
REPORT TO:	Environmental and Development Service Committee	AGENDA ITEM: 11
DATE OF MEETING:	4th October 2012	CATEGORY: RECOMMENDED
REPORT FROM:	Mark Alflat – Director of Community Services	OPEN
MEMBERS’ CONTACT POINT:	Matt Holford – Environmental Health Manager	DOC:
SUBJECT:	Revision of the South Derbyshire Dog Control Order	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: EDS14

1. Recommendations

- 1.1 That Members agree to the proposed changes at 3.18 to the existing South Derbyshire Dog Control Order (DCO) arising from the recent consultation exercise.
- 1.2 That, based on the statutory guidance and the feedback from the consultation exercise, Members determine any other changes they would like to make to the existing DCO and instruct officers to commence the due legal process to formalise the revision of the Order.

2. Purpose of Report

- 2.1 To advise Members of the statutory framework for controlling dogs in public places and of the contents of the existing South Derbyshire Dog Control Order.
- 2.2 To advise Members of the outcomes of the recent consultation process.
- 2.3 To advise Members of the proposed changes to the Dog Control Order arising from a recent consultation process.

3 Detail

- 3.1 Part 6 of the Cleaner Neighbourhoods and Environment Act 2005 is concerned with local authority powers to control dogs. The Act gives powers to Primary Authorities (District and Metropolitan authorities) and Secondary Authorities (Parish Councils) to issue Dog Control Orders which can stipulate specific dog related offences on specific areas of land. The offences for which DCOs may be declared are for the failure of a dog owner to clean up after its dog has fouled, the failure of an owner to keep a dog on a lead, the failure of a dog owner to keep its dog out of an area from which dogs are excluded and for a single dog walker to have more than a specified number of dogs under their control.
- 3.2 The purpose of the legislation is to give Primary and Secondary Authorities the power to ensure that the rights of dog owners and non dog owners on public land are balanced. In other words to ensure that the potential nuisance associated with dog

faeces or intimidation by loose dogs is controlled whilst ensuring that dog owners have access to sufficient land to exercise their pets.

- 3.3 Before a Primary or Secondary Authority can declare or revise a DCO it must follow a statutory process that is defined in Regulations made under the Cleaner Neighbourhoods and Environment Act. This procedure consists of publishing the proposals in a local newspaper, allowing a minimum of 28 days for responses to the proposals, giving due consideration to all responses and then issuing an Order which brings into force the Order or any variations of it.
- 3.4 Statutory guidance was issued in 2006 by DEFRA to assist Primary and Secondary Authorities to determine which areas of land should be declared within a DCO. The key considerations are;
- “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” (paragraph 29),
 - “Authorities should...consider how easy a Dog Control Order would be to enforce, since failure properly to enforce could undermine the effect of an order”. (paragraph 31).
- 3.5 Failure to comply with a DCO is an offence for which a Fixed Penalty Notice can be issued (£50), or prosecution proceedings taken which can result in a maximum fine up to £1000.
- 3.6 The current Dog Control Order applies to the whole of South Derbyshire. The following are offences under the Order;

Failure to remove dog faeces in:

- The entire district of South Derbyshire in areas open to the air and accessible to the public, subject to certain exemptions, and including access land as defined by the Countryside and Rights of Way Act 2000.

Not keeping a dog on a lead in:

- Badgers Hollow Recreation Ground, Coton Park
- Broomhills Recreation Ground, Repton
- Church Gresley Cemetery
- Eureka Park, Midway
- The Mease Football Pitch, Hilton
- Main Street Recreation Ground, Linton
- Maurice Lea Memorial Park, Church Gresley
- Newhall Cemetery
- Newhall Park
- Recreation Ground off Main Street, Rosliston
- Rosliston Primary School playing field
- Strawberry Lane Sports Field, Rosliston
- Swadlincote Woodlands Park
- Village Hall Picnic Area, Hilton
- Woodville Recreation Ground

Dogs excluded:

- Multi-use Games Area and Play area on Woodville Recreation Ground
- Play Area on Blueberry Way, Woodville
- Play Area on Excelsior Drive, Woodville
- Woodville Cricket Ground
- The Mitre Recreation Ground, Repton
- Chestnut Grove Play Area, Etwall
- Scropton Recreation Ground adjacent to St. Paul's Church
- Children's play area at the Village Hall, Hilton
- Children's play area at Avon Way, Hilton
- Children's play area off Main Street, Hilton
- Children's play area off Arthur Street, Castle Gresley
- Football pitch off Mount Pleasant Road, Castle Gresley

3.7 The Dog Control Orders are enforced by the Council's Safer Neighbourhood Wardens along with their other duties relating to flytipping, anti-social behaviour control, noise nuisance investigation, abandoned vehicles and stray dog control. Enforcement is undertaken both through response to discrete complaints about non compliance with the Orders and through proactive patrols of the DCO areas.

Consultation Process

- 3.8 Following a previous Committee report on this matter on 31st May 2012, a full consultation exercise has been undertaken to determine public opinions on the specific proposals contained within the 31st May report and to seek other opinions on changes to the Order.
- 3.9 Presentations were given to each of the Area Forums by the Environmental Health Manager during June 2012 to raise awareness of the consultation within each of the local communities.
- 3.10 Two press releases were issued during the consultation phase, both of which generated considerable local interest. Lead stories appeared in the Burton Mail, Derby Telegraph, Swadlincote Post, Melbourne Village Voice and Swadlincote Times. The Derby Telegraph item resulted in 70 online comments from readers.
- 3.11 Public notices were placed at the entrances to each of the areas of land proposed to be affected by the changes to the Order, advising of the proposals and inviting public comment.
- 3.12 An online questionnaire has been available for 8 weeks to enable direct feedback on the proposals. The webpage hosting the questionnaire attracted over 330 hits. Hard copy questionnaires have been provided at Area Forums and emailed to Parish Councils with a request that they be forwarded on to any potentially interested parties.
- 3.13 Safer Neighbourhood Wardens have spoken directly to users of the areas of land proposed to be affected by the changes to the Order to obtain 'on the ground' opinions.

3.14 A total of 25 responses were made to the online and hard copy questionnaire. Given the apparently substantial interest to the press and online information this is a surprisingly low level of response. It could be inferred from the relatively low response rate that the existing Order broadly meets the desire of South Derbyshire Residents.

3.15 For the areas of open land where the results from the survey were mixed, Safer Neighbourhood Wardens visited and spoke to existing park users to determine their views. A total of 90 residents were canvassed on their opinions about the specific proposal for the Park they were in. The outcomes of the responses to the proposals are summarised below;

Assessment of the Proposed Changes

Mount Pleasant Road recreation ground, Castle Gresley;

10% of respondents wanted dogs completely banned from the park;
70% of respondents wanted dogs to be kept on a lead in the park;
20% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 10

Coton on the Elms recreation ground

33% of respondents wanted dogs completely banned from the park;
67% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 12

Catherine Jonathon Playing Fields, Eggington

10% of respondents wanted dogs completely banned from the park;
70% of respondents wanted dogs to be kept on a lead in the park;
20% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 10

Children's Play Area, King George V Playing Field, Etwall

73% of respondents wanted dogs completely banned from the play area;
27% of respondents wanted no control over dogs in the play area.
Total numbers of respondents – 11

Goseley Recreation Ground, Hartshorne

30% of respondents wanted dogs completely banned from the whole of the park;
20% of respondents wanted dogs completely banned from the multi-use games area only;
40% of respondents wanted dogs to be kept on a lead in the whole of the park;
10% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 10

Main Street Recreation Ground, Hartshorne

78% of respondents wanted dogs to be kept on a lead in the whole of the park;
22% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 9

Scropton Roads Sports Ground, Hatton

34% of respondents wanted dogs completely banned from the whole of the park;
66% of respondents wanted dogs completely banned from the multi-use games area and children's play area only;
66% of respondents wanted dogs to be kept on a lead in the whole of the park;
0% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 35

Salisbury Drive children's play area and multi-use games area

75% of respondents wanted dogs completely banned from the children's play area and multi-use games area;
25% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 8

Hall Lane, Willington

100% of respondents wanted dogs to be kept on a lead in the whole of the park;
0% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 7

Trent Avenue, Willington

100% of respondents wanted dogs to be kept on a lead in the whole of the park;
0% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 8

Swadlincote Woodlands Park

36% of respondents wanted dogs to be kept on a lead in the whole of the park;
64% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 73

Swadlincote Woodlands Park, children's play area

86% of respondents wanted dogs completely banned from the children's play area;
14% of respondents wanted no control over dogs in the park.
Total numbers of respondents – 71

3.16 The questionnaire was intentionally kept anonymous, however 39% of respondents described themselves as not currently a dog owner and 61% described themselves as a current dog owner.

