

BASFORD AND BESTWOOD AREA COMMITTEE – 27 JULY 2011

Title of paper:	CHEDISTON VALE OPEN SPACE & CHILDREN'S PLAY AREA DOG CONTROL ORDER	
Director(s)/ Corporate Director(s):	Andrew Errington, Director, Community Protection Service	Wards affected: Bestwood
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Relevant Council Plan Strategic Priority:		
World Class Nottingham		
Work in Nottingham		
Safer Nottingham		x
Neighbourhood Nottingham		x
Family Nottingham		x
Healthy Nottingham		x
Leading Nottingham		
Summary of issues (including benefits to citizens/service users):		
There is a potential need to address problems associated with the control of dogs using the Chediston Vale open space/children's play area which impacts on the quality of life for residents and visitors alike. The use of powers granted to the authorised personnel under a Dog Control Order could be an effective additional way to ensure a proportionate approach is taken to dealing with these problems.		
Recommendation(s):		
1	The Area Committee note the results of consultation on the proposal to introduce a Dog Control Order for the Chediston Vale open space/park.	
2	The Area Committee decide whether to authorise the Director of Legal and Democratic Services to make an order and if so which of the following control measures should be included: a) Requirement to remove dog faeces. b) Requirement to put and keep a dog on a lead.	
3	In the event that a decision is made to make a Dog Control Order under recommendation 2 above the Committee authorise the Director of Community Protection to carry out the necessary advertisements and arrange for appropriate signage to be erected in accordance with the legislative requirements.	

1. BACKGROUND

- 1.1 The Clean Neighbourhoods and Environment Act 2005 gives the local authority the power to introduce a Dog Control Order which can be applied to any land which is open to the air and to which the public has access, with or without payment.
- 1.2 At its meeting of 24 November 2010 this Committee considered a proposal to consult on the potential introduction of a Dog Control Order for Chediston Vale and supported the potential inclusion of requirements to remove dog faeces, to keep a dog on a lead and a restriction on the number of dogs which could be taken onto the land. The penalty for committing an offence contained in a Dog Control Order is a maximum fine of level 3 on the standard scale (currently £1,000) although the opportunity to pay a fixed penalty may be offered instead.
- 1.3 The land in question has been the subject of concern for local residents because of a number of dog-related issues, mostly the failure of owners to remove faeces, and it was felt that a Dog Control Order could help by giving enforcers additional powers to tackle these problems, which stem from irresponsible dog owners. Consultation over the proposal to introduce a Dog Control Order on the land was carried out with organisations having an interest in dog matters, relevant council services and nearby residents. Details of the consultees and responses given are shown as Appendix 1.

2. REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Appendix 1 gives details of those consulted and responses given. The proposal to bring in a Dog Control Order for the land in question is supported by the majority of those who responded. The majority of respondents identified dog fouling as the main issue. Dog fouling is already an offence under section 4 of the Dogs (Fouling of Land) Act 1996 punishable with a fine not exceeding £1,000 or a Fixed Penalty Notice of £50. In practice therefore there would be no change should a Dog Control Order be made covering dog fouling and the level of Fixed Penalty Notice set at the same tariff.
- 2.2 There are currently no enforcement powers for Community Protection Officers to instruct owners to put dogs on leads and this would be an additional power. From the results of the consultation 13 resident respondents stated that dogs not on a lead and / or running loose and not under anyone's control was an issue. Only one respondent had seen more than 4 dogs being exercised by one person at the same time.

3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Recent regular patrols of the area by Community Protection Officers have seen responsible owners picking up their dog's waste. None of the patrols spotted owners not cleaning up. There were no instances of dogs being out of control reported to Community Protection Officers.
- 3.2 The Parks Development Officer (Parks and Open Spaces) has confirmed that following complaints of dog fouling in and around the park City Services carried out clean up operations and promotions via the 'Poover' and 'Dog Fouling Fairy'. Also, he has confirmed that consultation with local residents adjoining the park has been

carried out to report problems relating to the park with a view to being used in evidence for further action such as Dog Control Orders. The Parks Development Officer has confirmed that following these actions that between 01 January 2011 and 30 June 2011 that the Parks and Open Spaces service have received no complaints regards issues with dog fouling on the park and have had no responses from consultation on any issues on the park. The Parks Development Officer has also stated that site visits have highlighted only occasional evidence of dog excrement present. Levels of dog excrement on this park do not exceed levels found across other City parks and open spaces.

