



REPORT TO EXECUTIVE

PORTFOLIO AREA: Environment & Infrastructure

Date of Meeting: 25th September 2006

Public

Key Decision: Yes **Recorded in Forward Plan:** Yes

Inside Policy Framework

Title: CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005:
DOG CONTROL ORDERS
Report of: DIRECTOR OF COMMUNITY SERVICES
Report reference: CS 46/06

Summary:

The report outlines the current provisions of the Clean Neighbourhoods and Environment Act in respect of the introduction of Dog Control Orders regarding dog fouling, dogs on leads and dogs on leads by direction. The report proposes the creation of three Dog Control Orders in this respect to introduce control measures under the enabling provisions of the Act.

Recommendations:

It is RECOMMENDED that:-

- (1) The Executive support proposals to make Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005 as set out in this report and recommends to Council that these be adopted
- (2) Resolve to set the level of Fixed Penalty Charge at £50 for the offences

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1.0 BACKGROUND INFORMATION AND OPTIONS

1.1 The report addresses the dog control aspects of the Clean Neighbourhoods and Environment Act 2005 which is being embraced by the Council across a range of initiatives. Dog fouling and nuisance behaviour is a very high priority with the public and is given emphasis by the Council.

In many respects the introduction of dog control orders (enabling provisions within the Clean Neighbourhood & Environment Act) replaces earlier legislation adopted by the Council under the Dogs (Fouling of Land) Act. The legislation has extended the powers to a degree to enable enforcement of nuisance behaviour by requiring dogs to be on leads in specific instances.

The Act also repeals the Dogs (Fouling of Land) Act 1996 and the offences which may be prescribed in a dog control order include “failing to remove dog faeces” which is intended to supercede the provisions of the Dogs (Fouling of Land) Act.

The offence was introduced in the Council’s area by the Carlisle Dog Fouling Designated Areas Order made under the Dogs (Fouling of Land) Act and it will now be necessary to reintroduce the same provisions under a dog control order.

1.2 There are two sets of Regulations made under the Act for the control of dogs. These are:-

- (i) The Dog Control Orders (Prescribed Offences and Penalties etc) Regulations 2006
- (ii) The Dog Control Orders (Procedures) Regulations 2006

1.3 These regulations specify the offences and the procedure for the introduction of dog control orders.

1.4 The offences for which dog control order are proposed are:-

- (a) failing to remove dog faeces
- (b) not keeping a dog on a lead
- (c) not putting and keeping a dog on a lead when directed to do so by an authorised officer

1.5 It is important that the procedure for making a dog control order is adhered to since failure to do so will invalidate the order.

The procedure is set out in the Dog Control Orders (Procedures) Regulations and in brief involves identifying the areas of land to which the order will apply, consulting the public by publishing a notice of the proposal in a local newspaper and giving a period of not less than 28 days for receipt of written representations.

After making a dog control order there are requirements to be met regarding publicising and a notice must again be placed in a local newspaper stating that the order has been made and stating the place at which it may be inspected and copies obtained.

1.6 The three Dog Control Orders proposed are:

- (a) The Fouling of Land by Dogs (Carlisle District order 2006). See appendix 1.
- (b) The Dogs on Leads by Direction (Carlisle District Order 2006). See appendix 2.
- (c) The Dogs on Leads (Carlisle Order 2006). See Appendix 3

1.7 The Fouling of Land by Dogs Order re-introduces the measures already in force in the whole of the Council's area relating to the offence of failing to remove dog faeces. These provision were introduced under the Dogs (Fouling of Land) Act 1996 which has now been repealed by the Clean Neighbourhoods and Environment Act 2005. However the existing Carlisle City Council Designated Areas Order will remain in force until the new provisions are enacted by way of the Dog Control Order which will then supersede it.

1.8 The Dogs on Leads by Direction Order covers the whole of the Council district area and it also applies to land in the open air to which the public have access with or without payment.

The offence introduced is one of failing to comply with the direction given by an authorised officer of the Council to put and keep a dog on a lead.

This is a provision which will enable an authorised enforcement officer to require a person in charge of a dog to put it on a lead if the officer considers that the dog is causing, or may potentially cause, a nuisance in a public place.

- 1.9 The Dogs on Leads order applies only to the land specified in the schedule of the order this being land in the open air to which the public are entitled or permitted to have access and located within the settlement boundaries of Carlisle Urban Area, Brampton, Longtown and the major villages and hamlets within the Carlisle City Council district area.

It does not apply to urban fringe landscape, amenity open spaces or primary leisure area except that dogs are to be kept on leads within 5 metres of any children's play area.

This order will require that within neighbourhood residential areas dogs must be kept on a lead and not be permitted to roam free (highways and footpaths would be included within the definition of land).

