



Ward: All

Key Decision: Yes

Dog Control Orders – Response to Statutory Consultation

Report by the Executive Head of Housing, Health and Community Safety

1.0 Summary

- 1.1 The statutory consultation period for Dog Control Orders ended on 27 February 2009.
- 1.2 The Council is required to consider any representation to the proposed orders before deciding to proceed.
- 1.3 This report outlines the responses received from the published 'Notice of Intent' and makes recommendation on the way forward.

2.0 Background

- 2.1 Following extensive informal consultation in 2008 where the Council received over 800 responses to its questionnaire, the Council published its proposals for Dog Control Orders in January 2009. The Council was out to statutory consultation for six weeks advertising the 'Notice of Intent' in the local press and on the Council's website.
- 2.2 The Council has received 12 responses to the statutory consultation regarding proposals to introduce Dog Control Orders.

3.0 Proposals

- 3.1 The Council is required to formally consult residents and others on their proposals for Dog Control Orders.
- 3.2 The Council received formal comments from West Sussex Highways Department, The Kennel Club, South Downs Joint Committee and Sompting Parish Council. It also received eight formal comments from members of the public. The majority of the responses received were regarding the 'Dog Exclusion' order. This has been interpreted by some people as a 'catch all' that could be used in the future to ban dogs from parks. It is not the Council's intention to excluded dogs from all parks and open spaces and it has issued a press release to assure residents that this is not its plan.

- 3.3 To clarify this issue officers are recommending that the wording in the 'Dog Exclusion' Order is amended to read '*All land within the Council's administrative area comprising any fenced (and / or hedged and / or walled) children's play area, bowling green, croquet lawn, tennis court, skate park, cycle enclosure or putting green signed at its entrance (s) as a "dog exclusion area" (whether the sign uses those particular words or words and / or symbols having like effect)*'.
- 3.4 As part of the consultation it was also suggested that a 'dog on lead' order would be more appropriate for children's play areas to allow families with dogs to enter play areas. There was however, overwhelming support at the informal consultation stage to ban dogs from places where children play and officers are not recommending making children's play areas 'dog on lead'.
- 3.5 There was also one comment regarding not needing to have dogs on leads in public spaces such as highways, car parks and cemeteries. We have however also had representation from West Sussex County Council's Highways department requesting for dogs to be kept on a lead in all Public Highway areas within the District of Adur as this would complement the County Council's Road Safety policy. The proposals suggest that this order applies to all public roads, pavements and grass verges, which are within 4 metres of the carriageway and are maintainable at public expense and which are subject to a speed limit of 40mph or less.
- 3.6 The South Downs Joint Committee have highlighted that both Lancing Ring and Mill Hill suffer from dog fouling and suggest that educational campaigns and enforcement is undertaken to try and reduce the impact on the environment and the amenity of the area. The Council has recent run a competition with local children to design a poster to highlight the issues of dog fouling and it is intended that campaign will be launched to coincide with the Dog Control Orders.

4.0 Legal

- 4.1 If the Council wishes to significantly alter the proposed Orders, it must start the procedure again by publishing an amended notice in the local papers.
- 4.2 The proposed changes suggested in section 3 are not considered to be significant changes, but rather clarification of the Council's intentions. These changes should make it clearer to the public that the proposals are not intended to cover all parks, but just those specific facilities identified in the amended schedule.
- 4.3 If the authority wishes to proceed with the introduction of the Orders then the Council must decide when the order will come into force, which must be 14 days from the date it was made. It must also publish in the local newspaper that the order has been made and where copies can be obtained 7 days before it comes into force.

5.0 Financial implications

- 5.1 Matter considered and no issues identified.

6.0 Recommendation

6.1 Officers recommend the following:

- (i) That the 'Dog Exclusion' order is amended to make it clearer to the public which areas of land are intended to be dog free.
- (ii) That the proposed Orders in Annex A are agreed and adopted.
- (iii) Adur District Council's Legal Services department is instructed to proceed with completing the Orders.

6.2 That on the request of the Sussex Police, PCSOs are authorised to issue relevant Fixed Penalty Notices for Dog Control Offences.

Local Government Act 1972

Background Papers:

Clean Neighbourhoods and Environment Act 2005
Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006
Dog Control Orders (Guidance on Sections 55 to 67 of the Clean Neighbourhoods and Environment Act 2005) DEFRA 2006
Fixed Penalty (Miscellaneous Provisions) Regulations 2006
Local Environmental Enforcement (Guidance on the use of fixed penalty notices) DEFRA 2007
Dog Fouling and the Law (A Guide for the Public) ENCAMS 2006
Report to Overview and Scrutiny - Clean Neighbourhood & Environment Act 2005: Dog Control Orders (27 May 2008)
Report to Overview and Scrutiny – Clean Neighbourhood and Environment Act : Dog Control Orders (16 September 2008)
Report to Cabinet Member - Clean Neighbourhood and Environment Act : Dog Control Orders (10 November 2008)

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Schedule of Other Matters

1.0 Council Priority

- 1.1 To promote a clean and green environment

2.0 Specific Action Plans

- 2.1 These Orders will help Adur District Council in its duty under the Environmental Protection Act (EPA) 1990 to keep public areas clear of dog faeces.

3.0 Sustainability Issues

- 3.1 There are no particular sustainability issues raised by the report.

4.0 Equality Issues

- 4.1 Issues relating to disability are covered by the legislation and government guidance.

5.0 Community Safety issues (Section 17)

- 5.1 The introduction of Dog Control Orders will assist the Council in its duty to reduce crime and disorder in the district.

