

<b>Committee(s):</b>	<b>Date(s):</b>
Epping Forest and Commons Committee	16 January 2017
<b>Subject:</b> Future options for the Dog Control Orders at Burnham Beeches	<b>Public</b>
<b>Report of:</b> Superintendent of The Commons	<b>For Decision</b>

### **Summary**

This report considers the future options for the five existing Dog Control Orders (“DCOs”) at Burnham Beeches. A separate report to this January’s Committee reviews the effectiveness of those DCOs over the last two years, and indicates that they have greatly reduced the level of nuisance and serious incidents associated with irresponsible dog ownership. It is not therefore proposed that any of those DCOs should be revoked.

All DCOs are in the process of being phased out and replaced by Public Space Protection Orders (“PSPOs”). Any remaining DCOs will automatically be treated as PSPOs from 20 October 2017 – there is no requirement to take any specific action at that stage.

However, PSPOs may not have effect for more than three years, unless extended. As the DCOs at Burnham Beeches came into force on 1 December 2014, they must be extended by 30 November 2017, if they are to continue in force. It is therefore recommended that the Superintendent consult on a proposed extension of those Orders, and refer any representations back to your Committee for decision.

### **Recommendation(s)**

Members are asked to:

1. Authorise the Superintendent to consult on extending the effect of the existing DCOs at Burnham Beeches beyond 30 November 2017 as PSPOs.

## **Main Report**

### **Background**

1. Members have received a separate report to this January’s Committee regarding the five existing Dog Control Orders (“DCOs”) at Burnham Beeches. That report reviews the effectiveness of those DCOs in reducing negative

dog-related behaviours on site over the last two years, when compared with the previous period where they were governed by a voluntary dog walkers' code. It also looks at the impact of those DCOs on other issues, such as income generation and visitor numbers to the site.

2. Rather than duplicate that information, Members are asked to take those findings into account when making a decision on this report, which has been prompted partly by the completion of that review, and partly by legislative changes that require a decision to be made on the future of all existing DCOs.
3. DCOs were introduced by the Clean Neighbourhoods and Environment Act 2005, and the City was able to make DCOs at open spaces outside of its local authority area by virtue of the Control of Dogs (Designation of the Common Council of the City of London as a Secondary Authority) Order 2012.
4. That legislation is in the process of being repealed by the Anti-social Behaviour, Crime and Policing Act 2014, which introduced a new power to make Public Space Protection Orders ("PSPOs"). That power has again been granted to the City, in relation to open spaces outside of its local authority area, by the Anti-social Behaviour (Designation of the City of London Corporation) Order 2015.
5. PSPOs can be used to address a wider range of anti-social behaviour than DCOs, but including all of those matters previously covered by DCOs. The transitional arrangements are clear that the provisions of any surviving DCOs will automatically be treated as if they were the provisions of PSPOs from 20 October 2017 – there is no requirement to take any specific action.
6. However, whereas DCOs have no fixed expiry date, PSPOs may not have effect for more than three years, unless extended. The transitional provisions are silent as to how this should apply to 'converted' DCOs. Clarification was sought from DEFRA, but no response has been received. The best interpretation would seem to be that time starts to run from the date that they originally came into force. As the DCOs at Burnham Beeches came into force on 1 December 2014, they must therefore be extended by 30 November 2017, if they are to continue in force as PSPOs.

## **Options**

7. Before introducing DCOs at Burnham Beeches, your Committee had to be satisfied that this was a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them. Your Committee also had to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs. The same considerations apply when deciding whether existing DCOs should continue in force.

