

| | |
|--------------------------|--|
| NAME OF COMMITTEE | Council |
| DATE | 7th October 2014 |
| REPORT TITLE | Dog Control Orders - West Devon |
| Report of | Street Scene Manager |
| WARDS AFFECTED | All |

Summary of report:

This report looks to confirm the final implementation of Dog Control Orders in West Devon, under the Clean Neighbourhood and Environment Act 2005.

Financial implications:

There is a cost of approximately £1,500 in order to place legal notices in the local press at the appropriate times during the process.

RECOMMENDATIONS:

It is recommended that the Council agrees to issue the final Dog Control Orders for

1. Fouling of land by dogs and removal of dog faeces
2. The keeping of dogs on leads
3. Not putting a dog on a lead when directed by an authorised officer
4. The exclusion of dogs from land

under the Clean Neighbourhood and Environment Act 2005. Orders will be published to take account of the consultation responses received and to ensure the effective date for the orders is the 17th October 2014.

Officer contacts:

Dai Antill – dai.antill@swdevon.swdevon.gov.uk

Cathy Aubertin – Cathy.Aubertin@swdevon.gov.uk

1. BACKGROUND

- 1.1 West Devon Borough Council currently undertakes enforcement under the Dog Fouling of Land Act 1996 alongside any locally existing bye laws. Enforcement efforts are currently concentrated majorly in the areas where Town/Parish Councils make a financial contribution towards dog warden time.

- 1.2 Following a previous report to the Communities Committee, in June 2013, Members agreed to continue with the necessary work to introduce appropriate Dog Control Orders across the Borough. Informal consultation commenced with Town and Parish Councils in respect of implementing Dog Control Orders across the Borough. This work was necessary both to improve current enforcement legislation and subsequently service levels and to encourage greater overall take up of the dog warden scheme.
- 1.3 Chagford introduced a local Dog Control Order in 2009 which excludes Dogs at Jubilee Field. These same requirements have been included in the proposed Dog Exclusion Order.

2. DOG CONTROL ORDERS

- 2.1 The Clean Neighbourhood and Environment Act 2005 includes five dog control offences that it is possible to control by Dog Control Orders, and they are:
- 1 Fouling of land by dogs and removal of dog faeces
 - 2 The keeping of dogs on leads
 - 3 Not putting a dog on a lead when directed by an authorised officer
 - 4 The exclusion of dogs from land
 - 5 The number of dogs permitted to be walked on leads

The Council is looking to make orders relating to 1-4 of the above list, and have consulted on draft orders accordingly.

- 2.2 Section 55 of the Act enables Local Authorities or Town and Parish Councils to make orders that apply to offences aimed at the control of dogs to specified land in their area.
- 2.3 Section 57 of the Act provides that Orders may apply to all public land which is open to the air and to which the public are permitted or entitled to have access. There are exemptions to this definition which have been made by the Secretary of State.
- 2.4 Section 59 of the Act allows authorised officers of Local Authority, Town and Parish Councils, and any other authorised person, the right to issue a Fixed Penalty Notice (FPN). In effect, this would allow Town and Parish Councils to authorise their own officers to issue FPNs and, in addition, the Borough Council would be able to authorise officers other than the Dog Warden to issue notices, such as Monitoring Officers and Civil Enforcement Officers.
- 2.5 Section 60 of the Act enables a Local Authority, Town and Parish Councils to specify the amount of fixed penalty in relation to their own Dog Control Orders. The draft orders relate to a fixed penalty notice of £80.00.

3. CONSULTATION PROCESS

- 3.1 All Borough Town and Parish Councils, together with various stakeholders; have been involved in the consultation process which started in January 2014. They

were consulted throughout February 2014 when the draft documents were circulated for responses. Twelve responses were received at this stage and some minor amendments were made to the documents. Street Scene staff also attended parish meetings on request to provide Dog Control Order updates.

