

<b>Committee(s):</b>	<b>Date(s):</b>
Hampstead Heath Consultative Committee	20 January 2014
<b>Subject:</b> Introduction of Dog Control Orders at Burnham Beeches	<b>Public</b>
<b>Report of:</b> The Superintendent of Burnham Beeches, Stoke Common and City Commons	<b>For Discussion</b>
<b>Summary</b>	
<p>This report was originally presented to the Epping Forest and Commons Committee on 13<sup>th</sup> January 2014 seeking their approval to proceed with the implementation of Dog Control Orders at Burnham Beeches.</p> <p>The Superintendent of Burnham Beeches, Stoke Common and City Commons will provide members with a verbal update following the EFCC's recent considerations on the matter.</p> <p><b>Recommendations</b></p> <p>The views of the Hampstead Heath Consultative Committee be received on the work being undertaken at Burnham Beeches to introduce Dog Control Orders.</p>	

### Main Report

#### **Background**

1. Burnham Beeches is designated as a Site of Special Scientific Interest, National Nature Reserve and Special Area of Conservation. In recent years it has become an increasingly popular area for dog walking due to 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).
2. In 2010 Members of the Epping Forest and Commons Committee approved the Burnham Beeches management plan 2010 – 2020. That document sets out the detail by which the City intends to achieve a balance between the needs of recreation, including dog walking and conservation whilst meeting its legal obligations.
3. The growing attraction of the site to dog walkers and the associated challenges this presents has been managed in a variety of ways. In 2004 and following extensive consultation with visitors, a 'Dog Behaviour Code' was introduced to set out the standards of dog behaviour expected of owners when visiting the site. More recently the Open Spaces Dog Policy and

associated agreement with the Kennel Club have restated the City's commitment to healthy exercise and good behaviour for dogs and their owners.

4. 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 31<sup>st</sup> May 2012. This enables the Common Council to make Dog Control Orders (DCO's) in its open spaces outside the City where the relevant Primary Authority has not already made an Order in respect of the same offence on the same land.
5. South Bucks District Council (SBDC) is the Primary Authority for Burnham Beeches and has confirmed that it does not intend to exercise these powers in the foreseeable future.
6. Given the sensitivity of Burnham Beeches and its national conservation designations it was agreed that Burnham Beeches should pilot on behalf of the Open Spaces Department, the approach to implementation of DCO's.
7. Dog Control Orders will be among those abolished by the relevant provisions of the Anti-social Behaviour, Crime and Policing Bill currently before Parliament.
8. Discussions are taking place with officials about the extent to which the Corporation could be permitted to make use of the new powers for the protection of public spaces in respect of its open spaces outside of the City.
9. The new powers will replace an array of existing powers, including anti-social behaviour orders and injunctions, drinking banning orders, individual support orders, litter clearing notices, defacement removal notices, 'Section 30' dispersal orders, premises closure orders, gating orders and dog control orders.
10. The new powers are likely to be introduced in autumn 2014 and whilst they will alter the detail of how dog control issues are managed it is sensible to assume that the principle of greater control over dog behaviour on public open spaces will remain. In addition the preparation for the introduction of the new powers is likely to require a similar approach to that of DCO's particularly in terms of informing the visiting public, consulting on their implementation and achieving improvements through enforcement.
11. On that basis it remains appropriate for Burnham Beeches to continue to pilot the introduction of DCO's to 'live test' the broad challenges presented by the use of enforcement tools to improve dog behaviour. This learning can then be applied across the Open Spaces as required albeit this will need to be adapted to the legislations in force at the time.
12. Information provided by the Remembrancer on this issue also encourages this approach

## **Current Position**

### ***The Site Survey***

13. Since the Superintendent's report of November 2013 the informal public consultation process, conducted by Footprint Ecology, has concluded. A total of 359 visitors were interviewed. The survey results are shown in Appendix 1. The 'headline' results are that:

**Schedule 1. Failure to remove dog faeces.** The large majority of interviewees supported the introduction of Schedule 1 across the whole site.

