

Dog Control Orders at Burnham Beeches

Members' Working Group 3rd February 2014

Dissenting Note from Deputy Alex Deane

Introduction

I do not concur with the general position adopted, or specific conclusion reached, on the question of on-lead requirements by officers and members of the informal working group convened to examine the question of Dog Control Orders at Burnham Beeches. It seemed sensible to me, and to the officers concerned, that I write a separate short note about the issue rather than muddy any written Working Party or Officer response to be distributed as a result of our discussion with my perspective inserted in it.

I restrict this dissenting perspective solely to the proposed Schedule 2 requirement that dogs must be on leads all year round across 59% of the site. I agree with all of the other conclusions reached by the officers.

Even on this one point of concern, I still agree to an extent with our officers. I accept that a seasonal solution cannot work, and that an area designated for on-lead walking must be year-round. The point of my dissent is simply that, in designating a majority of our site, we have gone (really quite some way) too far.

A note on our officers

I would wish it to be clear that in my view our officers are first class. They work hard and they are highly skilled. So it is without criticism of them that I say that, in this instance, my fear is that we collectively have begun with a false premise, therefore reaching the wrong conclusion.

The absence of any pressing concern

In the example we are considering here, contrary to the borderline obsession some seem to feel about dogs, incidents are in fact very low. There are, on our own calculations, 220,000 dog visits to the site each year. Since 2003 there have been 1,900 reported incidents – which, had they occurred in one year instead of over eleven years, would still only constitute an incident rate of 0.0086%. Telescoped over a decade, the incident rate then falls to a position so low as to be almost daft as justification for the imposition of any rule, and hardly constitutes a “problem” that we as an authority need to be concerned about (let alone so perpetually absorbed). I am afraid that in my view, there is a certain, regrettable, lack of a sense of proportion in evidence (from both officers and some Members) in the desire to “solve” alleged problems like this rather than simply accept that, on occasion, users of what all agree is a “busy” open space will occasionally rub up against one another or fall out or take a dislike to one another or their pets. Such is life.

Instead, because the evidence does not in fact bear out the suggestion of any real problem, I am afraid that it seems to me that as an Authority we have sought to find different justifications for what we seem to want to do anyway.

Bluntly put, in my view the approach adopted by the City of London on this question has therefore been contrary to the direction of good public policy both at a national and a local level. The focus in determining questions of public policy should be on specific issues as they occur, rather than seeking to impose blanket rules in response to relatively generic surveys which effectively invite the conclusions that they reach. As the above sets out, the “issue” simply isn’t here to “solve”. One doesn’t need to go into the benefits or otherwise of off-lead walking for animals to exercise (which officers agree is a desired benefit for at least some present users of the site): the question for us as an authority isn’t to tie ourselves in knots wondering about whether dogs and/or their owners are better off with or without access to such activities – it’s simply whether or not there’s a large enough problem to merit active intervention and control from the Corporation in such activity, imposing rules on users and the site. The answer is straightforward. There isn’t.

So we will be perceived to be (and will actually be) using a sledgehammer to crack a nut if we activate wide prescriptive rules on a site because of this non-problem.

It is also something that will have negative consequences for users, too. Beyond the principle that one rather dislikes rules for the sake of rules, and that authoritarian, illiberal measures are unattractive, the reason that this is worth dwelling on rather than shrugging and allowing the proposal to be passed is that we all want people to use our open spaces. Many (we all seem to agree) will wish to do so whilst exercising their dogs off-lead. The message conveyed by rules like this is that if you enjoy exercising your animal off-lead, this isn’t the place for you – this is a rule-laden site. Go elsewhere.

This is particularly unwise in my view because, ironically, those most likely to obey these new rules, or go away and not use the site, are those least likely to be inconsiderate in the first place. Contrariwise, those who are problematic users of the space now are those most likely to disobey these new rules if introduced.

I caution against our passing regulation by personal anecdote, as some seem inclined to do. As an authority we would, rightly, be a laughing stock if it became known that some wish to curtail off-lead walking on a site we control because they know someone who doesn’t like dogs. The undoubted existence of an irrational fear or phobia of dogs is regrettable, but the fact that someone might know someone else with such an irrational fear is irrelevant for us as the relevant authority: it is something that requires addressing, in and of itself, with appropriate help for the individual concerned, and is no justification for blanket regulation of everybody across the majority of an open space - any more than an irrational fear or phobia of open spaces would constitute justification for the curtailment or abolition of open spaces.

I note, too, that the correct role of an authority is sometimes to consider a situation and then not act, because the issue concerned can only be resolved by a device or rule which would be excessive or disproportionate. The elimination of risk in life is impossible. The aim was and is excessively prescriptive, and the methods following from that aim are naturally excessively prescriptive as a result. The default position of a public authority ought not to be that something is banned unless explicitly allowed: the reference in the course of the Working Group’s discussions to the “precautionary principle” was deeply disquieting on this point.

I have restricted my remarks solely to alleged dog “incidents” rather than addressing the supposed wildlife and nature concerns because, as is conceded in the officer response to the Kennel Club, there is simply no evidence available on this point either way. It is peculiar that this concession is made in the response, only to be followed by repeated

assertions about wildlife and nature conservation anyway. Assertions in the absence of evidence do not become stronger by being repeatedly made – indeed, it might rather be thought to reveal a desire to paper over the absence of evidence with the excessive presence of verbiage.

I am not an absolutist. I concede that there is sufficient, heartfelt, sincerely held concern amongst those who undertake the daily work of overseeing the site, and amongst officers and Members, to warrant the issue being discussed and whilst, on balance, the conclusion that I would draw from the situation with which we are presented is that, with a sense of proportion and willingness for individuals to compromise in using a shared open space, the status quo is adequate, in the face of the view of the majority in the working party (and perhaps the Committee) I acknowledge the need for compromise. **I do not argue for the abandonment of the proposed scheme in their entirety.** Indeed, as indicated at the outset, I accept all of the proposals bar one, and on that one issue, off-lead walking restrictions, I also suggest a compromise rather than adopting an absolutist position, too.

Whilst appreciating the need for both certainty and for a logically delineated area using existing, easily recognisable boundaries (for the convenience of our staff and visitors), the area currently proposed is simply far too large a part of the site.

Conclusion

The current proposal, with a majority of the Open Space in Burnham Beeches included in the on-lead policy, goes too far and in my view it ought to be sent back and reconsidered by those responsible for the space with a view to designating a smaller area.