- 3.2 In May 2014 all Town/Parish Councils and stakeholders were invited to an evening meeting to provide an update presentation on the Dog Control Order's. This allowed those that attended an opportunity to better understand the documents and the planned proposals.
- 3.3 On 19th June 2014 a Public Notice was advertised in the local Tavistock and Okehampton Times, detailing a four week public consultation period in respect of the Dog Control Orders. The updated documents and maps were available on the WDBC website and in Council offices.

Liaison continued with several Town and Parish Council's during this period, who wished for amendments to be made in respect of land within their locality.

- 3.4 During the course of the public consultation period, the local media highlighted the orders, which assisted in engagement with the community. This resulted in 74 responses being received towards the end of the consultation period.

3.5 **REVIEW OF RESPONSES**

Officers met on 29th July 2014 to review the responses received from the public and other groups. Recommended amendments were made to the draft documents to reflect the responses of consultees where local requests did not affect the operational practicality of the orders overall. Proposed amendments were also considered by our Legal specialists. There are no major amendments proposed to any order. As changes are minor there is no requirement to carry out a process of re-consultation.

- 3.6 The Dog Control Orders with proposed amendments to reflect the public consultation changes were considered by the Council Leader, Deputy Leader and Chair and Vice Chair of the Communities Committee.
- 3.7 It is important to note that the orders are intended to allow easier overall enforcement in relation to problem areas or fouling 'hot spots'. The orders will also allow for partner agencies to enforce in their areas if they are so minded.
- 3.8 Local specific variations to orders can be added by locality if there are instances where these are felt necessary. Through the consultation processes none are identified at this point.

4. **LEGAL IMPLICATIONS**

- 4.1 The introduction of Dog Control Orders will allow for a consistent approach to dog control throughout the Borough and will replace existing byelaws. The Dog Control Orders under the Clean Neighbourhoods and Environment Act will replace the Dog Fouling of Land Order in terms of our ability to prosecute.

- 4.2 It will be possible for third party organisations to be authorised to enforce the orders on behalf of the Council, which aligns fully with the locality working principles of our transformation programme.
- 4.3 On 20th October 2014 the Government is introducing new legislation to deal with anti social behaviour through the Anti Social Behaviour Crime and Police Act 2014. After that date any future Dog Control Orders would be legislated for as a Public Space Protected Order (PSPO). The West Devon orders would be automatically converted to into a PSPO after 3 years of operation provided they are made prior to the 20 October 2014.
- 4.4. It is intended that the Dogs on Leads Order reflects the legal requirements of the CROW Act for areas of land where this is relevant.

5. FINANCIAL IMPLICATIONS

- 5.1 A cost of approximately £1,500 in order to place legal notices in the local press at the appropriate times during the process. This cost will be met through existing budgets.

6. RISK MANAGEMENT

- 6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

| | |
|---|--|
| Corporate priorities engaged: | Community well being; access to services; towards excellence; customer first |
| Statutory powers: | Clean Neighbourhood and Environment Act 2005 Dog Control Orders (Prescribed Offences and Penalties) Regulations 2006 Dog Control Orders (Procedures) Regulations 2006 The Control on Dogs (non-application to Designated Land) Order 2006 |
| Considerations of equality and human rights: | Not applicable |
| Biodiversity considerations: | Not applicable |
| Sustainability considerations: | Not applicable |
| Crime and disorder implications: | Not applicable |
| Background papers: | Communities Committee reports |
| Appendices attached: | None |

STRATEGIC RISKS TEMPLATE

| No | Risk Title | Risk/Opportunity Description | Inherent risk status | | | | Mitigating & Management actions | Ownership |
|----|------------------------------------|---|----------------------------|----------------------------|------------------------------------|---|--|-------------------------|
| | | | Impact of negative outcome | Chance of negative outcome | Risk score and direction of travel | | | |
| 1. | Orders misrepresented in community | Full communication programme to explain and support the amended legislation | 3 | 3 | 9 | ↔ | <p>Full informal and formal public consultation to be undertaken to allay concerns</p> <p>Officers are working closely with the local media to ensure full information is given.</p> | C Aubertin/ D Antill |
| | | | | | | | | |

Direction of travel symbols ↓ ↑ ↔