**Schedule 2. Failure to keep a dog on a lead in an area so designated.** The introduction of Schedule 2 was supported by the majority of interviewees across 50% of the site or less.

**Schedule 3. Failure to put and keep a dog on a lead when directed to do so by an authorised officer.** The introduction of Schedule 3 was supported by a large majority of interviewees across 50% or more of the site.

**Schedule 4. Permitting a dog to enter land from which dogs are excluded.** This was supported by a minority (37%) of interviewees.

**Schedule 5. Taking more than a specified number of dogs on to the land.** This Schedule was supported by the large majority of interviewees with 3 being the favoured maximum number followed very closely by 4.

### ***The Burnham Beeches Consultation Group (BBCG).***

14. The full survey results were presented to the BBCG on December 11<sup>th</sup> 2013. Members were given the opportunity to recommend one of several options regarding the implementation of Dog Control Orders at Burnham Beeches. That recommendation is shown in paragraph 20 below.

### ***The Kennel Club***

15. The consultation results were presented to the Kennel Club on 16<sup>th</sup> December 2013. Their formal comments are awaited but from the meeting it was clear they are likely to request that:

- a. The City reduces the size of the area for Schedule 2 with a consequent increase in the size of the area covered by Schedule 3. This request may be based upon the literal outcome of the informal survey and with less weighting on the wider issues presented in paragraph 22.
- b. The City increased the maximum number of dogs per owner from three to four. This is based upon similar decisions at other sites. It also matches this committees initial view on the matter.

### ***Natural England***

16. The Superintendent has ensured that Natural England (NE) is aware of the complexity, extent and nature of the issues at Burnham Beeches. NE do not have a policy covering the impact of dog walking and wildlife on Sites of Scientific Interest (SSSI), nor is it felt that there is currently sufficient evidence to support such a policy. This 'evidence gap' remains a fundamental issue for

the owners and managers of SSSI's and it may be many years before research is sufficient for their needs.

17. On that basis, NE have made 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 (Option/Map A).*

18. NE has also confirmed that they are content for the City of London, as owners and managers of the NNR, to formulate a local policy and reflect this via the introduction of DCO's.

**Proposals – Map A.**

19. The following proposal is based on the informal public consultation exercise and recommendation of the BBCG.

**Schedule 1.** This schedule will be applied across the whole site.

**Schedule 2.** To be applied to approximately 59% of the site.

**Schedule 3.** To be applied to approximately 41% of the site.

**Schedule 4.** No new dog exclusion zones will be created. Dogs will continue to be excluded from a small area around the café, as existing.

**Schedule 5.** The proposed maximum is 3 dogs per owner.

20. It should be noted that the areas covered by Schedules 2 and 3 do not exactly match the findings from the visitor survey, albeit they are as close as practicable (within 10% (40acres) to that ideal.

21. Other considerations not included in the survey include the City's duty under the NERC Act, 2006 to conserve biodiversity and DEFRA's requirement to ensure that DCO's are easily understood by visitors and can be reasonably and proportionately enforced on site. When all matters are considered 'in the round' the chosen proposal was favoured by the BBCG on the grounds that it:
- a. Provides a workable compromise in terms of a balance between recreation and nature conservation.
  - b. Ensures that all main access points either by car or foot are within Schedule 3. This greatly reduces the need for dog owners to have their pets on a lead as soon as they jump from the car or otherwise enter the site and thus greatly reduces enforcement difficulties.
  - c. Provides a very large area (222 acres) of the NNR for dogs to run free whilst remaining under effective control (definition previously agreed with the dog walking community).
  - d. Enhances the enjoyment and protection of children 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.

