

## **Cabinet**

**16<sup>th</sup> July 2014**



### **Dog Control Order – Seasonal Exclusion of Dogs from Seaham Beach**

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#### **Report of Corporate Management Team**

**Terry Collins, Corporate Director Neighbourhoods**

**Councillor Brian Stephens, Portfolio Holder for Neighbourhoods  
and Local Partnerships**

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#### **Purpose of the Report**

1. To consider the making of a Dog Control Order which would prohibit dogs from Seaham Beach for the summer months (1<sup>st</sup> April to 30<sup>th</sup> September). This would be effective from 2015 onwards.

#### **Background – Dog Control Orders**

2. There are five offences which may be prescribed in a Dog Control Order which were introduced as part of the Clean Neighbourhoods and Environment Act 2005:
  - 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 by an authorised officer
  - d. Permitting a dog to enter land from which dogs are excluded
  - e. Taking more than a permitted number of dogs onto land
3. In August 2009 the Council introduced its first countywide Dog Control Order for the 'failure to remove dog faeces'. This harmonised the arrangements which had previously been in place in the former district councils (under the Dogs 'fouling of land' Act 1996) and extended the Order to apply to all areas of land that are open to the air and to which the public are entitled or permitted to have access (with or without payment) and this includes Seaham Beach.
4. In implementing Dog Controls, the Council needs to balance the interests of those in charge of dogs against the interests of those affected by their activities, bearing in mind the need for people, in particular children, to have access to dog-free areas and areas where dogs are kept under strict control, whilst respecting the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions.
5. Before making or amending a Dog Control Order, an authority must consult any other primary or secondary authority within the area in which a Dog Control Order is being made. Authorities must also publish a notice describing the

proposed order in a local newspaper circulating in the same area as the land to which the order would apply and invite representations on the proposal.

6. The legislation sets out regulations for the introduction of any proposed dog control order (Appendix 2) and includes:
  - a. Consultation on the proposals including who that should be with and that they should last at least 28 days.
  - b. Consideration of any feedback that may be received
  - c. If there are no significant amendments then a commencement date and publicity must be planned prior to the start.
7. It is a legal requirement that, where practicable, signs must be placed summarising the order on land to which a new order applies, thereby informing the public that land is subject to an order. Where orders are made that apply only at certain times of the day or year, any signage must also make clear the periods in which the Dog Control Order will apply.
8. An example of the type of signage which would be required is shown in the picture below.



9. It is also recommended that if the proposed ban is implemented, that signage be put up on the parts of the land (if any) of the where dogs are permitted, so that dog owners are clear about which area dogs are permitted on. An example of this type of signage is shown in the picture below.



## **Seaham Beach**

10. Seaham Town Council has requested that we implement a ban of dogs along the stretch of beach at Seaham highlighted on the attached plan (Appendix 3). The proposal would be to ban dogs from this area of the beach from 1<sup>st</sup> April until 30<sup>th</sup> September each year. This ban would not include the promenade or the area of beach to the north of the Seaham Hall car park.
11. Both the County Council and the Town Council are working to regenerate areas of Seaham. The Town Council strongly feels that the beach experience would be improved by keeping it free from dogs running loose and help ensure that has no dog dirt left on it during the summer season. In turn this would help attract and retain visitors to the town and thereby increase the economic viability of the area.
12. Whilst there have only been 8 complaints about dog fouling on Seaham beach/promenade logged on the CRM since December 2009, it is felt that this may be an under-representation of levels of local concern. 4 fixed penalty notices (FPN's) have been issued for dog fouling around the beach area since May 2011.

## **Local Benchmarking**

13. Several nearby coastal authorities, including Northumberland, Sunderland, South Tyneside and Hartlepool Councils already have Dog Control Orders in place, which include banning dogs from certain beaches within their areas between 1<sup>st</sup> May and 30<sup>th</sup> September each year.
14. Feedback from Sunderland city council is that no FPN's have been issued over the last couple of years. The exclusion zones are monitored by both Streetscene staff and RNLI Lifeguards who advise members of the public if they enter the zone with dogs and ask them to vacate the area. Generally this approach works, however the subject of dogs on the beach is a contentious one and complaints have been received from both pro-dog and anti-dog parties regarding the exclusion zones.

## **Considerations**

15. It is important for the authority when considering any aspect of a Dog Control Order to be able to show that this is a necessary and proportionate response to the problems caused by the activities of dogs and those in charge of them.
16. People may still walk their dogs along the remainder of the beach at Seaham, not included within the highlighted area, and would also be able to walk their dogs on the highlighted stretch of beach between 1<sup>st</sup> October and 31<sup>st</sup> March. The requirement to remove any dog fouling would of course remain in force at all times.

