

Delegated Decision Making Form – APPENDIX 5.

REF NO
PH/WC/O

Decision Type

	Portfolio Holder		Ward Councillor	X	Officer
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Department

COMMUNITIES

Subject

DALES WARD PROPOSED DOG CONTROL ORDERS

Decision

This is not a key decision because it does not result in the Council incurring expenditure or making income or savings of more than £1 million revenue or capital, taking into account the overall impact of the decision (unless this has been delegated by an authorised body). It also does not significantly affect communities in 2 or more wards	Subject to call-in: Yes / No
	Total value of decision: £ 5,000.
	Revenue or Capital:
	Executive or Non-executive:

The Director of Community Protection to authorise Nottingham City Council to carry out a consultation processes in respect of the making of two further proposed Dog Control Orders within the Dales Ward, namely:

- I. . A ‘Dogs on Leads by Direction Order’, which would make it an offence to not put, and keep, a dog on a lead when directed to do so by an authorised officer on the land outlined with a bold red line on the attached Plan Dog Control Order 3 at Appendix 1.
- II. A ‘Dogs Exclusion Order’, which would make it an offence to permit a dog to enter land from which dogs are excluded as shown outlined with a bold red line on the attached Plan Dog Control Order 4 at Appendix 2.

**Other Options
Considered**

(with reasons for rejecting
options not favoured)

Various options in respect of controlling the behaviour of dogs within the areas proposed have been considered including having an increased level of visible patrols in the area to deter irresponsible dog owners from not controlling the behaviour of their dogs, using CCTV, positive reinforcement of responsible dog ownership and community liaison work, however this leaves the City Council and Nottinghamshire Police lacking in having any real powers to hold irresponsible dog owners to account.

Not to implement the proposals has been considered however, due to the ongoing issues with dog behaviour at Colwick Country Park, a Dog Control Order - giving authorised Officers the power to instruct dog owners to put their dogs on a lead if they are out of control - is deemed necessary in order to protect members of the public, animals and wildlife on the park where an Officer feels that a person does not have full control of their dog

With regard to the proposal to introduce a Dog Control Order excluding dogs from certain areas of land, not to implement such an Order was also considered, however, due to the continuing risk posed to children being attacked by dogs whilst playing on the playgrounds and parks, the Council feel that a Dog Control Order in respect of excluding dogs from children's play areas is also necessary.

The City Council's Parks Service often receives complaints from users of Colwick Country Park about the behaviour of dogs on the park disturbing wildlife, fishermen and conflicts with vehicles. In 2013, it was reported that a dog was killed on the park after a fight with another dog. There have also been a number of serious attacks by dogs when their owners have not had proper control of them on a lead in the Dales Ward. In order to prevent these types of incidents from occurring in areas where children play such as children's playgrounds and parks a Dog Control Order excluding dogs from such areas is required.

Reasons for Decision(s)

Over the past few years, the City Council and Nottinghamshire Police have received many complaints in respect of dogs causing nuisance and annoyance to members of the public by being allowed to run loose across the Dales Ward, and in particular the urban parts of the Dales Ward. Many irresponsible dog owners do not keep their dogs on leads and therefore do not have proper control of their dogs resulting in substantial nuisance and annoyance to members of the public. There have also been a number of serious attacks by dogs who have not been on a lead and have not been properly controlled by their owners.

On 13th May 2014 the Area Committee East Dales, St Anns and Mapperley authorised the Director of Legal and Democratic Services and the Legal Services Manager to make the following Dog Control Orders:

- (a) A Dog Control Order requiring the removal of dog faeces from land, which applied to the whole of the Dales Ward (referred to in this Decision as the 'Dales Ward Fouling of Land by Dogs Order').
- (b) A Dog Control Order requiring dogs to be kept on a lead of not more than 60 inches in length in the Urban areas of the Dales Ward (excluding the Colwick Country Park, Woods and Sneinton Windmill Complex) (referred to in this Decision as the 'Dales Ward Urban Areas Dogs on Leads Order').

The Dales Ward Fouling of Land by Dogs Order and the Dales Ward Urban Areas Dogs on Leads Orders have now been made, and came into force on 3 July 2014.