- e. Makes logical use of the internal roads to create a visible and easily understood boundary between Schedules 2 and 3. This will greatly facilitate visitor compliance and reduce the need for enforcement by Rangers.
  - f. The area for Schedule 3 is largely open in nature and owners whose dogs are not under effective control will be easily identified and approached.
  - g. Will deter regular dog walkers who park on the roadsides to the north of the site to avoid weekend car park charges.
22. The next step, should members agree, is to proceed to the statutory consultation stage. The timetable for this stage is set out in Appendix 2. It is at this point that the City must advertise its proposal to introduce DCO's in a local newspaper. The consultation period will last for 28 days to allow members of the public and any interested body to comment on the detail of the proposals. Once the consultation is completed the DCO's may be made and their implementation date advertised, in a second notice published in a local newspaper or, amended if deemed appropriate. However, if the proposals are significantly amended the process must be started again.
23. The next step, should members agree, is to proceed to the statutory consultation stage. The timetable for this stage is set out in Appendix 2. It is at this point that the City must advertise its proposal to introduce DCO's in a local newspaper. The date of implementation must also be advertised in local newspapers. The consultation period will last for 28 days to allow members of the public and any interested body to comment on the detail of the proposals. Once the consultation is completed the DCO's may be made as advertised or amended if deemed appropriate. However, if the proposals are significantly amended the process must be started again.
24. The Superintendent will seek guidance from the Comptroller and City Solicitor to ensure that the statutory elements of this exercise are met.

### **Corporate & Strategic Implications**

25. 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.

## Financial and Risk Implications

26. The cost of the DCO consultation and enforcement design process is estimated at £21,000 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 1 below:

**Table 1**

<b>Activity</b>	<b>Cost</b>
Research and informal Consultation (Footprint Ecology)	£7000
Management time (estimated at 30 days)	£7500
Staff Training (est)	£2000
Administration (set up)	£4500
<b>Total estimated costs</b>	<b>£21,000</b>

27. 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) of approximately £2000/annum. Given the anticipated income the overall cost of the scheme should be cost neutral.
28. The development of appropriate administration procedures is key to the success of the proposals. The Superintendent is considering this matter with the City Solicitor and District Enforcement who currently oversee the site's Parking Charge Notice administration.
29. Dog Control Orders will be among those abolished by the relevant provisions of the Anti-social Behaviour, Crime and Policing Bill (ABCP) currently before Parliament and greater clarity on the implications of this is desirable. The Remembrancer will continue to monitor progress of the ABCP through parliament and advise officers of its implications.

## HR Implications

30. 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.
31. The Rangers at Burnham Beeches currently issue parking tickets for failure to 'pay and display'. They will also enforce the DCO's (perhaps with the assistance of local PCSO's) and issue the FPN's. This will require additional 'appropriate training'.

## **Conclusion**

32. Dog walking at Burnham Beeches has grown in popularity over recent years. Incidents related to dog walking are recorded by staff and remain high despite proactive management such as the site's Dog Behaviour Code, waste removal and other 'dog friendly' services.
33. The site's byelaws 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.
34. DCO's offer additional controls and a more flexible approach to enforcement compared to the byelaws. This provides a rare opportunity to establish a proper balance between the needs of the many site users and the statutory requirement to enhance biodiversity (NERC, 2006).
35. The Kennel Club may request that changes are made to the proposals in this report with regard to Schedules 2, 3 and 5. Their final comments will be circulated shortly before the meeting of this committee.
36. The Superintendent proposes to commence the statutory consultation process early in February 2014 based on the proposals contained within this report. Appendix 2.
37. The Superintendent further proposes that, on satisfactory conclusion of that consultation process, he provides a final report to this committee in May 2014 to confirm the outcome.
38. The cost of implementation of DCO's at Burnham Beeches is currently estimated at £21,000.

## **Appendices**

- Appendix 1 – Summary results of the 2013 DCO informal consultation exercise.
- Appendix 2 – Delivery Timetable
- Map A – Specifying areas covered by each DCO.

## **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.

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