

REGULATORY AND LICENSING COMMITTEE

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Agenda Item: 5

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JOINT REPORT OF JOHN SMITH – GREENS & OPEN SPACES STRATEGIC MANAGER AND TIM MATTHEWS - ENVIRONMENTAL HEALTH MANAGER

THE CONTROL OF DOGS IN PARKS

1. Purpose of Report

- 1.1 To outline for Members' consideration the issues associated with introducing further measures to control dogs which are being exercised within the Council's public parks.

2. Recommendation

- 2.1 That the Committee notes there is limited evidence to suggest that the control of dogs in our parks is a significant problem.
- 2.2 That no further action is taken to introduce new Dog Control Orders or bylaws at this time.
- 2.3 That the Committee notes that Rangers and other officers are encouraged to challenge unacceptable behaviour by any park user, including failing to have dogs under proper control.
- 2.4 That the Committee notes that the Rangers intend to offer dog behaviour awareness sessions for users of the parks.

3. Summary of Background Information

- 3.1 At a previous meeting of the Committee, a Member outlined the problems a local resident had experienced at Chase Terrace Park when their dog has been attacked by other dogs which were not being appropriately controlled. Reference was also made to existing bylaws operating in Lichfield city parks that may be relevant. It was requested that Officers explore options in this regard and report to a future meeting.
- 3.2 The Council has a large number of popular public parks and open spaces used by adults and children alike and also often their dogs. Dog walking is probably the most popular leisure pastime for park users, with regular repeat daily visitors on all our sites. Nearly all of the dog walking community are responsible park users and keep their dogs under control.
- 3.3 Various legislation exists relating to the control of dogs including the Dangerous Dogs Act 1991 and the Clean Neighbourhoods and Environmental Act 2005. The provisions of each of these are set out in the table overleaf
- 3.4 If an attack occurs, it should be reported to the Police in the first instant as they have existing and more substantial powers in relation to dog attacks than does the Council and **are directly responsible to dangerous dogs or incidents where dog attack/injuries to people or property occur**. Information from the Police on the number of dog attacks reported to them is awaited.

- 3.5 Anecdotal evidence would suggest however that the public may not always be aware that this is a matter that should be reported to the Police as with other criminal acts.
- 3.6 In 2009, the Council approved the Fouling of Land by Dogs Order. This Order applies to all land which is within the administrative area of the District and which is:-
- (i) open to the air; and
 - (ii) to which the public are entitled or permitted to have access with or without payment

Table 1 : Legislation for the control of dogs

Legislation	Dangerous Dogs Act 1991	Clean Neighbourhoods and Environmental Act 2005 Dog Control Orders
Enforced by	Police	Local Authority
In force	Yes	In part (fouling)
Powers/controls	<p>Applies to all dogs out of control. A dog is considered dangerously out of control if it:</p> <ul style="list-style-type: none"> • injures someone • makes someone worried that it might injure them <p>A court could also decide that your dog is dangerously out of control if:</p> <ul style="list-style-type: none"> • it injures someone's animal • the owner of the animal thinks they could be injured if they tried to stop your dog attacking their animal • A farmer is allowed to kill your dog if it's worrying 	<p>Applies to all dog owners by:</p> <ul style="list-style-type: none"> • failing to remove dog faeces • not keeping a dog on a lead • not putting and keeping a dog on a lead when directed to do so by an authorised officer • permitting a dog to enter land from which dogs are excluded • taking more than a specified number of dogs onto land.
Penalties	<ul style="list-style-type: none"> • £5,000 and/or sent to prison for up to 6 months if your dog is out of control. • If you let your dog injure someone, you can be sent to prison for up to 2 years and/or fined. • If you deliberately use your dog to injure someone you could be charged with 'malicious wounding'. The maximum penalty is 5 years in prison. 	<ul style="list-style-type: none"> • a £50 on the spot (Fixed Penalty Notice') and • up to £1,000 if it goes to court with • no custodial option.

- 3.7 It should also be noted that the penalty available for breaches of a Dog Control Order is **significantly lower** when compared to the Police powers i.e. **£1000 as opposed to £5000 in court**. Another question would be in the event of an FPN not being paid would there be a public benefit in pursuing this matter in court.
- 3.8 In respect of any current bylaws, some limited bylaws exist for public parks in Lichfield but not Burntwood. These would be enforced by the Police with support from officers of the Council if required. The byelaws covering Lichfield parks compel dog owners to maintain their dog under proper effective control – but this does not necessarily mean that they must be on a lead.
- 3.9 Dog owners are under a duty of care in respect of their dog/s. In the event that a dog attacked either a person or another dog **it would be the dog owner that would be responsible in law and not the Council**.

