREA COMMITTEE**26 JUNE 2008**

Subject: Proposal to declare a Dog Control Order for the District

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**Lead Member/
Portfolio Holder: Councillor S Jackson**

Summary

This report contains proposals to introduce a dog control order under the Clean Neighbourhoods and Environment Act 2005 (CNEA), to replace the existing powers and to provide improved powers for enforcement against dog fouling across the whole of the District.

Recommendation

That the Area Committee approves the adoption of a District wide Dog Control Order, as described in this report.

1 Background/Information

- 1.1 Dog fouling enforcement legislation, contained within the Dogs (Fouling of Land) Act 1996 and subsequent regulations, gave powers to district councils to issue fixed penalty notices (FPN) to, or prosecute dog owners who allowed their dogs to foul public open space and did not clean up the mess.
 - 1.2 The powers were very specifically for use by authorised District Council Officers and were only for use on land specified within the local Enforcement Order.
 - 1.3 SDC adopted these powers in 1997 and the order specifies that it is an offence to fail to clean up after your dog has defecated in the following areas:
 - Carriageways with a speed limit of 40 miles an hour or less and the adjoining pathways and verges;
 - Parks, open spaces and public recreational areas;
 - Playing fields (including school playing fields);
 - Open air sports grounds.
 - 1.4 There were some exemptions:
 - Carriageways with a speed limit of more than 40 miles an hour and the land alongside;
 - Land used for agriculture;
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- Land which is predominantly marshland, moor or heath;
 - Rural common land.
- 1.5 It is possible to continue using these powers, but their limitations are:
- that the public now has access to many more areas of land than in 1997 due to housing development on what was agricultural land. Adopting CNEA will enable these new areas to be covered.
 - Only District Council Officers can enforce the old legislation. This is an onerous responsibility on the sole Dog Warden. CNEA now extends those powers to trained officers of Town and Parish Councils (TPCs) and those working on their behalf.
- 1.6 In September of last year all TPCs were invited to a meeting to determine the level of willingness on their behalf to take on these extra duties. It is fair to say that there was little uptake, despite the offer of help with setting up and training. However, some PCs have responded to say that they can use Police and Community Support Officers (PCSOs), provided that the new powers are adopted by SDC.
- 1.7 **Dog Control Areas**
- 1.7.1 To introduce such an area the Dog Control Orders (Procedures) Regulations 2006 sets out a prescribed process which must be followed.
- 1.7.2 Guidance issued by Defra states that the following must be taken into account:
- The Order must be shown to be a necessary and proportionate response to dog problems.
 - The Authority must show that they have balanced the interests of those with dogs and those affected by dog problems.
 - The Authority should also consider the potential problems of enforcing the order.
 - If an authority is considering making an order which would affect open access land then it must consult the appropriate access authority. Access land and appropriate access authorities are as defined in the Countryside and Rights of Way Act 2000.
- 1.7.3 In consideration of the points raised in 1.7.2 above the following issues have been taken into account:
- The Council receives in excess of 60 queries about dog fouling every year;
 - Dog fouling is regularly in the top 5 environment problem issues on surveys;
 - To show that the use of these powers is necessary and proportionate is a key test and should not be taken lightly. In this respect, the problems of disease associated with dog faeces are well documented nationally. The introduction of these powers could not, therefore, be seen to be disproportionate or unnecessary;
 - There are already 280 'dog foul bins' around the district, and the Council's waste management services advise that bagged dog foul can be placed in the normal waste stream. This clearly takes the interests of dog owners into account;

- The Council employs only one Dog Warden and the introduction of this legislation will enable this service to be increased by using the facilities of Town and Parish Councils, together with Police and Community Support Officers. The Council must consult with any other Primary or Secondary Authority in the area.
- 1.7.4 A notice setting out the Dog Control Order proposal has to be published in a local newspaper. This shall:
- Identify the land;
 - Summarise the Dog Control Order;
 - State where any maps can be inspected, where a map is referred to;
 - Give the address and email address to which representations are to be sent and specify the date by which they must be made, which must not be less than 28 days after the publication of the notice.
- 1.7.5 At the end of the consultation period the authority must consider any representations and, if major changes are required, they must start the whole process again.
- 1.7.6 If the decision is to continue, the authority must decide when the Order will come into force.
- 1.7.7 This date must be at least 14 days from the date which the Order is made.
- 1.7.8 At least 7 days before the order comes into force the authority must publish a notice in a local newspaper stating:
- That the Order has been made;
 - Where the Order can be inspected and where copies can be obtained from.
- 1.7.9 A copy of the Order has to be published on the council website.
- 1.7.10 Copies of the Order have to be sent to access authorities, if any. (See 1.7.2 above).
- 1.8 Procedure following making of the order**
- 1.8.1 Where practicable signs should be erected:
- In conspicuous positions on or near the land summarising the Order.
 - At the edge of area or at regular intervals in the area.
- 2 Options available to the Committee**
- 2.1 The Committee can decide to continue with current legislation
- 2.2 The Committee can decide to introduce the new legislation, using the same designation as in 1.3 and 1.4 above.
- 3 Implications of the proposal**
- 3.1 **Legal**
- 3.1.1 Comments contained within the body of the report
- 3.2 **Financial**
- 3.2.1 Cost of advertising, training and overtime are within budget. There is

currently no budget for signs. Nevertheless as there are many signs already erected this is not considered to be a significant issue.

3.3 Environmental

3.3.1 Ensuring that dog mess is cleared up will have a significant effect on public perception of the local environment.

3.4 Corporate Strategy

3.4.1 The recommendations contained within this report relate directly to Corporate Strategy Aim 2: A clean and green district – providing a high quality environment.

3.5 Equality Impact Assessment

3.5.1 This report balances the needs of the dog owning community with the needs of the general population to live in a green and pleasant environment

4 Risk assessment

4.1 Without the adoption of these powers the Council is at risk of failing to achieve the targets set within the Corporate Strategy.

5 Conclusion

5.1 This subject is one that constantly raises queries from the public, not least because the after-effects of dog fouling are so unpleasant.

5.2 Currently the lack of availability of enforcement staff means that it is virtually impossible to formally control the problem.

5.3 The introduction of the new legislation will give the Council, and its partner organisations, more chance of providing an effective control.

ROBERT WEEKS
HEAD OF ENVIRONMENT

Background papers:

Clean Neighbourhoods and Environment Act 2005

Dog Control Orders (Procedures) Regulations 2006

Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006

Countryside and Rights of Way Act 2000