

## **Council Meeting - 11 July 2011**

### **Notice of Motion – Illegal Horse Grazing**

#### **Introduction**

The following notice has been submitted from Councillors Thomas, Robertson and Young:

*Council notes that there are now a large number of horses tethered and grazing illegally on their land.*

*Council accepts that this causes a nuisance to neighbours, stops residents using the land for recreational purposes, poses a risk to the public plus there is a legal risk to this Council if a horse on our land was a factor in causing an accident.*

*Council proposes to pursue the following policy:*

- (1) explore the feasibility of allocating and subsequently leasing specific areas of land that are suitable and safe that could be used for grazing of horses.*
- (2) facilitate a working group meeting under the relevant scrutiny committee and guidance of the local area partnerships to which all relevant parties are invited to produce a report directly to Cabinet and Council within 3 months. This report to contain recommendations as to how this issue can be resolved.*
- (3) in the event no satisfactory agreement being forthcoming, Council directs that officers fully implement existing legal powers to deal with all illegally placed horses on Council land.*

#### **Background Information**

Illegal horse grazing has been a problem in the Black Country for decades. Within Walsall, illegal grazing occurs throughout the Borough on public open space with horses being tethered or just left in parks, countryside sites and sports pitches. In some cases private land is grazed. The problem appears to be concentrated in Goscote, Bloxwich, New Invention, Willenhall, Pleck, Moxley and Darlaston (i.e. in the three area partnerships of Willenhall, Darlaston and North Walsall). Much of the horse ownership is linked to the traveller community. The numbers of illegally grazing horses fluctuates throughout the year due to some owners operating within the horse meat trade and sending horses off for slaughter at certain times and supplying foreign markets.

A number of problems are caused by the illegal grazing activities. Damage is caused to Council land and infrastructure such as gates and fencing, loss of amenity such as football pitches, loss of public access to open space, planted and wooded areas and

habitats destroyed. There are also serious health and safety concerns with a potential for injury to the public and motorists. The horses are viewed by the general public as a nuisance and are a frequent cause of complaint.

## **Enforcement Powers and Actions**

In the past attempts to address the problem have not been effective with much reliance placed on the application of the Animals Act 1971 (section 7). This has been considered the most appropriate act under which the removal of the horses can be undertaken. The Act allows the detention of livestock (the definition of livestock is sufficiently broad to include horses) who have 'strayed onto any land and is then not under the control of any person.' The detention can be made without notice but subsequent notification within 48 hours of the detention must be given to the officer in charge of a police station and to the owner if known. The horses must be held for not less than 14 days and must be reasonably looked after following which the horses may be sold at auction. The use of the Act, however, does have a number of important considerations and implications for the Authority. There have been incidences when local authorities have detained horses and have been found to have acted illegally as it has been argued that the horses have not 'strayed' as stipulated by the Act, but have been deliberately placed on the open area of land. In addition the full responsibility, cost and welfare of the horses whilst detained and potential sale falls on the Council and therefore relies upon expertise, resources, arrangements and infrastructure being available.

The process by which the Council has dealt with owners has been to serve a removal notice on the horse. This is done by letter directly to the owner and placing notices on site. In the majority of cases the horse owners are not known. After the period of notice has been served (usually 24 hours) and the horse has not been removed it is impounded by the Council. This threat in the past has been sufficient to ensure the owners remove the animal. Unfortunately the horses often reappear sometime after the notice period.