During the consultation process for the above Orders, it has been brought to the Council's attention that there have been problems with dogs being out of control on Colwick Country Park, and concerns in relation to dogs being allowed on a number of children's play areas within the Dales Ward. It is therefore proposed that the Council carry out a further consultation processes in relation to the following additional Dog Control Orders

- (1) A Dogs on Leads by Direction Order in respect of the land outlined with a bold red line on the attached Plan Dog Control Order 3 – seen at Appendix 1
- (2) A Dogs Exclusion Order in respect of land outlined with a bold red line on the attached Plan Dog Control Order 4 – seen at Appendix 2

The "Dogs on Leads by Direction" proposed Dog Control Order, if made, would require that those in charge of a dog must put, and keep their dog on a lead when directed to do so by an authorised Officer. This proposed Order would apply to the Colwick Country Park, Colwick Woods and the Greens Windmill and Greens Gardens.

The "Dogs Exclusion" proposed Dog Control Order would only apply to children's play areas and parks which are enclosed in order to provide additional protection to children and other users of those facilities.

It should also be noted that on 13th May 2014 Area Committee East Dales, St Anns and Mapperley also authorised an additional consultation exercise in relation to the making of a proposed Dog Control Order requiring dogs to be kept on a lead of not more than 60 inches in length over the Greens Windmill and Greens Gardens. Please see Appendix 3 a plan confirming the area of land outlined with a bold red line.

The use of powers granted to the authorised personnel under a Dog Control Order is an effective way to ensure a proportionate approach is taken to dealing with these problems

Affected Wards

Dales Ward.

Advice Sought

	Yes	No
Legal	YES	<input type="checkbox"/>
Finance	<input type="checkbox"/>	<input type="checkbox"/>
Human Resources	<input type="checkbox"/>	<input type="checkbox"/>
Equality & Community Relations Team	<input type="checkbox"/>	<input type="checkbox"/>
Voluntary and Community Sector	<input type="checkbox"/>	<input type="checkbox"/>
Grants Team		
Procurement	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>

Details of Consultations undertaken

Portfolio Holder	<input type="checkbox"/>	<input type="checkbox"/>	
Ward Councillors	Yes	<input type="checkbox"/>	On :13.05.14: Councillor David Mellen Councillor Gul Khan Councillor Nigat Khan
Area Committee	Yes	<input type="checkbox"/>	13.05.14
Other Council Bodies	Yes	<input type="checkbox"/>	On: 15.05.14 James Dymond, Manager, City Council's Parks and Open Spaces Service.
Corp. Directors Affected	Yes	<input type="checkbox"/>	Date stated below
Trades Unions	<input type="checkbox"/>	<input type="checkbox"/>	_____
Minority Group	<input type="checkbox"/>	<input type="checkbox"/>	_____
Others (Specify)	<input type="checkbox"/>	<input type="checkbox"/>	_____

Reasons for not consulting

Those not consulted are not directly affected by the decision.

Consultation Outcomes

Previous consultation taken during the process of bringing into force the two Dog Control Orders currently in place within the Dales ward has shown that the citizens across the whole of the Dales Ward support the proposals in respect of controlling the behaviour of dogs within the Dales Ward. Formal consultation is required under the Clean Neighbourhood and Environment Act 2005 in respect of these two further Dog Control Orders and the outcomes of the consultation, if approval is granted, will be brought back before the Dales Ward Area Committee on 7th September 2014.

Background to the decision

1. Many dog owners across the Dales Ward act in a responsible manner when controlling and exercising their dogs, however, the local community have made representations to Ward Councilors in respect of some dog owners allowing their pets to cause a number of problems. Attempts to encourage these owners to take responsibility for their pets with the powers currently available to the City Council and Nottinghamshire Police have largely failed due to a lack of powers held by the Council and Nottinghamshire Police.
2. On 13th May 2014 the Area Committee East Dales, St Anns and Mapperley authorised the Director of Legal and Democratic Services and the Legal Services Manager to make the Dales Ward Fouling of Land by Dogs Order and Dales Ward Urban Areas Dogs on Leads Order.

3. As part of the consultation for these Orders, representations were received from colleagues in Council's Parks and Open Spaces Section stating that an additional Dog Control Order would benefit Colwick Woods and Colwick Woods Country Park because a number of serious incidents involving dogs being out of control of their owners have occurred on Colwick Woods and Colwick Woods Country Park.

4. Byelaws do currently exist for the Colwick Country Park which makes it an offence for a dog to not be kept under proper control and effectively restrained from causing annoyance to any person or from worrying or disturbing any animal.

“No person shall cause or suffer a dog belonging to him or in his charge to enter or remain on the Park unless such a dog be and continue to be under proper control and be effectually restrained from causing annoyance to any person or from worrying or disturbing any animal”.

