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| Committee(s): | Date(s): |
| Epping Forest and Commons Committee | 08/09/2014 |
| Subject: Introduction of Dog Control Orders at Burnham Beeches | Public |
| Report of: The Superintendent of Burnham Beeches, Stoke and City Commons | For Decision |

Summary

Burnham Beeches agreed a voluntary 'Dog Walkers code' with its local dog walking community in 2006. A review of the number of dog related incidents since that date reveals that they have not decreased.

Work to develop proposals to introduce Dog Control Orders (DCO's) at Burnham Beeches, based upon guidance provided by the Department of Environment, Food and Rural Affairs, received Committee approval in September 2012. The aim being to further encourage, by enforcement where necessary, responsible dog ownership on the site. During 2013/14 informal consultation was undertaken resulting in a report to this Committee in May 2014. Approval was given at that point to commence the statutory consultation process.

The Home Office has recently advised that the power to make Dog Control Orders is expected to cease on 20th October 2014 when the relevant provisions of the Anti-social Behaviour, Crime and Policing Act 2014 (ABC&P) come into force. Any Orders introduced after that date would be Public Space Protections Orders.

Formal public consultation on the DCO proposals has recently concluded with the majority of responses received from dog walkers. A good level of support was received for the introduction of Schedules 1, 4 and 5. Schedules 2 and 3 received less support.

Member decisions are now sought on a range of options using the powers provided under Secondary Authority status.

Recommendations

Schedule 1. Pick up dog faeces. Approve one of the following:

- A.** Resolve to make The Fouling of Land by Dogs (Burnham Beeches) Order 2014 (Appendix 1.1), to be applied as proposed, across the whole site.
- B.** No use of Schedule 1.

Schedule 2. Dogs on leads at all times. Approve one of the following:

- A. Resolve to make The Dogs on Leads (Burnham Beeches) Order 2014 (Appendix 1.2), to be applied as proposed – Map 1.
- B. Defer a decision on Schedule 2 and consult as necessary under the ABC&P Act.

Schedule 3. Dogs on leads where requested. Approve one of the following:

- A. Resolve to make The Dogs on Leads by Direction (Burnham Beeches) Order 2014 (Appendix 1.3), to be applied as proposed – Map 1.
- C. Defer a decision on Schedule 3 and consult as necessary under the ABC&P Act.

Schedule 4. Dog exclusion zones. Approve one of the following:

- A. Resolve to make The Dogs Exclusion (Burnham Beeches) Order 2014 (Appendix 1.4), as proposed – dogs to be excluded from the area around the café, as currently applies using the existing voluntary agreement.
- B. No use of Schedule 4.

Schedule 5. Maximum number of dogs per responsible person. Approve one of the following:

- A. Resolve to make The Dogs (Specified Maximum) (Burnham Beeches) Order 2014 (Appendix 1.5), as proposed – maximum number of 4 dogs per responsible person.
- B. No use of Schedule 5.

Further recommendations

- i. On the basis that Members approve the proposals as presented formally to the public June 12th – July 14th 2014, i.e. Option A for all Schedules, Members must also agree a date when the Orders are to come into force, which must be included in the Orders and which must be at least 14 days after the Orders are made. It is recommended that this date should be 1

December 2014, which has been included in the draft Orders.

- ii. Should **i** above be the chosen approach, a further report will be submitted to this committee in November 2014 seeking approval for the Dog Management Strategy and associated authorisations relating to enforcement.

or

- iii. Should Members choose to differ from **i.** above, approve a re-consultation of the public under the Anti-social Behaviour, Crime and Policing Act 2014 on the chosen options, once the provisions relating to Public Space Protection Orders come into force.
- iv. Members are also asked to approve the principle of site improvements outlined in paragraph 56.
- v. Members are also asked to approve the principle of the appointment of a suitable candidate from the dog walking community to the Burnham Beeches Consultation Group.

Main Report

Background

1. The aim of introducing Dog Control Orders at Burnham Beeches is to encourage responsible dog ownership and thereby:
 - i. Ensure a fair and proportionate balance between the needs of visitors so that all can equally enjoy the site.
 - ii. Reduce the number of dog related incidents and complaints recorded each year.
 - iii. Reduce the impact of dog control management on the resources available to manage the site.
2. The majority of visiting dog walkers seek to ensure their pets behave according to the voluntary 'Dog Walkers Code' that was agreed and introduced following public consultation in 2006. Appendix 2. However, a significant number find it a challenge to meet these standards and this manifests itself in the following common issues:
 - i. Lost dogs (reported as such by site visitors)
 - ii. Dogs running loose with 'no owner in sight'

- iii. Dogs ‘disturbing/intimidating’ other site users.
 - iv. Injured dogs (fights, traffic accidents)
 - v. Dog mess being left on site
 - vi. Dogs without collars and identification(a byelaw offence)
 - vii. Dog noise – (nuisance barking)
 - viii. Dogs disturbing/chasing wildlife/livestock or similar
3. An annual report of the number and type of dog related incidents has been collated by the Ranger’s since 2002/3. 1043 incidents have been recorded in this manner over the last 5 years. It is important to note that this data does not provide the absolute number of incidents occurring at the Beeches each year, simply a standardised, measurable and repeatable record that can be compared over the years.

