

Cabinet Member for Environment

Agenda

Date: Monday 23rd July 2012
Time: 10.00 am
Venue: The Tatton Room - Town Hall, Macclesfield SK10 1EA

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and on each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

To receive any apologies for absence

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and/or any disclosable pecuniary interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

For requests for further information

Contact: Paul Mountford

Tel: 01270 686472

E-Mail: paul.mountford@cheshireeast.gov.uk with any apologies

4. **Proposed Dog Control Orders for The Carrs, Wilmslow** (Pages 1 - 52)

To consider a report on consultation responses received and to determine whether to make Dog Control Orders for The Carrs, Wilmslow

5. **Regularisation of Market Provision** (Pages 53 - 60)

To consider a report requesting the consolidation of the existing market rights by the application of the powers within Part III of the Food Act 1984 (as amended)

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Cabinet Member for Environment

Date of Meeting:	23 July 2012
Report of:	Head of Community Services
Subject/Title:	Proposed Dog Control Orders for The Carrs, Wilmslow
Portfolio Holder:	Councillor Rod Menlove

1.0 Report Summary

- 1.1 This report provides background in relation to the recent consultation exercise on proposed 'dog control orders' in relation to specified areas of land at The Carrs in Wilmslow and requests that the Cabinet Member considers the consultation responses received.

2.0 Decision Requested

- 2.1 The Cabinet Member for Environmental is requested:

- 2.1.1 to consider the consultation responses received and to determine whether to make, with or without amendment, the following orders:

(a) the Fouling of Land by Dogs (The Carrs, Wilmslow) Order 2012 (as set out within Appendix A);

(b) the Dogs (Specified Maximum) (The Carrs, Wilmslow) Order 2012 (as set out within Appendix B);

(c) the Dogs on Leads (The Carrs, Wilmslow) Order 2012 (as set out within Appendix C); and

(d) the Dogs on Leads by Direction (The Carrs, Wilmslow) Order 2012 (as set out within Appendix D).

- 2.1.2 if approval is given for the making of order(s) within 2.1.1 above, to authorise the Borough Solicitor, or officer acting on her behalf, to make and bring into force the order(s) and to give notice thereof in accordance with statutory requirements.

- 2.1.3 subject to 2.1.1 above, to determine that the level of fixed penalty notice in relation to offences under the proposed dog control orders will be £75.

3.0 Reasons for Recommendations

- 3.1 On 30th April 2012 the Cabinet Member for Environment provided approval for a statutory consultation exercise in relation to proposed 'dog control orders' for The Carrs, Wilmslow. The consultation period concluded on 21st June 2012 and a number of responses have been received. The Cabinet Member is therefore requested to consider the consultation responses and to determine whether to provide approval for the making of the orders.

4.0 Wards Affected

- 4.1 Wilmslow West and Chorley

5.0 Local Ward Members

- 5.1 Councillor Gary Barton and Councillor Wesley Fitzgerald

6.0 Policy Implications including - Carbon Reduction, Health

- 6.1 The Council's Corporate Plan (2011- 2013) specifies the corporate objective of enhancing the Cheshire East environment, which includes the aim of "providing clean and well-maintained streets, public spaces" and protecting "our heritage, natural and recreational environment for the benefit of local communities."

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 If approval is given for the making of order(s) there will be costs associated with the publication of a statutory notice in a local newspaper. These costs, which are estimated to be in the region of £800, will be met from existing budget provision within the Community Wardens' budget.
- 7.2 If dog control orders are made, in accordance with regulations 3(4)(a) of the Dog Control Orders (Procedures) Regulations, where practicable signs must be placed summarising the order on land to which a new order applies. There would be cost implications (of approximately £500) relating to the acquisition of such signage to be placed on site.
- 7.3 As set out within the legal implications below, the Council has the discretion to set a level of fixed penalty notice between £50 and £80. The default position, if the Council doesn't specify an amount is £75. The recommendation to the Cabinet Member is that the fixed penalty notice level is set at £75; this is in line with the level set by the Council for fixed penalty notices which fall within the same bracket.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Part 6 of the Clean Neighbourhoods and Environment Act 2005 ('the 2005 Act') provides local authorities with the discretionary power to make orders known as

'dog control orders' in relation to the following: (a) fouling of land by dogs and the removal of dog faeces; (b) the keeping of dogs on leads; (c) the exclusion of dogs from land; and (d) the number of dogs which a person may take onto any land.

- 8.2 Section 57 of the 2005 Act prescribes the land to which dog control order may apply, being any land which is open to the air (including covered land which is open to the air on at least one side) and to which the public are entitled or permitted to have access (with or without payment). Secondary legislation (the Control of Dogs (Non-application to Designated Land) Order 2009) that the powers to make dog control orders do not apply (i) to land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967; and (ii) in so far as they relate to the exclusion of dogs from land, land which is or forms part of a road.
- 8.3 The form of words which must be used in relation to dog control orders is prescribed within the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006 ('the 2006 Regulations'), including orders relating to the offences of: (i) the fouling of land by dogs; (ii) not keeping a dog on a lead; (iii) not putting and keeping a dog on a lead under direction; (iv) permitting a dog to enter land from which it is excluded; and (v) taking more than a specified number of dogs onto land. The 2006 Regulations also prescribe that the penalty in relation to these offences is, on summary conviction, a fine not exceeding level 3 on the standard scale (i.e. £1,000).
- 8.4 The procedure for making a dog control order is set out within the Dog Control Orders (Procedure) Regulations 2006 ('the Procedure Regulations') and includes the publication of notice of the proposals in a local newspaper with a minimum twenty-eight day period within which representations in relation to the proposals may be made. The Council was also required to consult the relevant 'secondary authority,' in this case Wilmslow Town Council.
- 8.5 If, following consideration of any consultation responses received, a local authority determines to make a dog control order, it is required by virtue of the Procedure Regulations, not less than seven days before the order comes into force to: (a) where practicable, place signs summarising the order in conspicuous positions on or near the land in respect of which it applies; (b) publish a notice relating to the making of the order in a local newspaper and on the Council's website; and (c) send information about the making of the order to the relevant secondary authority (i.e. the Town Council). The 2006 Regulations additionally provide that a dog control order may not come into force before the period of fourteen days from the date on which the order was made.
- 8.6 Section 59 of the 2005 Act makes provision for the issue, by an authorised officer, of a fixed penalty notice as an alternative to prosecution for an offence within a dog control order. The statutory default level of fixed penalty notice is £75, however the local authority may determine the level, subject to the limitations within the Environmental Offences (Fixed Penalty Notices) (Miscellaneous Provisions) Regulations 2007 ('the 2007 Regulations'). The 2007 Regulations state that the amount of a fixed penalty notice must not be

less than £50 and not more than £80 and any lesser amount for payment within a prescribed period must not be less than £50. It is suggested that the level of fine set should be proportionate and reasonable given the nature of the offence in question.

- 8.7 At the present time the land in question is covered by a designation made under the Dogs (Fouling of Land) Act 1996 (‘the 1996 Act’). Whilst the 1996 Act was repealed by the 2005 Act, offences under the 1996 Act were preserved and the Borough of Macclesfield Dogs Fouling of Land Order 1998 continues to have effect. However, if any type of dog control order is made that applies to land already designated under the 1996 Act, the 1996 Act ceases to have effect in respect of the land subject to the dog control order.
- 8.8 The former Macclesfield Borough Council made a byelaw in 1982 which prohibited a person in charge of dog from allowing the dog to foul a footway or grass verge. Under subsection 64(4) of the 2005 Act, if an authority makes a dog control order in respect of an offence on a specified area of land, any byelaw dealing the same offence on that same area of land lapses.
- 8.9 Paragraph 13.2.3 of the Officer Management Arrangements within the Council’s Constitution provides that CMT Members may authorise officers to enforce the requirements of legislation including by way of fixed penalty notice.

9.0 Risk Management

- 9.1 The decision-maker is required to give consideration to the consultation responses received in order to avoid risks associated with legal challenge to any orders made.

10.0 Background and Options

- 10.1 As the Cabinet Member will be aware, Part 6 of the Clean Neighbourhoods and Environment Act 2005 makes provision for local authorities to make ‘dog control orders’ in respect of land which is open to the air and to which the public have access with or without payment (with limited exceptions as set out within the legal implications above). The 2005 Act and the relevant secondary legislation make provision for five possible types of ‘dog control order,’ these include:

- (a) Fouling of Land by Dogs Orders;
- (b) Dogs (Specified Maximum) Orders;
- (c) Dogs on Leads Orders;
- (d) Dogs on Leads by Direction Orders; and
- (e) Dogs Exclusion Orders

The penalty for committing an offence contained in a dog control order is level 3 on the standard scale (currently £1,000). Alternatively a fixed penalty notice may be offered by an authorised officer as an alternative to prosecution.

