

Item No.	Classification: Open	Date: July14 2009	MEETING NAME Executive Member for Community Safety
Report title:		Introduction of Dog Control Orders for dogs on leads and dog fouling on the Aylesbury Estate (Part 2)	
Ward(s) or groups affected:		Walworth Community Council area	
From:		Director of Environment and Housing	

RECOMMENDATIONS

1. That the Executive Member agrees to the introduction of Dog Control Orders for all parts of the Aylesbury housing estate including grassed areas, shrub beds, play areas, balconies, footpaths, roadways, stairwells and walkways to which the public have access and which are open to the air on at least one side.
2. That the Executive Member agrees fixed penalty notices should be used for these offences and that the fixed penalty notices are set at £50 with no reduced rate for early payment.
3. That the Executive Member notes these Orders are made under the Clean Neighbourhoods and Environment Act 2005, Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 and the Dog Control Orders (Procedures) Regulations 2006.
4. That the Executive Member notes the introduction of these Dog Control Orders in this area will revoke and replace the Dogs (Fouling of Land) Act 1996.
5. That the Executive Member notes one of the requirements of the introduction of Dog Control Orders is to provide adequate signage for the area and that this signage will be provided by the Housing Management division.

BACKGROUND INFORMATION

6. In April 2009 the Executive Member for Community Safety, via the Individual Decision Making process, agreed that officers commence consultation on proposals to introduce Dog Control Orders on the Aylesbury Estate as a result of complaints received about dog control on the estate.
7. In order to make Dog Control Orders, a number of different criteria need to be satisfied. These include ensuring that a dog control order is a necessary and proportionate response to the problem, ensuring that the interests of all affected people are balanced and ensuring that the Orders can be properly enforced. These criteria were set out in the April 2009 report.
8. Consultation about the Dog Control Orders has been undertaken and the final date for representations was 2nd July 2009. This consultation process included two notices being published in the local press inviting representation, a presentation at Tenant's Council and attendance at Walworth Area Housing Forum. The results of this consultation are summarised in paragraphs 30 to 33.

Process for making Dog Control Orders

9. The process for making Dog Control Orders is set out in the table below.

	Activity	Date
1	Executive member to decide if the proposals will go ahead.	IDM signed off by Lead Member of Community Safety on 6 th April 2009
2	Publish a notice in a local newspaper circulating in the same area to which the proposed order will apply describing the proposed order, including identifying the land to which the order applies and summarising the order and invite representations on the proposal. The final date for representations must be at least 28 days after the notice appears.	Notices published on 7 th May and 4 th June 2009, final date for representations was 2 nd July 2009.
3	Consider representations and objections.	July 2009
4	If the order is to be made, a date must be decided for when the order will come into force. This must be at least 14 days after the order was made.	Propose order to be made on 20 th July and come into force on 3 rd August.
5	A notice must be published in a local newspaper circulating in the same area to which the order will apply at least 7 days before the order comes into force stating that the order has been made and where the order may be inspected.	To be published on 23 rd July 2009.

10. The two proposed Dog Control Order drafts are contained within Appendix 2 (Dogs on Leads Order).

KEY ISSUES FOR CONSIDERATION

11. The Council has a duty to keep the borough clean and safe for its residents. This includes dealing with dog fouling and controlling dog behaviour where possible in public spaces. Keeping housing estates free from uncontrolled animals and dog fouling will improve the environment and the perceptions of people within the estates and should have a positive impact on the fear of crime.
12. In the 2008 Mori poll Southwark residents cited street and estate cleanliness as one of the top issues that they would like the council to address with tackling dog fouling being mentioned as a top priority.
13. During the consultation for these orders, tenant representatives were enthusiastic about the Dog Control Orders on the Aylesbury Estate. Representatives from the Aylesbury welcomed the Dog Control Orders, and representatives from other estates expressed interest in having Dog Control Orders introduced on their own estates.
14. The fixed penalty notice level of £50 was chosen because all other areas in the borough are subject to a £50 fixed penalty notice for dog fouling and the fine levels for the Aylesbury estate needed to be consistent with this.