It will be an offence for a person in charge of a dog not to keep it on a lead on any of the land to which the order applies.

- 1.10 Penalties for offences under the Orders will be for a Fixed Penalty Notice of £50 or, on summary conviction of the offender, a fine not exceeding level 3 on the standard scale currently (£1,000).

2.0 CONSULTATION

- 2.1 No consultation externally apart from the requirement of receipt of written representations from the public within the prescribed notice period following publication of the proposed Orders.

Internal consultation has taken place with the Legal and Democratic Services Department regarding the legal procedures involved and the format and content of the Dog Control Orders.

3.0 RECOMMENDATIONS

It is RECOMMENDED that:-

- (1) The Executive support proposals to make Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005 as set out in this report and recommends to Council that these be adopted
- (2) Resolve to set the level of Fixed Penalty Charge at £50 for the offences

4.0 REASONS FOR RECOMMENDATIONS

To introduce measures for the control of dogs to enable enforcement measures to be taken to deal with irresponsible dog owners and help provide clean, green and safe neighbourhoods.

5.0 IMPLICATIONS

- Staffing/resources - Council has already agreed to the appointment of two additional Enforcement Officers to be utilised to compliment existing enforcement resources. Approval and funding is for a fixed term 2 year period only.
- Financial - included within existing Clean Neighbourhood and Environment Act budget. Additional income from FPN's will be modest And be used to meet administrative costs
- Legal - Legal Services will be involved with the drawing up of the new Control Orders and following the prescribed procedure for their introduction.
- Corporate - This is an important part of the Council's Cleaner, Greener, Safer priority.
- Risk Management - Earlier surveys by the Council show that dog Fouling is a very important issue. These Orders and the associated enforcement levels may build up expectation which can not be delivered or alternatively complaints about higher enforcement action may arise. This will be mitigated by staff training and an updated enforcement protocol.

The funding for the additional enforcement resources are for a fixed term of 2 years. The culture within the community may well have changed by then but there may be pressure to continue.

- Equality Issues - None.
- Environmental - Will help ensure a cleaner local environment.
- Crime and Disorder - Nil.

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
2006 (S.I.2006/1059)

The Fouling of Land by Dogs (Carlisle District) Order 2006

The Council of the City of Carlisle (in this Order called "the Council") hereby makes the following Order:

1. This Order comes into force on 1 November 2006.
2. This Order applies to the land specified in the Schedule.

Offence

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 –

(a) 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 –

(a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or

(b) has a disability which affects his mobility, manual dexterity, physical co-ordination 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 purpose 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) 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;

(c) 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;

(d) 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).

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.

[Date]

Executed as a deed by affixing)
the Common Seal of THE COUNCIL)
OF THE CITY OF CARLISLE)
in the presence of:)

SCHEDULE

1. All land within the area of the Council as shown edged red on the map attached hereto and which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

2. In Section 1 any land which is covered is deemed to be "open to the air" if it is open to the air on at least one side.

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
2006 (S.I.2006 1059)

The Dogs on Leads by Direction (Carlisle District) Order 2006

The Council of the City of Carlisle (in this Order called ("the Authority")) hereby makes the following Order:

1. This Order comes into force on 1 November 2006.
2. This Order applies to the land specified in the Schedule .
3. In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

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 Authority to put and keep the dog on a lead unless –
 - (a) 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 Authority 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.

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.

[Date]

Executed as a deed by affixing)
the Common Seal of THE COUNCIL)
OF THE CITY OF CARLISLE)
in the presence of:)

SCHEDULE

1. All land within the area of the Council as shown edged red on the map attached hereto and which is open to the air and to which the public are entitled or permitted to have access (with or without payment).
2. In Section I, land which is covered is deemed to be "open to the air" if it is open to the air on at least one side.

SCHEDULE

1. All land within the area of the Council as shown edged red on the map attached hereto and which is
 - (a) Within the settlement boundaries of:
Carlisle Urban Area; Brampton; Longtown; Burgh By Sands; Castle Carrock; Cummersdale; Cumwhinton; Dalston North and South; Gilsland; Great Corby; Great Orton; Hallbankgate; Hayton; Heads Nook; Houghton; Irthington; Low Crosby; Raughtonhead; Rockcliffe; Scotby North and South; Smithfield; Thurstonfield; Warwick Bridge; Wetheral; Wreay; and
 - (b) Open to the air and to which the public are entitled or permitted to have access (with or without payment), and
 - (c) Not an urban fringe landscape, Amenity Open Space or Primary Leisure Area (as defined and shown in the Carlisle District Local Plan) save that dogs are to be kept on leads within 5 metres of any children's play areas.

1. For the purposes of Section 1:

"open to the air" includes land which is covered if it is open to the air on at least one side.

"children's play area" means any area intended or equipped such as to facilitate the play of children.