10.2 On 30th April 2012 the Cabinet Member considered a report in relation to proposed dog control orders for The Carrs, Wilmslow and resolved to provide approval for consultation on the following orders:

10.2.1 the Fouling of Land by Dogs (The Carrs, Wilmslow) Order 2012 (as set out within Appendix A);

10.2.2 the Dogs (Specified Maximum) (The Carrs, Wilmslow) Order 2012 (as set out within Appendix B);

10.2.3 the Dogs on Leads (The Carrs, Wilmslow) Order 2012 (as set out within Appendix C); and

10.2.4 the Dogs on Leads by Direction (The Carrs, Wilmslow) Order 2012 (as set out within Appendix D).

10.3 During the consultation period the Council has received thirty-four responses to the proposals. The content of the consultation responses is reproduced within the table at Appendix E.

10.4 In considering the consultation responses and determining whether to make the order(s) the Cabinet Member is reminded of the provisions of the Defra Guidance on Dog Control Orders which confirms that authorities may make dog control orders provided that they are satisfied that an order is justified and has followed the necessary procedures. Paragraph 29 of the Guidance states, *“It is also important for any authority considering a Dog Control Order to be able to show that this is a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them.”* Paragraph 30 continues, *“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. A failure to give due consideration to these factors could make any subsequent Dog Control Order vulnerable to challenge in the Courts.”*

10.5 As the Cabinet Member will note, the table at Appendix E includes officer comments in response to some of the points raised within the consultation responses. However, a summary of the position is set out below in relation to each of the proposed orders:

10.6.1 Fouling of Land by Dogs Order

Whilst the majority of the thirty-four responses received generally indicate that they are opposed to the making of the Dog Control Orders as published, the detail of the responses appears to indicate that the orders of most concern to those who oppose the proposals are the Dogs on Leads and Dogs on Leads by Direction Orders rather than the proposed Fouling of Land by Dogs Order.

Eight of the respondents expressed their support for the proposed Orders generally, whilst three of those who object to the remainder of the Orders were in agreement with the proposed Fouling of Land by Dogs Order. In addition, a number of the respondents who object to the Orders do recognise that responsible dog owners should pick up after their dogs.

As set out in the legal implications above, at the present time the Carrs is covered by a designation made under the Dogs (Fouling of Land) Act 1996 ('the 1996 Act) which provides the Council with the ability to issue Fixed Penalty Notices in relation to dog fouling offences. The legislative provisions prescribe that if any type of dog control order is made that applies to land already designated under the 1996 Act, the 1996 Act ceases to have effect in respect of the land subject to the dog control order. Therefore, if any form of dog control order were to be made in relation to the land the Council's existing powers would cease to have effect. For this reason if any of the other three proposed Orders are to be approved, the officer recommendation would be that approval should also be given to the Fouling of Land by Dogs (The Carrs, Wilmslow) Order 2012 (as set out within Appendix A) to allow the Community Wardens to continue to enforce in relation to dog fouling.

10.6.2 Dogs (Specified Maximum) Order

The proposed Dogs (Specified Maximum)(The Carrs, Wilmslow) Order 2012 proposes that it would be an offence for a person to take more than four dogs onto land which is covered by the Order unless he has reasonable excuse for doing so or has permission from the owner of the land to do so.

As set out above, the majority of the consultation responses received are generally in opposition to the Orders. Five of the responses make specific reference to the proposed figure of four as a maximum number of dogs and express concern about those dog walkers who would be prohibited from using the site as a result of this restriction.

One respondent who supports the introduction of the Orders questions whether the maximum number of four dogs per person is too high. Another respondent who expresses general concern about the introduction of the Orders does agree that there should be a maximum of four dogs per person at any one time.

As the Cabinet Member will recall, paragraph 45 of the Defra Guidance states:

When setting the maximum number of dogs, the most important factor for authorities to consider is the maximum number of dogs which a person can control; expert advice is that this should not exceed six. Authorities should also take into account the views of dog owning and non-dog owning residents within the area to which the order will apply to establish what they consider to be an appropriate maximum number taking into account all the circumstances in the area. A key factor here will be whether children frequently use the area.

This order, and the maximum figure of four dogs per person, was proposed in the light of the concerns raised to the Council both from individuals and from

the Friends of the Carrs group about the use of the site to walk multiple dogs by commercial dog walkers and the extent of control which can be exercised by an individual over multiple dogs. The figure of four was suggested as an appropriate and reasonable maximum for this site given the nature of the area and the uses to which it is put (including the use by children and families).

The Cabinet Member is requested to consider the consultation responses received and, taking these views into account, determine whether to make the Order, either with or without amendment.

10.6.3 Dogs on Leads Order

Of the twenty-six respondents who were in opposition to the Orders, the majority expressed concern about the proposed Dogs on Leads Order and the proposed Dogs on Leads by Direction Order. Unfortunately there appears to have been confusion in some cases about the proposed extent of these Orders with some respondents suggesting that the requirement to have a dog on a lead at all times was to apply to the site as a whole. Some respondents suggest either (i) designated areas for dog walkers; or (ii) times/periods during which the Order would take effect.

However, of those who were generally in opposition to the Orders, whilst questioning the extent of the area covered by the current proposals, eight respondents recognise the benefits of imposing restrictions in areas surrounding children's play areas.

In addition to the above, a number of the eight respondents who support the Orders specifically refer to the proposed Dogs on Leads Order, one respondent states "I have two young children and have often felt it a shame that there isn't a space where children can run about freely in the park (outside the fenced in play area) without the risk of a dog bounding up to them. It will also enable people to have picnics or play games in this area without being disturbed by dogs."

As can be seen from the plan attached to the Order at Appendix C, the area which was covered by the proposals is located adjacent to Chancel Lane and north of the River Bollin and includes children's play areas, playing fields and picnic areas. It is also suggested that the natural boundary of the area which is formed by the River Bollin would assist in clearly distinguishing the area to which the order applies.

In terms of the hours during which the proposed Order would have effect, the relevant secondary legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order. In addition, given that the site is open for and used by many different sections of the community throughout the year and a seasonal limit on the powers within the proposed Orders is not recommended.

Due to the specific uses which this area of land covered by this proposed Order is put (i.e. children's play areas, playing fields and picnic areas), it is suggested that it is a proportionate and necessary step to impose an order of this nature.

The Cabinet Member is requested to consider the consultation responses and determine whether to make the proposed Dogs on Leads Order, either with or without amendment.

10.6.4 Dogs on Leads by Direction Order

As stated above, of the twenty-six respondents who were in opposition to the Orders, the majority expressed concern about the proposed Dogs on Leads Order and the proposed Dogs on Leads by Direction Order. A number of the responses appeared to be on the basis that the site as a whole was to be covered by a Dogs on Leads Direction.

As the Cabinet Member will note, the proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site. The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is "reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird." It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.

As above, the relevant secondary legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order.

The proposals in relation to a Dogs on Leads by Direction Order were put forward in response to complaints about the behaviour of some dogs using the site and the control exercised by their owners. It is suggested that the proposed Dogs on Leads and Dogs on Leads by Direction Orders, taken together, achieve a balance between the interests of those in charge of dogs and 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 Cabinet Member is asked to consider the consultation responses received and to determine whether to make the proposed Dogs on Leads by Direction Order, either with or without amendment.

- 10.8 As set out above, the Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007 provide that the amount of a fixed penalty notice relating to a dog control order may be not less than £50 and not more than £80. This bracket also applies to the offences of (i) leaving litter (under section 88(6A)(a) of the Environmental Protection Act 1990); and (ii) graffiti and fly-posting (under section 43(A)(1)(a) of the Anti-Social Behaviour Act 2003). The Council has set the level of fixed penalty notice at £75 in relation to littering, graffiti and fly-posting. It is recommended to the Cabinet Member that the level of fixed penalty notice in relation to dog control orders also be set at £75. Section 60(3) allows the Council to make provision for treating a fixed penalty notice as having been paid if a lesser amount is paid before the end of a specific 'discount period.' However, it is suggested that, in line with the approach taken to fixed penalties for littering, graffiti and fly-posting, that a lesser amount will not be applicable.
- 10.9 The alternative options which are open to the Cabinet Member are, having considered the content of the consultation responses:
- 10.9.1 to provide approval for the making of Dog Control Order(s) on the basis set out within Appendices A – D;
- 10.9.2 to determine not to approve the making of Dog Control Orders(s) on the basis set out within Appendices A – D; or
- 10.9.3 subject to any additional consultation which is required, to provide approval for the making of Dog Control Order(s) as amended either by reference to the wording of the order(s) or the extent of the area to which they are to relate.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

The Borough of Macclesfield Dogs Fouling of Land Order 1998
Macclesfield Borough Council Byelaw – Dogs Fouling Footways and Grass Verges

The Defra Guidance on Dog Control Orders may be accessed on the Defra website: www.defra.gov.uk

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The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006
(S.I. 2006/1059)

The Fouling of Land by Dogs (The Carrs, Wilmslow) Order 2012

The Cheshire East Borough Council hereby makes the following Order:

1. This Order comes into force on 2012.
2. This Order applies to the land specified in the Schedule.

Offence

3. (1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –
 - (a) he has a 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.
- (2) 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 objections, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- (3) For the purposes 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 a 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 803680).