Following a spate of recent incidents involving horses being left at Great Bridge Road Open Space council officers explored an alternative and more determined approach to dealing with illegal horse grazing. Based on the successful initiative implemented by a number of other authorities, specialist bailiffs were commissioned to manage this particular local horse problem. The bailiffs operate under section 41 of the Local Government (Miscellaneous Provisions) Act 1982 which relates to lost and uncollected property found on buildings or premises owned or managed by a local authority. The service includes the issuing of notices on the land in question giving a reasonable period for offenders to remove their animals usually 14 days (although not required under the act it helps offenders by offering the chance for them to find alternative accommodation for their animals) and scanning the horses for registration microchips. If the horses are not removed the bailiffs impound the number of horses they have been commissioned to do so. They also provide the livery facilities to ensure basic health care of the horses whilst detained. If the horses are claimed back, offenders pay a fee to the bailiffs to recover them and if they are not claimed the bailiffs arrange to sell the animals privately or through public auction. Ownership must be demonstrated by producing a horse passport. The bailiffs charge a cost of £1,500 per horse to the Council however the monies received from the sale

or auction of the horses is credited back. It would appear that in most cases the horses are removed on the notices placed by the bailiffs. This was certainly the case at Great Bridge Road which saw the owners remove their horses on notice and therefore avoided the need for them to be detained. To date the horses have not returned. Use of the bailiffs by other authorities has demonstrated a considerable reduction in overall illegal grazing numbers.

The Council achieved a further significant success recently in its efforts to manage illegal horse activities in its open space. For a number of years an individual had habitually driven a horse and trap over George Rose Park. Successive notices issued to the individual had failed to stop the problem. During May this year the Council successfully obtained an Injunction against the individual prohibiting him from taking horses and horse drawn carriages onto George Rose Park or allowing or encouraging others to do so.

### **Provision of Licensed Grazing Areas**

Council officers have been exploring the potential to take a more holistic approach in addressing the issue of illegal grazing which seeks to achieve a balance between enforcement action and providing assistance and facilities for legalised grazing. There is the potential for areas of public open space managed by the Council to be designated for horse grazing. A number of sites have been identified as offering some potential in terms of size, location and existing infrastructure. In some cases grazing is a requirement to maintain the desired habitat and draw down the appropriate stewardship grant.

It is essential that appropriate infrastructure is in place at the individual sites to support and allow the horse grazing. This includes: adequate access to and from the site including vehicular access enabling transportation and suitable gates and fencing to safely enclose the site and prevent the animals escaping and provide a level of security and adequate signage. Each potential site will have the capacity to accommodate and support grazing of a limited number of horses. It is also important to ensure that the sites identified provide the opportunity for rotation to occur. This is vitally important to allow sites to recover, habitats to establish, prevent over grazing, maintain the quality of grass swards and health of the horses. On this basis some sites will be left fallow for periods of time. It is difficult to give an exact capacity for land as the age and health of the horse will affect their appetite and also the weather will affect the grass available for grazing.

It is important to ensure that sound management arrangements are put in place. Graziers would be required to apply for an annual licence to graze a specific number of horses, which may be at a single or number of sites dependent upon the Council's grassland management regime. All horses must have a horse passport and, if born after 1 July 2009, must also be micro chipped. This information will be used to prove that the grazier is the owner of the horse or horses. Horses must have adequate welfare standards which includes adequate water, a suitable tether and be visited on a regular basis, normally twice daily. Graziers must also ensure that horses do not overgraze, moving horses regularly around an allocated area. They may also be asked to move their horses to an alternative site to allow grazed areas

to recover. In some areas of open space, it is more appropriate to allow the horses free access to the space rather than tethering them.

The provision of licensed grazing areas will have a number of clear advantages. Horses will be restricted to defined areas and less likely to be a nuisance, the Council will be able to exercise a greater degree of control on the number of horses and improve grazing quality, manage wildlife habitats in a sensitive manner, foster trust between horse owning community and the Council, bring in income, help reduce green space maintenance and improve public perception of open space and owners of horses will be identifiable. It must however be recognised the provision of licensed grazing land will not accommodate the present number of illegally grazed horses. It is likely that only 20% of the horses illegally grazing at present could be accommodated on the potential grazing sites.

A handwritten signature in black ink, appearing to read 'Jamie Morris', with a stylized flourish at the end.

Jamie Morris  
Executive Director

June 2011