Visitors to Burnham Beeches

4. The 2012 Visitor Survey estimates that 585,000 visits to Burnham Beeches take place each year. This estimate is based on a model designed by Manchester Metropolitan University using automated car counters and observation studies.
5. It is known that most visitors can be described as ‘frequent’ i.e. they come to the site many times per week (some many times a day). Manchester Metropolitan University has examined the effect of visitor frequency in terms of the total number of visitors coming to the site each year. This indicates that the 585,000 visits are ‘achieved’ by around 35,000 individual visitors each year i.e. the average frequency of visit by an individual is 17 per annum or just under two visits each month.
6. Using the same statistical approach the ratio of dog walkers that make up the figure of 35,000 annual visits can be estimated to be within a range of between 100 and 700 individuals. For the purposes of this report it is reasonable to assume that the regular dog walking population makes up no more and perhaps significantly less than, 700 individuals. The higher figure of 700 will be assumed for the purposes of this report.
7. Therefore, the number of non-dog walking visitors is in the region of 34,300 individuals (98% of the total) compared to a dog walking community of around 700 individuals or just 2% of the total population of individual visitors.
8. A previous visitor survey indicated that dog behaviour was at the top of the list of issues that hindered visitor enjoyment of the site with 22% of all visitors reporting this as a specific issue. Appendix 3.

9. 22% of visitors equates to approximately 6,868 individuals each year. This indicates that the enjoyment of a significant number of people is impacted by the activities of a small number (i.e. the minority of the 700 dog walking community whose dogs are involved in incidents which adversely affected enjoyment of other site users).
10. This information is important when considering the DEFRA's requirement for a demonstrable and proportionate balance when introducing DCO's to Burnham Beeches, particularly with regard to the need and scale of the use of Schedule 2.
11. Visitors who have a poor experience are less likely to wish to come to the site again or visit less frequently and this risks prejudicing the recreation and enjoyment, and reducing the public benefit, provided by the site. (It may also lead to a potential loss to the site of car park, café and donation income). This provides a balance to the Kennel Club's survey (2014) that warns of a loss to site based income due to a reduction in dog walkers using the site.

Department of Environment, Food and Rural Affairs (DEFRA) Guidance on the design and use of DCO's.

12. The power to make Dog Control Orders ceases on 20th October 2014 when new legislation i.e. the Anti-social Behaviour, Crime and Policing Act, 2014 (ABC&P) comes into force. Any Dog Control Orders made before that date may remain in force for up to 3 years. However, it is the current guidance below that Members must consider for the purposes of this report which provides the following comment.
13. **On Consultation feedback.** *The Authority needs to 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. In particular children, to have access to dog free areas where dogs are best kept under strict control, and the needs of those in charge of dogs to have access to areas where they can exercise their dogs without undue restriction. A failure to give due consideration to these factors could make any subsequent DCO vulnerable to challenge in court.*
14. **On what happens after the Consultation has ended and a decision is required.** *At the end of the consultation period the Secondary Authority must consider the representations that have been received before coming*

to a decision to make the order or not. If the Secondary Authority decides, having considered the representations, not to make the order then it does not need to do anything further. If however, the Secondary Authority decides significantly to amend the proposal on the back of the representations that it has received as part of the consultation it must start the proposal again, publishing a new notice describing the amended proposal in the local newspaper.

15. **On the need for balance.** *When using dog control orders, a Secondary Authority needs to balance the needs of both dog owners and others. This balance is important, in that if it cannot demonstrate this balance then its DCO's could be challenged in court. What this means in practice is that dog owners need access to land where they can access their dogs and equally other people expect a right to enjoy land without interference from dogs and by implication some land from which either dogs are banned or restricted.*

An Authority must be 'even handed' in coming to a decision to make an order. E.g. if the order is to ban dogs and the piece of land in question happens to be the only piece of open space in an area that is suitable for exercising dogs and the Secondary Authority receives a number of representations from dog owners objecting the PC would need to think very hard before it makes the order. Unless of course there were other factors such as the area was also a play area for children.

16. **On how to proceed if the Primary authority formally objects to the proposals.** *If the District Council responds by objecting to the proposal, or with concerns, then the Secondary Authority should consider these carefully before it decides to proceed with the dog control order making process. However, just because a District Council objects doesn't mean that a secondary Authority cannot proceed with that order. That said, if the concerns are legitimate then it would be right for the parish council to consider them fully before any decision is taken to proceed or not.*
17. **On how to proceed given lack of community support.** *The decision by a Secondary Authority to push ahead with the use of the powers without support from the community is a political decision for the Secondary Authority and its Members. However, they would be best advised to consider their representational role before coming to a decision.*
18. DEFRA also requires that DCO's are easily understood by visitors and can be reasonably and proportionately enforced on site. This is why the internal tarmac roads have been used as boundaries between the various Schedules.

19. DEFRA guidance places a clear emphasis on the need to take account of local circumstances that can be clearly evidenced.
20. It is because of DEFRA's guidance that consideration of DCO's should be based on the needs of people rather than that of wildlife (albeit the City has a general duty to enhance biodiversity under the NERC Act, 2006) that it was determined to commission a visitor survey on the issues in the summer and autumn of 2013 so that any future proposals could be more clearly based on the views of site visitors. Appendix 4, Footprint Ecology Visitor Survey 2013.
21. South Bucks District Council (SBDC) is the Primary Authority for Burnham Beeches. Farnham Royal Parish Council and Burnham Parish Council are Secondary Authorities for Burnham Beeches. Neither the Primary nor Secondary Authorities intend to introduce DCO's on land covering Burnham Beeches.

Enforcement

22. DEFRA guidance also considers the need to produce an Enforcement Strategy (called the Dog Management Strategy (DMS) at Burnham Beeches) and provides a broad template for its construction. This document is currently in draft form awaiting Members' final decision on the proposed Orders. It is proposed that if it is resolved to make the Orders this document is then submitted for approval in November 2014.
23. The effect of making a Dog Control Order, in terms of enforcement, is that it is an offence to act in contravention of the Order, punishable on summary conviction by a fine not exceeding level 3 (£1000). Breaches can also be dealt with by issuing Fixed Penalty Notices. The level would be identified in the DMS, but a much lower sum in the order of £80.00 would be proposed. The DMS would also identify circumstances (such as in the event of a first incident) where other measures such as advice or caution would be more suitable, and the DMS would also advise on the more limited circumstances where prosecution would be considered appropriate.

