

**TRIBBLE VALLEY BOROUGH COUNCIL
REPORT TO COMMUNITY SERVICES COMMITTEE**

Agenda Item No. 9

meeting date: 14 JANUARY 2014
title: DOG CONTROL ORDERS
submitted by: JOHN HEAP, DIRECTOR OF COMMUNITY SERVICES
principal author: MAIR HILL, SOLICITOR

1 PURPOSE

- 1.1 To ask Committee to consider the Dog Control Orders proposed for consultation under the Clean Neighbourhoods and Environment Act 2005.
- 1.2 Relevance to the Council's ambitions and priorities:
 - **Council Ambitions** – to make people's lives safer and healthier, and to protect and enhance the existing environmental quality of the area.

2 BACKGROUND

2.1 A detailed report was brought to this committee on this matter on 21 May 2013, and the Council agreed to the making of the Dog Control Order as laid out in the report and detailed in the Appendix and Schedules attached. Unfortunately, having reviewed the minute and the documentation it is not sufficiently clear (with the exception of the Dogs Fouling Land order) what specific wording was agreed to be included within the Schedule of the Orders. In order to prevent any confusion in this matter therefore the four proposed Dog Control Orders are appended to this report at Appendix 1 with the Schedule within each complete for approval.

2.2 Since committee considered the matter, a further issue has arisen regarding the number of dogs being walked by one individual at any time and a dog day care facility has been licensed within the Ribble Valley. It is felt therefore that this may become an increasing problem with dog walkers being in charge of multiple numbers of dogs at any one time, and the issues, which this causes with control over those dogs. It is proposed therefore that Committee consider a fifth Dog Control Order which would limit the maximum number of dogs which any person could take onto any land within the Ribble Valley. The DEFRA guidance on this issue is that "*When setting the maximum number of dogs the most important factor for authorities to consider is the maximum number of dogs which a person can control; expert advice is that this should not exceed six. Authorities should also take into account the views of dog owning and non-dog owning residents within the area to which the order will apply to establish what they consider to be an appropriate maximum number taking into account all the circumstances in the area. A key factor here will be whether children frequently use the area.*" It is proposed that the maximum number should be set at four and the draft order is appended as Appendix 2.

3 ISSUES

- 3.1 As set out in the Appendix to the report dated 21 May 2013, the procedure for making a Dog Control Order is set out in the **Dog Control Orders (Procedures) Regulations 2006/798** (the "Order").

Regulation 3 of the Order provides that:

"Before making a dog control order under section 55 of the Act, an authority shall-

- (a) consult upon its proposal to make the order by publishing a notice of that proposal in a local newspaper circulating in the area in which the land in respect of which the order would apply is situated;
 - (b) consult every other Authority having power under section 55 of the Act to make a dog control order in respect of all or part of the land in respect of which the proposed order would apply; and
 - (c) where all or part of the land in respect of which the proposed order would apply is access land, consult-
 - (i) the access authority for that access land, and
 - (ii) the local access form for that access land, and in respect of any of that access land that is not situated in a National Park, the Countryside Agency.
- (2) The notice referred to in paragraph (1)(a) shall-
- (a) identify the land in respect of which the order is to apply, and, if any of the land is access land, state that this is the case;
 - (b) summarise the order;
 - (c) where the order refers to a map, state where the map be inspected at an address within the Authority's area, and that any inspection shall be free of charge at all reasonable hours during the period mentioned in sub-paragraph (d);
 - (d) state the period within which representations may be made in writing or by e-mail, such period being not less than 28 days after the publication of the notice; and
 - (e) state the address and e-mail address to which representations may be sent.

After making the Orders the Council shall:

-not less than seven days before the day on which the order is to come into force-
- (a) where practicable, place signs summarising the order in conspicuous positions on or near the land in respect of which it applies;
 - (b) publish, in a local newspaper circulating in the area in which the land in respect of which the order applies is situated, a notice that the order has been made and stating the place at which it may be inspected and copies of it obtained;
 - (c) make the information referred to in sub-paragraph (b) available on its website (if any);
 - (d) send the information referred to in sub-paragraph (b) to every other Authority having power under section 55 of the Act to make a dog control order in respect of all or part of the land in respect of which the order applies;
 - (e) where the order applies in respect of any access land, send the information referred to in sub-paragraph (b) to-
 - (i) the access authority, and
 - (ii) the local access forum,
 for that access land, and to the Countryside Agency."