Enforcing the proposed Dog Control Orders

15. When a person breaches a dog control order for the first time they will be issued with a fixed penalty notice. If the fixed penalty notice is not paid or if the person breaches the dog control order again they will be prosecuted.
16. Enforcement will be undertaken by the Environmental Enforcement Unit. Wardens within the Aylesbury Community Reassurance Team will also issue fixed penalty notices for offences and will be supported by enforcement officers if they need to prosecute. Enforcement officers are experienced in issuing fixed penalty notices and prosecuting offenders. Wardens also have experience of issuing fixed penalty notices. Housing officers will provide information to enforcement officers to facilitate enforcement of these orders, but will not at first be enforcing the orders.
17. Enforcement will take place both during targeted dog operations and on an ad hoc daily basis when officers are patrolling the estate.

Signage

18. The Housing Management division within Environment and Housing will provide signage for the estate summarising the Dog Control Orders. Signage will be placed at regular intervals on the estate. All green spaces on the estate will have signage prominently placed.
19. The signs will be visual with pictorial images of what dog owners are expected to do and with details of the penalties for non compliance. Details of where to find more information will also be included on the signs. The signs will be designed to corporate guidelines and the design will be signed off by the Corporate Communications Team.
20. The Aylesbury Estate requires thirty six signs. The signs will be placed in areas of prominence in the main green spaces on the estate and the main entrances to the estate. These signs will be in place towards the end of July 2009.

Communicating the proposed Dog Control Orders

21. A series of public dog events are planned for July and August 2009 on the estate, which will involve communicating the orders via drop in sessions, dog training advice and microchipping. Posters about the orders will be displayed on the 12 community notice boards on the estate, and a letter drop to all properties on the estate will be undertaken. All four tenants association meetings will also be attended in July to communicate the orders.
22. The Aylesbury Community Reassurance Team, a team of council officers and police officers, will also undertake events and communication to assist in the awareness raising about Dog Control Orders. This team is based on the Aylesbury every day and has excellent links with local residents.
23. The communications department will co-ordinate press releases and advise on the educational materials for Dog Control Orders.

Community Impact Statement

24. Dog owners in Southwark are from many different backgrounds, ethnicity, sexual orientation, religions, genders and ages and therefore the introduction of Dog Control Orders does not have any specific implications for any particular group of people in the community.
25. Communication of the proposed Dog Control Orders will be comprehensive and will ensure that face to face communication with dog owners is maximised through events. Any written materials will be in basic English and will include pictorial images and will be offered in different languages, so that people that don't speak, read or write English will not be negatively impacted.
26. Sometimes dogs are owned and used by people with disabilities, such as blind, hearing impaired and people with other registered disabilities. Registered blind people and other people with assistance dogs (with the exception of registered deaf people) are exempt from Dog Control Orders for dog fouling. The dog control order for dogs on leads does apply to all registered disabled people, however these cases will be examined on an individual basis before a decision is made about whether enforcement of the Dog Control Orders is appropriate. This will ensure that disabled people with assistance dogs are not negatively impacted by this initiative.

Resource Implications

27. The costs of the legal process of making the Dog Control Orders will be contained within the current budget of the department and Creative Design Unit.
28. Enforcement and education of the Dog Control Orders will be contained within existing budgets of the Environment and Housing department and the Aylesbury Community Reassurance Team.
29. Signage for the Dog Control Orders will cost approximately £2,500. The Housing Management division will meet these costs.

Consultation

30. Notices appeared in the Southwark News in May and June 2009 asking for representations about the proposed Dog Control Orders. Representations were requested up until 2nd July 2009.
31. One representation was received. This was from a resident of the Hawkstone Estate in Rotherhithe requesting for Dog Control Orders to be introduced in Rotherhithe.
32. Officers attended Tenants' Council on 20th April to outline the Dog Control Order proposals and to request representations. Feedback from the Tenant Association representatives was that Dog Control Orders were a good idea and that other housing estates would like to see them introduced in the future.

