

**BYELAWS – BURNING
OF STRAW AND STUBBLE**

SEPTEMBER 1990

SHEPWAY DISTRICT COUNCIL
 LOCAL GOVERNMENT ACT 1972
 STRAW AND STUBBLE BURNING

Byelaws made under section 235 of the Local Government Act 1972 by the District Council of Shepway for the good rule and government of the District of Shepway and for the prevention and suppression of nuisances.

EXTENT OF BYELAWS

1. These byelaws shall extend to all parts of the District of Shepway.

RESTRICTIONS ON BURNING

2. No persons shall, on agricultural land, commence to burn any straw or stubble remaining on such and after the harvesting any cereal crop which has been grown thereon, or knowingly cause or permit the commencement of burning of such straw or stubble at any time –
 - (a) during the period beginning one hour before sunset and ending at sunrise; or
 - (b) on any Saturday, Sunday or bank holiday.
3. No person shall commence to burn or knowingly cause or permit the commencement of burning of such straw or stubble unless the area in which it is intended to burn such straw and stubble is more than 150 metres from any other area where such straw or stubble is being burned.
4. (1) No person shall commence to burn or knowingly cause or permit the commencement of burning of such straw or stubble unless the area in which it is intended to burn such straw and stubble is more than 150 metres from any other area where such straw or stubble is being burned.
 - (a) does not exceed 10 hectares; and
 - (b) is bounded on all sides and at every place where the area to be burned must be distanced from any point or object in accordance with subparagraphs (c) and (d) below by a firebreak not less than 5 metres in width; and
 - (c) is not less than 15 metres from –
 - (i) the trunk of any tree
 - (ii) any hedgerow;
 - (iii) any fence not belonging to the occupier

of land upon which the straw or stubble is to be burned the greater part of which is constructed of combustible material;

- (iv) any pole which is or may be used to carry telegraph wires; and
- (d) is not less than 25 metres from –
 - (i) any residential building;
 - (ii) any structure having a thatched roof;
 - (iii) any building, structure, fixed plant or machinery the greater part of which is constructed of combustible material or glass or both;
 - (iv) any scheduled monument the greater part of which is constructed of combustible material;
 - (v) any stack of hay or straw;
 - (vi) any accumulation of combustible material other than straw removed in the construction of a firebreak;
 - (vii) any standing cereal, oil seed or pulse crop;
 - (viii) any woodland or nature reserve;

(2) Any straw which is -

(a) between any object from which the area to be burned must be distanced in accordance with sub-paragraph (c) of paragraph (1) above and any firebreak; and

(b) within 15 metres of the area to be burned shall so far as is reasonably practicable, be removed to a distance of not less than 25 metres from such object or incorporated into the soil prior to the commencement of burning.

(3) Any straw which is –

(a) between any object from which the area to be burned must be distanced in accordance with sub-paragraph (d) of paragraph (1) above and any firebreak; and

(b) within 25 metres of the area to be burned shall so far as is reasonably practicable be removed or incorporated into the soil prior to the commencement of burning;

5. (1) No person who has commenced to burn or knowingly caused or permitted the commencement of burning of such straw or stubble shall without reasonable excuse cause or permit (whether knowingly or not) a fire to cross a firebreak to any area where burning has not otherwise been commenced.

(2) Without prejudice to the generality of the words “reasonable excuse” within paragraph (1) above, it shall be a reasonable excuse within that paragraph if a person shows that the construction of the firebreak was such that he could not reasonably have foreseen that the fire would travel across it.

6. No person shall burn or knowingly cause or permit the burning of any area of such straw or stubble unless during the whole time the material is burning the operation is under the supervision of at least two responsible persons present at the burning of that area, of whom one is in charge of the operation and is experienced in the burning of straw and stubble.

7. No person shall commence to burn or knowingly cause or permit the commencement of burning of such straw and stubble on any day unless not less than one hour's notice has been given on that day –
- (i) the County Fire Control of the Kent Fire Brigade;
and
 - (ii) if available, such officer of the Shepway District Council as the Council may appoint for the purpose of receiving such notice.
8. No person shall, without reasonable excuse, burn or knowingly cause or permit the burning of any area of such straw or stubble unless during the whole of the time the material is burning the following means for fighting fire are available at the burning of that area, that is to say –
- (a) not less than 500 litres of water in one or more mobile containers together with a means of dispensing the water for firefighting purposes; and
 - (b) not less than five implements suitable for use for firebeating purposes.
9. The occupier of the land on which such straw or stubble has been burned shall not, without reasonable excuse, permit any ash or carbonised residues, not incorporated into the soil of the land, to remain for a period of more than 36 hours after the commencement of the burning on an area on which straw or stubble has been burned.

DEFENCE

10. In proceedings against any person for an offence under byelaw 3 or 6 above it shall be a defence for that person to prove that he had taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

PENALTY

11. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

INTERPRETATION

12. In these byelaws –

“combustible material” means material capable of undergoing combustion;

”combustion” means consumption by oxidation with the production of heat, usually with incandescence or flame or both;

“Council” means the Shepway District Council;

“nature reserve” has the same meaning as in section 15 of the National Parks and Access to the Countryside Act 1949;

“scheduled monument” has the same meaning as in section 1 of the Ancient Monuments and Archaeological Areas Act 1979;

“Firebreak” means an area of ground of which the surface consists wholly or mainly of any substance other than combustible material;

REVOCATIONS

13. The byelaws made by the Council on 6 December 1985 in respect of straw and stubble are revoked on the date when these byelaws came into operation.

GIVEN UNDER the Common Seal of the District Council of Shepway this 20th day of June One thousand nine hundred and ninety

THE COMMON SEAL of THE)
DISTRICT OF SHEPWAY was)
hereunto affixed in the presence)
of:-)

(Signed) W H Payne Chairman

(Signed) P J Wignall
Chief Assistant Solicitor

Health and Housing Committee – 16 10 89 – Minute 56

The foregoing byelaw(s) are hereby confirmed by the Secretary of State and shall come into operation on the 24th day of September 1990.

Signed by authority of the Secretary of State

(Signed) C L SCOBLE

An Assistant Under-Secretary of State

04 SEP 1990
Home Office
LONDON SW1.