

**RECREATION, LEISURE & OPEN SPACES COMMITTEE - 7<sup>TH</sup> NOVEMBER 2007**  
**PLANNING, TOWN & ENVIRONMENT COMMITTEE – 9<sup>TH</sup> NOVEMBER 2007**  
**POLICY & FINANCE COMMITTEE – 21<sup>ST</sup> NOVEMBER 2007**

**DOG CONTROL ORDERS**

**1. BACKGROUND**

- 1.1 Currently, dog fouling in the town is controlled by the provisions of the Dogs (Fouling of Land) Act 1996. It is an offence, in the areas listed below, to fail to remove dog faeces:
- All carriageways in the New Forest District with a speed limit of 40mph or less and the land running alongside them.
  - Open spaces off Southampton Road
  - Play Area at Toad Corner
  - Open spaces and the area around Poulner Lakes
  - the Bickerley Village Green
  - Jubilee Gardens
  - Castleman Way open space
  - Poulner open space/play area
  - Carvers Recreation Ground and play area
  - Dr Little Gardens
  - Forest Edge open space
  - Ash Grove play area
  - Kingfisher Way open space
- 1.2 However, since April 2006, District, Town and Parish Councils have had discretionary powers to declare Dog Control Orders (DCO) under the Clean Neighbourhoods and Environment Act 2005 (CNEA). DCOs can be applied to specific geographic areas, in which it could be made an offence to:
- fail to remove dog faeces
  - not keep a dog on a lead
  - not put and keep a dog on a lead when directed to do so by an authorised officer
  - permit a dog to enter land from which dogs are excluded
  - take more than a specified number of dogs onto land.
- 1.3 The CNEA creates two tiers of responsible authorities. The District Council is designated as a 'Primary Authority' and Town and Parish Councils as 'Secondary Authority'. The Act allows Secondary Authorities to make their own DCOs and undertake their own enforcement. However, Primary Authorities cannot enforce a DCO made by a Secondary Authority, but Secondary Authorities can enforce a DCO made by a Primary Authority.
- 1.4 The Town Council has previously considered adopting the relevant provisions of the Act. However, it did not do so largely because the District Council indicated that it was considering the Act's adoption on a District wide basis. This would have invalidated the Town Council's Order and it was therefore decided to defer any decisions pending an indication from the District Council as to its intentions.
- 1.5 The District Council, as the Primary Authority, can make a DCO on any person's land with the land owner's permission. It also has the power to set the tariff for the fixed penalties within the range of £50 to £80.

## 2. IMPLEMENTATION

2.1 New Forest District Council is now consulting Town and Parish Councils on how we can work together to implement these new provisions.

2.2 There are four options available, as follows:

**Option 1** – Make no change. Retain the Dogs (Fouling of Land) Act provisions and any other dog related Byelaws in place. (*Note: There are no additional Dog Control Byelaws in Ringwood*)

**Option 2** – Supplement the existing provisions with DCOs, i.e. extend the controls to land not currently covered by the Dogs (Fouling of Land) Act and Byelaws.

This approach could lead to confusion in that the two regimes under the different Acts would operate in parallel. This could lead to a two-tier system in respect of the fines, i.e. there is no longer a mechanism for changing the amount of the fixed penalty fine under the Dogs (Fouling of Land) Act which is currently set at £50.

**Option 3** – Each authority declares DCOs on its own land.

This would lead to a patchwork of enforcement areas, with the District Council unable to assist Parish and Town Councils in enforcing their provisions.

**Option 4** – The District Council declares a DCO for fouling on the whole of the district, including Town and Parish Council land and for any other specified offences, as necessary.

This would lead to a consistent approach, as the tariff for fixed penalties would be the same across the District. Also, provisions could be enforced by staff from both authorities.

## 3. ISSUES

3.1 At present, the Dogs (Fouling of Land) Act is not being enforced. This is because the District Council has only two Dog Wardens to cover the whole District, and the Town Council does not have the power to enforce it. Therefore, it would not be prudent to support either Option 1 or 2.

3.2 It would appear that Option 4 would be the best way forward. If the District Council declares a DCO making it an offence to fail to remove dog faeces throughout the District, it would be possible for this to be enforced by both the District Council and the Town Council, although our groundsmen would have to undertake training to enable them to issue Fixed Penalty Notices.

3.3 In addition, the Council is in the process of agreeing a Service Level Agreement (SLA) with Hampshire Constabulary for the two Police Community Support Officers (PCSOs) we have working in the town. This SLA will include a requirement for the PCSOs to issue Fixed Penalty Notices on the Council's behalf for any Orders made under the Clean Neighbourhoods and Environment Act 2005.

3.4 The Town Council may also wish to make Dog Control Orders for other offences, for example, to exclude dogs from playgrounds. However, it is not certain whether the District or Town Council should make these additional Orders.

## 4. FINANCIAL IMPLICATIONS

4.1 At this stage, the financial implications are unknown.

## 5. RECOMMENDATIONS

5.1 It is recommended that:

- a) Recreation, Leisure & Open Spaces Committee
  - i) considers the four options at paragraph 2.2 in relation to recreation and open space land in the control of the Town Council; and
  - ii) considers whether additional controls, such as dog banning orders, should be sought for specific recreation and open space land.
  
- b) Planning, Town & Environment Committee
  - i) considers the four options at paragraph 2.2 in relation to all other areas within the town; and
  - ii) considers whether additional controls should be sought for specific areas, such as car parks and shopping areas.
  
- c) Policy & Finance Committee authorises, in the light of any decisions made under a) and b) above, the inclusion of a provisional sum in the 2008/09 budget to meet any costs arising from new dog control orders.

For further information please contact:

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