3.2 A copy of the draft Notice of Proposed Order is appended in Appendix 3 to this report. Subject to Committees approval of both the Dog Control Orders and the content of this Notice it is proposed that, this Notice be circulated as soon as possible in the Clitheroe Advertiser and Times placed on the Council's website.

3.3 The Council is also required to consult with each other authority that would be entitled to make a Dog Control Order (i.e all Parish Council, the Access Authority (Lancashire County Council) and the Local Access Forum as the proposed Orders apply to access land.

3.4 Once the consultation has been carried out the results of that consultation will be brought back to Committee for consideration before the Orders are made.

4. RISK ASSESSMENT

Approval of this report may have the following implications:

- **Resources** – The cost of implementing a Dog Control Order will include:-
 - publishing a notice in the local press
 - consulting with every other Authority that has powers to make an order in the Borough (eg Parish Councils, Access Authority, Local Access Forum).
 - new Signage
 - officer time
- **Technical, Legal, Environmental** – The establishment of a new Dog Control Order is a formal legal process.
- **Political** – The recommendations in this report are an extension of principles already agreed by this committee.
- **Reputation** – the new Order demonstrates that the Council is responding to the concerns of local residents regarding dog fouling.

5. RECOMMENDED THAT COMMITTEE

- 5.1 Approve the content and the introduction of the 5 Dog Control Orders as set out in **Appendix 1 and 2.**
- 5.2 Approve the Notice of proposed Order as set out in **Appendix 3.**
- 5.3 Authorise the Head of Environmental Health to carry out a consultation on the Dog Control Orders as required by the Order.


JOHN C HEAP
DIRECTOR OF COMMUNITY SERVICES


MAIR HILL
SOLICITOR

BACKGROUND PAPERS

Report of Head of Community Services dated 21 May 2013
Report of Head of Community Services dated 19 July 2011

APPENDIX 1

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations

2006 (2006/1059)

The Fouling of Land By Dogs (Ribble Valley) Order 2014

The Ribble Valley Borough Council hereby makes the following Order:

1. This Order comes into force on [date].
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 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" –

- (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.

Date

The Common Seal of the Ribble Valley

Borough Council was hereunto affixed

This 2014

in the presence of

Mayor

Chief Executive

SCHEDULE

This Order applies to any land within the administrative area of Ribble Valley, which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations

2006 (2006/1059)

The Dogs on Leads (Ribble Valley) Order 2014

The Ribble Valley Borough Council hereby makes the following Order:

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

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 of not more than 1 metre in length, 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 of specifically) to his failing to do so.

(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.

Dated:

