

MIDDLESBROUGH COUNCIL

EXECUTIVE REPORT

Albert Park Dog Control Order Review
The Mayor
Director of Environment: Mike Robinson
31 August 2010

PURPOSE OF THE REPORT

1. To report back to the Mayor as requested on a review of the Dog Control Orders that were applied to Albert Park in 2009.
2. To ask the Mayor to consider the evidence presented in this report and the evidence submitted by objectors to the Order, and determine a course of action. The Orders could continue as existing, or could be amended, or revoked.

SUMMARY OF RECOMMENDATIONS

3. That the Mayor makes a determination on the future position with regard to Dog Control in Albert Park.

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

4. It is over the financial threshold (£75,000)
It has a significant impact on 2 or more wards
Non Key

DECISION IMPLEMENTATION DEADLINE

5. For the purposes of the scrutiny call in procedure this report is

Non-urgent
Urgent report

If urgent please give full reasons

BACKGROUND AND EXTERNAL CONSULTATION

6. The Clean Neighbourhoods and Environment Act 2005 gives Local Authorities powers to determine if a dog control order should apply where it is considered a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them. The manager of Albert Park requested consideration be given to the introduction of a dog control order within the park, to assist with proper management and protect public safety. An extensive public consultation was carried out over a four-month period. This attracted significant public comment, and resulted in eight proposals being considered including a 'do nothing' option. A full list of the options considered is reproduced in Appendix 1 to this report.
7. After careful consideration, in October 2009, the Executive declared that two Orders should operate in Albert Park, which are based on the proposal that went to public consultation. The effect of the Orders was:
 - To require people in charge of dogs to pick up fouling
 - To prohibit dogs from two fenced-off play areas
 - To require dogs to be kept on a lead in three of the four park 'quadrants'. A 15 acre (62,000 square metres) off-lead area was designated in the south-west quadrant of the park where dogs can run free.

Appendix 5 shows the areas on a map of the park.

8. On making this decision, the Executive asked for a review to be carried out so that the full impact of the Orders could be assessed, and a report to be brought back for consideration. The review forms the basis of this report which is detailed to ensure comprehensive information is provided. On 17th August the Executive met to consider this report. The meeting was attended by a number of objectors and the Executive heard evidence from their representatives. A petition and a written paper were also presented to the Council at the meeting. The written paper is included as Appendix 6 to this report. As a result the Executive determined to adjourn the decision and give the objectors to the Orders time to prepare a further submission to be considered at a special meeting to consider the matter. These have now been received and are included as appendix 7 and 8 to this report.

Incidents in the Park

9. Between November 2009 and May 2010, twelve reports have been received from park staff about dogs causing problems that are relevant to the rules of the Orders.
 - The lead requirement - ten relate to dogs fighting with other dogs or harassing other park users. Six of these concerned dogs that were off-lead in the on-lead area in breach of the Order, and therefore could have been avoided if the dog owners were complying with the law. The

remaining four incidents occurred in the off-lead area, which means that people were not properly controlling their dogs.

- Dog Exclusion area - one relates to a stray dog in the exclusion area that popped a child's ball.
- Fouling – one relates to fouling in general on the cycle track.

10. Another three complaints were about behaviour incidents between dog owners or dog owners and park runners. Seven complaints were also received about stray dogs in the park, which were beyond the scope of the Dog Control Orders. By comparison there were 17 incidents between November 2007 and May 2008 and 14 between November 2008 and May 2009. The Orders have therefore had a positive effect on park safety but this has been limited by the level of non-compliance with the Orders. If there was full compliance the number of incidents would have been reduced by a further six leading to a significant improvement.

Compliance with the Orders

11. On-site park staff have been conducting surveys of the park and recording how many dog owners were complying with the Orders and how many were not. The main area of non-compliance was found to be the lead requirement. The tables below show the number of people with dogs complying with the Orders as a percentage of the total number of dog owners in the park. This has revealed an overall compliance rate of 81%, which is a little disappointing given the extensive publicity surrounding the issue and signage throughout the park. The dates and times of the surveys were also recorded to assess whether there were any trends in compliance rates.