Penalty

4. 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.

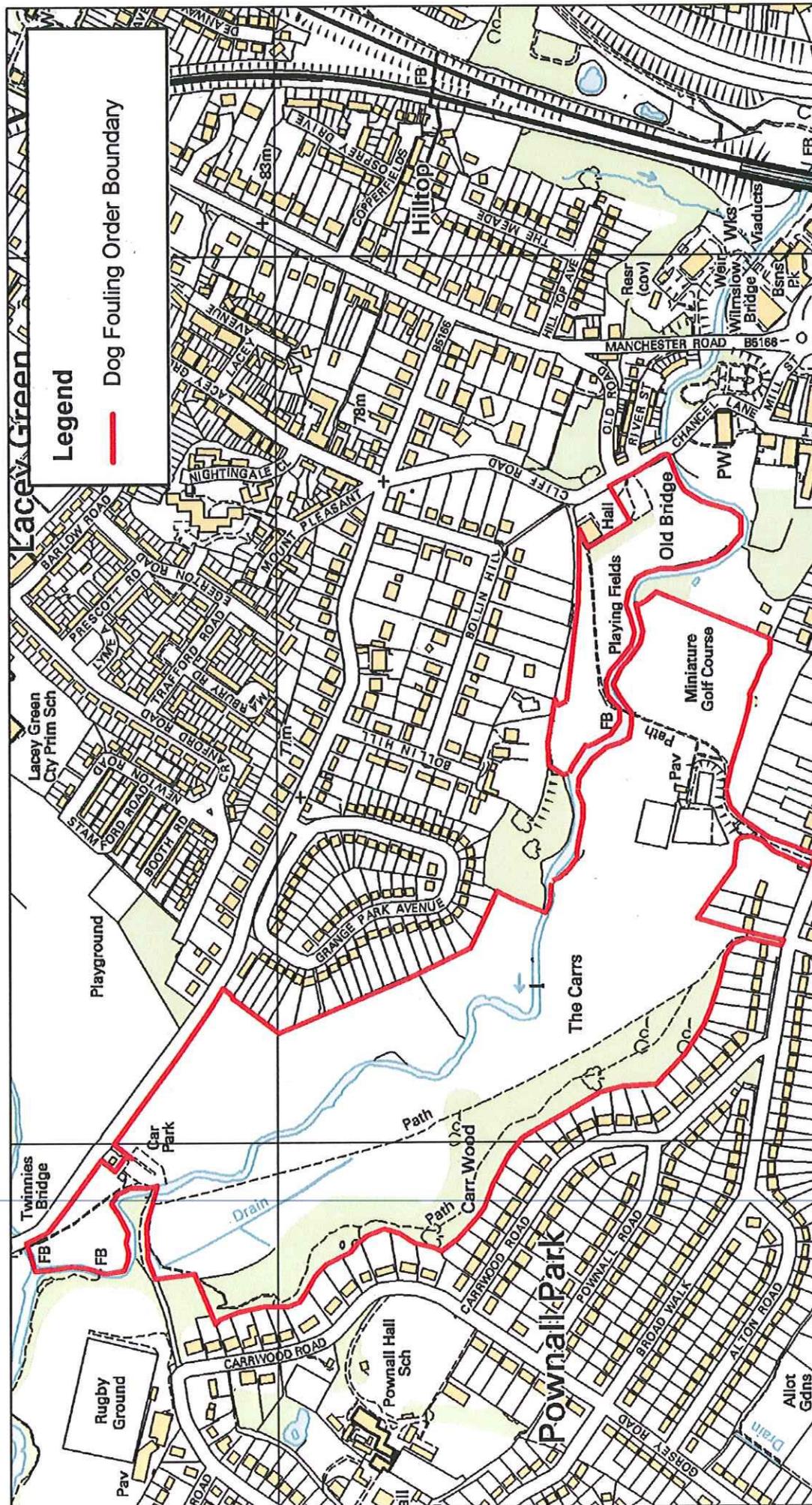
Date:

THE COMMON SEAL of CHESHIRE)
EAST BOROUGH COUNCIL was)
hereunto affixed in the presence of)

Authorised Signatory

SCHEDULE

Land known as The Carrs, Wilmslow shown edged in red on the attached map



1:6,000

The CARRS, WILMSLOW - Dog Fouling Order

The Ordnance Survey map data included is provided by this Authority in order to fulfil its public function.

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The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006
(S.I. 2006/1059)

The Dogs (Specified Maximum) (The Carrs, Wilmslow) Order 2012

The Cheshire East Borough Council hereby makes the following Order:

1. This Order comes into force on 2012.
2. This Order applies to the land specified in the Schedule.
3. On land to which this Order applies, the maximum number of dogs which a person may take onto that land is four.

Offence

4. (1) A person in charge of more than one dog shall be guilty of an offence if at any time, he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in article 3 of this Order, unless –
 - (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- (2) 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 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

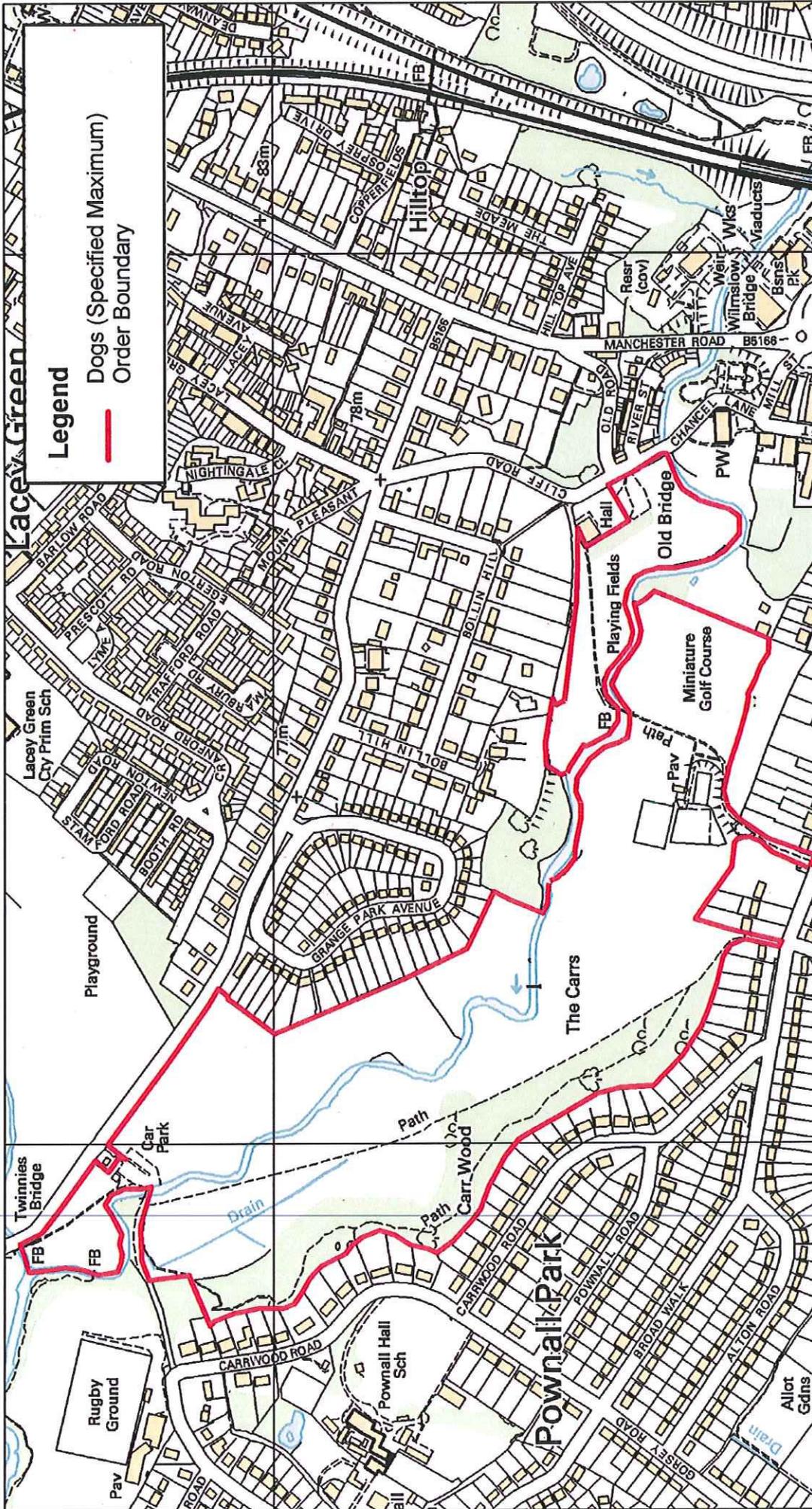
Date:

THE COMMON SEAL of CHESHIRE)
 EAST BOROUGH COUNCIL was)
 hereunto affixed in the presence of)

Authorised Signatory

SCHEDULE

Land known as The Carrs, Wilmslow shown edged in red on the attached map



The Carrs, Wilmslow - Dogs (Specified Maximum) Order

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The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006
(S.I. 2006/1059)

The Dogs on Leads (The Carrs, Wilmslow) Order 2012

The Cheshire East Borough Council hereby makes the following Order:

1. This Order comes into force on 2012.
2. This Order applies to the land specified in the Schedule.

Offence

3. (1) 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 a 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.
- (2) 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

4. 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.

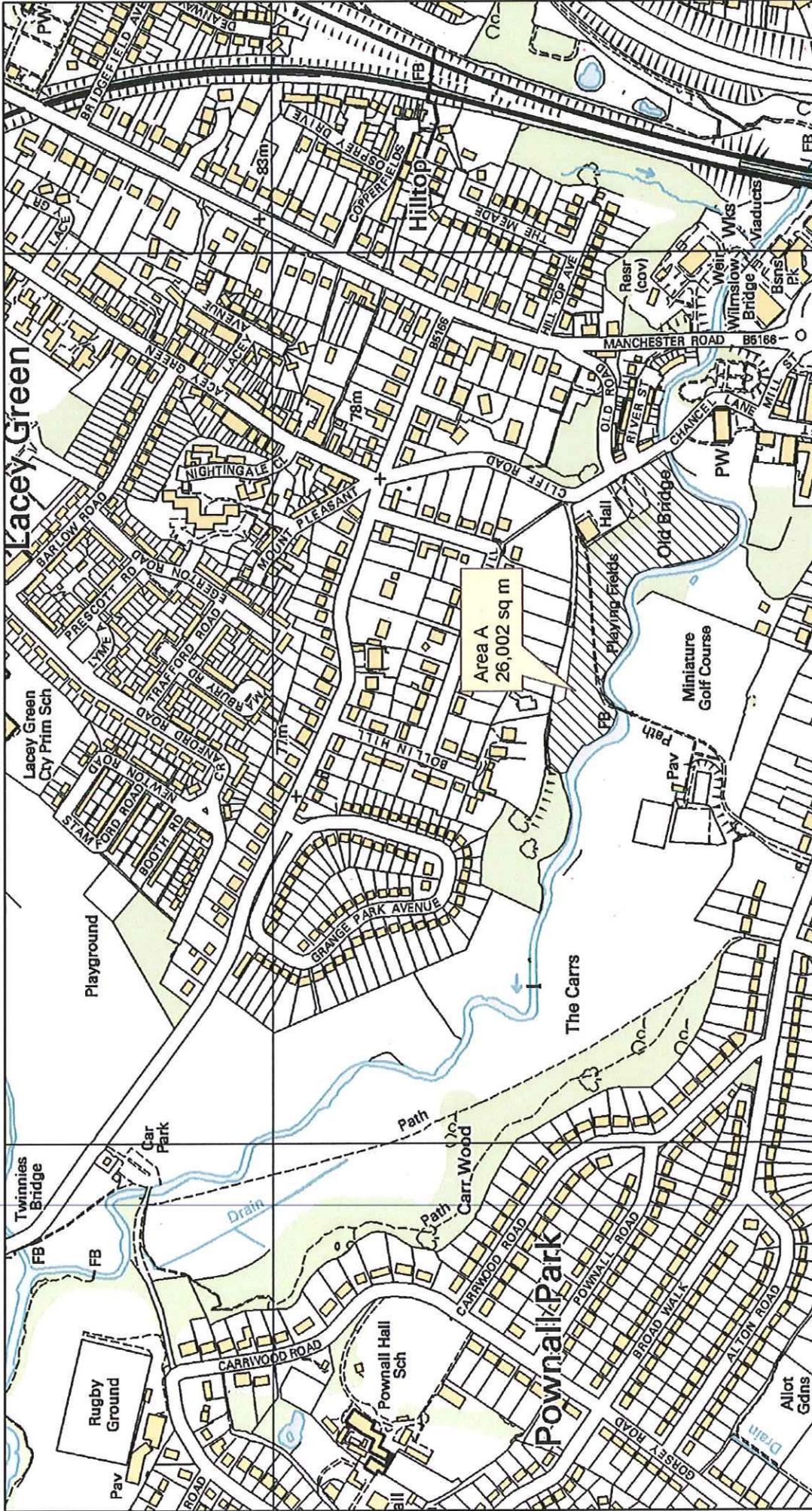
Date:

THE COMMON SEAL of CHESHIRE)
EAST BOROUGH COUNCIL was)
hereunto affixed in the presence of)

Authorised Signatory

SCHEDULE

Land consisting of approximately 26,002 square metres located adjacent to Chancel Lane, Wilmslow and north of the River Bollin, Wilmslow shown hatched in black on the attached map



1:6,000



The Carrs, Wilmslow - Dogs on Leads Order

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The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2006
(S.I. 2006/1059)

The Dogs on Leads by Direction (The Carrs, Wilmslow) Order 2012

The Cheshire East Borough Council (in this Order called "the Authority") hereby makes the following Order:

1. This Order comes into force on 2012.
2. This Order applies to the land specified in the Schedule.
3. In this Order "an authorised officer of the Authority" means an employee of the Authority who is authorised in writing by the Authority for the purpose of giving directions under this Order.

Offence

4. (1) 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 comply with a direction given him by an authorised officer of the Authority to put and keep the dog on a lead, unless –
 - (a) he has a 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.
- (2) For the purposes 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) an authorised officer of the Authority may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