The Common Seal of the Ribble Valley
Borough Council was hereunto affixed

This **2014**
in the presence of

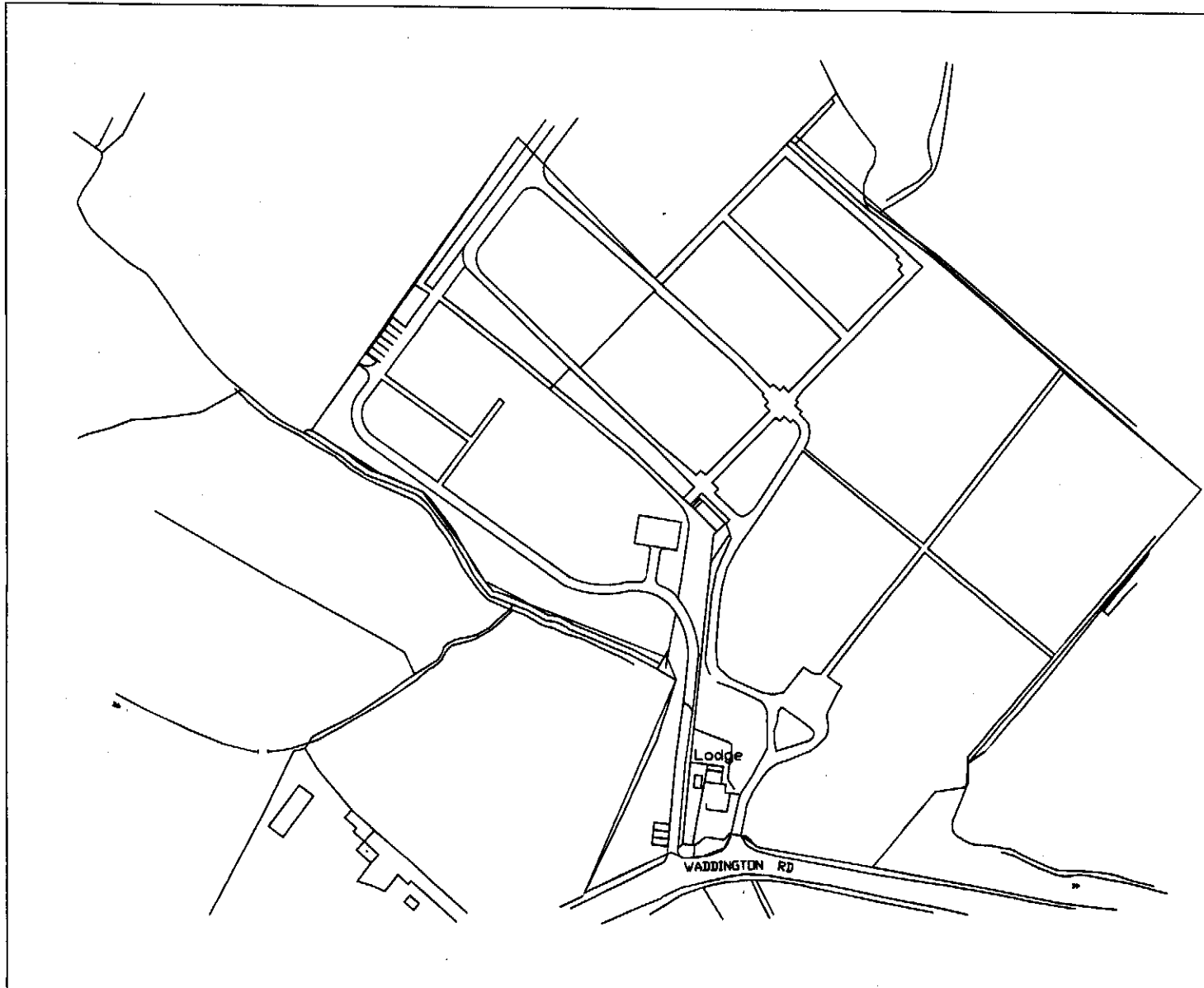
Mayor

Chief Executive

SCHEDULE

This Order applies to:

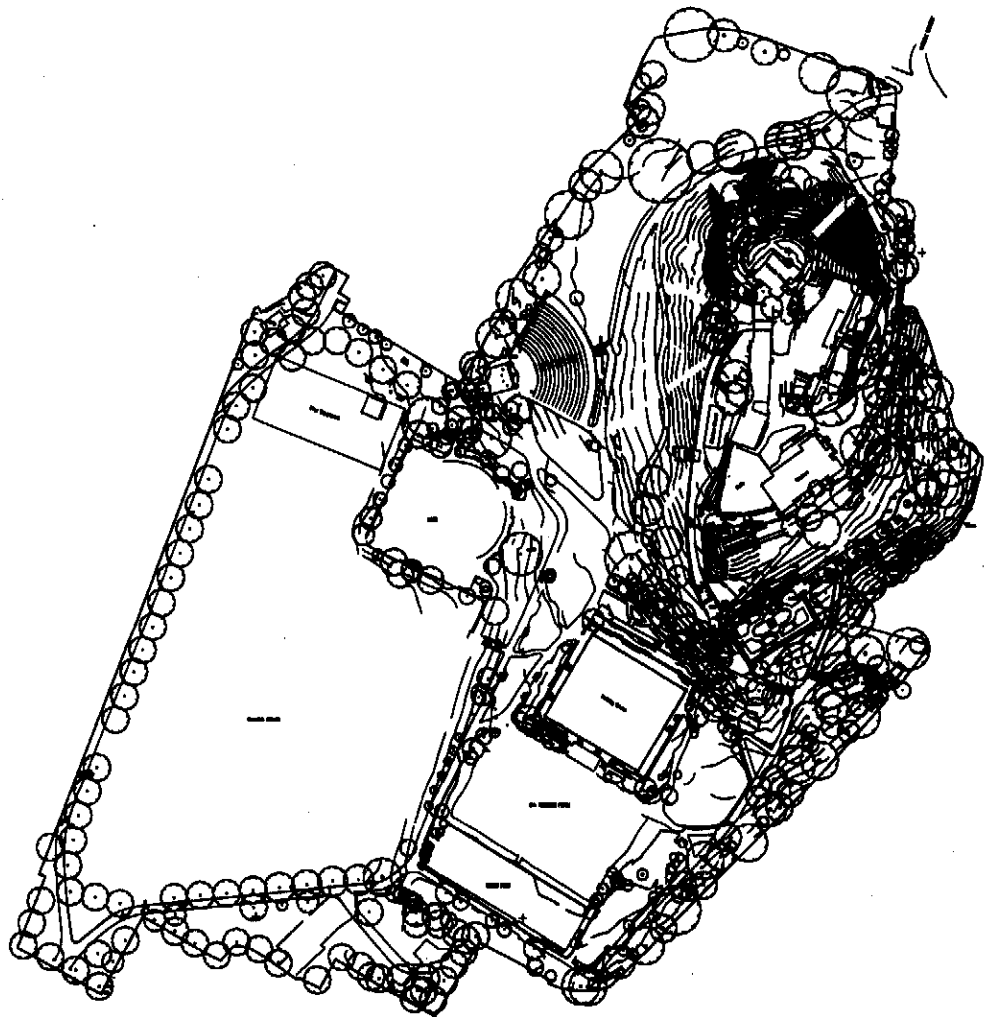
- Clitheroe Cemetery, Waddington Road, Clitheroe (as marked on the attach plan),
- Clitheroe Castle Grounds (as marked in red on the attached plan)
- any other land within the administrative area of Ribble Valley, which comprises of any fenced any/or walled and/or hedged area signed at its entrance(s) as an area where dogs must be kept on leads (whether the sign uses those particular words or uses words and/or symbols having like effect).



DRAWING
CEMETERY LAYOUT

PROJECT
CEMETERY
WADDINGTON ROAD
CLITHEROE

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|------------------|--------------------|------------|
| SCALE NTS | FIG. NO. CEMW02 | |
| DATE 03/01/14 | DRAWN BY T.L. | CHECKED BY |



DRAWING

CASTLE GROUNDS

PROJECT

CASTLE GROUNDS
CLITHEROE

SCALE

NTS

Eng No

CASTG/001

DATE

03/01/14

DRAWN BY

T.L.

CHECKED BY

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations

2006 (2006/1059)

The Dogs on Leads by Direction (Ribble Valley) Order 2014

The Ribble Valley Borough Council (in this Order called the "Authority") hereby makes the following Order:

1. This Order comes into force on **[date]**.
2. This Order applies to the land specified in the Schedule.
3. In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised by the Authority in writing for the purpose of giving directions under this Order.

Offence

4. (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 comply with a direction given to him by an authorised officer of the Authority to put and keep the dog on a lead of no more than 1 metre, 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) 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 this dog;
 - (b) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person or the worrying or disturbance of any animal or bird.

Penalty

5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Dated

The Common Seal of the Ribble Valley

Borough Council was hereunto affixed

This 2014

in the presence of

Mayor

Chief Executive

SCHEDULE

This Order applies to any land within the administrative area of Ribble Valley, which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations 2006 (2006/1059).

The Dogs Exclusion (Ribble Valley) Order 2014

The Ribble Valley Borough Council hereby makes the following Order:

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

Offence

- 3(1) A person in charge of a dog shall be guilty of an offence if, at any time he takes his 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.