Dog Walking at Burnham Beeches

24. Burnham Beeches is designated as a Site of Special Scientific Interest, National Nature Reserve and Special Area of Conservation. The site is extremely popular with dog walkers for its convenient location and because it remains one of the very few open spaces in the area that provides free car parking Monday to Friday each week (excluding Bank

Holidays). Site surveys indicate a steady rise in visitor numbers to Burnham Beeches each year and an associated increase in dog numbers.

25. The growing attraction of the site to dog walkers and the challenges this presents has been managed in a variety of ways including the Dog Walkers Code. In 2011 the Open Spaces Dog Policy and associated 'Agreement' with the Kennel Club restated the City's commitment to healthy exercise and good behaviour for dogs and their owners.
26. Given the local popularity of Burnham Beeches and the current level of dog management issues it was agreed that the site should pilot on behalf of the Open Spaces Department, the approach to the implementation of DCO's.
27. The following table gives the sample of frequency and type of dog behaviour related issues recorded on the site using in the period 2002 – 2014. (Please note comments concerning this data in paragraph 3.)
28. **Table 1. Number of Dog related incident recorded by staff. 2002-2013**

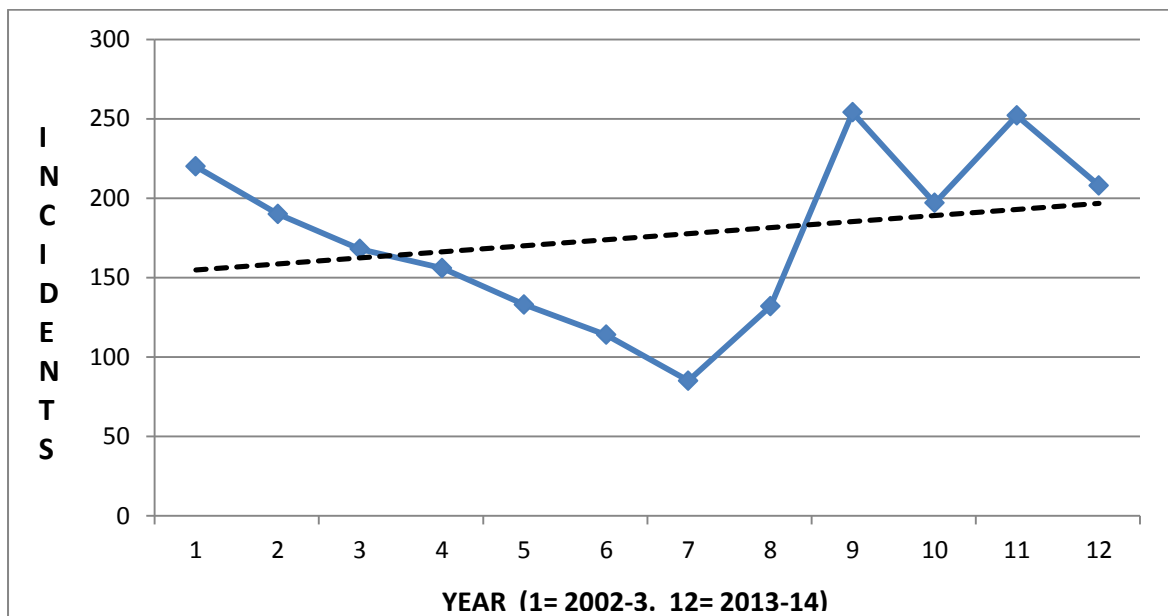
| | 1. | 2. | 3. | 4. | 5. | 6. | Total |
|-------------------|------------|-------------|-------------|------------|-------------|-------------|-------------|
| 2002 03 | 8 | 74 | 70 | 25 | 15 | 28 | 220 |
| 2003 04 | 11 | 53 | 73 | 13 | 21 | 19 | 190 |
| 2004 05 | 12 | 36 | 63 | 24 | 18 | 15 | 168 |
| 2005 06 | 17 | 36 | 57 | 11 | 18 | 17 | 156 |
| 2006 07 | 11 | 28 | 46 | 10 | 15 | 23 | 133 |
| 2007 08 | 4 | 33 | 36 | 4 | 18 | 19 | 114 |
| 2008 09 | 7 | 17 | 39 | 7 | 9 | 6 | 85 |
| 2009 10 | 9 | 33 | 50 | 6 | 13 | 21 | 132 |
| 2010 11 | 11 | 81 | 88 | 17 | 28 | 29 | 254 |
| 2011 12 | 8 | 57 | 70 | 14 | 26 | 22 | 197 |
| 2012 13 | 15 | 56 | 78 | 18 | 72 | 13 | 252 |
| 2013 14 | 10 | 45 | 92 | 19 | 28 | 14 | 208 |
| | | | | | | | |
| Total | 122 | 545 | 743 | 165 | 275 | 223 | 2109 |
| % of Total | 5.9 | 26.3 | 35.8 | 8.0 | 13.3 | 10.8 | |

| KEY |
|---|
| 1) Dogs reported missing |
| 2) Dogs running loose with no owner is sight |

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| 3) Owners who do not have dogs under effective control |
| 4) Dogs running up to other visitors who unhappy with the approach |
| 5) Fouling and not picking up |
| 6) Dogs without collars and tags |

29. **Chart 1** shows the same figures and demonstrates the reduction in sample size of dog incidents prior to and following the introduction of the voluntary dog code in 2006. The dotted line shows the overall trend.

Chart 1.



