

HARBOROUGH DISTRICT COUNCIL

MINUTES OF THE MEETING OF THE REGULATORY COMMITTEE

held in the Council Chamber,  
Council Offices, Adam and Eve Street, Market Harborough

6<sup>th</sup> December 2011

commencing at 6.30p.m.

Present:  
Councillor Mrs. Page (Chairman)

Councillors: Bannister, Brodrick, Mrs. Burrell, Hallam, Liquorish, Mrs. Robinson and Tomlin.

Officers: E. Bird, S. Greenway and E. O'Neill.

An apology for absence was received from Councillor Beaty.

335 MINUTES

RESOLVED that: the Minutes of the Meeting of the Regulatory Committee held on 27<sup>th</sup> July 2011 be taken as read and signed by the Chairman as a true record.

336 DECLARATIONS OF MEMBERS' INTERESTS

None were received.

337 DOG CONTROL ORDERS

E. Bird, Community Protection Manager, and S. Greenway, Senior Licensing Officer, introduced this report to the Committee. The purpose of the report was to ask the Committee to consider and agree an approach to the implementation of Dog Control Orders and make a subsequent recommendation to Council.

The Committee NOTED that:

- (i) the Dogs (Fouling of Land) Act 1996 has been effective within the area of Harborough District since 1<sup>st</sup> April 2005 covering all Council-owned land (parks and recreation grounds, cemeteries, closed churchyards, open spaces), all Council owned car parks, landscaped areas within housing estates and carriageways with a speed limit of 40mph or less and the land running along side them.
- (ii) in the event a dog fouls and a person who is in charge of the dog fails to remove the faeces forthwith, that person is deemed to have committed an offence. The Council may issue an offender a £50 Fixed Penalty Notice or in the case of a person refusing to accept or failing to pay a fixed penalty, the offender may be summoned to appear before a Magistrates Court where the maximum penalty is Level 3, £1,000.
- (iii) A person who normally has a dog in their possession will be deemed to be the person in control of it at the time of the incident. The Act specifically states that being unaware of the fouling or not having a device or other suitable means for removing the faeces shall not be reasonable excuse for failing to remove it.
- (iv) The Clean Neighbourhoods and Environment Act 2005 came into force on 7<sup>th</sup> April 2005 and contains a number of additional powers relating to environmental issues including dog control. The introduction of this legislation repealed the Dogs (Fouling of Land) act 1996 and whilst existing byelaws made under the 1996 Act remain in force and can be enforced as normal, no new land can be designated under this legislation.
- (v) The dog control powers in the Clean Neighbourhoods and Environment Act 2005 enable Councils to control the following:

- Fouling of land by dogs and the removal of dog faeces;
  - The keeping of dogs on leads;
  - Not putting and keeping a dog on the lead when directed to do so by an authorised officer;
  - The exclusion of dogs from land;
  - The number of dogs, which a person may take on to any land
- (vi) Dog fouling offences are not applicable to certain working dogs, guide dogs and designated assistance dogs. The key benefits to the above allows the Council to make the environment cleaner, safer and greener and tackling environmental related offences plays a significant role in this. It also allows members of the public and children access to dog free and dog controlled areas intended for recreational purposes, to reduce the potential health implications associated with dog faeces and to promote responsible dog ownership.
- (vii) Whilst it is not mandatory to adopt the new powers, as previously highlighted in the report it is no longer possible to make byelaws under The Dogs (Fouling of Land) Act 1996 for new areas of land and also the Dog Control Orders allow greater control over a variety of problems caused by dogs within the district. It is understood that approximately 80% of local authorities in Great Britain have adopted these new powers.
- (viii) A road is defined as “any length of highway or any road to which the public has access and includes bridges over which a road passes.” This definition includes public rights of way, including footpaths, and ways to which the public have access by permission of the landowner rather than by right, such as on private estates.
- (ix) The Act allows authorised officers of the local authority or Parish Council or any person authorised in writing by the authority (such as a Police Community Support Officer with the Police Authority’s consent) to issue a fixed penalty notice offering members of the public an opportunity to discharge any liability for offences under the Dog Control Order. Where practicable, signs must be placed summarising the order on the land to which a new order applies, thereby informing the public that land is subject to an order.
- (x) The Act allows a local authority to set its own fee for a fixed penalty notice. The current default amount is £75. The penalty to be provided in relation to an offence under a Dog Control Order is, on summary conviction, a fine not exceeding level 3 on the standard scale (currently £1,000).
- (xi) This matter was considered by Scrutiny Panel for Places in March 2011 and the Panel was supportive towards the implementation of Dog Control Orders for:
- Fouling of land by dogs and the removal of dog faeces;
  - The keeping of dogs on leads;
- The Panel also recommended that consideration should be given to:
- Not putting and keeping a dog on the lead when directed to do so by an authorised officer.
- (xii) The initial informal process on proposed Dog Control Orders ended on 30<sup>th</sup> September 2011. Feedback received from Parish Councils and other interested agencies has been considered. 53 representations were received as a result of the consultation process of which 29 were dog owners.
- (xiii) With the exception of setting a limit on the number of dogs walked and the requirement to put dogs on leads on grass verges, it can be concluded that a large majority of the public and their Parish Council representatives, support the introduction of Dog Control Orders to control dog fouling, dogs on leads and the exclusion of dogs from certain land. The results of the informal consultation exercise have influenced the recommendation to commence the implementation of some of the Dog Control Orders available to local authorities.
- (xiv) It should be noted whilst the legislation does allow Parish Councils to adopt powers to create and enforce the Dog Control Orders in their area, no Parish Councils have opted to adopt this power to date. Lutterworth Town Council has expressed an interest at this stage in assisting Harborough District Council in the enforcement of Dog Control Orders for their area.
- (xv) The making of an Order on dog fouling will allow the Council to enforce on dog fouling in all public places and make it an offence for someone in control of a dog who fails to “pick up”.

**The Committee RECOMMENDED that:**

- (i) **The Council adopts the necessary powers under the Clean Neighbourhood and Environment Act 2005 and the implementation of Dog Control Orders for the following:**
  - **Fouling of land by dogs and the removal of dog faeces;**
  - **The keeping of dogs on leads;**
  - **Not putting and keeping a dog on the lead when directed to do so by an authorised officer;**
  - **The exclusion of dogs from designated areas of land.**
- (ii) **before implementation of Dog Control Orders it be confirmed that these new provisions supersede the Dogs (Fouling of Land) Act 1996.**
- (iii) **a Briefing Note to Members be produced to advise them of the new provisions. The Briefing Note should include contact details for the Council's Dog Warden.**
- (iv) **Leicestershire County Council be consulted prior to implementation.**

The Meeting ended at 6.50p.m.