

 Executive – 14th September 2011		Agenda Item No. 4
Title	Dog Control Orders	
For further information about this report please contact	Richard Hall (01926 456700) Grahame Helm (01926 456714)	
Wards of the District directly affected	All	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	Executive – 8 th June 2011 Council – 29 th June 2011	
Background Papers	Public consultation responses	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality & Sustainability Impact Assessment Undertaken	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	19.08.11	Chris Elliott
Head of Service	18.08.11	Richard Hall
CMT	22.08.11	Bill Hunt
Section 151 Officer		
Monitoring Officer		
Finance	22.08.11	Mike Snow
Portfolio Holder(s)	19.08.11	Michael Coker
Consultation & Community Engagement		
The amendments to the original draft Orders have been subject to public consultation in accordance with the Dog Control Orders (Procedures) Regulations 2006 and associated Defra guidance.		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. **SUMMARY**

- 1.1 At the Council meeting on 29th June 2011, the Fouling of Land by Dogs Order and the Dogs on Leads by Direction Order were agreed. Amendments were proposed to the Dogs on Leads Order and the Dogs Exclusion Order respectively which required public consultation.
- 1.2 This report summarises the responses received and invites the Executive to make a final decision on their implementation.

2. **RECOMMENDATION**

- 2.1 That the Dogs on Leads (Warwick District Council) Order and the Dogs Exclusion (Warwick District Council) Order as set out in Appendix 1 be approved.
- 2.2 That the sites listed in paragraph 7.4 below be agreed for the purposes of section 1 of the Schedule in the Dogs Exclusion (Warwick District Council) Order and any future additions should require prior Executive approval.
- 2.3 That these Orders together with the Fouling of Land by Dogs (Warwick District Council) Order and the Dogs on Leads by Direction (Warwick District Council) Order come into force on 1st November 2011.

3. **REASONS FOR THE RECOMMENDATION**

- 3.1 It is considered that enforcement of the current byelaws is ineffective and further controls on some specific areas of open spaces in the District will improve the Council's regulatory effectiveness and thus produce efficiencies. Given the limited nature of these areas, it is not considered that this will have a significant impact on the majority of responsible dog owners being able to exercise their dogs off lead.
- 3.2 Enforcement of Dog Control Orders can be undertaken more efficiently than Byelaws through the use of fixed penalty notices to avoid the lengthy process of preparing a prosecution file and court appearances. If an offence is considered sufficiently serious to require prosecution, the maximum fine on summary conviction is £1000 which is significantly more than for Byelaws.
- 3.3 There is a statutory requirement to allow at least 14 days from the date the decision is taken before the Orders can be brought into force.

4. **POLICY FRAMEWORK**

- 4.1 **Policy Framework** – This report does not bring forward any changes to the policy framework
- 4.2 **Fit for the Future** – The Council's purpose is to improve the quality of life for everyone who lives in, works in or visits Warwick District. With our partners, we aspire to build sustainable, safer, stronger and healthier communities. Ensuring that effective steps are taken to promote responsible dog ownership will contribute to these aims.

5. **BUDGETARY FRAMEWORK**

- 5.1 An earmarked reserves request to the value of £6,300 has been approved from the 2010/11 final accounts to cover implementation costs. This will include new signage, publicity and education, and a supply of dog waste bags. It is expected that future enforcement will become part of the Council's routine regulatory activity, primarily by the Council's Dog Warden but with support from other council officers and police community support officers. Efficiencies can be anticipated through more effective targeting of enforcement.

6. **ALTERNATIVE OPTION(S) CONSIDERED**

- 6.1 The Council does not have to introduce either or both of the proposed Dog Control Orders. It can implement the Orders as originally set out in the report to the Executive on 24th November 2010 or it can make any additional changes to this recommendation if Members wish more or less areas to be included. However, any material changes to the recommendation will necessitate a further public consultation exercise.

7. **BACKGROUND**

- 7.1 The Dog Control Orders (Procedures) Regulations 2006 require that, after considering representations on a proposal to make an order, any significant amendments must be subject to further consultation. This exercise has now been completed in respect of the Dogs on Leads Order and the Dogs Exclusion Order providing the statutory 28 days for response. The Council is now required to consider responses received.
- 7.2 Responses were only received from Warwickshire County Council, Leamington Spa Town Council, Warwick Town Council, the Kennel Club and five local residents (one anonymous). These are summarised as follows:

Warwickshire County Council has no objections but advise that any signs installed on a public right of way will require their prior consent as Highways Authority.

Leamington Spa Town Council endorsed the proposals with the exception of the inclusion of the public footpath as it crosses the Newbold Comyn Golf Course which they felt should not be specifically included in either of the Orders.

Warwick Town Council supported permitting dogs on leads into cemeteries and the crematorium but appreciated the enforcement difficulties in respect of the fenced circuit at Warwick Racecourse. They would also like to see a requirement that dogs be kept on leads in Pageant Gardens, and for a dog bin to be provided.

The Kennel Club wished to remind the Council that it must be able to show that this is a necessary and proportionate response to problems caused by the activities of dogs and those in control of them. They do not normally oppose orders to exclude dogs from playgrounds, bowling greens or recreational facilities but would ask the Council to consider whether restrictions are absolutely necessary in respect to sport pitches. They commend the Council on its decision to include cemeteries in the Dogs on Leads Order rather than to exclude them but wish to stress that any officers enforcing the orders must be properly trained in dog behaviour.