30. Footprint Ecology were employed to undertake an informal public consultation process (survey) during the second half of 2013. The purpose of the survey was to inform our understanding of where people who visit Burnham Beeches live; to understand more about visitors' behaviour and where people go on the site when they visit and to gather views on potential future management at the site relating to dogs and the implementation of Dog Control Orders. The survey was also designed to inform officer input in to the South Bucks District Council's Development Management Local Plan.

31. A total of 359 visitor groups were interviewed. When group size was taken into consideration dog walkers represented 44% of the sample. This figure matches previous visitor surveys. The survey results showed support for the use of all 5 Schedules at Burnham Beeches and were used by officers and Members of the Burnham Beeches Consultation Group to design each of the Schedules proposed, shown in **Map 1**.

32. On 11th December 2013, consideration was given to the 2013 survey by the Burnham Beeches Consultation Group. They considered the variables in terms of the need for balance and even-handedness and supported the proposals currently shown as Option A for each Schedule for further consideration by the Epping Forest and Commons Committee and as set out below paragraph 36.
33. The views of the Kennel Club were sought throughout this period and included a site meeting at Burnham Beeches with their Public Affairs Officer and Consultant. The Director of Open Spaces and the Superintendent also attended a meeting with Kennel Club officers at their headquarters in December 2013. Regular communication by email and letter also took place, and it was hoped that continued dialogue would enable the development of proposals capable of meeting the desires of all stakeholders, including the Kennel Club.
34. In February 2014, an informal working group consisting of three Members and one Verderer of the Epping Forest and Commons Committee met to consider specific and detailed issues raised by the Kennel Club.
35. One Member did *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*. The minutes of this meeting and the separate comments provided are included in Appendices 5 and 6.
36. The working group concluded that the proposals recommended by the BBCG should be put unchanged and as presented to the Epping Forest and Commons Committee in March 2014 as shown below – **Map 1**.

Proposals

Schedule 1. Fail to remove dog faeces. To be applied across the whole site.

Schedule 2. Fail to keep a dog on a lead in an area so designated. To be applied across 59% of the site

Schedule 3. Fail to put and keep a dog on a lead when directed to do so by an authorised officer. Maximum lead length to be 5m. To be applied across 41% of the site.

Schedule 4. Permit a dog to enter land from which dogs are excluded. To be applied only to land covered by the existing zone around the Burnham Beeches café since 2007.

Schedule 5. Take more than 3 dogs on to the land. To be applied across the whole site.

37. Exemptions concerning the use of Assistance dogs are provided by the legislation for each Schedule. Assistance dogs can be defined as being one of any of the following:

- Guide Dogs
- Hearing Dogs for deaf people
- Dogs for the disabled
- Canine Partners
- Support dogs
- Dog A.I.D
- Medical detection dogs

38. This matter is included in the training for Authorised Officers provided for the staff at Burnham Beeches by Keep Britain Tidy. Further, ongoing help from relevant organisations concerning this issue will be sought to facilitate compliance.

39. In March 2014 the Epping Forest and Commons Committee approved Schedule 1- 4 as set out above. Schedule 5 was amended with final approval given to formally consult on a maxim of 4 dogs per responsible individual.

Reasoning behind the proposals

40. The proposed DCO's upon which the public consultation was based were originally approved for consultation by this Committee on the basis that they:

- a. Met as far as was reasonably practicable the outcome of the 2013 visitor survey, considerations of the BBCG and views of a Members working group on the comments provided by the Kennel Club.
- b. Provided a workable and enforceable compromise in terms of a balance between site users i.e. dog and non dog walking visitors.
- c. Ensured that all main access points either by car or foot are within Schedule 3 to minimise the need for owners to put their dogs on a lead as soon as they jump from the car or otherwise enter the site.
- d. Provided a large area (220 acres) of the NNR for dogs to exercise 'off lead' whilst remaining under effective control. The Visitor Survey responses indicate that this is three times larger than the area used by the typical dog walker at Burnham Beeches. (Footprint Visitor survey 2013)

- e. Would enhance the enjoyment and protection of children, the elderly /infirm and other visitors to the site by including a large part of the most popular recreation area, including the easy access path network, within Schedule 2 i.e. ‘the dogs on leads at all times’ area.
- f. Made use of the internal roads to create a highly visible and easily understood boundary between Schedules 2 and 3. This will greatly facilitate visitor compliance and reduce the need for enforcement by Rangers.
- g. Provided an area through use of Schedule 3 that is more open in nature and owners whose dogs are not under effective control may therefore be more easily identified and approached.
- h. Provided an area through the use of Schedule 3 that contains the majority of surfaced routes on the site as well as comparable terrain when compared to Schedule 2 in terms of overall topography and conditions underfoot. This issue has been assessed using an Equalities Impact Assessment approach. Appendix 7 and “Equalities Impacts” section later in this report.

Responses from main Consultees

The Kennel Club. Full response Appendix 8.

- Supports the use of Schedules 1 and 4 as set out in this report
 - Is firmly opposed to the introduction of Schedule 2 of the Dog Control and consider that *they are more restrictive and extensive than any national law or byelaw than seen anywhere else in the UK.*
 - Suggests that Schedule 3 be applied to the whole site.
 - Recommends that, for Schedule 5, a maximum of 6 dogs per responsible person.
41. The Kennel Club also conducted a national survey regarding the use of Schedule 2 – i.e. Dogs on leads at all time. Our consultant has commented upon the design standards and conclusions drawn from this survey are attached. Appendices 9a and 9b. The KC expressed some disappointment about the limited numbers who participated (164).