8. PSPOs must be reviewed every three years to ensure that they are still necessary. If the City is satisfied that a PSPO will continue to prevent the occurrence or recurrence of the detrimental activities identified in that order, or an increase in the frequency or seriousness of those activities, the PSPO can be extended for up to three years. There is no limit to the number of times that a PSPO can be reviewed or extended.
9. Officers have no evidence of a current need to extend the range of activities covered by PSPOs at Burnham Beeches. Should that situation change in the future a further report will be brought to your Committee.
10. Members are therefore asked to consider the following three options at this stage:
  - i. **Revoke one or more of the existing DCOs.** If Members are minded to revoke one or more of the existing DCOs, then the Superintendent should be authorised to place the necessary notice in a local newspaper, inviting representations in response to the proposal. If all of the existing DCOs were revoked, the site would revert to the pre-DCO situation whereby only the most serious dog-related incidents were enforced through prosecution under the byelaws. Nuisance or anti-social behaviour by dogs and their owners would rely upon the voluntary code of conduct previously used on the site.
  - ii. **Do nothing.** If Members decide to do nothing, then the existing DCOs will be treated as PSPOs from 20 October 2017 but will expire on 30 November 2017. Again, the site would then revert to the pre-DCO situation at Burnham Beeches whereby only the most serious dog-related incidents were enforced through prosecution under the byelaws. Nuisance or anti-social behaviour by dogs and their owners would rely upon the voluntary code of conduct previously used on the site.
  - iii. **Extend the existing DCOs as PSPOs.** If Members are minded to extend the effect of the existing DCOs beyond 30 November 2017 as PSPOs, then the Superintendent should be authorised to commence the necessary statutory consultation, as set out below. This option seeks to maintain the current position and continue the improvement in dog-related behaviour on site.

## Proposals

11. As the report on the impact of DCOs at Burnham Beeches over the last two years indicates that they have greatly reduced the level of nuisance and serious incidents associated with irresponsible dog ownership, and as the need for these restrictions is perceived to be ongoing, Option iii is the recommended approach.
12. Before extending a PSPO, the City must first consult:
  - i. The chief officer of police, and the local policing body for the area;

- ii. The local authority for the area (South Bucks District Council);
  - iii. Whatever community representatives the City thinks it appropriate to consult.
13. The full list of community representatives would need to be developed as part of the 2017 delivery timetable but would include the Burnham Beeches Consultation Group and site users at Burnham Beeches. Guidance from DEFRA states that, where PSPOs affect dog owners or walkers, they should also be consulted. This can be done in a variety of ways for example, through engaging with locally organised pet groups and national organisations, such as the Dogs Trust or Kennel Club.
14. The relevant parish councils and the county council must also be notified of the proposed extension, although they will in any event also be included in the consultation exercise.
15. Any proposal to extend a PSPO must also be publicised. Unlike with DCOs, there is no legal requirement to advertise details of a PSPO consultation in a local newspaper. However, as best practice, the DEFRA Guidance states that order-making authorities should where possible seek to do so, or investigate a suitable alternative to reach those most affected.
16. On completion of the necessary consultation, it is proposed to provide Members with a recommendations report in July 2017 for decision.

### **Corporate & Strategic Implications**

17. The proposals support the City's key policy priorities as follows:
- i. **KPP5.** Increasing the outreach and impact of the City's cultural, heritage and leisure contribution to the life of London and the nation by: Developing and improving the physical environment around our key cultural attractions; and providing safe, secure and accessible Open Spaces.

The proposals support the Open Spaces Departmental Objectives as follows:

- ii. Improve the health and wellbeing of the community through access to green space and recreation.

### **Implications**

18. The cost of the PSPO consultation and enforcement process is estimated at £21,000 including officer time, training, consultation costs and the provision of appropriate signage and other materials. These costs are based on experience gained in 2014 when the DCOs were introduced. All costs will be met from local risk budgets as shown in Table 1 below:

**Table 1 – estimate of delivery costs.**

<b>Activity</b>	<b>Cost</b>
Public Consultation	£7,500
Management time (estimated at 30 days)	£7,500
Staff Training	£2,500
Administration (set up, signage and notification)	£3,500
<b>Total estimated costs</b>	<b>£21,000</b>

## **Conclusion**

19. The provisions of any surviving DCOs will automatically be treated as if they were the provisions of PSPOs from 20 October 2017 – there is no requirement to take any specific action. However, whereas DCOs have no fixed expiry date, PSPOs may not have effect for more than three years, unless extended. As the DCOs at Burnham Beeches came into force on 1 December 2014, they must be extended by 30 November 2017, if they are to continue in force as PSPOs for a further three years.
20. As the DCOs at Burnham Beeches are considered to have greatly reduced the level of nuisance and serious incidents associated with irresponsible dog ownership over the last two years, it is recommended that the Superintendent consult on extending their effect beyond 30 November 2017 as PSPOs to maintain the current improvements in dog related behaviour and ensure that all visitors can continue to use and enjoy the site safely.

## **Appendices**

- None

### **Background Papers:**

- Dog Control Order Review. Report to EFCC – January 2017.

**Author:** Andy Barnard  
Superintendent, The Commons  
T: 0207 332 6676  
E: andy.barnard@cityoflondon.gov.uk