At present under the current byelaws there are no powers to issue Fixed Penalty Notices for dog owners who do not keep their dogs under control however breach of this byelaw is a criminal offence This Byelaw appears to have been made under the Countryside Act 1968 and means that breaches of this would be dealt with by the Police. To date, there do not appear to have been any action taken in respect of a breach. The Introduction of the proposed Dog Control Orders as detailed in this report will give authorised Officers - including Community Protection Officers - the power to issue Fixed Penalty Notices in respect of breaches of these Orders. Such Orders have been brought into force in other areas of Nottingham City Council and such enforcement action has proved to be a successful method of deterring irresponsible dog owners from not controlling their dogs in a proper manner.

5. It is therefore proposed that the City Council be authorised to consult upon a Dogs on Leads by Direction Order which would apply to Colwick Woods, Colwick Country Park, the Greens Windmill and Greens Gardens The proposed Dog Control Order would give the power to an authorised Officer to direct a dog owner to put their dog on a lead when it is deemed to be out of control. This would give improved powers to Community Protection Officers to tackle such problems promptly.

6. Currently, dog owners are allowed to take their dogs on leads in to children's playgrounds and children's parks that are located in the Urban areas of the Dales Ward. Dog owners are currently allowed to also take their dogs off their leads on the two children's playgrounds that are located within Colwick Woods and Colwick Country Park. The reason for this is that Colwick Woods and Colwick Country Park are not covered by the current Dogs on Lead Dog Control Order. There is a risk that failure to exclude dogs from these areas could result in serious incidents. Although dogs are permitted to be on leads of 60 inches in

length there is still a possibility that owners could lose control of their dogs. It is therefore proposed that a Dogs Exclusion Order excluding dogs from children's playgrounds and children's Parks as shown on the attached Plan Dog Control Order 4 be consulted upon.

7. The proposed additional Dog Control Orders are not intended to interfere with responsible dog owners who keep their pets under proper control. This approach will allow the targeting of individuals acting irresponsibly in the control of their dog(s) while leaving others undisturbed who are not causing a problem.

8. The proposed Dog Control Orders should only be made where the Council is satisfied that to do so would be a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them. The proposed Orders are considered a necessary and proportionate response due to the number of serious incidents that have occurred on Colwick Woods and Colwick Woods Country Park.

EVIDENCE

1. As part of the consultation process for the proposal to implement the Dales Ward Fouling of Land by Dogs Order and the Dales Ward Urban Areas Dogs on Leads Order which come into force on 3 July 2014, citizens across the Dales Ward were asked to complete a questionnaire. Although not forming part of the formal consultation, additional questions were included in the questionnaire asking for citizen's views on whether they would support two additional types of Dog Control Orders in respect of the Dales Ward, namely:

- * A 'Dogs on Leads by Direction Order' and
- * A 'Dogs Exclusion Order'.

2. During the consultation 223 completed questionnaires were obtained from citizens and an analysis of the questionnaire responses is attached at Appendix 4

3. Of those who responded to the question asking whether or not people would support a Dog Control Order to allow officers to request dog owners to put their dog on a lead if dogs are judged to be out of control, 209 responded that they would support this, and 5 did not. The reasons given for not supporting such an Order were that dogs should already be on a lead.

4. Of those who responded to the question asking whether or not people would support a Dog Control Order which would exclude dogs from certain areas of land including children's playgrounds and parks, school playing fields, athletic/sports fields, BMX tracks and bowling greens, 210 responded that they would support such an Order, 7 said

that they would not.

5. The staff at the Council's Parks and Open Spaces Service have stated that there have been a number of very serious incidents involving dogs on Colwick Woods and on Colwick Country Park. The new proposed Dog Control Orders have been discussed with James Dymond, Manager of the Parks and Open Spaces and he has advised that his service area would support the new proposals. In addition Martin Harris, Parks Technical Officer, Parks and Opens Spaces has confirmed in writing that he has no issues with the new proposed Dog Control Orders.

6. If Orders are to be made then Regulations set out in the procedure should be followed which includes consultation for a period of at least 28 days and the advertisement of the proposals. Prior to implementing a Dog Control Order, Regulations require the Council to consult with citizens across the Dales ward.