Natural England – Appendix 10 - full NE response of 6/3/2014

42. The Superintendent has ensured that Natural England (NE) was consulted and fully aware of the complexity, extent and nature of the issues at

Burnham Beeches. On that basis, NE previously provided the following comments with regard to the introduction of DCO's at Burnham Beeches:

Based on the information supplied, Natural England cannot find sufficient evidence to support dog control orders being necessary to protect the features for which the SSSI is designated. However, NE recognises that the City has consulted widely on the matter of DCO's at Burnham Beeches and that this information has been used to inform the final recommendation.

In conclusion we can find no scientific basis for controlling dogs at Burnham Beeches on nature conservation grounds."

43. NE has also confirmed that they are content for the City of London, as owners and managers of the NNR, to formulate local policy and reflect this via the introduction of DCO's. Indeed they have adopted this approach on their own National Nature Reserves where in some instances dogs are required to be kept on leads at all times throughout the year 'to protect wildlife'.

In our experience to date DCO's have typically been proposed on access land as a means to encourage people with dogs to adopt behaviours that are in keeping with the desires and expectations of other users, rather than as a means to protect wildlife. This is a separate matter on which we have tended not to provide a specific view, recognising that order-making authorities are better placed to come to a view based on local circumstances.

The Primary Authority – South Bucks District Council

44. SBDC indicated their acceptance of the proposals on 24 June. They were subsequently approached at individual member level by the Kennel Club. SBDC's final comments supported the proposals for Schedules 1, 3, 4 and 5 but urge flexibility on the latter. They do not support the proposals for Schedule 2 as they believe *it will adversely affect local people who have been reasonably walking their dogs at Burnham Beeches for many years and that it will put more pressure on other sites for dog walkers displaced because of the restrictions placed on them.* Appendix 11.

The Secondary Authorities

45. The Farnham Royal Parish Council met to discuss the DCO proposals on 23rd June and agreed to give their full support to them. Appendix 12.
46. Burnham Parish Council were prompted on two occasions but did not respond to the formal consultation letter. This Parish Council is

represented on the Burnham Beeches Consultation Group and their representative was aware of the proposals.

Responses from Other Bodies consulted by the Kennel Club.

- i. **The British Horse Society.** Objected to Schedule 2 on the grounds that it would displace problem dogs on to the wider Rights of Way network. They also noted that NE does not support the proposal for Schedule 2 on grounds of nature conservation. Appendix 13.
- ii. **The Open Spaces Society.** Objected to Schedule 2. They support Schedule 3 in principle. Schedule 4 is supported. They did not comment on Schedule 5. Appendix 14.
- iii. **Buckinghamshire County Council.** Stated as follows: *Although Buckinghamshire County Council are not a statutory consultee we would support the response to this consultation as given by Councillor Adrian Busby, Leader of South Bucks District Council. I hope this goes someway to show that we are now aware of the consultation and any input would be to support, as stated, our District Council colleagues in this instance.* Appendix 15.
- iv. **The Dogs Trust.** The Dogs Trust responded to the consultation and support the City's proposals. The Dogs Trust states that it is the UK's largest dog welfare organisation. Appendix 16.

Statutory Consultation results

47. The notice was advertised in 4 local newspapers. Appendix 17. (The statutory minimum requirement is to publish the notice in a local newspaper circulating in the area. The notice was published in 4 newspapers to ensure coverage of the whole of the affected area, and to maximise awareness). In addition to the minimum statutory requirement, the same information was posted on each of the site's 11 notice boards, on 3 notice boards in the villages of Farnham Common and Burnham, on 'table talkers' at the Burnham Beeches café and on the Burnham Beeches website.
48. The statutory consultation period commenced on 12th June 2014 and ended 14th July 2014, a total of 33 days. (The statutory minimum notice period is 28 days).
49. On the 12th of June the Burnham Beeches team also published a newsletter update and 'Frequently asked Questions' document on the site's website

and in hard copy. These set out the proposals to the public. See Appendices 18 and 19.

Additional Representations Received

50. Following the early discussions with the Kennel Club referred to in paragraph 33 above, and the decision to consult on the DCO made by Epping Forest and Commons Committee in March 2014 (but before the full statutory consultation documents and explanatory material had been finalised and published by officers), an article was presented in the 1st June 2014 edition of “Your Dog” (published 1st May 2014) entitled “Burnham Beeches ban unjustified says Kennel Club” (see Appendix 21). It is evident that this also provided wide publicity for the proposals amongst readers of “Your Dog”, prior to the statutory consultation commencing. Following that article 54 representations were received in advance of the statutory consultation period (and 5 of those were also later submitted in response to the statutory consultation).
51. Those representations have been included in the final analysis of consultation responses. The following are noted:
 - i. 26% of the total number of responses came from outside of the formal consultation period.
 - ii. There is notably greater opposition to Schedule 2 (69%) in the informal period than represented in the formal consultation period (54%).
 - iii. There was a period of 42 days from the publication of the article in “Your Dog” during which representations were received, in advance of the 33 day statutory consultation period.
52. The results of the representations received from 1st May to the start of the statutory consultation, and of the responses to the statutory consultation (i.e. over 75 days) can be summarised as follows:

General

- i. 189 responses were received. This is a small response given the media coverage and campaigning activity of the Kennel Club. All individual email/letter responses are publicly available from the Town Clerk or Burnham Beeches office. Collated results of the Consultation process are presented in tabular form in Appendix 20.
- ii. 187 were by email and 2 by letter.

