

Delegated Decision Making Form

REF NO PHAWC/O 00358

Decision Type	Portfolio Holder	Ward Councillor	✓	Officer

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: No
		Total value of decision: £ 5,000.
		Revenue or Capital: Capital
		Non-executive

The Director of Community Protection Officer to be authorised to carry out consultation processes required with regard to the making of two proposed Dog Control Orders, namely:

- (i) **A Dog Control Order requiring the removal of dog faeces over the land outlined with a bold red line on the attached Plan Dog Control Order 1.**
- (ii) **A Dog Control Order requiring dogs to be kept on a lead of not more than 60 inches in length over the land outlined with a bold red line on the attached Plan Dog Control Order 2.**

Other Options Considered
(with reasons for rejecting options not favoured)

Not to implement has not been considered due to the number of reported incidents of dog fouling across the Dales Ward. There has also been a number of serious attacks by dogs not being kept on a lead in the Dales Ward. Consideration has been given to the Dogs (Fouling of Land) Act 1996 which is currently an effective tool for tackling dog fouling. However, this does not cover wider dog issues such as the ability to require dogs to be kept on leads.

Reasons for Decision(s)

Over the past few years the Council and the 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. There have been a number of serious attacks by dogs who have not being on a lead and have not being properly controlled by their owners.

The Proposed Dog Control Order would require that those in charge of a dog must keep their dog on a lead over the land outlined in red on the attached Plan Dog Control Order 2. This would benefit the community in respect of taking positive enforcement actions against those people who allow their animals to roam around without adequate supervision.

Where such Orders are made the provisions of the Dogs (Fouling of Land) Act 1996 automatically lapse in respect of that land and therefore it is also proposed that a further Dog Control Order be made to re-instate the offence of failing to remove dog faeces from land covered by the Dog Control Order. It is proposed that the Dog Control Order in respect of dog fouling will apply to the whole of the Dales Ward as outlined in red on the attached Plan Dog Control Order 1 rather than the same land that the proposed Dog Control Order requiring dogs to be kept on leads will apply to because dog fouling is a problem across the whole of the Dales Ward.

Numerous streets across the Dales Ward feature as the top sites for reported cases of dog fouling where there have been in excess of 20 reports. Please see **Appendix 1**. Many citizens have made complaints directly to Ward Councillors, the Neighbourhood Development Officer and Community Protection Officers (CPO's).

Due to the number of reported cases of dog fouling and complaints regarding dogs being allowed to roam freely without being properly controlled these issues have been Ward priorities for in excess of two years.

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	<input checked="" type="checkbox"/>	<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

	Yes	No	Name and Date
Portfolio Holder	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Ward Councillors	Yes	<input type="checkbox"/>	On :05.2.14: Councillor D Mellen Councillor G Khan Councillor N Khan
Area Committee	Yes	<input type="checkbox"/>	11.02.14
Other Council Bodies	Yes	<input type="checkbox"/>	On 10.02.14 Inspector Simon, St Anns and Dales Ward Neighbourhood Police Inspector
Corp. Directors Affected	Yes	<input type="checkbox"/>	Date dated below
Trades Unions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Minority Group	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____
Others (Specify)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	_____

Reasons for not consulting

Those not consulted are not directly affected by the decision.

Consultation Outcomes

The citizens across the whole of the Dales Ward support these proposals and would like to see the introduction of two Dog Control Orders.

Background to the decision

1. It is quite correct to state that 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 councillors that some dog owners are allowing their pets to cause a number of problems. Attempts to encourage these owners to take responsibility for their pets under the current legislation have largely failed and it is the recommendation of local Community Protection Officers that two Dog Control Orders be made for the Dales Ward. The proposed Orders are a Dog Control Order requiring the removal of dog faeces over the over land outlined with a bold red line on the attached Plan Dog Control Order 1, and A Dog Control Order requiring dogs to be kept on a lead of not more than 60 inches in length over the land outlined with a bold red line on the attached Plan Dog Control Order 2. This will give improved powers to Community Protection Officers to tackle such problems promptly as currently Community Protection Officers do not have any powers to require dog owners to keep their dogs on leads.

2. The proposed Dog Control Orders are not intended to interfere with responsible dog owners who keep their pets under proper control and clean up after them. 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.

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 reported cases of dog fouling across the whole of the Dales Ward and the serious cases where residents have been injured by dogs not on their leads. Responsible dog owners will still be able to exercise their dogs off their leads on Colwick Woods Country Park which is within the Dales Ward.

3. In response to the concerns of local people the local Neighbourhood Action Team (NAT) for the Dales have identified action on Dog Fouling, developing responsible dog ownership and a Dog Control Order as local priorities for the Ward. The NAT priorities have a series of actions identified to address these priorities; targeted Community Protection Officer's operations on Dog Fouling, identification of hotspots and enforcement action against owners who let their dogs foul to name a few.