- 3.3 The Senior Pest & Dog Control Officer has confirmed that there were no reports to the Dog Warden Service regarding problems at Chediston Vale park between 01 January 2011 and 30 June 2011.
- 3.3 It appears that extensive leafleting of the area by Community Protection Officers for the consultation has highlighted the issue of dog fouling in particular for residents in the area. The Anti-social Behaviour Help Line received no calls in respect of dog related issues on the park between 01 January 2011 and 30 June 2011.
- 3.4 The consultation ended on 16 February 2011. It appears from both statistical information from the Anti-social Behaviour Help Line and Parks section that highlighting the issue through leafleting and targeted promotions may have reduced the problem of dog fouling to a level similar to that in other parks. There have been no reports of other dog related issues between 01 January 2011 and 30 June 2011 which may indicate that the issue surrounding out of control dogs may also have subsided reducing the need for a Dog Control Order.

4. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)

- 4.1 It was resolved at an earlier meeting that the cost of bringing the Order into force would be shared between the Area Committee and Community Protection services.

5. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS AND EQUALITY AND DIVERSITY IMPLICATIONS)

Legal Implications

- 5.1 Government Guidance indicates that before an authority makes an Order it should consider whether the order is **necessary** and **proportionate**. In reaching a conclusion Committee should consider the results of the consultation (including the number of consultation responses), the existing powers which the council has, and proposals for enforcement.
- 5.2 The guidance indicates that the Committee should balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs bearing in mind the need for people to have access to dog-free areas and 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 due restrictions. Failure to properly consider the matters listed in paragraphs 5.1 and 5.2 could result in any subsequent Dog Control Order being vulnerable to challenge.
- 5.3 The main problem identified was dog fouling and this is already an offence under the Dogs (Fouling of Land) Act 1996 with the Council having powers both to issue

Fixed Penalty Notices and prosecute in appropriate circumstances. It is perhaps difficult to see why it is necessary to bring an Order into force in respect of dog fouling which duplicates existing powers.

- 5.4 The introduction of an Order to require dogs to be kept on leads would be a new power albeit only 13 respondents identified this as an issue.

General

- 5.5 The enforcement agencies would use these powers fairly and proportionately. Those affected will have recourse through the courts in the normal way.

6. EQUALITY IMPACT ASSESSMENTS (EIAs)

Has an Equality Impact Assessment been carried out?

Yes (see Appendix 2)

7. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- 7.1 Replies to the consultation.

8. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 8.1 Dog Control Orders: Guidance on Sections 55 to 67 of the Clean Neighbourhoods and Environment Act 2005 - DEFRA

APPENDIX 1

RESULTS OF CONSULTATION CARRIED OUT ON THE PROPOSAL TO BRING IN A DOG CONTROL ORDER FOR CHEDISTON VALE OPEN SPACE AND CHILDREN'S PLAY AREA, BESTWOOD

A consultation questionnaire including an explanation of Dog Control Order powers was devised that focussed on the problems reported and actions proposed by the Area Committee, and showed a map of the area in question and its relationship with nearby streets. The questionnaire was hand delivered to 374 residents living on the roads surrounding the land in question together with 7 external organisations with an interest in dog welfare and relevant public services. Besides the hand delivered forms, the questionnaire was also available on the area Neighbourhood Manager web site and people could discuss the matter with their local councillor, Community Protection team and Neighbourhood Management team. The consultation commenced on 31 December 2010 and lasted for 6 weeks, ending on 11 February 2011.

The proposal was to bring into force a Dog Control Order on the land in question that would address the following matters:

- Failure to remove dog faeces.
- Not keeping a dog on a lead.
- Taking more than a specified number of dogs onto land.

25 responses were received from residents and one from Nottingham City Homes; none of the external organisations consulted responded to the survey. Tables 1 and 2 overleaf detail the responses.

TABLE 1: RESULTS FROM CONSULTATION ON INTRODUCING A DOG CONTROL ORDER FOR CHEDISTON VALE OPEN SPACE AND CHILDREN'S PLAY AREA, BESTWOOD

	Question	Number of Respondents (25)
1.	What's your postcode?	16 people provided their post code; all responses appeared to come from residents who received a questionnaire.
2.	How often do you use the land (please tick only one box)?	
2a	Every day	6
2b	Once or twice a week	3
2c	A number of times each month	5
2d	Hardly ever or not at all	8
3	Do you use the land to exercise a dog?	
3a	Yes	5
3b	No	19
4.	What dog related problems have you seen on the land that you feel should be dealt with (please tick all boxes that apply)?	