Penalty

5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

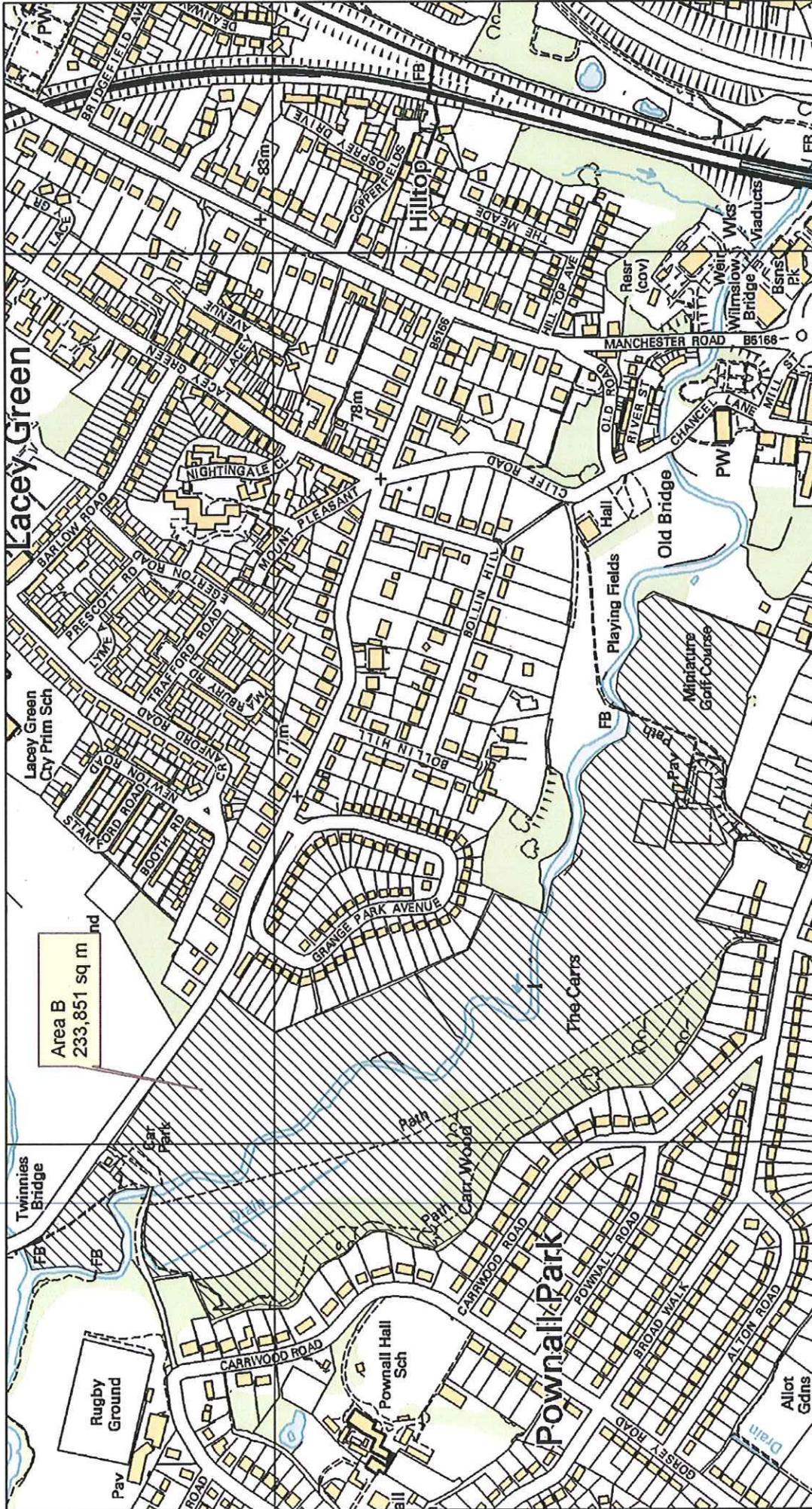
Date:

THE COMMON SEAL of CHESHIRE)
EAST BOROUGH COUNCIL was)
hereunto affixed in the presence of)

Authorised Signatory

SCHEDULE

Land at The Carrs, Wilmslow consisting of approximately 233,851 square metres shown hatched in black on the attached map



The Carrs, Wilmslow - Dogs on Leads by Direction Order



1:6,000

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CONSULTATION RESPONSES

Response No.	Consultation Response (with officer comments shown in bold)
1	<p>How wonderful to see some action is at last in progress regarding dogs in the Carrs. I wonder if 4 dogs are too high a number per person, as 2 dog walkers together, in effect then have 8!!! I wish also this proposal included The Common too.</p> <p>My hubby and I, now in our 60's were both born locally and still living here, rarely take our grandchildren to these lovely local spots because of all the lively dogs and their irritating walkers.</p> <p>OFFICER COMMENTS: The point in relation to The Common (presumably Lindow Common) is noted. Officers would highlight that the proposals in relation to The Carrs form a pilot project, however if the proposed Order(s) are approved and have a displacement onto Lindow Common then officers may seek to present further proposals for that site.</p> <p>In relation to the number of dogs prescribed within the proposed Dogs (Specified Maximum) Order, in formulating this proposal officers were mindful of the provisions of the DEFRA guidance which refers to a maximum of six. The original officer recommendation was that four was appropriate and a reasonable figure given the nature of the site and the uses to which it is put.</p>
2	<p>Regarding the proposals regarding dogs in the Carrs, I feel they do not go far enough to protect non-dog owners from these animals and their owners. As a lifelong Wilmslow resident I spent many happy hours as a child down the Carrs for picnics and paddling in the Bollin, etc. Now as a grandparent I have lost all confidence to take my grandchildren to the Carrs purely because of the large number of dogs using this lovely facility.</p> <p>Personally I would like to see all dog owners park at Twinnies bridge and just use the field on the Styal Road side of the Bollin and so leave the rest of the park up to Chancel Lane a dog-free zone.</p> <p>It has become a lot more noticeable that dog-walking companies have become a more frequent occurrence on a daily basis, probably because surrounding councils have banned dogs from their own parks. I would also bring to your attention when I took my grandson to Lindow Common this week there on the car park was a dog walking company van with an 0161 phone number!</p>

	<p>OFFICER COMMENTS: The comments about a ‘dog-free’ zone are noted. The relevant legislation does provide local authorities with the power to make Dogs Exclusion Orders, however, given the nature of the site the officer recommendation was to introduce proposals which do not seek to prevent dogs from using the site but to ensure proper controls over the behaviour of dogs and their owners when using the land.</p>
3.	<p>I wish to protest strongly against several of the proposed new Dog Control Orders relating to the Carrs in Wilmslow, as published in the Wilmslow Express.</p> <p>One of these proposals entitled The Dogs on Leads Order 2012 would make it an offence punishable by a fine of up to £1000 to allow a dog off the lead on that the area of the Carrs adjacent to Chancel Lane and north of the Bollin. It appears that this would apply all the time, not just when the area is full of people. I used to live off Chancel Lane & walk my 2 dogs, without leads, across this area & over the bridge. On the return journey they would swim across the Bollin - but it appears that this action would now cost me £1000 when they landed on the north bank. They are obedient dogs who respond to voice commands & never bother anyone. I have seen plenty of joggers & pram pushers crossing this area with well-behaved dogs at their heels. How do you justify forcing all dogs onto the lead at all times in this area?</p> <p>Another proposal entitled The Dogs on Leads by Direction Order 2012 would make it an offence punishable by a fine of up to £1000 not to put and keep a dog on a lead on the rest of the Carrs when directed to do so by an authorised officer of the council. There is no mention of the authorised officer of the council needing any grounds to order the dog owner to do this, such as the dog causing a nuisance. However, a council traffic warden cannot ticket a car on a whim, it must be parked illegally or dangerously. This being so, how can you justify a proposal that would allow an authorised officer to order an owner to put a dog on a lead without any cause?</p> <p>I have a very active deaf & mentally disabled son who is bigger & faster than I am. When we go out for a walk he often runs up into the woods at the Carrs. I can't keep up with him or see where he is, but I can keep track of him because our dogs run back & forth between us. If I was forced to put them on the lead we could not keep in touch, so it would be more dangerous for me to take him out because of the risk of losing him & his life would be even more restricted than it is at present. People simply do not understand how difficult life is for carers for the disabled, & how important it is to have support such as that provided by the dogs to make it a little easier.</p> <p>A third proposal entitled The Dogs (Specified Maximum) Order 2012 would prohibit anyone taking more than 4 dogs onto the Carrs. It seems unfair that the Bichon Frise rescue lady who I used to see walking her well-behaved little flock of up to 6 charges in the Carrs should be penalised.</p> <p>The owners of “problem” dogs will take no more notice of these orders than they do of ASBOs. It is ordinary dog owners who will be</p>

penalised, since it's much easier for dog wardens to meet targets by approaching law-abiding owners than anyone with a problem dog who looks likely to attack them.

I hope these proposals will be dropped or at the very least redrafted so that they do not penalise well behaved dogs & their owners.

ADDITIONAL INFORMATION PROVIDED BY OFFICERS:

I would also wish to take the opportunity to clarify one of the points raised within your correspondence in relation to the proposed Dogs on Leads by Direction Order. The proposed Order, a copy of which is attached for information, provides (in accordance with the relevant secondary legislation) that an authorised officer of the authority would only give a direction under the Order to “put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which the Order applies or the worrying or disturbance of any animal or bird.”

Additional response

I note there's no explanation for the proposal to keep dogs on leads in the area north of the Bollin at all times. One should be provided.

Although the qualification of the Dogs on Leads by Direction Order is welcome it can be interpreted very broadly. The wording “reasonably necessary to prevent behaviour....likely to cause...disturbance of any animal or bird” could be used to justify an ongoing injunction to all owners to put dogs on leads throughout the Carrs in order to prevent any disturbance to the squirrels there, since the best trained dog will chase a squirrel that unexpectedly runs under its nose, even if it stops as soon as the owner calls it. Before you dismiss as excessive the suggestion that the council might use dog control orders in this way, perhaps as the basis for a general clampdown, consider this: when the last government introduced anti-terrorism legislation, anyone who suggested that it should be worded to prevent councils misusing it to prosecute people who put their bins out on the wrong day would have been accused of being paranoid. But this is what some councils did, & it demonstrates why specific wording is necessary.