4. To give weight to these priorities part of the Sneinton Week of Action in 2013 focused on encouraging residents to sign the responsible dog charter (pledge), organised for the Dogs Trust to deliver a number of 'chipping sessions' and consulted local residents on the use of a dog control order covering the Dales ward.

EVIDENCE

1. With regard to demonstrating the need to introduce two Dog Control Orders requiring dog owners to clean up faeces and requiring dogs to be kept on leads evidence has been collated from across the whole of the Dales Ward. Dog fouling statistics are set out in **Appendix 1**. Signed witness statements from the Neighbourhood Development Officer, the Enforcement Officer and Community Protection Officers (CPO's) describe in detail all the issues that have been detailed in this report. The Ward Councillors can also provide verbal evidence relating to complaints and representations that they have had from citizens across the whole of ward. During Sneinton Week of Action in 2013, a questionnaire with the title "Do you think Sneinton would benefit from a Dog Control Order?" was utilised to consult with the citizens in the ward. A total of 126 signed questionnaires were received during the Week of Action.

2. Dog fouling is a big problem in the Dales Ward. Dog fouling statistics are set out in **Appendix 1**. These include the top sites regarding the numbers of reported cases of dog fouling across the Dales ward where there have been in excess of 20 reports for the period February 2013 to January 2014, inclusive. There are nine top sites across the St Anns Ward and the Dales Ward and six of them are within the Dales Ward.

3. The Dales Ward has experienced two very nasty incidents where dogs that were out of control harming local residents, resulting in police action being taken against the owners. On 30th November 2013 between 10pm and 10.30pm a tenant of Nottingham City Council was walking with her 4 month old baby and partner on Manvers Street. Another tenant of the Council was exercising his 2 American Bulldogs, off their leads in this location. As the female tenant passed one of the dogs then jumped up and grabbed her hand whilst the other dog jumped up and grabbed her arm. The dogs pushed her to the ground and both started pulling at her. The dogs did let go of the female but they were running wild and circled around her and her baby. As a result of the attack the female victim had to have surgery on her arm and the nerve in her hand was badly damaged. One finger was almost severed off by the dogs and she will therefore have no feeling in that part of her hand for the rest of her life. This incident and others are detailed in the witness statement of Susan Haque, Enforcement Officer, Community Protection that forms part of the file of evidence for the proposed Dog Control Orders. Civil Legal action was pursued by Community Protection which resulted in a Court Order against the dog owner. The dog owner is now banned from keeping dogs in any Council owned property within the city. In addition to this Councillors and officers have been approached on numerous occasions by residents concerned that dogs not on their leads were causing alarm to other dog walkers and pedestrians. Residents have consistently raised the issue of Dog fouling and dogs not being kept on leads at the monthly local issues meetings, as part of Councillors surgeries and during a number of the local ward walks.

4. A Dog Control Order which requires that dogs be kept on a lead can also specify the length of lead a dog should be kept on. It is recommended therefore that the length of lead should be specified in the proposed Dog Control Order which requires that dogs be kept on a lead as offering a proportionate solution in affording protection to the residents and allowing dog owners to allow their pets a reasonable amount of freedom whilst keeping them under control.

5. 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 requiring the removal of dog faeces would replace the Dogs (Fouling of Land) Act 1996 for the specified area of land. The proposed Dog Control Order requiring that dogs be kept on leads will strengthen the approach taken by enforcement officers in respect of those who choose to continue to act irresponsibly and so disrupt the lives of residents and visitors across the relevant parts of the Dales ward.

6. Consideration has been given to the existence of the Dog (Fouling of Land) Act 1996 which is currently an effective tool for tackling dog fouling. However this does not cover wider dog issues such as the ability to require that dogs be kept on a lead.

7. There are currently no enforcement powers for Community Protection Officers to require that dogs are kept on leads and this would be an additional power. The use of Dog Control Orders provides 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 and more effective.

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. 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 and complete the consultation questionnaires face to face. All Community Protection Officers will have copies of the plans for the two proposed Dog Control Orders. In addition residents across the whole of the Dales Ward will be able to show their support for the proposals by signing a petition. The Neighbourhood Development Officer, the Neighbourhood Action Team and Community Protection Officers will meet with tenants, residents and community groups across the Dales Ward as part of the consultation process. Community Protection will also consult our partners such as Nottingham City Homes and Housing Associations who provide and manage social housing within the Dales Ward.

10. The recommendations for the consultation over the proposed Dog Control Orders are therefore in compliance with the legislation. A timetable outlining the timescales for introducing the Dog Control Orders is attached as **Appendix 2**.

It is proposed that the results of this consultation will be taken to the next available Area Committee East meeting, scheduled for 13 May 2014.

