

REPORT TO COUNCIL

REPORT OF: Healthy Environment Portfolio Holder,

REPORT NO.: SS0008

DATE: 22ND April 2010

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| TITLE: | Dog Control Orders |
| FORWARD PLAN ITEM: | Yes |
| DATE WHEN FIRST APPEARED IN FORWARD PLAN: | 1 st November 2009 |
| KEY DECISION OR POLICY FRAMEWORK PROPOSAL: | Policy Framework Proposal |

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| COUNCIL AIMS/ PORTFOLIO HOLDER NAME AND DESIGNATION: | Cllr John Smith – Portfolio Holder for Healthy Environment | |
| CORPORATE PRIORITY: | Quality living | |
| CRIME AND DISORDER IMPLICATIONS: | Reduction in anti-social behaviour Reduction in environmental crime | |
| FREEDOM OF INFORMATION ACT IMPLICATIONS: | This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk | |
| INITIAL EQUALITY IMPACT ASSESSMENT | Carried out and appended to report? Yes attached to earlier Cabinet report | Full impact assessment required? No |
| BACKGROUND PAPERS: | Clean Neighbourhoods and Environment Act 2005 | |

1. INTRODUCTION

- 1.1. This report seeks approval to carry out public consultation in relation to the adoption of Dog Control Orders within designated areas of South Kesteven. This will clarify the position on matters of dog control and
- 1.2. The Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006 implement sections 55 and 56 of the Clean Neighbourhoods and Environment Act 2005 (CNEA) give the district council powers to designate areas within its administrative area where individuals must clean up after their dog; must control their dog by putting it on a lead; or from where dogs are excluded ..
- 1.3. The Communities Policy Development Group considered this issue and recommended to Cabinet that Council adopts the following orders under the Clean Neighbourhoods and Environment Act 2005:
 - a) A Dog Control Order making it an offence not to remove dog faeces anywhere in the South Kesteven district area.
 - b) A Dog Control Order making it an offence to take dogs within enclosed children's play areas as listed at Appendix1
 - c) A Dog Control Order making it an offence to not put and keep a dog on a lead when directed to do so by an authorised officer anywhere in the South Kesteven district area.

2. RECOMMENDATION

- 2.1. That formal public consultation is commenced in relation to the adoption of Dog Control Orders within South Kesteven as attached to this report at Appendix 2.

3. DETAILS OF REPORT

- 3.1. The Council currently uses powers arising from the Dogs (Fouling of Land Act) 1996 to issue fixed penalty notices for the offence of dog fouling. The introduction of Dog Control Orders is a necessary step to bring our powers up to date with current legislation and strengthen our enforcement options.
- 3.2. Each parish council has been consulted on these issues and been given the opportunity to identify what they felt would benefit their area. Only a few parish councils responded, although the consensus was that the orders should concentrate on the offence of dog fouling.

- 3.3. The Council receives an average of 25 reports of dog fouling a month, through various means including customer service reports, the website and Parish Councillor E-mails.
- 3.4. Provisions in the legislation enable an order to be made to encourage more responsible ownership of dogs. The range of controls available includes:
- The prevention of fouling;
 - Keeping keep dogs on leads;
 - Banning dogs from specified areas of land (i.e. children's play areas); and
 - Specifying the maximum number of dogs that can be taken onto specified areas of land.
- 3.5. The penalty for committing an offence contained in a Dog Control Order is a maximum fine of level 3 on the standard scale (currently £1,000). Fixed Penalty Notices (£75) for offences may also be issued by authorised officers. This is the same level of fine previously set when the Council adopted the fixed penalty powers regarding littering and fly posting under with the Clean Neighbourhoods and Environment Act.
- 3.6. Under section 57 of the CNEA a Dog Control Order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).
- 3.7. There are defences in all Dog Control Orders of:
- (a) having reasonable excuse for failing to comply with an order; or
 - (b) acting with the consent of the owner or occupier of the land, or of any other person or authority which has control of the land.
- 3.8. A Dog Control Order can be made in respect of any land to which the public are entitled or permitted to have access (with or with out payment) i.e. National Trust so the owners of this type of area will included in the proposed consultation (any enforcement on private land is by the invitation of the land owner).
- 3.9. Contact with dog fouling is unpleasant and presents a health risk, particularly to young children. It is proposed that all enclosed children's play areas will be the subject of a Dog Control Order, and a list of those to be included is shown at Appendix1.

Procedure for making Dog Control Orders

- 3.10. There is a designated procedure for making Dog Control Orders. A notice must be published describing the proposed order in the local newspaper circulated in the same area as the land to which the order would apply, and invite representations on the proposal.
- 3.11. At the end of the consultation period, it is necessary to consider any representations that have been made.

- 3.12. If, after considering representations on the proposal, it is decided to significantly alter and amend the proposal, the procedure must be started again, publishing a new notice describing the amended proposal.

Authorised Officers

- 3.13. At present the authorised officers are members of staff within Street Scene Services and Police and Community Support Officers (PCSO's). It is intended that the PCSO's will be requested to continue to issue fixed penalty notices on the District Council's behalf.
- 3.14. It is also possible for 'employees' of Parish Councils to utilise certain enforcement powers including the issuing of fixed penalty notices. The employees must receive accredited training by a DEFRA approved provider, currently the Keep Britain Tidy Group (formerly ENCAMS). The training is costly but a number of suggestions have been put to the Parish Council to assist them in minimising costs (the costs would be borne by the Parish Councils), but to date only two parish councils have expressed an interest in pursuing the training.

4. OTHER OPTIONS CONSIDERED AND ASSESSED

- 4.1. Currently, authorised officers use powers arising from the Dogs (Fouling of Land Act) 1996 to enforce against dog fouling.
- 4.2. Officers consider that the powers offered by Dog Control Orders will enhance the quality of the environment for residents and visitors. Through the Dog Control Orders, both dog owners and non-dog owners will have a clear understanding of their roles and the areas where they can enjoy open spaces.

5. RESOURCE IMPLICATIONS

- 5.1. The costs of consultation (which will mainly be press advertising) will be in the order of £5,000, and this sum can be met from within the current Street Scene budget. Similarly the cost of signage will also be met from existing budgets.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

- 6.1. Staff enforcing this legislation are appropriately trained and seek to advise and educate the public in the first instance before any consideration is given to taking formal action.

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

- 7.1. Dog control orders provide exemptions in particular cases for registered blind people, and for deaf people and for other people with disabilities who make use of trained assistance dogs. Anyone with any type of assistance dog is not subject to a Dog Control Order excluding dogs from specified land in respect of his or her assistance dog, and anyone other than a registered deaf person (whose disability will not prevent him or her from being aware of and removing dog faeces) is similarly exempt from a Dog Control Orders on the fouling of land.

8. COMMENTS OF SECTION 151 OFFICER

- 8.1. No additional budget provision has been requested in respect of the proposal detailed in the report and therefore the costs can be met from existing resources. I am not aware that any increase in any income has been forecast in next year's budget proposal.

9. COMMENTS OF MONITORING OFFICER

- 9.1. If the Council wishes to enforce legislation in respect of dog fouling and nuisance, it must adopt an order specifying the offences under the relevant legislation. The proposed order for consultation has been drafted in accordance with the legislation. Designated areas for exclusion should be clearly defined by reference to a plan showing the extent of the area to which the exclusion applies. I understand that such plans will be included in the consultation. Any existing order must be formally revoked in accordance with the legislation before any new order is made.

7. COMMENTS OF OTHER RELEVANT SERVICE MANAGER

- 7.1. Assets and Facilities have been consulted with regard to public open spaces and children's play areas and have no objections to this proposal.

8. CONCLUSION/SUMMARY

- 8.1. It is considered that Dog Control Orders are an ideal way to balance the interests of those in charge of dogs against the interests of those affected by irresponsible dog ownership. Children need dog-free areas and there needs to be areas where dogs are kept under strict control, and likewise, those in charge of dogs need to have access to areas where they can exercise their dogs without restrictions.

9. CONTACT OFFICER

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Enforcement Co-ordinator, Street Scene Services