The point of Dog Control Orders should be to control dogs effectively. They shouldn't be used as an excuse for imposing petty bureaucratic restrictions which penalise well-behaved dogs & their owners. I'd therefore like to propose to the Cabinet Member meeting a simple and effective alternative to the Dogs on Leads & Dogs on Leads by Direction Orders as follows:

“Dogs should be kept under control by their owners while in the Carrs. If a dog causes a nuisance or disturbance to any person in the Carrs, or worries an animal or bird, then an authorised officer of the council may direct the owner to put & keep it on a lead, & failure to comply with the direction will constitute an offence.”

OFFICER COMMENTS:

As set out within the original report to the Cabinet Member, the proposals in relation to the area to be covered by a Dogs

	<p>on Leads Order were felt to be a proportionate and necessary step taking into consideration the nature of the area in question (which includes a children’s play area, playing fields and picnic area). In terms of the hours during which the proposed Order would have effect, it is noted that the relevant secondary legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order.</p> <p>The proposed Dogs on Leads by Direction Order would provide authorised officers with the power to a direction under the Order to “put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which the Order applies or the worrying or disturbance of any animal or bird.”</p> <p>The drafting of the proposed Orders is based on the wording prescribed within the Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006.</p>
4.	<p>I am writing to you regarding the changes proposed for the dog walkers in the Carrs Wilmslow. I am a dog walker who uses the park on a daily basis and would like to point out that most of the vandalism and rubbish left on a regular basis in the park has nothing to do with the dog walkers. I have never let mine off near the play areas and think that the dog walkers in the area are quite respectful of parents with their children. I think that as a dog walker I am being victimised for the few who do not respect the area. As a member of friends of the Carrs and someone who has helped to highlight the issue I think that we would all be better off if there was designated areas for dog walkers where they can let their dogs off and possible it might be worth looking at designated times when people can take their dogs to the park and be able to let them off and that it only applies during the summer months as the park really only gets used 3/4months of the year by families. I do understand that changes sometimes do have to be made but think that a compromise can be made to satisfy everybody without discriminating purely dog walkers in the area. I would like to here your views regarding some of my suggestions.</p> <p>OFFICER COMMENTS: The concerns raised about vandalism and rubbish are noted and whilst are not subject of the current decision for the Cabinet Member, will be passed to the managing department of the Council.</p> <p>The points in relation to designating an area specifically for dog walkers and/or imposing particular times when the orders would have effect are noted. Officers would suggest that the site is open for and used by many different sections of the community throughout the year and therefore would not recommend a seasonal limit on the powers within the proposed Orders.</p> <p>In terms of the hours during which the proposed Order would have effect, it is noted that the relevant secondary</p>

	<p>legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order.</p> <p>It is also suggested that with the exception of the area north of the River Bollin, the proposals do not prevent responsible dog walkers from using the site as they have done to date. The proposals within the Dogs on Leads by Direction Order do not mean that dogs will have to be on leads at all times within the remainder of the site, but rather that authorised officers would have the power to direct an owner to put a dog on a lead if that dog were to cause a nuisance.</p>
5.	<p>I have just returned from Carrs Park with my husband, 4 year old son and yes....my beloved dog. I am writing with concern over the proposals for dogs to be on leads throughout the whole of Carrs Park.</p> <p>Whilst I understand the need for dogs to be on leads near the childrens park and near the picnic areas, but I do not understand why well behaved dogs need to be on leads in other areas of the park. It seems to be logical to use the bridge in the middle of the park as a cut off point, and allow the park side of the bridge to be a dogs on leads area, which would therefore allow the other part of the park for dogs to be off the lead. This would mean that those who do not like dogs would not have to be with dogs who are not on leads.</p> <p>Our dog is a Border Collie and needs plenty of exercise, far more than a simple walk on a lead would bring. He swims through the river and plays with my son. It is also a really great place for my son to go. He rides his bike, climb through trees and throws sticks for his dog.</p> <p>I fear that if Carrs Park would to adopt dogs on leads only that other places would follow suit. Where would dogs be allowed to play after that?</p> <p>I hope that you consider the dog owners views in relation to Carrs Park</p> <p>ADDITIONAL INFORMATION PROVIDED BY OFFICERS:</p> <p>I can confirm that your e-mail will be forwarded to my client department for their information, however I would like to take the opportunity to clarify the extent of the proposed Dogs on Leads Order and the proposed Dogs on Leads by Direction Order. The proposals suggest that a Dogs on Leads Order (see attached) would apply to the area of the site adjacent to Chancel Lane and north of the River Bollin shown hatched in black on the plan attached to that Order. The proposals further suggest that a Dogs on Leads by Direction Order would apply in relation to the remainder of the site (as shown on the plan attached to that proposed order). A Dogs on Leads by Direction Order would not make it an offence generally to have a dog off a lead in the area to which that Order applied, but would rather make it an offence to fail to comply with the direction of an authorised to put a dog on a lead. As the Order states, an authorised officer would only be able to give a</p>

	<p>direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.”</p> <p>OFFICER COMMENTS: As highlighted by the additional information provided above, the proposals do not seek to impose a requirement for dogs to be on leads in the majority of the site, but rather that authorised officers would have the power to require a dog to be placed on a lead if that dog were causing a nuisance.</p>
6.	<p>I am contacting you regarding the dog control orders the council are planning to put in place at The Carrs later on this year. As I can see from your web site this has been broken down into four sections so I will address each one below. However, before I do that I would like to make a very important complaint about the location of the notices that have been posted at The Carrs, especially the one in the car park just near to Styal Woods. The notices have been attached to a post which is obscured by the car park so unless you park in front of it you wont see it plus it is not directly on any path but to the side of a path - I feel that the sign should have been placed on the post right in front of the bridge over the Bollin as this would make it extremely visible, or was it the intention of the council to make the sign rather discreet!!</p> <p>The Fouling of Land by Dogs</p> <p>I have to say I can't argue with this one too much as any responsible dog owner will pick up after their dog, there is always the minority who do not but rest assured the responsible ones amongst us soon tell them if they are seen ignoring it. Although I'm afraid the problem is not limited to dogs, so perhaps the wording should be amended to fouling whether it be dog or human - yes human. I have Pointers and they love to roll in all things nice and nasty, there have been 2 occasions now (1 last Saturday) where my dogs have gone into the undergrowth and come out covered in what is definitely human faeces. This is absolutely disgusting and repulsive so if I have to pick up then so should the parents of any kid who can't control themselves. Again, they will be the minority but that isn't stopping you enforcing a fine on dog owners.</p> <p>The Dogs Specified Maximum</p> <p>I have 3, so for the most part not a problem. I do however look after my sister's Cocker Spaniels at times so I do occasionally have 5 dogs with me, this means despite the fact they are all well-behaved and under control, I would not be able to take them to The Carrs anymore but somebody with 1 out of control dog would be able to go - again you are penalising the responsible dog owners instead of targeting the irresponsible ones. Just yesterday I met a lovely older lady walking her 5 little dogs, all behaving impeccably walking with her, she also will no longer be able to enjoy The Carrs.</p> <p>Dogs on Leads</p>

OK, I can understand dogs on a lead right near the children's play areas but not all the way up to the first bridge when entering The Carrs from near the church hall car park. My dogs are never a nuisance to anybody and they love to play in the river by the weir and also in the section of river just after the bridge (but on the same side of the river down the steep grassy bank). We do go over the bridge as well so now if one of my dogs swims across the river and gets out on the other bank I'll be liable to a hefty fine despite the fact that they are doing no harm at all - they always come back when called but by that time it could be too late.

Dogs on Leads by Direction

The fact that some person could tell me to put my dogs on a lead just because they feel they are being a nuisance is ridiculous. In a lot of cases it's down to personal perception. I don't allow mine to be a nuisance, they are not allowed to chase ducks on the river and if they did disobey me they'd be back on a lead anyway (not likely as I take the time to train my dogs). In fact my German Shorthaired Pointer is often a great hit with kids as she loves to play ball with them and they have a great time with her. It's sad to say that unfortunately if you give some people a bit of power it goes straight to their head and they lose all ability to become rational, you only have to look at traffic wardens for that.

I just feel that all of these orders are yet another big 'let's have a go at dog owners'. Has anybody from the council bothered to come to The Carrs to see who is actually using it, well I'll tell you, it's about 95% dog owners and if the sun comes out a few days per year then suddenly it's inundated with kids and their parents for 5 minutes. I visit The Carrs often and if you get rid of the dog walkers there would hardly be anybody there, in the winter probably nobody there. These control orders are way over the top and should not be allowed to come into force, they stop responsible dog owners (a lot of whom also have kids) being able to enjoy the park. I can't see any control orders being detailed for unruly, litter dropping children.