**Declared colleague/
Councillor Interests**

N/A

**Dispensation by
Standards Committee**

Date:
N/A

Dispensation Reference:

Equalities

Has the equality impact of the decision been assessed?
NO **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 nasty dog attacks resulting in criminal action being taken by the Police and civil legal action taken by the City Council. The proposed Orders would assist the area by way of reducing and preventing anti-social acts.

Published Documents

N/A

Exempt/Confidential report

N/A

Contact Person

Abu Belim – Principal Enforcement Officer	Contact No. Mobile: 07903 202034 Email: abu.belim@nottinghamshire.pn.n.police.uk
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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**

127

Corporate Director or authorised colleague (Print name)	<i>John W. W. W.</i>	Date:	<i>6/3/14</i>
Signature	<i>[Signature]</i>		
Portfolio Holder (Print name)	<i>N/A</i>	Date:	
Signature			
	Date Published:	Last Date for Call-in:	
	<i>06/03/2014</i>	<i>N/A</i>	

Legal comments

It is proposed that the Council consult upon making two Dog Control Orders under the Clean Neighbourhoods and Environment Act 2005 (CNEA):

1. A Dog Control Order requiring those responsible for dogs to remove dog faeces over land shown outlined with a bold line on Plan 1 attached to the Delegated Decision Form (the Dales Ward), and
2. A Dog Control Order requiring dogs to be kept on a lead of not more than 60 inches in length within the urban areas of the Dales Ward, over land shown outlined with a bold line on Plan 2 attached to the Delegated Decision Form.

Such Orders can be made by the City Council under the CNEA in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). Breach of a Dog Control Order is a criminal offence, or as an alternative to prosecution a fixed penalty notice is available.

Current Powers to deal with Dog Fouling in the Dales Ward:

At present the City Council can take enforcement action under the provisions of the Dogs (Fouling of Land) Act 1996 against individuals who do not remove dog faeces forthwith over land within the whole of the Dales Ward that:

* the public are entitled or permitted to have access (with or without payment) and which is not used for agriculture or woodlands and which is not predominately marshland, moor or heath

* all carriageways with a speed limit of 40mph or less and adjoining pathways and verges

Where anybody in charge of a dog fails to remove the dog faeces forthwith in these locations they have committed an offence or as an alternative to prosecution can be issued with a fixed penalty notice of £50. Guide dogs are exempt from this requirement.

If a Dog Control Order to require dogs to be kept on leads is made the Dogs (Fouling of Land) Act 1996 will no longer apply to that land. Therefore, if a Dog Control Order requiring dogs to be kept on leads is made, to allow the City Council to continue to enforce against people who fail to clear up after their dogs, a Dog Control Order to make it a criminal offence to fail to remove dog faeces for that area will also be required.

The proposed Dog Control Order requiring dogs to be kept on a lead only applies to the urban parts of the Dales Ward as shown on Plan 1 attached to the Delegated Decision Form, and not to the Colwick Country Park or Woods, so existing powers under the Dogs (Fouling of Land) Act 1996 could continue to apply to these areas. However, it is proposed that a Dog Control Order requiring people to remove dog faeces will apply to the larger area of land shown on Plan 2 which includes Colwick Country Park and Woods. This may not significantly change existing enforcement powers in respect of people who do not clear up after their dogs.

Enforcement for breach of the Dogs (Fouling of Land) Act 1996, and any proposed Dog Control Order can only be taken where the Council has sufficient evidence that an offence has occurred.

As stated in the Delegated Decision Form, Civil action may be taken against individuals who do not control their dogs. In addition powers exist to deal with dangerous dogs, and a byelaw which to my knowledge is in force in relation to Colwick Park requires dogs to be kept under control in this area.

Making Dog Control Order(s):

Guidance issued by the Department for Environment Food and Rural Affairs states that it is important for any authority considering a Dog Control Order to be able to show that this is a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them.

The Guidance requires the City Council to balance the interests of those in charge of dogs against those affected by the activities of dogs, bearing in mind the need for people to have access to areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions. The Guidance states that failure to give due consideration to these factors could make any subsequent Dog Control Order vulnerable to challenge in the Courts. The Guidance also states that the City Council should consider how

easy a Dog Control Order would be to enforce, since failure to properly enforce the Order could undermine the effect of an Order.