4a	Dog messing on the land and owners not clearing it up	21
4b	Dogs not on a lead	11
4c	Dogs running loose and not under anyone's control	9
4d	Someone with four or more dogs being exercised	1
4e	Any other problem(s) – see below	8
5.	Where on the park/open space have you seen dog problems? (tick all boxes that apply)	
5a	The young children's playground area (the coloured area)	5
5b	The games pitch	4
5c	The lower car parking area	1
5d	Parts of the whole park/open space	10
5e	The footpaths leading to the park/open space (please put a tick next to where you have seen problems)	16
i	path from Beckhampton Road	12
ii	path from Roseash Lane	8
iii	path from Chediston Vale into the park	6
iv	path from Chediston Vale into the car park	1
6.	Do you support the making of the Order proposed above?	
6a	Yes	21
6b	No	3
7	Is there anything else you want the Area Committee to be aware of when they consider this dog control issue - see below	

Free Responses

Question 4: What dog related problems have you seen on the land that you feel should be dealt with?

- Fouling on Reedham Walk – **2**
- Fouling on Broadwood Road and Beckhampton Road – **2**
- Young people not using a lead causing younger children to be frightened - **1**
- Noisy dog at an address – **2**
- Fouling on pavements in general – **1**

Question 7: Is there anything else you want the Area Committee to be aware of when they consider this dog control issue?

See Table 2

TABLE 2: RESULTS FROM CONSULTATION ON INTRODUCING A DOG CONTROL ORDER: SUMMARY OF INDIVIDUAL RESPONSES

Number	Question 1	Question 2	Question 3	Question 4	Question 5	Question 6	Question 7
1	No answer	B	Yes	A	E iii	NO	Extend fence each side of the football area and add a gate each side
2	NG5 5NG	A	Yes	A	D & E iii	NO	No answer
3	NG5 5PX	A	Yes	A, B, C	B, D,	NO	No answer
4	No answer	C	Yes	A	E i	YES	Allocate an area of the park for dogs with a dog mess bin
5	No answer	A	Yes	E noisy dog	E i and ii	YES	No answer
6	No answer	No answer	No answer	No answer	No answer	No answer	Include other areas but no details
7	No answer	No answer	No	A	No answer	YES	Clears mess up outside own home on Rose Ash
8	NG5 5PT	B	No	A, B, C	D, E i and ii	YES	More CPO patrols on park requested
9	NG5 5PQ	D	No	A	E i	YES	No answer
10	NG5 5QB	A	No	A	E i and ii	YES	Grass verge on Broadwood is fouled
11	NG5 5PN	D	No	A,B,C,D,E Reedham Walk	A, D	YES	Reedham Walk is a problem
12	No answer	A	No	A, B	B, C, E ii and iii	YES	No answer
13	NG5 5PZ	C	No	A, B, C	A, B, E i and ii	YES	No answer
14	No answer	D	No	A	B, E i	YES	No answer
15	NG5 5NN	B	No	A, C	D, E i, ii, iii and iv	YES	Whole estate is bad
16	NG5 5PU	C	No	A, B, C, E Young people not using a	A, D	YES	No answer

				lead frightening younger children			
17	NG5 5PN	D	No	A, C	B and E i	YES	No answer
18	NG5 5QA	C	No	A, B	D, E i, ii and iii	YES	Concern re dogs in flats
19	NG5 5PQ	C	No	A, B, C	D	YES	No answer
20	No answer	D	No	E - Fouling on pavements	E i	YES	Fouling on Broadwood Road and green area
21	No answer	A	No	A, B	A, D, E iii	YES	No answer
22	NG5 5PZ		No	A, B, C	A, E	YES	Doesn't walk own dog as others roaming free on the park
23	NG5 5QH	D	No	E – Fouling on Broadwood	No answer	YES	Fouling on Broadwood Road
24	NG5 5NG	D	No	A, E – Fouling on Broadwood Road and Beckhampton Road	No answer	YES	No answer
25	NG5 5PX	D	No	A, B	D, E i and ii	YES	No answer
26 Nottm City Homes	NG5 5PF	D	No	B	E i and ii	YES	Fouling is a major issue around the area including Beckhampton Road, Belleville Drive and roads leading off these.

