

Dog Control Orders (DCO) Consultation

1. Summary

Using powers under the Clean Neighbourhoods and Environment Act 2005, Epping Forest District Council is proposing to introduce three Dog Control Orders making it an offence to:-

- (a) fail to remove dog faeces deposited on any public land within the district
- (b) fail to put a dog on a lead when directed to do so by an authorised officer, on any public land within the district
- (c) fail to limit the number of dogs which a person may take onto public land within the district, to four dogs

Before commencing any further the Council is consulting on the proposed orders. Any responses to the consultation will be reported back to the District Councillors before any final decision on the proposed DCO are made.

The answers to five questions are specifically being requested (as detailed below) but any comments on the proposed DCO are welcome.

2. Background information

The issue was reported to the Council's Cabinet (Report reference: C-073-2011/12) on 23 April 2012 after the possibility of introducing DCO was raised by the Corporation of London with regard to public land in their control. In 1998 the Council designated the whole of the district under the Dogs (Fouling of Land) Act 1996, making dog fouling an offence. The 1996 Act has a number of limitations, these include:

- the legislation does not apply to roads over 40 miles per hour and land running adjacent;
- fines are set at £50 and cannot be altered;
- there is no offence for offenders not to provide their details; and
- most importantly, there is an exclusion for land used for agriculture or for woodland, including all land in the ownership of the Corporation of London.

The proposed dog fouling DCO would re-designate the whole district, making it an offence for a person to permit a dog in their control to foul and fail to remove faeces forthwith, from any public land in the whole of the district, including land owned by the Corporation of London.

After consultation with the Corporation of London, council officers also recommended that DCO be considered to allow an authorised officer to request a dog to be put on a lead and limit the number of dogs that a person may take onto public land.

Members decided that consultation be undertaken on the introduction of DCO as detailed above.

The Clean Neighbourhoods and Environment Act 2005 introduced dog control offences that can be controlled by Dog Control Orders (DCO). Section 55 of the Act enables local authorities to make Orders that apply to offences aimed at the control of dogs to specified land in their area.

Under the Act the Council can authorise others to enforce its provisions. As part of the introduction of the DCO as well as authorising Environment & Neighbourhood Officers currently employed by Epping Forest District Council, it is also proposed to authorise Corporation of London Officers to carry out enforcement of DCO on their land. It is also proposed to extend the enforcement powers to Police Community Support Officers (PCSO's) based in our district.

The Act provides that Orders may apply to all public land which is open to the air and to which the public are entitled or permitted to have access with or without payment.

The penalty in relation to any offence under a DCO on summary conviction is a fine not exceeding level 3 on the standard scale, currently £1000. The Council is also able to offer fixed penalty notices (FPN) to any offenders as an alternative to prosecution.

The level of fixed penalty has been set previously at £75 if paid in full within 14 days and a discounted level of £50 if paid in full in 10 days after the fixed penalty is offered. Most first time offenders will be offered the opportunity to discharge the liability for any prosecution by payment of a FPN. Officers do not offer FPN on the spot. There are no "on the spot fines". Offenders may be issued with an "incident ticket" to record the offence but any formal prosecution or offer of an FPN will only take place from the office after the incident.

3. Benefits of adopting the proposed DCO

The main benefits of adopting the DCO as proposed are seen as:

- additional public land that currently has no protection from dog fouling would be covered;
- the whole of the district would be covered by dog fouling control in public areas;
- the implementation of DCO's would by its very nature raise the profile of dog nuisance and promote responsible dog ownership.
- the proposed DCO introduce a new power to assist enforcement officers in performing their duties safely, by enabling authorised officers to require dogs to be put on a lead;
- there is the option of dealing with offences by way of fixed penalty notice (FPN), that Members have pre-determined, thus saving Court and officer time;
- the number of dogs that one person can be in charge of on public land will be restricted to a reasonable number that the person in charge can effectively control.

4. Enforcement

Dog control orders will introduce a number of new offences and cover a lot more land, currently without any control. This is likely to result in more complaints that will have to be responded to by EFDC enforcement officers.

It is proposed that some of the extra demand for enforcement could be addressed by refreshing and empowering PCSOs to target these offences and greater use of Environment and Neighbourhood Officers for pre-planned operations to target priority areas. The Corporation of London also plan to use their existing enforcement officers on their land as part of their normal duties, to record and investigate breaches of orders.

There may an initial increase in enforcement work and necessity to prosecute some offenders to publicise the requirement of the orders, but it is hoped that the orders will change the moral landscape and make it less acceptable for the few irresponsible dog owners to allow dogs in their control to continue with activities which the orders seek to control.

5. Procedure for making DCO

The Dog Control Orders (Procedures) Regulations 2006 set out how DCO shall be introduced.

Before making a DCO the authority shall:

- consult upon its proposals to make an order by publishing a notice of the proposal in a local newspaper circulating in the area in which the order would apply is situated;
- consult every other authority with powers under Section 55 of the Clean Neighbourhoods and Environment Act 2005, which for EFDC means all Parish and Town Councils; and

- where all or part of the land in respect of which the proposed order would apply is access land then we are required to consult with the Access Authority for that land, the Local Access Forum for that land and the Countryside Agency, now Natural England.

In addition, it is proposed to include the Lea Valley Regional Park Authority (as a major land owner) in the consultation and to consult with residents via the Council's website.

The notice referred to above shall identify the land, summarise the Order, state where any maps identifying the land can be viewed, state the period in which representations shall be made which should not be less than 28 days and state the address/e-mail where representations can be made. The Council must then (whilst having regard to any representation made) decide to proceed with the making of the orders.

At least seven days before any Dog Control Order comes into force, the Council shall:

- where practicable place signs summarising the Order in conspicuous positions on or near land where the Order applies;
- publish in a local newspaper in the area where the Order applies a notice that the order has been made and stating the place where it may be inspected or copies obtained;
- make available the information on the Council's website;
- send copies of the information to the Parish and Town Councils; and
- send copies of the information to the Access Authority, Access Forum and Natural England.

The DCO is then comes into force at least fourteen days after it is made.

Following the consultation process officers will bring another report back to Cabinet so that members can take into consideration its results and also to consider extending the powers of enforcement to officers of the Corporation of London and PCSO's.

As the proposed orders will cover the whole of the district, it is not deemed practical to place signs across the whole of the district. However any orders will be clearly advertised in a local newspaper, council publications (as opportunities arise) and the council's website. The Corporation of London will also advertise any DCO that are adopted.

6. Additional background information:

- Clean Neighbourhoods and Environment Act 2005
- Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006
- Dog Control Orders (Guidance on Sections 55 to 67 of the Clean Neighbourhoods and Environment Act 2005) DEFRA 2006
- Local Environmental Enforcement (Guidance on the use of fixed penalty notices) DEFRA 2007
- Dog Fouling and the Law (A Guide for the Public) ENCAMS 2006