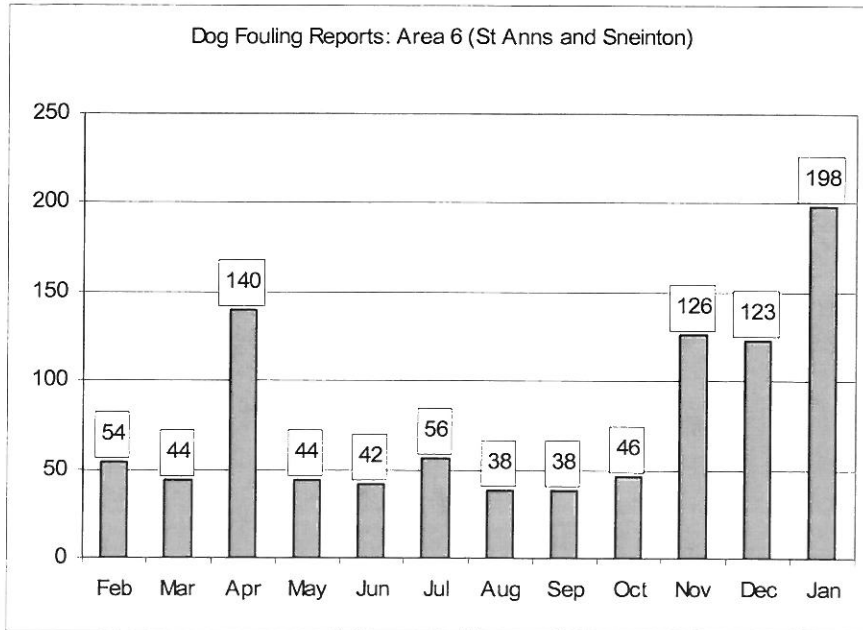
If consultation on a particular Order is authorised, Regulations set out the procedure which must be followed which includes consultation and the advertisement of proposals as stated in the Delegated Decision Form.

The City Council can only make a Dog Control Order over land which falls within its administrative area. Parts of the boundaries shown on the attached Plans appear to cut through the middle of roads, or part way through roads which are entirely within Nottingham City Council's administrative area, but which may be partly outside of the Dales Ward boundaries. In these areas, for example Windmill Lane, part of Carlton road or Sneinton Road, members of the public in particular may not be clear which land it is proposed that the Orders will apply to. As stated above, the Dogs (Fouling of Land) Act 1996 no longer applies to land that is covered by a Dog Control Order and enforcement must be taken under the correct power or it will be invalid.

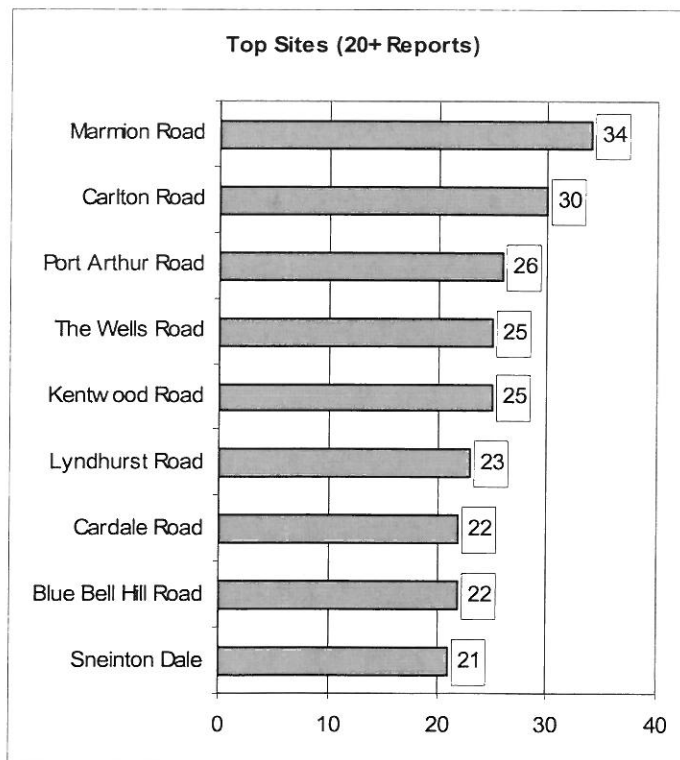
Tamazin Wilson
Solicitor
27 February 2014

APPENDIX 1

DOG FOULING STATISTICS : FEBRUARY 2013 TO JANUARY 2014



TOP SITES WITH IN EXCESS OF 20 REPORTS



TIMETABLE : THE DALES WARD DOG CONTROL ORDER

Action Timescale By Whom

1. Obtain approval to proceed with consultation from the **Officer with Delegated Authority**, John Kelley, Corporate Director of Communities
2. Obtain further evidence from across the Dales ward.
Community Protection
3. Publication of Newspaper advertisement early March 2014.
Community Protection
4. Prepare draft Order and consultation letter
Community Protection and Legal Services
5. Consult with citizens, partners and third sector organisations by end March/ April 2014
Community Protection, Police, Neighbourhood Management
6. Report back to Area Committee regarding representations and seeking confirmation of the Order May 2014
Community Protection
7. (1) Publication of notice of making of Order and
(2) Erection of signs on street.
(1) Community Protection (2) Neighbourhood Services
8. Order planned to come into force June 2014.