OFFICER COMMENTS:

In terms of the notices in relation to these proposals, copies were displayed at the gateways to the site and on notice boards within the site. It should be highlighted that the display of notices on site is not a statutory requirement (the only requirement being that notice is placed in the local newspaper) and therefore the Council went beyond the requirements of the secondary legislation when advertising these proposals.

In relation to the number of dogs prescribed within the proposed Dogs (Specified Maximum) Order, in formulating this proposal officers were mindful of the provisions of the DEFRA guidance which refers to a maximum of six. The original officer recommendation was that four was appropriate and a reasonable figure given the nature of the site and the uses to which it is put, i.e. that the site is used by a number of different sections of the community.

The boundary of the proposed Dogs on Leads Order was formulated taking into account the need to have a clear boundary (in this case the river) for enforcement purposes and taking into consideration the uses of the land within the

	<p>proposed area (i.e. including children’s play area, playing fields and picnic area).</p> <p>The proposed Dogs on Leads by Direction Order provides that an authorised officer would only be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.”</p>
7.	<p>I am writing with great concern regarding the Dog Control Orders for The Carrs.</p> <p>I full agree with keeping dogs on the lead round the picnic and play areas, however I have to disagree with your suggestions to make it an offence to have more than one dog. Virtually all of the owners and dogs I have come across whilst walking my dog have been very well-behaved and respect other users of the park.</p> <p>If you decide to ban groups of dogs, it is inevitable that both owners of more than one dog and dog walkers will descent upon Lindow Common and Styal Woods to walk their dogs, which aren’t large enough. The Carrs is more than large enough to carry people and dog walkers with their dogs and should remain available to those who respect the area.</p> <p>The main problem with The Carrs is the amount of rubbish that is left and the amount of vandalism. Twice this week I have walked my dog on The Carrs before 10 am and witnessed atrocious piles of BBQ litter, strewn all over the place and even a go-cart abandoned on Tuesday! Perhaps you should be thinking about people control orders, not dog control orders. Maybe prohibit more than four people at a time after 6 pm (!!!)</p> <p>Seriously, perhaps if there were a patrolling Parking Supervisor all unsociable activities, including any dog issues would be highlighted and nipped in the bud – if dogs are being a nuisance, then the owner/walker would be requested to put their dog(s) on a lead or be asked to leave.</p> <p>Costs involved – covered!</p> <p>If there was a patrolling Park Supervisor, the amount of time that would be saved by the poor council staff who have to clear up after the BBQ parties and those who don’t bother to use the bins provided, would mean their time would be better spent and more productive somewhere else.</p> <p>Also, perhaps the excessive funds received by the council every year (from the car parking machines that don’t give change – figures in today’s Wilmslow Express) could in fact fund a couple of members of staff....</p> <p>Thank you for hearing my point of view. Please don’t ruin Lindow Common or Styal Woods – bring a ban to The Carrs and you’ll only move the problem! There are only one or two walkers or dogs who need to be sorted out! Don’t spoil it for everyone else –</p>

	<p>PLEASE!</p> <p>OFFICER COMMENTS: The concerns raised about vandalism and rubbish are noted and whilst are not subject of the current decision for the Cabinet Member, will be passed to the managing department of the Council.</p> <p>In relation to the Dogs (Specified Maximum) Order it is not proposed that it will be an offence to have more than one dog on the site. The proposals refer to a maximum of four dogs per person. As such, the concerns about displacement onto other sites may be mitigated, however if the proposed Order(s) are approved and have a displacement onto Lindow Common or other sites then officers may seek to present further proposals for those sites.</p>
8.	<p>I am emailing you as one of many long standing and regular walkers using the Carrs in Wilmslow who are very concerned about several aspects of the notice re proposed dog controls currently tied to entrances to the Carrs. I/we have several questions re this proposal which I will try and outline coherently and concisely below, and would be grateful if you would acknowledge receipt, and give me your answer, as appropriate ,to the following questions please.</p> <p>1) To my /our knowledge there has been no meeting/period of public consultation before the proposal notice was formulated and made public. The Carrs is a public space to be used by everybody if they wish for recreation as designated by the Boddington family. As we are all citizens who pay our council tax and are equally entitled to use the space, could you explain why a general concensus for these proposals has not been sought, and why dog walkers are the target group?</p> <p>2) What are the reasons driving this order? Who proposed/suggested them? What are the aims of the proposal?</p> <p>3) Why has this order been put forward at this point in time? To my knowledge as a regular walker, there has not been an increase in unsocialised dog problems, so who is the target? All dog owners/walkers? Your proposal does not identify the kind of behaviour warranting 'officer intervention', so who and what is it for please?</p> <p>4) Does the section referring to 4 dogs being the maximum allowed, apply to one owner? If 3 friends walk with 2dogs each are they contravening the proposal as it now stands?</p> <p>5) IF the aim of this proposal is to deter 'anti social dog behaviour' through warden patrols, who has decided the criteria of 'anti social behaviour'? Will we have child behaviourist patrols to request 'anti social child behaviour' is addressed by any adults with the said children? Litter dropping patrols perhaps? Bad language recording patrols too perhaps? These are all identifiable problems after all. As we are a democracy, why has one group of users been the current target?</p>

To conclude , I would like to say that in the 17+ years of walking the Carrs amongst many other open spaces in our area, the 'country park' nature of the space has been eroded by an 'urban park' philosophy, where order , designated spaces and areas ,are defined for specific groups and uses, rather than the enjoyment of nature and open space being there to 'live and let live' and share.

Personally, I think this is a shame , and adds to antagonism rather than harmony.

Apart from school holidays, weekends of good weather and public holidays, it is the fraternity of dog owners/walkers who use the Carrs most, and in my own case, pay each day to park my car, which begs my original questions of , who are these proposals designed to benefit . and who has decided on them , and why now?

ADDITIONAL INFORMATION PROVIDED BY OFFICERS:

I can confirm that your e-mail will be forwarded to my client department for their information, however I would like to take the opportunity to provides some additional information in response to the questions you have raised within your e-mail.

The proposals were formulated within a report of the Head of Community Services which was considered by the Cabinet Member for Environmental Services on 30th April 2012. I have attached a link to the report which sets out the background to the decision, including reasons for the proposed orders, together with information about the statutory process in relation to consultation [link provided].

As you will note from the report, in accordance with the relevant secondary legislation, the proposed orders are currently subject to a consultation exercise and all responses received will be reported back to the Cabinet Member for Environmental Services before a final decision is made.

I note your query in relation to the proposed Dogs (Specified Maximum) Order and attach for information a copy of the proposed Order. As you will note the offence within the Order relates to cases where a person in charge of more than one taking more than four dogs onto land which is covered by the remit of the Order.

In terms of the proposed Dogs on Leads by Direction Order, as you will note from the draft Order (a copy of which is attached) the offence is to fail to comply with the direction of an authorised to put a dog on a lead. Article 4(b) of the Order clarifies that an authorised officer would only be able to give a direction under the Order to put and keep a dog on a lead if such restraint is "reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird."

Additional response

Having now had time to read and digest the information sent to me yesterday with your email, I would like, in conclusion to offer some comments and suggestions to be taken into account please at the Cabinet meeting where decisions re the proposals for the Carrs will be taken, and trust that this email along with my initial correspondence will be made available for consideration.

My overall point is to question whether the level of problems relating to the Carrs be they complaints, fouling, incidents, etc warrant the implementation of the current/future proposed controls.

I refer to a 'sledgehammer to crack a nut' plan of action, in my opinion, which I hope I can illustrate below, in reference to:-

'Dog Control' link document as sent to me yesterday June 11th 2012, re 30th April 2012 meeting prompting current proposal under the guidance of Councillor Rod Menlove.

Section 3.1, and sections 10.2 and 10.3 make reference to complaints made to the Council, in Section 3.1 these are not specific in nature or quantity.

Section 10.2 quotes 'a number' of complaints, again unspecific in a) nature, b) means of delivery and c) most importantly of all, devoid not only in a number themselves, but in a 'control' number of Carrs users to enable a percentage analysis and subsequent proportionate judgement to be made.

Section 10.3 specifies that a 'Dog Awareness Day' was set up in July 2011 on the Carrs as a targeted response to the above unspecified complaints.

This 'target day' resulted in 7 dog fouling notices being served and documented as evidence for the current proposals.

I would suggest that 7 orders compared to the numbers using the space, based on my experience and estimate through walking almost daily, is a success rating rather than a need to 'clamp down'!!