- iii. Subsequent correspondence by email and letter continued after the closure of the consultation period with several existing consultees albeit without impact upon the statistics shown in this report. These are also available to members.
- iv. 5 Members of the public called in at the Burnham Beeches office to discuss the issues. The Superintendent also met with the General Secretary of the Open Spaces Society. The Director of Open Spaces also met with one local resident.
- iv. Number of dog walkers in the full sample (189 respondents). It can be seen that the number of responses by dog walkers is significantly higher than the expected site representation i.e. 2% of all individual visitors each year (44% of all visits). The number who 'did not declare' is much higher than in any previous survey.

| Walk dog(s) at Burnham Beeches | Do not walk dog(s) at Burnham Beeches | Did not declare |
|--------------------------------|---------------------------------------|-----------------|
| 55% | 2% | 43% |

- 53. 22 different types of comment either in support or against the proposals were recorded. The most common from each schedule are also presented.
- 54. In all instances figures show the results from both the statutory consultation period and the earlier representations received between 1st May and 11 June and from the statutory consultation period only (i.e. the formal 33 days).

| SCHEDULE 1(as proposed). Failure to remove Dog Faeces. | | | | | | | |
|---|--------------------------------|---------------------------------|-------------------------|------------------------------|-------------------------|------------------------------|-------------------------|
| Against Schedule 1. | | Neither for nor against. | | Support Schedule 1. | | Did not comment. | |
| Full period (75 days) | Formal period (33 days) | Full period (75 days) | Formal (33 days) | Full period (75 days) | Formal (33 days) | Full Period (75 days) | Formal (33 days) |
| 6.9% | 5.7% | 3.7% | 3.6% | 57.1% | 66.5% | 32.3% | 24.2% |

| Top issues raised re Schedule 1. (i = most frequent. iii = least frequent) | |
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| i. | Support Schedule 1. |
| ii. | All responsible dog walkers pick up their pets faeces. |
| iii. | Dog faeces are no worse than cow or horse faeces. |

| SCHEDULE 2 (as proposed). Failure keep a dog on a lead in an area so designated. | | | | | | | |
|---|--------------------------------|---------------------------------|-------------------------|------------------------------|-------------------------|------------------------------|-------------------------|
| Against Schedule 2. | | Neither for nor against. | | Support Schedule 2. | | Did not comment. | |
| Full period (75 days) | Formal period (33 days) | Full period (75 days) | Formal (33 days) | Full period (75 days) | Formal (33 days) | Full Period (75 days) | Formal (33 days) |
| 58.2% | 54.3% | 4.2% | 1.4% | 32.8% | 40.7% | 4.8% | 3.6% |

| General points. |
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| <ul style="list-style-type: none"> • Of those who walk dogs the majority (66%) disagreed with the proposed area for Schedule 2. • Of those who walk dogs a minority (23%) of dog walkers agreed with Schedule 2 as proposed. • Of those who walk dogs 11% remained silent or stated neutrality on the issue |

| Top issues raised re Schedule 2. (i = most frequent. iv = least frequent) | |
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| i. | The Schedule 2 area is too large and will prevent me from exercising my dog adequately |
| ii. | Support Schedule 2 as it is proposed |

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| iii. | The Schedule 2 area will ‘force’ the elderly and infirm into Schedule 3 and that land is wetter, steeper and less suitable for these visitors |
| iv. | It is unsafe for dogs and/or dog walkers |
| v. | It is unfair because only a few people break the rules |

SCHEDULE 3 (as proposed). Failure to put and keep a dog on a lead as directed by an authorised Officer

| Against Schedule 3. | | Neither for nor against. | | Support Schedule 3. | | Did not comment | |
|------------------------------|--------------------------------|---------------------------------|-------------------------|------------------------------|-------------------------|------------------------------|-------------------------|
| Full period (75 days) | Formal period (33 days) | Full period (75 days) | Formal (33 days) | Full period (75 days) | Formal (33 days) | Full Period (75 days) | Formal (33 days) |
| 7.9% | 7.1% | 10.6% | 12.2% | 42.9% | 50.7% | 38.6% | 30% |

Top issues raised re Schedule 3. (i = most frequent. iii = least frequent).

| | |
|-------------|--|
| i. | Support Schedule 3 as it is proposed. |
| ii. | It is unsafe for dogs and/or dog walkers |
| iii. | The Schedule 3 area that land is wetter, steeper and less suitable for these elderly and infirm visitors |

SCHEDULE 4 (as proposed). Permit a dog to enter land from which dogs are excluded.

| Against Schedule 4. | | Neither for nor against. | | Support Schedule 4. | | Did not comment | |
|------------------------------|--------------------------------|---------------------------------|-------------------------|------------------------------|-------------------------|------------------------------|-------------------------|
| Full period (75 days) | Formal period (33 days) | Full period (75 days) | Formal (33 days) | Full period (75 days) | Formal (33 days) | Full Period (75 days) | Formal (33 days) |
| 7.9% | 6.4% | 4.2% | 3.6% | 51.4% | 61.4% | 36.5% | 28.6% |

Top issues raised re Schedule 4. (i = most frequent. iii = least frequent).

- i. Support Schedule 4 as it is proposed
- ii. It is not required by law or hygiene regulations
- iii. It is unnecessary – no problem exists

SCHEDULE 5 (as proposed). Take more than 4 dogs on to the land.

| Against Schedule 5. | | Neither for nor against. | | Support Schedule 5. | | Did not comment | |
|------------------------------|--------------------------------|---------------------------------|-------------------------|------------------------------|-------------------------|------------------------------|-------------------------|
| Full period (75 days) | Formal period (33 days) | Full period (75 days) | Formal (33 days) | Full period (75 days) | Formal (33 days) | Full Period (75 days) | Formal (33 days) |
| 16.9% | 17.8% | 4.2% | 3.6% | 41.8% | 50.0% | 37.1% | 28.6% |

Top issues raised re Schedule 5. (i = most frequent. iii = least frequent).

- i. Support the Schedule 5 as it is proposed.
- ii. Setting a max number of dogs will not solve any problems
- iii. Setting the max number of dogs is a blunt tool.