% of Dog Owners Complying With the Orders - Day of the Week

Day of the Week	Compliance Rate (%)
Sunday	70
Monday	85
Tuesday	86
Wednesday	87
Thursday	72
Friday	86
Saturday	84

% of Dog Owners Complying With the Orders -Times of Day

Hour of the Day	Compliance Rates (%)
6am – 7am	Not checked
7am – 8am	0
8am – 9am	81
9am – 10am	89
10am – 11am	81
11am – 12pm	68

12pm – 1pm	89
1pm – 2pm	83
2pm – 3pm	79
3pm – 4pm	94
4pm – 5pm	100
5pm – 6pm	73

The above analysis would appear to indicate that dog walkers are less likely to comply with the Orders early-morning, and on a Sunday.

Enforcement of the Orders

12. The Orders have been enforced by uniformed Community Protection staff and Street Wardens. To date the policy we have followed is:
- For the first month of operation (November 2009) time was spent on awareness raising to allow the new rules to bed in and to give park users time to adapt their routines.
 - From December onwards first-time offenders were given verbal or written warnings, and records kept for future reference.
 - Second or subsequent offences have been dealt with by issuing a fixed penalty notice.
 - If a dog in breach of the Order was causing a problem e.g. was attacking another dog or frightening other park users, a fixed penalty or prosecution would be taken regardless of whether any previous warnings had been given.
13. Up until May 2010, 40 warnings have been issued. Two repeat offenders have been caught in breach of the off-lead requirements. One was issued with an £80 fixed penalty notice. The other, who due to his personal circumstances has difficulty in complying with the Orders has been resolved. Enforcement staff were not present when the six dog incidents in the on-lead area identified in paragraph 9 were ongoing, otherwise fixed penalty notices could have been issued. Staff have occasionally been threatened by park users when carrying out enforcement, and obstructed in the course of their duties e.g. by people refusing to give their details. As a result visible body-worn video equipment has been used, to provide an independent record of events. This has led to enquiries, a comment being received and a letter in a local newspaper alleging intimidating appearance of the staff. There have also been conflicting comments suggesting that too much and too little enforcement was undertaken.

Comments Received about the Operation of the Orders

14. Comments have been received both for and against the Orders and also neutral comments including suggestions for amendments to the Orders. A list of these is appended to this report in Appendices 2, 6, 7 and 8, together with officer comments on some of the issues raised. Information has been

compiled from comments made directly to the Council, press features and internet blogs.

15. Comments in support of the Orders include evidence from someone allergic to dogs, from park runners, from dog owners who say the off-lead area is sufficient, from people concerned about dog attacks, a comment in support of the enforcement staff and the use of overt body-worn video, and from people supporting the provision of different areas for different park users and uses. Many of the people supporting the Orders are dog owners.
16. Comments against the Orders include suggestions that they were brought in to support people from a different ethnic background, that the Orders impose unfairly on responsible dog owners and well-trained dogs, that the off-lead area is not big enough, that the Orders were affecting the physical and mental health of dog owners. Comments were also submitted identifying conflict between the Parkrun and dog owners and a suggestion that this has been exacerbated by the Order, a suggestion that 'fines' had been issued and a comment that enforcement staff were intimidating, that the original consultation was flawed, that there are other problems in the park more pressing for Middlesbrough Council to resolve, that the on-lead requirement is difficult to comply with for two disabled commentators, and a comment querying the lead length of 2m. It appears that all the adverse comments came from dog walkers, and analysis shows that some have commented many times via different methods inflating the numbers of comments.
17. General comments, and suggestions for variations to the Orders, were also received. These include a comment that less mobile people approaching the park from Valley Road would have to walk further to let their dogs off lead, that the tension between runners and dog walkers is not a good thing, that a small handful of dog walkers are out to cause trouble, that most people are complying with the Orders, that Albert park is a fantastic free facility and a wonderful space, that they have never seen an enforcement officer, that dogs should be able to exercise normal behaviour and promoting responsible ownership. Comments were received suggesting amendments to the off-lead area – one map was sent in which can be seen in Appendix 3 and another suggestion was made for the outside perimeter of the park to be off-lead so dog walkers could walk a circuit of the park. Another suggestion was made for seasonal on-lead requirement from April to September.

Dog Walkers and the Parkrun

18. The operation of the Orders to date has highlighted a difference in priorities between park users and dog walkers. The weekly Parkrun occurs every Saturday for approximately an hour. It is not clear from comments received if this was an existing conflict when the Orders came into force because opinions differ. There has been some hostility between the groups, with runners claiming they trip over dogs and dog walkers claiming the runners kick or strike the dogs. It is difficult to say whether the Orders have made this situation worse because again there is no agreement between the contributors. It is not possible to re-route the Parkrun to avoid the off-lead

area because of the significant size of the off-lead area. One possible step to reduce confrontation would be to improve the control of off-lead dogs when the Parkrun is ongoing e.g. to make the whole of the park an on-lead area, at least for the short period of the run or to delay the opening of the park to the general public until 10am on a Saturday.