3.17 Other proposals that were made during the consultation included;

- i. Controls on dogs in the park behind Castle Road and Station Street, Castle Gresley; proposals included a complete ban from the park, a requirement to keep dogs on leads and a dog ban in the children's play area
- ii. Prohibit dogs from the children's play off Brunel Way / Solent Drive, Church Gresley
- iii. Prohibit dogs from the children's play area off Napier Close, Church Gresley;

- iv. Require dogs to be kept on a lead on Linton recreation ground, Main Street, Linton;
- v. Ban dogs from Linton recreation ground;
- vi. The requirement for dogs to be kept on leads should only apply when an owner is directed to do so by an authorised person.
- vii. Dogs should be required to be kept on leads at the Grange, Repton Road, Ticknall (three proposers).

Proposals

3.18 The existing requirements of the Dog Control Order as described in 3.6 will be retained and the Order is proposed to be amended to make the following changes. The proposed extensions are intended to align the following children's play and activity areas with those already within the existing order. :

To make it an offence within the DCO to fail to exclude a dog from the following land;

- Children's play area and MUGA, Scropton Road Sports Ground, Hatton;
- Multi-use games area and children's play area at Salisbury Drive, Lower Midway;
- Multi-use games area at Goseley Recreation Ground, Hartshorne;
- Fenced children's play area on the King George V playing field, Etwall;
- Children's play area, Swadlincote Woodlands Park.

To make it an offence within the DCO to fail to keep a dog on a lead on the following land. These proposed extensions are intended to align these children and adult activity areas with those already within the existing order.

- Catherine Jonathon Playing Fields, Eggington;
- Mount Pleasant Road children's play area, Castle Gresley;
- Hall Lane children's play area, Willington;
- Trent Avenue children's play area, Willington;
- Goseley Recreation Ground, Hartshorne;
- Main Street recreation ground, Hartshorne
- Scropton Road Sports Ground, Hatton

To no longer make it an offence to fail to keep a dog on a lead on the following land;

- Swadlincote Woodlands Park

On the basis of the feedback from the consultation we no longer recommend banning dogs from the recreation ground in Coton on the Elms.

3.19 The offence of failing to remove dog faeces from in areas open to the air and accessible to the public will remain in force.

3.20 It is further proposed to undertake a formal public notification process in accordance with the Dog Control Order (Procedures) Regulations 2006 prior to the final decision to make the changes to the DCO detailed in paragraph 3.15.

3.21 It is also proposed to review the existing dog controls in Eureka Park following any future decisions about the redevelopment of the Park.

4. Financial Implications

- 4.1 The changes will require additional signage to be put up at the relevant sites with an estimated cost of £1000. This will be covered within existing budgets.
- 4.2 No additional significant income is expected to result from the revisions to the DCO.

5. Corporate Implications

- 5.1 The proposals align with the “safe and secure” Corporate Plan Objective and the “safer communities” long term outcome. The proposals help deliver against the Corporate Plan key projects SP05 for 2012/13 – refocus the Safer Neighbourhood Wardens on the prevention of anti-social behaviour and enviro-crime.
- 5.2 The proposals also align with the ‘lifestyle choice’ Corporate Plan Objective and the ‘delivering community based cultural and recreational activities that promote a healthier lifestyle’ long term outcome. Specifically the proposals are relevant to Corporate Plan key project LP02 ‘Deliver improved leisure facilities for the community’.

6. Community Implications

- 6.1 The proposals will not change existing services.

7. Conclusion

- 7.1 The South Derbyshire Dog Control Order needs to balance the interests of dog owners with those of non dog owners in order that the community as a whole can maximise the use of public open space. The proposed changes to the Order are deemed to be a necessary, proportionate and enforceable means of achieving this outcome based on the outcomes of the consultation process.