4. Current Situation

- 4.1 During the past year, there have been three incidents reported by two park users to the parks team; these incidents took place at Burntwood Park and Stowe Fields. When visiting sites and engaging with dog walkers the biggest complaint is about dog faeces and other dog walkers not picking up. Complaints about the control of dogs are rare.
- 4.2 At present, the Council's Parks Rangers and Attendants are encouraged to challenge unacceptable behaviour by any park users. Such unacceptable behaviour includes failing to maintain a dog under proper control. The police are called if a reasonable request is ignored.
- 4.3 In order to introduce further Dog Control Orders relating to dog control in addition to the existing controls for dog fouling, the District Council would need to consider the following matters (DEFRA and other guidance):
- Determine if there is a demonstrable need to introduce additional dog controls. When considering this, the Council should be able to show that this is a necessary and proportionate response to problems caused by dogs and those in charge of them.
 - Engage with the public and in particular parks users and dog walkers. (A recent engagement by the Open Spaces Manager with several dog walkers when asking them about their opinion on these issues indicated that all were totally against such a proposal).
 - If a disproportionate number of controls (except dog fouling) on dogs are applied to land in their area then the Council may be subject to a challenge in court.
 - Identify the resources required to actively enforce the controls and erect adequate signage as failure to do so may result in ineffective enforcement and high numbers of offences.
 - Consult publically on the proposals and publish in local papers.
 - Identify all land where the order will apply.
 - State the period in which representations are to be made by at least 28 days.
 - Make the Order through Council.
 - Place notice in local newspapers notifying the public of Council intension to implement new powers
 - Erect prominent signs on all land to which order applies including all access points. (This would prove to be a significant undertaking both in their erection but also ongoing maintenance due to vandalism as has been found with the current Dog Fouling order signage with over 1000 signs being maintained last year)

- 4.4 The initial cost of making an Order would be in the region of £5000. However, it would be reasonable for both elected Members and the public to expect that the Order would be enforced through regular patrols and monitoring by parks or environmental health officers. There would be an overtime cost associated with any such patrols undertaken by the environmental health team. The Fit for the Future programme is placing downward pressure on existing expenditure (including for overtime purposes) and therefore the additional costs of enforcement would need to be highlighted as a budget pressure. There would also be an ongoing cost for replacement signs.
- 4.5 Advice received from colleagues in Health and Safety and Insurance suggests that the introduction of the additional Controls on dogs in public parks would increase the Council's liability in the event that we then failed to effectively enforce them.
- 4.6 Comparisons with other Councils has also been undertaken and the following information has been obtained:
- Stafford Borough Council has recently adopted Dog Control Orders for the wide scale control of dogs on leads across the Borough including many of their public parks. The Council has identified an additional budget allocation of £6000 ongoing to undertake enforcement on behalf of Leisure Services and Environmental Health funded by the Leisure Department by a private contractor.
 - Tamworth Council following public consultation has chosen not to ban dogs from all parks or to require dogs on leads in the parks. Dogs are prohibited from certain areas such as formal play spaces (i.e. those with equipment) and multi use caged games areas.
 - Cannock Chase District Council have introduced orders for fouling and for keeping dogs on leads on footpaths / within 3m of roads but haven't introduced any controls for parks or cemeteries etc.
- 4.7 From discussions with other Councils, indications would suggest that there may be public opposition to Dog Control Orders from the majority of responsible dog owners as the exercising of well behaved dogs would be prejudiced. The RSPCA position is also cautious on this matter and state that **“Councils use control orders sparingly and in a manner that is proportionate to the problem and “not as a blanket power that punishes the responsible majority in an attempt to tackle problems created by an irresponsible few”**.
- 4.8 Alternatives to a further Dog Control Order have been considered and a number of options are available including:
- Additional patrolling of parks by the parks staff and approaching dog walkers who are not controlling their dogs.
 - Publicity events encouraging dog owners to act responsibly and use local dog training clubs to assist. Similar to the dog event held at Chasewater Country Park in 2012 for the control of dogs on the shoreline with regard to nesting birds.
 - Improved dialogue and joint working with the Police, RSPCA and the use of Parks/EH staff to target any problem areas/owners.
 - Improved signage to encourage dog owners to keep dogs under control.
 - Provide more information on our website about what is responsible and 'under control' and who to contact about complaints and the type of detail we require following up such complaints.
 - Work more closely with regular dog walkers on each of the popular sites to help identify those not acting responsibly.

5. Financial Implications

- 5.1 Potential costs to the Council would be significant for both for the initial public consultation process and order making process. Ongoing resources would then be required for ongoing enforcement year on year that would then be required
- 5.2 There is no budget for making further Dog Control Orders in Parks and as such would require formal approval by Cabinet as a new growth item.

6. Strategic Plan Implications

- 6.1 The activities undertaken by Environmental Health contribute to the delivery of "A Clean and Healthy Environment".

7. Crime and Community Safety Issues

- 7.1 Attacks by dogs on others dogs and or their owners does have Crime and Community Safety implications but as stated in Table 1, the Police have adequate existing powers in respect of these.

8. Risk Management Issues

Risk	Likelihood/ Impact	Risk Category	Countermeasure	Responsibility
Increased risk of aggression to staff from customers	Medium	Managerial/Professional Partnership/Contractual	Adopt revised measures	Service Manager
Backlash from regular and responsible dog walkers	Medium	Reputational	Not introduce control order – alternative means of control	All

Background Documents:

DEFRA - Guidance on Dog Control Orders
Keep Britain Tidy Group - Guidance on Dog Control Orders