7. There are various interventions that are currently available to enforcement agencies to stop nuisance and annoyance arising from the irresponsible ownership and control of dogs such as Anti-Social Behaviour Orders and Injunctions. The powers under the proposed Dog Control Order giving an authorised Officer the power to instruct dog owners to put their dog on a lead will strengthen the approach taken by Enforcement Officers in respect of those who choose to continue to act irresponsibly and so disrupt the enjoyment of visitors to Colwick Woods, Colwick Country Park, Greens Windmill and the Greens Gardens. Currently Enforcement Officers do not have any powers available to exclude dogs from certain areas of land. The powers under the proposed Dog Control Order excluding dogs from children's playgrounds and children's parks would reduce the possibility of young children being attacked and injured by a dog whilst they are playing. In addition, Community Protection Officers do not have any powers to deal with dogs which are not under proper control within the Colwick Park Byelaws. The use of Dog Control Orders provide additional powers and remedies which can be used alongside or as an alternative to civil action or other dog related criminal offences and which will be considerably quicker. Community Protection Officers will have the power to issue Fixed Penalty Notices for offences under the new proposed Dog Control Orders immediately where a breach occurs. This action will bring about a swift and prompt resolution by giving offending dog owners the opportunity to pay a fine to discharge their responsibilities towards any offences that have been committed. Offenders may also choose not to discharge their liability through payment of the penalty and in such instances; Community Protection will seek to prosecute offenders within the Courts system.

8. If Orders are to be made then Regulations set out in the procedure should be followed which includes consultation for a period of at least 28 days and the advertisement of the proposals. Prior to implementing a Dog Control Order, regulations require the Council to consult with

any other primary or secondary authority within the area in which the Dog Control Order is being made. Nottingham City Council is the sole authority for the Dales Ward therefore no consultation in respect of this is required.

9. The Council must also publish a notice describing the proposed Order in a newspaper circulating in the area covered by the proposed Orders to allow residents the opportunity to make representations. Those representations will be considered and responded to as appropriate. As part of the consultation process, a questionnaire is to be produced asking specific questions relating to the proposed new Dog Control Orders. Citizens across the Dales ward will have the opportunity to complete a questionnaire and document their views in relation to the new proposals. In addition a petition will be produced and citizens will have the opportunity to sign the petition only if they support the proposed Dog Control Orders. The cost of the questionnaires for Consultation with the residents will be absorbed by Community Protection. It is proposed that the consultation will be carried out by Community Protection Officers, Neighbourhood Development Officer and the Neighbourhood Action Team. Community Protection Officers will engage with residents across the whole of the Dales Ward.

10. The recommendations for the consultation over the proposed Dog Control Orders are therefore in compliance with the legislation.

11. It is proposed that the results of this consultation will be taken to the next available Dales Area Committee meeting or they can be presented at a suitable meeting prior to the Area Committee should it be felt appropriate.

**Declared colleague/
Councillor Interests**

N/A

**Dispensation by
Standards Committee**

Date: N/A	Dispensation Reference:
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Equalities

Has the equality impact of the decision been assessed? **NO.**

YES – equality impact assessment attached

Before such an Order is made citizens within the area must be consulted in order to gauge their opinion on the proposals. The results of the consultation will enable the Council to carry out an Equality Impact Assessment on the proposal and this will be reported to the Area Committee.

Exemptions are available to Dog Control Orders to some sections of the disabled Community.

The Orders would not apply where a person in control of a dog has:-

- a.) a reasonable excuse for failing to comply with an Order or
- b.) is acting with the consent of the owner or occupier of the land, or any other person or authority which has control of the land, for example dogs working on the land with the consent of the land owner.

There is also an exemption from the dog fouling offence for people with disabilities in respect of trained assistance dogs.

Under the Council's Fair and Just Nottingham Equity Scheme, this proposed Dog Control Order complies with the underlying principles of the scheme and promotes fair and individual enforcement based on the Order.

Social Value Implications

N/A

Crime and Disorder Implications

As described above there have been a number of serious incidents involving dogs on Colwick Country Park where a dog was attacked and killed by another dog. The proposed Orders would assist the area by way of reducing and preventing anti-social acts and preventing possible attacks on children by dogs being allowed on to children's playgrounds and parks.

Published Documents

N/A

**Exempt/Confidential report
Contact Person**

N/A5

Abu Belim – Principal Enforcement Officer

Contact No. Mobile: 07903 202034
Email: abu.belim@nottinghamshire.pnn.police.uk

For Officer delegated decisions only please provide the reference number from the Scheme of Delegation under which the decision is being taken.

**Scheme of Delegation
Reference Number**

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Corporate Director or authorised colleague (Print name)		Date:
Signature		
Portfolio Holder (Print name)		Date:
Signature		
	Date Published:	Last Date for Call-in:
