

Report to: **Executive**  
Date: **15 January 2008**  
Report of: **Executive Member for Liveability**  
Subject **Dog Control Orders for the District of Easington**  
Ward: **All**

## **1. Purpose of Report**

- 1.1 This is a key decision that has been recorded in the forward plan. This report is to;-
- seek agreement to commence the process for introducing a “Fouling of Land by Dogs (District of Easington) Order 2008”, and
  - to outline position regarding the use of other dog control powers that are available should further dog control orders be made.

## **2. Consultation**

2.1 Consultation to date has involved;-

- An initial workshop meeting with District of Easington members on 2/3/07,
- Presentation and discussion with Community Services Scrutiny Committee on the 17/7/07,
- A presentation to each Area Forum between April and June 2007,
- 2 meetings with a representative selection of District of Easington residents one on the 19/2/07 for the north of the District and 19/3/07 for the South,
- Town/Parish Council Consultative Meetings held over a series of months and a consultation letter to each secondary authority,
- Meetings with the Heritage Coast team,
- Discussions with the local police,
- Consultation with organisations concerned with the welfare of dogs.

2.2 The views expressed during consultation have shaped the recommendations for making the dog control order for the District of Easington.

2.3 Management Team has considered this report and support the proposal.

## 3. Background

3.1 Previous reports have outlined the powers available under the Clean Neighbourhoods and Environment Act 2005. Local authorities can make a range of orders to control dog related problems in their areas. This includes the power to replace the existing Dogs (Fouling of Land) Act 1996 designated no fouling areas with;

- A “Fouling of Land by Dogs Order”, and/or
- A “Dogs on Leads Order”, and/or
- A “Dogs on Leads by Direction Order”, and/or
- A “Dogs Exclusion Order”, and/or
- A “Dogs (Specified Maximum) Order”.

3.2 The proposal put forward during consultation was that as a minimum, the existing no fouling areas should be extended to cover all appropriate areas within the District. This would require the Council to make a “Fouling of Land by Dogs (District of Easington) Order 2008 with attached maps setting out the areas subject to the order. Previous reports have established the policy of setting the level of fixed penalty at the maximum level (for littering and dog fouling this is currently £80) and that a discount to £50 applies on early payment. There has been unanimous support for making such an order and the maps identifying the designated areas have been amended in line with comments from members, residents and other stakeholders.

This would extend the no fouling controls to some areas that were previously not designated under the Dogs (Fouling of Land) Act 1996 as follows;

- certain new housing estates,
- parts of the countryside,
- areas of roads above 40 miles per hour, and
- certain industrial estates,

3.3 In making any dog control order the Council must have regard to the statutory guidance and to representations made by persons or bodies consulted. Relevant aspects of the statutory guidance includes a requirement to,

- Have the resources to adequately enforce any order,
- Consider the impact of an order on the freedom and needs of responsible dog owners, and
- Erect adequate signage and waste bins etc to ensure that everyone can understand the controls imposed by an order.

3.4 The CNEA enables Town and Parish Council staff to be authorised to enforce the control imposed by a dog control order on their land. To date none of the Town and Parish Councils within the District of Easington has chosen to adopt these powers and it would appear that District of Easington staff would have to enforce the provisions of any order on Town and Parish Council land. This may be taken into account in deciding what level of control we ultimately apply.

#### **4. Position Statement and Option Appraisal**

4.1 The consultation process has found unanimous support for the Council to make a “Fouling of Land by Dogs (District of Easington) Order 2008” and to increase the level of fixed penalty for dog fouling offences to be in line with littering offences. Maps of proposed designated no fouling areas have been widely distributed and final versions have now been prepared to reflect the comments returned.

Feelings expressed during consultation regarding the use of the other controls were mixed, for example there has been a degree of objection to proposals to prohibit dogs from certain areas, principally Seaham beach and the introduction of a “Dogs Exclusion Order” may meet with formal objection during the publicity period.

Certain town and parish Councils however, have stated that they would like to see higher levels of controls applied to certain areas such as parks and playing fields, beaches and shopping areas.

At this stage therefore, it proposed to seek approval for the making of a “Fouling of Land by Dogs (District of Easington) Order 2008”.

4.2 Work is also progressing to negotiate whether the higher level controls that should be brought in by making a Dogs on Leads (District of Easington) Order 2008 to require

dogs to be kept on leads in certain areas and a Dogs Exclusion (District of Easington) Order 2008, to prohibit dogs from certain areas.

This requires an assessment of the resource implications and what partnership working arrangements may need to be put in place to ensure the higher level controls can be enforced.

It is proposed to bring further reports regarding the implications of introducing these orders in the future should it be possible to develop joint working arrangements with relevant Town and Parish Councils.

- 4.3 A draft “Fouling of Land by Dogs (District of Easington) Order 2008” is attached as appendix 1. . Maps identifying the land covered by the order will be attached to the order.
- 4.4 A dog control order would be made by the District Council of Easington. The Council must publicise it’s intention to make an order and allow 28 days for representations to be made. After considering and addressing any comments or objections the Council can then make the order which will come into effect 14 days later.

## **5. Implications**

### *5.1 Financial*

There may be a small amount of additional income generated due to the increase in the maximum level of fixed penalty notices from £50 to £80, although the policy of discounting to £50 for early payment will mean that any increase is insignificant. Around 100 fixed penalty notices are served each year.

The additional advertising, publicity and signage will require additional expenditure and the aim is to meet these costs from existing budgets. New signs will be required in areas coming within these controls for the first time and signs in existing designated areas will also need to be updated as the existing ones make reference to the Dogs (Fouling of Land) Act 1996 and warns that fines are £50.

It is envisaged that around 3,000 new signs would be required. It would cost approximately £20,000 to purchase and install this number of new signs and the cost will be met from existing budgets.

## 5.2 *Legal*

The Clean Neighbourhood and Environment Act offers local authorities the powers to introduce more comprehensive controls to keep their areas clean and improve BVPI 199 performance. DEFRA are carrying out surveys to see how local authorities are responding to the new Act.

## 5.3 *Policy*

The existing policy of issuing spot fines where offences are witnessed and prosecuting for non-payment of spot fines would continue.

## 5.4 *Risk Implications*

There is a potential for adverse publicity with any increase in enforcement which can be managed by effective communication and publicity. There is equally the chance of criticism if we do not take advantage of the new powers. There is a risk that Town and Parish Councils will not wish to be involved with enforcement work which may make it impractical to develop the higher levels of control should as dog on lead and dog prohibition zones in parks etc.

## 5.5 *Communications*

A communications strategy would be developed to ensure comprehensive publicity. Consultation would follow the statutory process. Maps will be available for public comment during the 28 day consultation period.

## **6. Corporate Implications**

### 6.1 *Corporate Plan and Priorities*

The introduction of new CNEA powers will help deliver the corporate priority for clean and tidy communities.

## **7. Recommendations**

- 7.1 That agreement is given to commence the publication process for the introduction of a “Fouling of Land by Dogs (District of Easington) Order 2007”.
- 7.2 That following the statutory consultation period, a report be brought to the District Council of Easington to make the order.
- 7.3 That further reports be brought regarding the development of other dog control orders should appropriate working arrangements with Town and Parish Councils be developed.

### **Documents and publications used in drafting this report;**

Clean Neighbourhoods and Environment Act 2005 and statutory guidance

## 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 (District Of Easington) Order 2008

The District Council of Easington hereby makes the following Order:

1. This Order comes into force on XX/XX/2008
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 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) 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"—

# Item no.

- (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.

XX/XX/2008

[Attestation clause]

By order of the District Council of Easington.

## **SCHEDULE**

### **The Fouling of Land by Dogs (District Of Easington) Order 2007 Specification/description of land, or lands, to which the Order applies**

This order relates to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment) within areas outlined in red on the attached maps and referenced.

Map 1: Fouling prohibition Seaham Area

Map 2: Fouling prohibition XXXXX Area etc.

Etc.