(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;
- (b) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 2933358) and upon which he relies for assistance; or
- (c) 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) 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.

Dated:

The Common Seal of the Ribble Valley
Borough Council was hereunto affixed

This

2014

in the presence of

Mayor

Chief Executive

SCHEDULE

This Order applies to any land within the administrative area of Ribble Valley which comprises of any fenced and/or hedged and/or walled children's play area, skate park, tennis court, basketball court, bowling green, putting green, sports pitch(es) and/or any other recreational facility signed at its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or uses words and/or symbols having like effect).

APPENDIX 2

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Order (Prescribed Offences and Penalties, etc) Regulations

2006 (2006/1059)

The Dogs (Specified Maximum) (Ribble Valley) Order 2014

The Ribble Valley Borough Council hereby makes the following Order:

1. This Order comes into force on date.
2. This Order applies to the land specified in the Schedule.
3. On land to which this Order applies, the maximum number of dogs which a person may take onto that land is four.

Offence

- 4 (1) A person in charge of more than one dog shall be guilty of an offence if, at any time, he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in article 3 of this Order, 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.
- (2) For the purposes of this article a person who habitually has a dog in this 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

- 5 A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Date

The Common Seal of the Ribble Valley

Borough Council was hereunto affixed

This 2014

in the presence of

Mayor

Chief Executive

SCHEDULE

This Order applies to any land within the administrative area of Ribbles Valley, which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

APPENDIX 3

Proposed Dog Control Orders Within The Administrative Area of Ribbles Valley Borough Council (the "Council").

Notice pursuant to Regulation 3 of The Dog Control Order (Procedures) Regulations 2006/798 and Section 55(5) of the Clean Neighbourhoods and Environment Act 2005

Notice is hereby given that the Council is proposing to make the following five Dog Control Orders.

1. The Fouling of Land by Dogs Order 2014

The Order will replace the current order made under the Dogs Fouling of Land Act 1996 and its effect is to make it an offence to fail to immediately remove faeces deposited by a dog in your charge. This Order applies to all land, which is within the administrative area of Ribbles Valley, which is open to the air, and to which the public are entitled or permitted to have access with or without payment.

This Order does not apply to a person who is registered blind or a person who 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.

2. The Dogs on Leads Order 2014

The effect of this Order is to make it an offence if a dog in your charge is not on a lead in a designated area. These designated areas include Clitheroe Cemetery, Clitheroe Castle Grounds (as shown in red on the attached plans) and any other land within the administrative area of Ribbles Valley which comprises of any fenced and/or walled and/or hedged land signed at its entrance(s) as an area where dogs must be kept on leads (whether the sign uses those particular words or uses words and/or symbols having like effect).

3. Dogs on Leads by Direction Order 2014

The effect of this Order is to make it an offence if a dog in your charge is not put and kept on a lead of not more than 1 metre in length, when directed to so by an authorised officer. This Order applies to any land within the administrative area of Ribbles Valley, which is open to the air, and, to which the public are entitled or permitted to have access with or without payment.

4. Dog Exclusion Order 2014

The effect is this Order is to make it an offence to allow a dog in your charge to enter a dog exclusion area. This Order applies to any fenced, hedged and/or walled children's play area, skate park, tennis court, basketball court, bowling green, putting green, sports pitch(es) or any other recreational facility signed at

its entrance(s) as a "dog exclusion area" (whether the sign uses those particular words or uses words and/or symbols having like effect).

This Order does not apply to a person who is registered blind, is deaf, in respect of a dog trained by Hearing Dogs for Deaf People and upon which he relies for assistance or a person who 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.

5. Dogs (Specified Maximum) Order 2014

The effect of this Order is to make it an offence for a person to take more than four dogs onto any land within the administrative area of the Ribble Valley at any time.

Some of the land affected by the above mentioned Orders is "access land" for the purposes of the Dog Control Order (Procedures) Regulations 2006/798

The hard copies of the draft orders and maps can be inspected at the Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA.

Consultation

The Council invites representations on its proposals, which should be submitted in writing to The Head of Environmental Health, Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire, BB7 4NG or submitted by email to environmental.health@ribblevalley.gov.uk by [insert date].