OPTIONS

55. **Following the results of both the Informal and Formal consultation periods the following options are available to Members:**

Schedule 1. Pick up dog faeces. Approve one of the following:

- A. Resolve to make The Fouling of Land by Dogs (Burnham Beeches) Order 2014 (Appendix 1.1), to be applied as proposed, across the whole site.
- B. No use of Schedule 1.

The consultation suggests:

- Support for **option A.**

Schedule 2. Dogs on leads at all times. Approve one of the following:

- A. Resolve to make The Dogs on Leads (Burnham Beeches) Order 2014 (Appendix 1.2), to be applied as proposed – Map 1.
- B. Defer a decision on Schedule 2 and consult as necessary under the ABC&P Act.

The consultation suggests:

- Support for use of Schedule 2 on the site in some form – Footprint 2013 survey.
- Dog walkers responded most clearly to this issue and were by some margin the most frequent objectors.
- Lack of support for option A within the dog walking community who make up approximately 44% of the total annual visits to the site and around 2% of individual site visitors.

Schedule 3. Dogs on leads where requested.

Approve one of the following:

- A. Resolve to make The Dogs on Leads by Direction (Burnham Beeches) Order 2014 (Appendix 1.3), to be applied as proposed – Map 1.
- B. Defer a decision on Schedule 3 and consult as necessary under the ABC&P Act.

The consultation suggests:

- Support for use of Schedule 3 on the site as presented as **option A** of those that commented.

Schedule 4. Dog exclusion zones.

Approve one of the following:

- A. Resolve to make The Dogs Exclusion (Burnham Beeches) Order 2014 (Appendix 1.4), as proposed – dogs to be excluded from the area around the café, as currently applies using the existing voluntary agreement.
- B. No use of Schedule 4.

The consultation suggests:

- Support for **option A** of those that commented.

Schedule 5. Maximum number of dogs per responsible person.

Approve one of the following:

- A. Resolve to make The Dogs (Specified Maximum) (Burnham Beeches) Order 2014 (Appendix 1.5), as proposed – maximum number of 4 dogs per responsible person.
- B. No use of Schedule 5.

The consultation suggests:

- Support for **option A** of those that commented.

Further Management options.

56. Members may also wish to be aware of the following potential site improvements, brought to light as part of the consultation process:

- i. Improvements to bench seat provision in the Schedule 3 area.
 - ii. Additional dog bins in areas of heavy usage should the need be clearly identified.
 - iii. Path repairs to further improve access within the Schedule 3 area.
 - iv. Increased Ranger Presence in the Schedule 3 area.
 - v. Seek funding for an additional Trampler 4 wheel-drive buggy should demand necessitate.
57. In addition, during the consultation, two respondents requested a dog walker's representative should be included in the Burnham Beeches Consultation Group. It is suggested that a suitable candidate is sought from the local dog walking community.

Corporate & Strategic Implications

58. The proposals support the Strategic aims of the City and Open Spaces Department by:
- 1. Quality.** Providing, safe, secure and accessible Open Spaces and services on behalf of London and the nation.
 - 2. Inclusion.** Involving communities and partners in developing a sense of place through the care and management of our sites.
 - 3. Environment.** Delivering sustainable working practices to promote the variety of life and protect the Open Spaces for the enjoyment of future generations.
 - 4. Promotion.** Promote opportunities to value and enjoy the outdoors for recreation, learning and healthy living
 - 5. People.** Manage, develop and empower a capable and motivated work force to achieve high standards of safety and performance.

Legal Implications

59. The Common Council of the City of London was designated as a Secondary Authority for the purposes of Chapter 1 of Part 6 of the Clean Neighbourhoods and Environment Act 2005 from 31st May 2012. This enables the Common Council to make Dog Control Orders in its open spaces outside the City where the relevant Primary Authority and other Secondary Authorities have not already made an Order in respect of the same offence on the same land.
60. The form of Dog Control Orders is prescribed by the Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 – this has been reflected in the appended draft Dog Control Orders.

61. Any Authority making Dog Control Orders must be satisfied that they are justified and must 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. Members should have regard to the relevant DEFRA Guidance and should carefully consider the representations received during the consultation process. Failure to do so could leave any decision vulnerable to a legal challenge.
62. The Kennel Club have expressed some concerns over procedural aspects of the consultation process, which could also lead to a legal challenge. They have suggested that some of the land in question is ‘access land’ under the Countryside and Rights of Way Act 2000, which would involve a statutory duty to consult additional bodies. They have also suggested that additional notices should have been displayed on site. However, officers are satisfied that the statutory requirements as to consultation have been met, and in many cases exceeded.

Equalities Impacts

63. An Equality Impact Assessment has been carried out which identifies that there are no negative impacts on persons or groups with protected characteristics. Considerations include the following: In terms of mobility impacts, the terrain of the Schedule 2 and Schedule 3 areas are broadly comparable in terms of topography, conditions underfoot, and therefore accessibility; both areas are served by boardwalks and are similarly accessible by the 4wheel-drive Tramper wheel chair available for users; exemptions apply for assistance dogs as described above. The Orders specify that no breach arises where there is a reasonable excuse for failing to comply.

Financial and Risk Implications

64. The cost of the DCO consultation and enforcement design process is estimated at £35,000 including officer time, training, consultation costs and the provision of appropriate signage and other materials. These costs are being met from local risk budgets and are set out in Table 2 below:

Table 2.

| Activity | Cost |
|--|-------------|
| Research and informal Consultation (Footprint Ecology) | £7,000 |
| Management time (estimated at 30 days) | £7,500 |
| Staff Training (est) | £2,000 |

| | |
|---|----------------|
| Administration (set up) | £4,500 |
| Public Consultation – Advertising costs | £4,000 |
| Staff costs | £10,000 |
| Total estimated costs | £35,000 |

65. An income of around £2,000/annum is anticipated from Fixed Penalty Notice payments. It is estimated that the on-going cost to administer the scheme (staff time) will be approximately £2000/annum. Given the anticipated income the overall cost of the scheme should be cost neutral.

