

Dear Andy

The Kennel Club asked us to clarify our position on Dog Control Orders in advance of any decisions being made on your proposals.

The complete text comprising our response is shown below so that you have exactly the same information.

Best wishes

Alistair

Alistair Helliwell
TL South East NNRs
07774 629152

-----Original Message-----

From: Chester, Andrew (NE)

Sent: 06 March 2014 21:03

To: steve@sjacm.co.uk

Cc: 'Denisa Delic'; Stevenson, Eleanor (NE); Helliwell, Alistair (NE)

Subject: RE: Burnham Beeches information

Dear Steve

Here is our response to your request for clarification of our position on the proposed dog control order proposals at Burnham Beeches. We will send a copy to the Corporation of London too.

Best wishes

Andrew

Natural England was asked by the Corporation of London for its views on the use of dog control orders at Burnham Beeches National Nature Reserve (NNR). It advised the Corporation of London in writing that it cannot find sufficient evidence to support dog control orders being necessary to protect the features for which the SSSI is designated. It acknowledged 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. We would like to clarify these remarks further in response to a request from the Kennel Club and in order to avoid any misunderstanding about our advice by those considering the case for dogs control orders on the site.

In particular the Kennel Club has asked:

* whether Natural England has views on the potential for adverse impacts on other designated sites to arise from the displacement of walkers with dogs as a result of the implementation of the proposed dog control orders at Burnham Beeches.

* how on-lead requirements are used by Natural England on NNRs which it owns and manages.

We are copying our response to the Kennel Club's request to the Corporation of London so that both parties are sighted on our views and can refer to them in any forthcoming discussions about the dog control order proposals at Burnham Beeches.

1. Natural England has considerable experience in the use of statutory access restrictions and exclusions. It is the relevant authority in England for open access land (outside National Parks and Forestry Commission woodland) and all coastal margin. It also

issues statutory guidance to the other relevant authorities in England which are the National Park Authorities and the Forestry Commission.

2. Relevant authorities must decide whether it is necessary to restrict or exclude access rights on this land on a number of specified grounds. This includes consideration of access rights for people with dogs. Where we conclude on the basis of the available evidence that a restriction or exclusion is necessary, our policy is to adopt the solution which is the least restrictive on public access that will meet the need. This principle applies in relation to the period of any restriction on access rights, the extent of the restriction and the type of restriction.

3. We are currently in the process of dedicating NNRs in our freehold estate for public access. In doing so our use of access restrictions and exclusions to limit the dedicated rights is consistent with the evidence-based approach and least restrictive principle outlined above. There is a general restriction set out in the Countryside and Rights of Way Act 2000 (CROW) which means that people have no right under that Act to bring dogs with them on to dedicated NNRs from March 1st to July 31st unless they are on leads. The general restriction is not a Natural England direction: it is a provision of the legislation and does not necessarily reflect conservation needs of individual sites. To supplement this national requirement we have put in place a localised year-round dog exclusion in several enclosures at Ainsdale NNR and proposed a further localised dog exclusion at Gait Barrows NNR (the latter is not confirmed). Other than these directions we have not restricted access for people with dogs on our NNRs.

4. As a CROW relevant authority we must also be consulted on dog control order proposals that would affect open access land. Where consulted we offer advice about whether there is evidence to support the need for a dog control order on nature conservation grounds and, if there is, what in our view would be the least restrictive option that would meet the need. This is consistent with our policy and approach as relevant authority for access restrictions and exclusion on access land.

5. In our experience to date dog control orders 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 offer a specific view, recognising that order-making authorities are better placed to come to a view on this based on local circumstances. However, we acknowledge and support the Government's guidance that the use of dog control orders should be proportionate and enforceable and we always recommend that the best way to achieve this balance is by adopting the least restrictive approach that will address the need - in line with our practice as a CROW relevant authority.

6. In our decisions and advice as a CROW relevant authority we draw a wide body of evidence about the impacts of recreational access on wildlife including the impacts of access with dogs. English Nature (now Natural England) and the Countryside Council for Wales commissioned The Wildlife and Access Advisory Group Guidance 2001 (Penny Anderson Associates, 2001). The report, Countryside and Rights of Way Act, 2000 Part I: Access to the Countryside - Guidance for Statutory Authorities involved in assessing the nature conservation implications of a statutory right of access in England and Wales under section 26(NEC012), is a collation of available scientific research into the effects of access on nature conservation, undertaken up to 2001. It should be used in tandem with the supplementary 2008 report, Access and Nature Conservation Reconciliation: supplementary guidance for England by Lowen, J., Liley, D., Underhill-Day, J. & Whitehouse, A. (2008) (links to these Natural England publications are provided below). We are not aware of any research that supports the hypothesis that the nature conservation value of beech woodland habitat can be damaged by access with dogs, though that remains a theoretical possibility.

7. We are currently considering a recent study that may have a

bearing on the management of Burnham Beeches in that it suggests that the cumulative effect of footfall around the base of trees may affect their health. There is no suggestion in the study that this effect is caused primarily by dogs or that dogs are a significant contributory factor.

8. The last formal condition assessments of the parts of Burnham Beeches in the ownership or Corporation of London were in 2010. These concluded that it was in favourable condition. We share concerns held by the Corporation of London that the site may have deteriorated since then due to a range of possible factors linked to population increase. These include changes in air quality and hydrology and an increase the overall number of visitors to the site, including visitors with dogs. But we are not aware of any conclusive evidence to support that hypothesis or that would help to gauge the relative importance of any of those factors in the overall health of the woodland. In conclusion we can find no scientific basis for controlling dogs at Burnham Beeches on nature conservation grounds.