TABLE 3: LIST OF CONSULTATIONS

Delivered to residents in the immediate area surrounding Chediston Park

Rose Ash Lane (numbers 1 - 41 and 2 - 34)
Chediston Vale (numbers 1 - 55 and 2 - 48)
Beckhampton Road (numbers 360 - 438 and 363 - 437)
Broadwood Road (numbers 1 - 85 and 2 - 16))
Goathland Close (numbers 1 - 15 and 2 - 28)
Stoneacre (numbers 2 - 52 and 1 - 7)
Greirson Avenue (numbers 39 - 55 and 20 - 30)
Reedham Walk (numbers 23 - 31 and 2 - 10)
Eswick Close (numbers 1 - 17 and 2 - 96)
Dylan Thomas Road (numbers 25 - 29)
Shoreswood Close (1 - 21 and 2 - 20)

External agencies / organisations

RSPCA - 135-137 Radford Road, Hyson Green, Nottingham
Dogs Trust, 17 Wakley Street, London, EC1V 7RQ
Dog Walkers - 223 Exchange Road, West Bridgford, Nottingham NG2 6DD
Ramblers - 2nd Floor Camelford House, 87-90 Albert Embankment, London SE1 7TW, UK
Nottinghamshire police, Oxclose Lane, Nottingham
Nottingham City Homes, Bestwood Housing office
Kennel Club, London

Internal City Council service areas

Street Scene
Parks

TABLE 4: MAP OF PROPOSED AREA



OBSERVATIONS ON RESULTS OF THE CONSULTATION

It was clear from comments on the questionnaires that all residents that responded lived in the area surrounding the land in question. Over half (14) used the park at least monthly and of these 5 used the land to exercise dogs.

Of the 5 who exercised a dog on the land 3 were against the proposal but all recognised that dog owners needed to act responsibly; 2 respondents who exercised dogs on the land were in favour of the Order being brought in.

Dogs were reported as being seen all over the land and access footpaths. Of those who responded the overwhelming majority (22) were in favour of a Dog Control Order. Interestingly, all respondents (8) who hardly ever or not at all used the park were in favour of the Order.

Of the main problems which the proposed order was to address:

21 respondents saw dog mess and owners not clearing it up as an issue, although of these 6 hardly used or did not use the park.

11 respondents saw dogs not on a lead as an issue, although of these 2 hardly used or did not use the park.

9 respondents saw dogs running loose and not under anyone's control as an issue, although of these 2 hardly used or did not use the park.

1 respondent saw someone with four or more dogs being exercised as an issue, although this person hardly used or did not use the park.

The results of the consultation did not identify a general wish to ban dogs from the park although there was no specific question regarding this.

There were no other dog related issues identified on the park itself.

Of the agencies, organisations and internal service areas consulted, Nottingham City Homes was the only respondent. Nottingham City Homes was in favour of the order, identifying dogs not on a lead as the only issue. The areas identified were around the path from Beckhampton Road and Rose Ash Lane. Fouling around Beckhampton Road, Belleville Drive and roads leading off these was an issue.

Prior to the formal consultation Nottinghamshire police had provided a statement in favour of an order.

EQUALITY IMPACT ASSESSMENT SCREENING DOCUMENT - DOG CONTROL ORDER, CHEDISTON VALE, BESTWOOD

Department: COMMUNITIES
Service Area: COMMUNITY PROTECTION
Name and description of policy/ service/ function/ strategy being screened: CHEDISTON VALE DOG CONTROL ORDER
Manager Responsible for Area: RICHARD ANTCLIFF, HEAD OF NEIGHBOURHOOD ENFORCEMENT AND OPERATIONS SUPPORT
Date screening completed: 14 FEBRUARY 2011
Is completing this EIA a corporate priority? NO

Equality Strand	Assessment of Potential Impact of policy/service (delete as appropriate)		Reason for the Assessment of Potential Impact (provided in previous column)	Are there any mitigating circumstances?	Actions Required (with timescales and name of responsible officer)
Race	Neutral	Low	No impact identified for this strand	Not applicable	Not applicable
Gender	Neutral	Low	No impact identified for this strand	Not applicable	Not applicable
Disability	Positive	Low	Exemptions exist for those with disabilities in defined circumstances.	Disabled people in defined cases are exempt from the requirement to pick up dog faeces if registered as disabled and using an assistance dog.	Enforcer to confirm offender's circumstances at the time offence appears to have been committed.
Religion/Belief	Neutral	Low	No impact identified for this strand	Not applicable	Not applicable
Sexual Orientation	Neutral	Low	No impact identified for this strand	Not applicable	Not applicable
Age	Neutral	Low	No impact identified for this strand	Not applicable	Not applicable
Other – Public Safety	Positive	Low	A requirement for dogs to be on a lead will promote public safety.	There are exemptions for working dogs in defined circumstances.	Enforcer to confirm offender's circumstances at time offence appears to have been committed.