17. The Council should also consider how easy a Dog Control Order would be to enforce, since failure to properly enforce could undermine the effect of an order.
18. Enforcement would be carried out by Neighbourhood Wardens with Police Community Support Officers (PCSO's) also now having the power to issue Fixed Penalty Notice's. The penalty in relation to any offence under the above Dog Control Order is a fixed penalty notice of £80.00 with the opportunity to pay a reduced amount of £50.00 if payment is made within 10 days of the notice being issued. If the penalty notice is not paid the offender may be prosecuted at the Magistrates Court.
19. In recognition of the need for the exclusion to be adhered to, the Town Council has indicated that their newly recruited environmental wardens could fulfil an education/ directional role locally through the period any prospective ban would be in place. They would also consider the buying in of Neighbourhood Warden support if this became necessary.
20. It should be noted that the new Anti-Social Behaviour, Crime and Policing Act 2014 comes into effect from October 2014, and effectively replaces provisions of the Clean Neighbourhood and Environment Act 2005 relating to Dog Control Orders. Any existing Dog control Orders will remain in force, however, from the date the new Act comes into effect, new Public Space Protection Orders will be introduced and these can only apply for a maximum period of three years, after which they will have to be reviewed.

### **Wider Issues**

21. Introducing a new dog control order for Seaham beach may prompt other requests across the county such as around children's play parks and cemeteries, or indeed for other beaches to the south. Taken collectively these cover several hundred locations and there are currently not sufficient resources to enforce.
22. Whilst it is felt that there is a strong case for Seaham beach, if further areas for dog exclusion are to be considered, they should be set against a list of criteria, so that priorities can emerge. It would be proposed that this would be set out in a report during 2015 when the legislative requirements of the Anti-Social Behaviour, Crime and Policing Act are better known.

### **Summary**

23. The introduction of a seasonal dog exclusion order at Seaham beach is in keeping with the ambition of encouraging tourism and regeneration. It is also in line with the practice of neighbouring authorities in addition to being at a location where alternative dog walking areas are readily available.
24. There is local support from Seaham Town Council to introduce a seasonal dog ban. They have indicated that their two environmental wardens would provide education and guidance for the beach during the summer months. This will help with the education of the order along with the general compliance of the population.

25. The costs for advertising, consultation and signage relating to the Dog Control Order would be met from existing budgets.

26. The potential for dog exclusions from other sites would be considered as part of the forward plan in 2015 and in the context of the resources available to enforce.

### **Recommendations and reasons**

27. That Cabinet approves consultation on the proposed dog control order for Seaham Beach in line with legal requirements.

28. Subject to the outcome of this consultation, to delegate the confirmation of the order to the Corporate Director of Neighbourhood Services, in conjunction with the Portfolio Holder for Neighbourhoods and Local Partnerships.

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## Appendix 1: Implications

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**Finance:** There will be a requirement to purchase some permanent signage to advertise the ban which will be located at entrance points to the beach. The cost of these will be met from within existing budgets.

**Staffing:** None

**Risk:** None

**Equality and Diversity / Public Sector Equality Duty:** Dog control orders provide exemptions in particular cases for registered blind people, and for deaf people and for other people with disabilities who make use of trained assistance dogs. Anyone with any type of assistance dog is not subject to a Dog Control Order, and anyone other than a registered deaf person (whose disability will not prevent him or her from being aware of and removing dog faeces) is similarly exempt from a Dog Control Orders on the fouling of land. These exemptions are not relevant to the other three offences which can be the subject of Dog Control Orders.

**Accommodation:** None

**Crime and Disorder:** Dog fouling is a concern across the county and the ban will help with the healthier living and promote tourism to Seaham.

**Human Rights:** None

**Consultation:** The consultation process will be undertaken as outlined within the body of the report

**Procurement:** None

**Disability Issues:** See 'Equality and Diversity / Public Sector Equality Duty' above

**Legal Implications:** This report was completed in consultation with the legal service. Regulation 3(4)(a) of the Dog Control Orders (Procedures) Regulations provides the legal requirement that, where practicable, signs must be placed summarising the order on land to which a new order applies, thereby informing the public that land is subject to an order.

## Appendix 2

### Procedure for the implementation of a Dog Control Order

Advertise the proposals and a notice must:

- identify the land to which the order will apply
- summarise the order
- if the order refers to a map, say where the map can be inspected. This must be at an address in the authority's area, be free of charge, and be available at all reasonable hours during the consultation period
- give the address to which, and the date by which, representations must be sent to the authority. The final date for representation must be at least 28 days after the publication of the notice.

At the end of the consultation period the authority must consider any representations that have been made. If it then decides to proceed with the order, it must decide when the order will come into force. This must be at least 14 days from the date on which it was made.

Once an order has been made the authority must, at least 7 days before it comes into force, publish a notice in a local newspaper circulating in the same area as the land to which the order applies stating:

- that the order has been made; and
- where the order may be inspected and copies of it obtained. Where practicable,
- a copy of the notice must also be published on the authority's website.

If, after considering representations on a proposal to make an order an authority decides significantly to amend its proposal, it must start the procedure again, publishing a new notice describing the amended proposal.

### Appendix 3 – Proposed Dog Control Area



**Location : Seaham**

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