9. We have been asked by the Kennel Club whether we have any concerns that the extensive use of a dog control order requiring people to keep their dogs on leads may have the unintended effect of displacing dog walkers to other nearby sites with nature conservation designations which evidence shows are more sensitive to the potential effects of access than the beech woodland habitat at Burnham Beeches. Displacement is sometimes a concern for two connected reasons: (a) we know that off lead access is the single most important factor in people's decisions about where to go to walk their dog (links to research published by Hampshire County Council below) and (b) recent Kennel Club research shows that people who walk dogs say they are likely to respond to greater restrictions on access by visiting other places instead.

10. We are not currently concerned about the potential for dog control orders at Burnham Beeches to displace visitors to other designated sites nearby. There is one nearby site (Stoke Common SSSI) where bird species have been recorded that are known to be sensitive to access, but these were not breeding records. We would not expect a great increase in visitors to this site because there is not sufficient parking available to accommodate a significant number of new visitors, whom we believe are therefore more likely to visit other less sensitive sites where better parking facilities are available.

<http://publications.naturalengland.org.uk/publication/41007?category=211>

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<http://publications.naturalengland.org.uk/publication/44006?category=211>

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<http://www3.hants.gov.uk/psychology-dgo-walkers.pdf>

<http://www3.hants.gov.uk/shu-research-paper.pdf>

-----Original Message-----

From: Stephen Jenkinson [<mailto:steve@sjacm.co.uk>]

Sent: 28 February 2014 15:39

To: Chester, Andrew (NE)

Cc: 'Denisa Delic'

Subject: RE: Burnham Beeches information

Hello Andrew

Many thanks for this - I quite understand as the timescales are quite tight, but something next week would be really helpful.

To be honest I'm not sure much will change at the meeting on 10th, but the information from NE will still be very helpful for the consultation period.

Best wishes for now - have a good weekend.

Steve

-----Original Message-----

From: Chester, Andrew (NE) [<mailto:Andrew.Chester@naturalengland.org.uk>]

Sent: 27 February 2014 10:03

To: steve@sjacm.co.uk

Cc: Denisa Delic

Subject: RE: Burnham Beeches information

Hello Steve

Thanks for your email and sorry for the delay in replying. A few key people are on leave or out of the office so it's been difficult to agree a way forward.

We are going to put something together for you next week. We'll send the same thing to the Corporation of London so we do this in an even-handed way.

I hope that helps
Andrew

-----Original Message-----

From: Stephen Jenkinson [<mailto:steve@sjacm.co.uk>]

Sent: 23 February 2014 21:47

To: Chester, Andrew (NE)

Cc: 'Denisa Delic'

Subject: Burnham Beeches information

Hello Andrew

I hope you had a good weekend.

At the end of this week the next COL committee report on the proposed DCOs is published, with a committee meeting planned for 10 March.

To help us best respond to that in the most constructive way, we are keen to better understand NE's position and discussions on this issue.

That said, we very much appreciate your need to not be partisan on this issue, and very much value how you have tried to be constructive without unduly disclosing discussions on either side. We also don't want COL to be given an impression that you may have disclosed any more information than you needed to.

So formally the most appropriate way forward would seem to be to make a FOI request for this information, although we'd feel a tad uncomfortable in doing so, as we have no complaints about our dialogue with you or anyone at NE on this issue. Moreover, you promptly revised your response to the proposals once we had raised our concerns, and we have no desire to revisit or flush out the

discussions relating to that original position. Our aim is simply for the facts, and not to make for any discomfort within NE as a very valued partner.

Consequently, rather than make an FOI request, may I ask that Ne voluntary provides us with:

- . overview of advice, opinion or comment made in writing/email to COL or internally about its proposal for DCOs at Burnham Beeches
- . internal NE reports or comments about the appropriateness, justification or evidential basis of the latter proposed DCOs
- . any internal, or external, comments / discussions about adverse impacts on other greenspace/designated sites arising from displacement of walkers with dogs due to the proposed DCOs at Burnham Beeches
- . details of any NE assessments of the condition Burnham Beeches that show evidence of adverse impacts on the SSSI arising from visitors with or without dogs, in particular in relation to designated features

We really are not after a deep trawl of every piece of information, just the facts as they relate to this site, the DCOs and the influence of walkers with dogs on it.

If you feel you cannot provide the above information voluntarily, there's no offence taken and we understand the challenging situation you are in. However, we would be minded to make a FOI request if that was the case.

Also, if there is any of the latter information that NE would rather we didn't circulate more widely, please let us know as we'd seek to respect that.

Do feel free to give me a call if you'd like to discuss this further.

If the information could be provided by first thing 3 March 2014, that would be most helpful.

Finally, may we again express how disappointing it is to be in this situation in the first place. In my 11 years in advising the KC on access issues, I've never come across a situation where the restrictions proposed were as extensive as they are entrenched, even on sites with higher designations. We all really do wish there was a more collaborative way forward, or a desire by COL to not impose all possible elements of a DCO in one go.

Best wishes and thank you for your help

Steve

Stephen Jenkinson
Access Advisor to the Kennel Club

Access and Countryside Management

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02/26/14