33. Officers attended Walworth Central Area Housing Forum on 9th June to ask for feedback about the proposed Dog Control Orders. The tenant representatives said that they supported the introduction of Dog Control Orders on the estate and stated that the estate had suffered from 'out of control' dogs.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

34. The Executive Member is asked to agree to the initiation of the process for the making of Dog Control Orders, in respect of the Aylesbury Housing Estate, to allow effective enforcement of dog fouling and dangerous dogs.
35. Part 6 of the Clean Neighbourhoods and Environment Act 2005 ("the Act"), The Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 ("the offence regulations") and The Dog Control Orders (Procedures) Regulations 2006 ("the procedures regulations") empower Southwark Council to make Dog Control Orders that prescribe offences for:
- a) Failing to remove faeces deposited by a dog on land in respect of which a Fouling of Land by Dogs Order applies.
 - b) Failing to keep a dog on a lead in respect of which a Dogs on Leads Order applies
 - c) Failing to put and to keep, a dog on a lead, when directed to do so by an authorised officer, on land in respect of which a Dogs on Leads by Direction Order applies.
36. The Executive Member should be aware that a separate order will need to be made in relation to each prescribed offence. Schedules to the offence regulations provide the precise wording required to be used for specifying the offences and they provide the forms and wording to be used for each order relating to each offence.
37. The Executive Member should note that the Council is obliged to follow a consultation process set out in the procedure regulations. This will include publishing a notice, which meets the requirements of the procedure regulations, in a newspaper circulating in the area of the Aylesbury Housing Estate. The notice must state the period within which representations may be made in writing or by e-mail, such period being not less than 28 days after the publication of the notice. At the end of the consultation period the authority must consider any representations that have been made.
38. The Executive Member should note that before any dog control order is made in respect of the Aylesbury Housing Estate all relevant representations and other relevant evidence associated with the issues of dangerous dogs (the need for dogs to be kept on leads) and dog fouling, on all parts of the Aylesbury Housing Estate which are open to the air, should be considered. Relevant evidence will include surveys and operations carried out by the Authorities Officers. 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 and areas where dogs are kept under strict control and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions. The proximity of the Aylesbury

Housing Estate to Burgess Park is particularly relevant in this regard. Dog Control Orders should only be made if they are considered to be a necessary and proportionate response, having taken into account all relevant evidence, to the problems caused by the activities of dogs and those in charge of them.

39. The options and implications of those options are as follows:
- a) To make an order(s) to control dangerous dogs by requiring that they are kept on leads/ put on leads as directed. If any dog control order is made then the present regime for the control of dog fouling under the Dogs (Fouling of Land) Act will cease to have effect. Therefore, if a decision is made to make an order for dogs to be kept on leads then an order to control dog fouling will also have to be made in order to be able to continue to enforce that aspect of dog control.
 - b) To make an order to control dog fouling and dangerous dogs.
 - c) To make an order to control dog fouling only. This would replace the current order in place under the Dogs (Fouling of Land) Act.
 - d) To do nothing. The current order under the Dogs (Fouling of Land) Act would continue in place. There would be no requirement to keep dogs on leads.
40. The Executive Member should be aware that any dog control order may only be made in relation to any land which is “open to the air”, this includes covered land if it is open to the air on at least one side. Consideration should be given to how easy a dog control order would be to enforce, since failure to properly enforce could undermine the effect of an order.
41. The penalty for any offence in a dog control order is, on summary conviction, a fine not exceeding level 3 on the standard scale. The Executive Member should be aware the Act provides for the use of a Fixed Penalty Notices (“FPN”) regime that allows “authorised officers” to issue Fixed Penalty Notices to those who contravene a dog control order allowing them the opportunity to discharge their liability to conviction by payment of a fixed penalty within a period of 14 days or allows for an authority to introduce a lesser fixed penalty if paid within a specified lesser time.
42. The Executive Member should be aware that there are notification requirements upon the making of a dog control order laid down by the procedure regulations. This includes ,within a period of not less than seven days before the day on which the order is to come into force, place signs summarising the order in conspicuous positions on or near the land in respect of which it applies, publish, in a local newspaper circulating in the area in which the land in respect of which the order applies is situated, a notice that the order has been made and stating the place at which it may be inspected and copies of it obtained and make this information available on the council’s website. The date of coming into force of a dog control order shall be at least 14 days after the date on which the order is made.