Amendments to the off-lead area

19. The on-lead requirement of the Orders is the only requirement that has caused conflict. Two suggestions have been received for amendments to the off-lead area, both from dog owners and these are fairly similar. Mr Smith submitted a map shown in Appendix 3 and Mr Charlton gave a verbal description to a Council officer of an off-lead area around the perimeter of the park.

Dog Control in Middlesbrough

20. Discussions about dog control in Albert Park could be considered in the wider context of the whole Borough. Dogs can exercise freely in Middlesbrough in at least 30 large and available open areas provided dogs are kept under reasonable control. These are identified in Appendix 4. The only requirement in these areas is to pick up dog fouling as a requirement of the Dogs (Fouling of Land) Act 1996. Other Dog Control Orders apply in six council-run cemeteries, Teesside Crematorium grounds, and in Centre Square and surrounds. These Orders require dogs to be kept on a lead and to pick up fouling, and do not allow for an off-lead area.
21. The Department of the Environment, Food and Rural Affairs produced guidance on the use of Dog Control Orders stating that Local Authorities 'need to balance the interests of those in charge of dogs against those affected by the activities of dogs, bearing in mind the need for people, particularly 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'. Currently dogs are permitted free exercise in the majority of public open spaces in Middlesbrough with the usual proviso that dog exercise must be undertaken responsibly. Only one in three households is thought to have a dog.

EQUALITY IMPACT ASSESSMENT

22. The original Equality Impact Assessment has been revisited as part of the review to assess the impact of the order in light of the evidence and consultation feedback. The Equality Impact Assessment found no adverse impact based on the evidence.

OPTION APPRAISAL/RISK ASSESSMENT

23. Three new options are put forward as part of the review

Option 1 – Do Nothing

This option would mean the Orders would remain in force as first declared. This is the correct option if the Mayor considers:

- That this review has not identified any compelling reason to change the Orders,
- Adequate provision for dog walkers exists in the park and elsewhere in Middlesbrough
- The Orders have improved the perception of public safety and the management of the park.

Option 2 – Amend the Dog Control Orders

The Mayor may wish to consider the evidence presented in this report, and the comments submitted by the public, and determine whether there is a case for amending the Orders. There is some evidence to suggest that the Orders could be amended to make the whole of the park an on-lead area, at least during the parkrun, to avoid accidents with loose dogs. Another alternative would be to delay the opening of the park to the general public on a Saturday morning until 10am when the run has ended. This option could improve public safety and minimise clashes during the parkrun. If the Mayor wishes to explore this option, or any other proposals to the amend Orders, it requires further public consultation, local advertisements, and a further Executive decision based on the feedback received.

Option 3 – Revoke the Dog Control Orders

To revoke an Order would require a new public consultation, local advertisements, and a further Executive decision based on the results. This option is available should the Mayor consider it worth exploring.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

24. **Financial Implications** – To continue with the operation of the Orders in their current form would not bring additional costs. If the Orders were to be amended or revoked the cost of another new public consultations would be in the region of £1,500 for public adverts and associated officer time. If the infrastructure of the park needed to be changed there would also be additional costs for new or amended signs, depending on the extent of the change introduced.
25. **Legal Implications** – If the Mayor determines to continue the Orders as existing there are no new legal implications. Should the Mayor determine to amend or revoke the Orders, then a repeat of the original public consultation process must be carried out, and a further Executive report be submitted to consider the results.
26. **Ward Implications** – Albert Park is located in Park ward but users from all over Middlesbrough and beyond use this facility.

RECOMMENDATIONS

27. That the Mayor considers the evidence presented in this report and the evidence submitted by objectors to the Order, and determines a course of action.

REASONS

28. To determine the future of Dog Control in Albert Park.

BACKGROUND PAPERS

The Fouling of Land by Dogs and Dogs on Leads (Middlesbrough Albert Park) Order 2009

The Dogs Exclusion (Middlesbrough Albert Park) Order 2009

DEFRA Guidance 'Dog Control Orders'

Executive Report 'Dog Control Order Albert Park' dated 18th August 2009.

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