Resident(1) strongly agreed with the order that dogs must be kept on leads on the public footpath crossing Newbold Comyn Golf Course. He also requested that the orders be 'policed' effectively.

Resident(2) asked for clarification for the permanent exclusion of dogs from Warwick Racecourse and not just on race days. He was in support of bringing irresponsible dog owners to account but felt that these proposals would do nothing to address this and instead only penalise the responsible owner.

Resident(3) felt that the Dogs Exclusion Order was vehemently objected to in the Council meeting in June and has been disregarded in this amendment. She asked for clarification on the definition of a multi-use games area and asked what gives the right for the Council to discriminate against a whole sector of the community from using their local park.

Resident(4) felt that something should be done to control dogs in areas where children are playing. Signs should be renewed, placed more prominently and regular checks should be made.

Resident(5) was very pleased to see the orders going through, especially Warwick Race Track.

- 7.3 Members should note that whilst there is no legal definition of a multi use games area, their design is recognised nationally and they have been installed in many parts of the country. They provide a concentrated and enclosed area for ball sports, such as 5-a-side football and basketball and are likely to be enclosed with either a steel or wooden barrier/fence and surfaced with either asphalt or synthetic turf. The Dogs Exclusion Order would only apply to these enclosed areas and not the whole park in which they may be situated.
- 7.4 It is therefore proposed that the Dogs on Leads Order and the Dogs Exclusion Order be approved in their amended form as submitted to Council on 29th June 2011. Specific areas proposed by the Head of Cultural Services to which section 1 of the schedule to the Dogs Exclusion Order should apply are listed below. These have been put forward on the basis that the areas are clearly demarcated by fencing or other physical barriers.

Kenilworth

- Glendale Avenue Children's Play Area
- St John's Children's (Toddler) Play Area, Guy Road

Leamington

- Champion Hills BMX Track
- Children's Play Area, Eagle Recreation Ground, Eagle Street
- Elizabeth Road Children's Play Area
- Fallow Hill Children's Play Area, Sydenham Road
- Midland Oak Children's Play Area, Lillington Road
- Mill Gardens Children's Play Area, Mill Road
- Rushmore Street Children's Play Area
- Saxon Meadows Children's Play Area
- Shrublands Children's Play Area, Bury Road
- The Holt Children's Play Area
- Victoria Park Children's (Toddler) Play Area
- Victoria Park Paddling Pool
- Villiers Street Children's (Toddler) Play Areas
- Windmill Road Children's Play Area
- Wych Elm Drive Children's Play Area

Warwick

- Hatton Park Children's (Toddler) Play Area, Barcheston Road
- Priory Pools Children's (Toddler) Play Area, Lyttleton Road
- Saltisford Common Children's Play Area, St Michaels Road
- St Nicholas Park Paddling Pool
- The Marish Children's Play Area, Chase Meadow
- Warwick Gates (East) Children's Play Area, Othello Avenue
- Warwick Gates (West) Children's (Toddler) Play Area, Ophelia Drive

Rural

- Weston Under Wetherley Children's (Toddler) Play Area, Sabin Drive

Warwick District Council

THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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

THE DOGS ON LEADS (WARWICK DISTRICT COUNCIL) ORDER 2011

The Warwick District Council (in this Order called "the Council") makes the following Order:

1. This Order comes into force on [insert date].
2. This Order applies to land specified in the Schedule below.

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 –
 - (a) he has 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.
- 3.2 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)
WARWICK DISTRICT COUNCIL was)
hereunto affixed [Insert Date]
in the presence of:-)

Chief Executive

SCHEDULE

1. Jephson Gardens, Royal Leamington Spa; and
2. Leamington Cemetery; and
3. Milverton Cemetery; and
4. Warwick Cemetery; and
5. Kenilworth Cemetery; and
6. The length of the public footpath (L9a) as it crosses Newbold Comyn Golf Course; and
7. All other sport grounds, fields and pitches not subject to the Dogs Exclusion (Warwick District Council) Order 2011, when in use for authorised sporting facilities.

Warwick District Council

THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT 2005

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

THE DOGS EXCLUSION (WARWICK DISTRICT COUNCIL) ORDER 2011

The Warwick District Council (in this Order called "the Council") makes the following Order:

1. This Order comes into force on [insert date].
2. This Order applies to land specified in the Schedule below.

Offence

- 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.

- 1.2 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; or
- (d) is training a guide or assistance dog in an official capacity.

- 1.3 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)

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)
WARWICK DISTRICT COUNCIL was)
hereunto affixed this [Insert Date]
in the presence of:-)

Chief Executive

SCHEDULE

1. Any clearly demarcated children's play areas, paddling pools, bowling greens, multi use game areas, tennis courts, or putting greens, as approved by the Executive and signed as a "dog exclusion zone" (whether the sign uses those particular words and/or symbols having like effect); and
2. The main racetrack surface at Warwick Racecourse except when directly crossing the track either way at the designated public access points; and
3. Mid-Warwickshire Crematorium (excluding the car park areas when used to directly access Oakley Wood).