6.0 Human Rights Issues

- 6.1 Consultation has been undertaken to ensure that the introduction of Dog Control Orders is proportionate to the issues experienced by residents and the anticipated outcome.

7.0 Reputation

- 7.1 Cleansing and improvements in the street scene have been identified by the IdEA as having a significant impact of the Council's reputation. He Council has also identified 'to promote a clean and green environment' as one of its priorities.

8.0 Consultations

- 8.1 Details contained in the report.

9.0 Risk assessment

- 9.1 These will be addressed as part of the Enforcement Strategy.

10.0 Health & Safety Issues

- 10.1 Health and safety issues will be taken into consideration as part of the enforcement strategy.

11.0 Procurement Strategy

- 11.1 Procurement will be undertaken in accordance with the procurement strategy.

12.0 Partnership working

- 12.1 Officers will explore opportunities for joint working with Worthing Borough Council and other local authorities.

THE DOGS EXCLUSION (ADUR DISTRICT COUNCIL) ORDER 2008

The Adur District Council (in this Order called “the Council”) hereby makes the following Order:

1

This Order comes into force on the [date].

2

This Order applies to the land specified in the Schedule.

3

(1) A person in charge of a dog shall be guilty of an offence if, at any time, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless-

- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) Nothing in this article 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
- (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
- (c) has a disability which affects his mobility, manual dexterity, physical coordination 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.

(3) For the purposes of this article-

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
- (b) 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)

4

A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[date]

The COMMON SEAL of the)
ADUR DISTRICT COUNCIL was)
hereunto affixed this [date] in the presence of:-)

Jeremy Cook
Executive Head of Legal and Democratic Services

SCHEDULE

1. All land within the Council's administrative area comprising any fenced (and/or hedged and/or walled) children's play area, bowling green, croquet lawn, tennis court, skateboard park, cycle enclosure or putting green signed at its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or words and/or symbols having like effect).

THE DOGS (SPECIFIED MAXIMUM) (ADUR DISTRICT COUNCIL) ORDER 2008

The Adur District Council (in this Order called “the Council”) hereby makes the following Order:

1

This Order comes into force on the [date].

2

This Order applies to the land specified in the Schedule.

3

On land to which this Order applies, the maximum number of dogs which a person may take onto that land is 6.

Offence

4

(1) A person in charge of more than one dog shall be guilty of an offence if at any time, he takes onto any land in respect of which this Order applies, more than the maximum number of dogs specified in article 3 of this Order, unless –

a. he has reasonable excuse for doing so; or

b. the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

5

A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The COMMON SEAL of the ()
ADUR DISTRICT COUNCIL was)
hereunto affixed this [date] in the presence of:-)

SCHEDULE

1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is
 - (i) open to the air (which includes land that is covered but open to the air on at least one side) and
 - (ii) to which the public are entitled or permitted to have access (with or without payment).
2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

THE DOGS ON LEADS (ADUR DISTRICT COUNCIL) ORDER 2008

The Adur District Council (in this Order called “the Council”) hereby makes the following Order:

1

This Order comes into force on the [date].

2

This Order applies to the land specified in the Schedule.

Offence

3

- (1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies he does not keep the dog on a lead, unless-
- (b) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

4

A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The COMMON SEAL of the)
ADUR DISTRICT COUNCIL was)
hereunto affixed this [date] in the presence of:-)

SCHEDULE

1. Subject to the exception in paragraph 2 below, this order applies to all public roads, pavements and grass verges, which is within 4 metres of the carriageway and is maintainable at public expense and which are subject to a speed limit of 40mph or less; Widewater lagoon, cemeteries, allotments and car parks within the administrative area of the Council.
2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967, access land, Downslink, bridleways, and byways.

THE DOGS ON LEADS BY DIRECTION (ADUR DISTRICT COUNCIL) ORDER 2008

The Adur District Council (in this Order called “the Council”) hereby makes the following Order:

1

This Order comes into force on [date].

2

This Order applies to the land specified in the Schedule.

3

In this Order “an authorised officer of the Council” means an employee of the Council who is authorised in writing by the Council for the purpose of giving directions under this Order.

4

(1) A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this Order applies, he does not comply with a direction given him by an authorised officer of the Council to put and keep the dog on a lead, unless-

- (c) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article-

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.
- (b) an authorised officer of the Council may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person [on any land to which this Order applies] or the worrying or disturbance of any animal or bird.

5

A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[date]

The COMMON SEAL of the)
ADUR DISTRICT COUNCIL was)
hereunto affixed this [date] in the presence of:-)

Jeremy Cook
Executive Head of Legal and Democratic Services

SCHEDULE

1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is
 - (i) open to the air (which includes land that is covered but open to the air on at least one side) and
 - (ii) to which the public are entitled or permitted to have access (with or without payment).
2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

THE FOULING OF LAND BY DOGS (ADUR DISTRICT COUNCIL) ORDER 2008

The Adur District Council (in this Order called “the Council”) makes the following Order:

1

This Order comes into force on the [date].

2

This Order applies to the land specified in the Schedule.

3

- (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless-
 - (d) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) Nothing in this article applies to a person who-
 - (b) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (c) has a disability which affects his mobility, manual dexterity, physical coordination 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.
- (3) For the purposes of this article-
 - (c) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (d) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
 - (e) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
 - (f) 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)

4

A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[date]

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hereunto affixed this [date] in the presence of:-)

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SCHEDULE

1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is
 - (i) open to the air (which includes land that is covered but open to the air on at least one side) and
 - (ii) to which the public are entitled or permitted to have access (with or without payment).
2. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.