Public Relations Implications

66. Individuals or bodies, such as the Kennel Club, who have expressed disagreement with some of the proposals may reiterate their views in the event that those proposals are progressed, including in the “Your Dog” publication which has already reported on this issue. Appendix 21.

HR Implications

67. Staff at Burnham Beeches have been consulted throughout this process and are aware of the implications on their roles. Minor adjustments to the staff structure have also been made.
68. The Rangers at Burnham Beeches currently issue parking tickets for failure to ‘pay and display’. They would also enforce the DCO’s (perhaps with the assistance of local PCSO’s) and issue the FPN’s. They have recently received ‘appropriate training’, should it be required of them to fulfil this role. A refresher course is also planned.

The next steps

69. In order to avoid undermining the effect of any DCO, it is important to consider how it will be enforced and the practicality of any enforcement agreements. This is currently set out in draft form in the Dog Management Strategy.
70. Should Member’s approve the proposals as consulted with the public in the period June 10th – July 14th 2014 then the following issues must be resolved at the November 2014 meeting of this Committee so that enforcement may commence December 2014.

The approval of the Dog Management Strategy will need to determine:

- i. The level of Fixed Penalty fines.
- ii. Delegated Authority for the Director and Superintendent to appoint 'authorised officers' for the purpose of issuing FPN's.
- iii. Agreement on type and frequency of new site signage.

Conclusion

71. Dog walking at Burnham Beeches has grown in popularity over recent years. An annual report of the number and type of dog related incidents has been collated by the Ranger's since 2002/3. Whilst this data does not provide the absolute number of incidents occurring at the Beeches each year it does provide a record that can be compared over the years. This record indicates an increasing trend in the number of incidents despite proactive management such as the site's Dog Behaviour Code, waste removal and other 'dog friendly' services.
72. The site's byelaws and voluntary dog walking code have not been effective in reducing repetitive, nuisance behaviour (as set out in the previous report to this committee) and the use of DCO's at Burnham Beeches is proposed as a complementary enforcement mechanism.
73. DCO's offer additional controls and a more flexible approach to enforcement compared to the byelaws.
74. The Kennel Club has led an active media campaign specifically against the use of Schedules 2 and 5 as proposed for Burnham Beeches.
75. Following lobbying by the Kennel Club the Primary Authority, Buckinghamshire County Council, Open Spaces Society, British Horse Society and Kennel Club itself have stated that they do not support the use of Schedule 2 as proposed.
76. DEFRA guidance requires even-handedness and balance when considering use of DCOs. It also places a clear emphasis on a need to suite local, circumstances that can be clearly evidenced, rather than comparison with other open spaces across the country.
77. The comment from Natural England supports in principal, the use of DCO's for access management reasons whilst it explicitly does not do so for nature conservation reasons.
78. The Dog's Trust and local Farnham Royal Parish Council support the proposals as they were published to the public.

79. Members are presented with options for each of the five DCO Schedules. Should Members approve the original proposals (Recommendation 'Option A' in each instance) then a further report will be submitted in November 2014 seeking approval of the enforcement details.
80. Should Members choose other options then further public consultation must be undertaken using the Anti-social Behaviour, Crime and Policing Act 2014.
81. The introduction of several simple, low cost actions, stemming from the public consultation process, to further improve visitor services at Burnham Beeches are also described as to is the recommendation to include seek a local dog walking representative on the Burnham beeches Consultation Group.

Appendices

- Appendix 1.1 – 1.5 DCO Orders
- Appendix 2. Dog Walkers Code 2006.
- Appendix 3. 2003 visitor Survey – England Marketing.
- Appendix 4. Footprint Ecology visitor survey 2013.
- Appendix 5. Outcome from Members Working Group.
- Appendix 6. Dissenting note from Members Working Group.
- Appendix 7. Equalities Impact Assessment – Stage 1.
- Appendix 8. Kennel Club – full response to public consultation. July 2014.
- Appendix 9a & 9b. Footprint Ecology responses to KC 'impact survey' 2014 and consultants response.
- Appendix 10. Natural England. Full response to proposals. March 2014.
- Appendix 11. SBDC. Formal response to proposals. July 2014.
- Appendix 12. FRPC. Formal response to proposals. July 2014.
- Appendix 13. BHS. Formal response to proposals. July 2014.
- Appendix 14. OSS. Formal response to proposals. July 2014.
- Appendix 15. BCC. Formal response to proposals. July 2014.
- Appendix 16. Dogs Trust. Formal response to proposals. July 2014.
- Appendix 17. Public Notice. Example from the Maidenhead Advertiser.

- Appendix 18. Burnham Beeches Newsletter update – public consultation.
- Appendix 19. Burnham Beeches FAQ's. Public consultation period.
- Appendix 20. Collated consultation feedback. 75 day period.
- Appendix 21. 'Your Dog' magazine article

Maps

Map 1. Specifying areas covered by each DCO as proposed to the public.

Background Papers:

1. Report to EFCC of Sept 2012. Use of Secondary Authority Powers to introduce Dog Control Orders at Burnham Beeches.
2. Report to EFCC and Open Spaces Committee – November 2013. Review of Pilot Study - Use of Secondary Authority Powers to introduce Dog Control Orders at Burnham Beeches.
3. Report to EFCC of May 2014 seeking approval to move the recommended proposals to the statutory consultation phase.

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