Finance Director

General Fund (ENV/ET/110309)

43. The Head of Community Safety and Enforcement has confirmed that the costs of implementing the proposals will be contained within his existing budget. The signage for the estates costing £2,500 will be chargeable to Housing Revenue Account.

Housing Revenue Account (HSF/ FIN 0471 / SB)

44. The anticipated costs of the signage associated with this project of £2,500 will be met from the existing budget of the Housing Management division of the Environment and Housing Department. The funding for this part of the project is therefore to be met from the HRA.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Defra guide to Dog Control Orders	Chaplin Centre Thurlow Street London SE17 2DG	Gemma Gallagher 0207 525 2407
Procedure for enforcing Dog Control Orders	Chaplin Centre Thurlow Street London SE17 2DG	Gemma Gallagher 0207 525 2407
SASBU file of work undertaken for dog control on Aylesbury Estate	Chaplin Centre Thurlow Street London SE17 2DG	Jackie Mulholland 0207 525 2284

Appendices

No.	Title
Appendix 1	Draft fouling of land by dogs order
Appendix 2	Draft Dogs on Leads order

Audit Trail

Lead Officer	Gill Davies, Strategic Director of Environment and Housing	
Report Author	Jonathan Toy, Head of Community Safety	
Version	Final	
Dated	July 14 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Chief Finance Officer – comments from both Housing finance and other finance	Yes	Yes
Head of Housing Management	Yes	Yes
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services	July 14 2009	

Introduction of Dog Control Orders for dogs on leads and dog fouling on the Aylesbury Estate (Part 2)

Appendix 1

Draft Fouling of land by Dogs Order

The Clean Neighbourhoods and Environmental Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006

The Fouling of Land by Dogs London Borough of Southwark Order 2009

The London Borough of Southwark make the following Order:

1. This Order comes into force on 3rd August 2009.
2. This Order applies to the land specified in the Schedule.

Offence

3. If a dog defecates at any time on the land to which this Order applies and a person who is in charge of the dog at the time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless;
 - a) He has reasonable excuse for failing to do so; or
 - b) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
4. Nothing in this article applies to a person who;
 - a) Is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - b) Has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon whom he relies for assistance.
5. For the purpose of this article;
 - a) A person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - b) Placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be sufficient removal from the land;
 - c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
 - d) each of the following is a "prescribed charity" ;
 - (i) Dogs for the Disabled (registered charity number 700454)
 - (ii) Support Dogs (registered charity number 1088281)
 - (iii) Canine Partners for Independence (registered charity number 803 680)

Penalty

6. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Schedule

7. This order requires people in control of a dog to immediately remove faeces deposited by their dog and applies to all parts of the Aylesbury housing estate including grassed areas, shrub beds, play areas, balconies, footpaths, roadways, stairwells and walkways to which the public have access and which are open to the air on at least one side.
8. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39 (1) of the Forestry Act 1967.

THE COMMON SEAL of
Southwark council
was hereinto affixed to the
day of in the presence of:

Strategic Director

Introduction of Dog Control Orders for dogs on leads and dog fouling on the Aylesbury Estate (Part 2)

Appendix 2 **Draft Dogs on Leads Order**

The Clean Neighbourhoods and Environmental Act 2005
The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006
The Dogs on Leads London Borough of Southwark Order 2009

The London Borough of Southwark make the following Order:

1. This Order comes into force on 3rd August 2009.
2. This Order applies to the land specified in the Schedule.

Offence

3. A person in charge of a dog shall be guilty of an offence if, at any time, on any land to which this order applies he does not keep the dog on a lead, unless;
 - (a) He has reasonable excuse for failing to do so; or
 - (b) The owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
4. For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

5. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Schedule

6. This order applies to all parts of the Aylesbury housing estate including grassed areas, shrub beds, play areas, balconies, footpaths, roadways, stairwells and walkways to which the public have access and which are open to the air on at least one side.
7. Excepted from the description in paragraph 1 above is land that is placed at the disposal of the Forestry Commissioners under section 39 (1) of the Forestry Act 1967

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