Over the years of walking, I have observed a huge increase/success in people – men with large dogs- in particular 'picking up' as a matter of course, and as a socially expected action.

There will always be 'accidents of concentration' by responsible owners, and breaches by irresponsible ones, but as a proportion these are in the minority, and parks are a great deal cleaner than they used to be.

It is just as unacceptable to dog owners to tread in dog mess as it is to anyone else, and we do all frown on anyone wilfully ignoring the requirement to clean up.

I would also like to say that although 1 police incident is regrettable, and I can speculate whether it is the incident I know about where a dog in charge of a professional walker was hit on the head by a child with a stick – unprovoked to do so by the way- before the dog retaliated, and where the result was the 'destruction' of the dog..

Whether it is this incident or not is not the point, as again compared to the number of children, walkers and dogs who use the Carrs daily, it is less than miniscule, and would not promote any action in any other arena.

	<p>Personally, I have no problem, along with many other dog owners, in being required to keep dogs on a lead in the currently designated area of the proposal. I would have a serious objection should this be ‘the thin end of the wedge’ to extend this area at a future date.</p> <p>My major concern with any new restriction, however reasonable it may appear at the time is that a) it makes extending powers/controls a lot easier in the future, and, b) the cost of implementing/policing new proposals would be better spent on educating children at home, nursery and school on good ‘meeting dogs skills’ with visits by willing dog owners with friendly dogs to help to do this, and also by requiring any professional dog walker i.e. some one paid to walk dogs, to hold a recognised qualification to do so as a legal requirement. This would be far more beneficial and effective than merely restricting the number of dogs any one person can walk at any one time. As ever, education and awareness is the key to a better society, and as a bonus it would provide a recognised and therefore trusted and regulated occupation providing employment to implement whether trainer or trainee.</p> <p>In all these discussions and proposals, please do not let any of us lose sight that we are talking about ‘mans best friend’ here, and the wealth of benefit, service and companionship dogs have brought to humans through the centuries. We are healthier and happier through living alongside them.</p> <p>The RSPCA recognises ‘the daily exercising of a dog’ as a required welfare issue too. Please do not ‘demonise’ dogs and their owners with inappropriate targeting for action, and undermine the principles of democracy and public equality . We cannot afford to erode either of these privileges, for we do so at our peril, and to the detriment of all of society.</p> <p>OFFICER COMMENTS: It is suggested that the proposals within the Orders were based on complaints received both from members of the public and via the Friends of the Carrs group. It is further submitted that the proposals provide the local authority with the power to deal with issues where they occur whilst retaining a balance taking into consideration the use of the site by dog walkers. It is suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
9.	<p>I fully support these proposed Orders. Over recent years the number of people visiting the Carrs with numerous dogs has increased and there are a minority who do not have consideration about controlling their dogs at all. It has got to such a level that as an owner of one dog, it is not fun visiting the Carrs at times so I would not like to think what it would be like for those who do not like dogs. I hope that these are approved.</p>

10.

I am writing to express my objections to the above dog control orders proposed for the Carrs in Wilmslow.

I have lived in Wilmslow for over 20 years, paying my council tax and as a tax payer in general. I have owned dogs throughout this period and always walked them on the Carrs.

The Carrs is a beautiful place and a real asset to Wilmslow, I do not feel it is spoilt by the dogs and their owners. It is spoilt by people leaving litter and unruly children who in the past have destroyed the building that was near the tennis court, numerous bins and benches.

I feel that maybe if people are prepared to complain then they are listened to, perhaps I should start complaining about things that upset and annoy me, I do not because I try to be tolerant of others and forgive people wherever possible.

If you visit the Carrs after a sunny weekend it is littered and an eyesore. If you visit the Carrs after a weekend of poor weather it is not littered but you can be sure lots of dogs and their owners have passed through enjoying the park no matter what the weather and leaving little trace of their visit.

I assume these proposals are because people with children have complained about people with dogs using the Carrs. Dogs and their owners are on the park 365 days a year at all times in all weathers. To restrict the majority of users is surely not reasonable or ethical. Why should the minority be given preference. Surely all the dog owners pay their council tax just as the parents of children do.

In the past I have been verbally abused by people with children on the Carrs. I remember one incident particularly where my 2 dogs were simply walking past a couple of children with 2 sets of parents. One of the fathers began shouting at me to put my dogs on lead, I asked him why, I explained they were very friendly and completely under my control and no threat to him or his children. He became very abusive swearing at me and shouting, this experience really upset me, I felt very vulnerable, and sorry that the children had witnessed this outburst and heard such awful language. What if I had complained about him, would fathers be restricted on the Carrs? He was being unreasonable, how do you know the people complaining about dogs on the carrs are offering logical honest opinions. I will certainly be complaining very loudly if I experience any treatment of this manner again in a public place.

I realise I may be an exception with 2 well behaved dogs that follow my commands and that I always pick up their excrement. Why should I and my dogs be punished because of others?

I have suffered with depression and have found the friends I meet on the Carrs have been a great support to me, if dog walkers are forced away from the Carrs where will I get this support?

I also suffer from incontinence which troubles me when out walking, I would prefer that the council spent money on providing toilet facilities on the Park. Again, it was because of people abusing the toilets at Twinnies bridge that these had to be closed, not because of dogs. I strongly feel that my quality of life could be further harmed if these orders are passed and I feel unable to walk

	<p>through the Carrs.</p> <p>The only suggestion I can make to attempt to keep all parties happy is to have a time restriction on these orders. For example that dogs can run free everywhere before 10 00 am and after 1800 pm. Or that the restrictions only apply to certain times of the year, for example from April to September, as on beaches. I also appreciate it seems reasonable for dogs to be on lead around the play area however there is already a fence around the childrens playground, does this not protect the children within the play area? I am concerned that if these proposals are allowed to be enforced it will not be too long before further restrictions are brought in. Could the fence not be extended to cover a wider area? Would the cost of that proposal not be less than the enforcement for these orders.</p> <p>I would be interested to receive any communication about the progress of these orders if possible. Is a public meeting planned to discuss the proposals? I would like to attend if there is.</p> <p>I hope you find my comments of use and they can provide some weight toward the orders not being enforced.</p> <p>OFFICER COMMENTS: The concerns raised about vandalism and rubbish are noted and whilst are not subject of the current decision for the Cabinet Member, will be passed to the managing department of the Council.</p> <p>In terms of the hours during which the proposed Dogs on Leads Order would have effect, it is noted that the relevant secondary legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order.</p>
<p>11.</p>	<p>Firstly I would like to state that I fully support the dog control orders.</p> <p>I would say however, that in my opinion the measures do not go far enough and the Dogs on Leads Order should be extended to the whole of The Carrs. My issue with free running dogs is that, with two young children, you can never really enjoy a walk/play in The Carrs without being harassed by dogs and without having to be on the look out for dog mess. These problems will be eradicated in the area where the Dogs on Leads Order is planned to be enforced, but this applies to only a relatively small area. I appreciate that the Fouling of Land by Dogs Order applies to the whole of The Carrs, but I really can't see what difference it will make when dogs are free to run around - in my experience, dog owners are rather less concerned when their dogs are fouling some distance away (if they can see the dog of course), and tend to turn a blind eye.</p> <p>OFFICER COMMENTS: Given the nature of the site, and the uses to which it is put, the officer recommendation was to introduce proposals which</p>

	<p>achieve a balance between the interests of those in charge of dogs and the interests of those affected by the activities of dogs. The proposals suggested, as a whole, sought to achieve this balance in relation to the known issues at The Carrs.</p>
12.	<p>For 28 years my husband, 3 children and I have walked our dogs on The Carrs. We, as well as the dogs, have enjoyed the FREEDOM and fun experiencing the water, the stretches of grass and the more wooded areas. In this time we have got to know quite a few dog owners. I can truthfully say we have never come across unpleasantness from other dogs or owners. We are aware of the dog litter bins (as many other dog owners are) and use them for our dogs. Most dog owners are responsible pet carers who abide by rules to ensure the health and safety of themselves, other people, their animals and the environment they use.</p> <p>The occasions when I have been disturbed on The Carrs is when I have heard and seen unruly children with no adults taking responsibility for them and their foul language; when the weather has been good and picnic debris has been left by HUMANS and during/after the occupation of travellers. THEN is when wardens or officers should be patrolling The Carrs to ensure it is used responsibly.</p> <p>I cannot believe that after all these years it is proposed that dogs will have to be on the lead while visiting The Carrs. When and where was the consultation for this?</p> <p>All the dog owners I have spoken to have not been aware of consultation availability.</p> <p>I (and many other dog owners) whole heartedly oppose this proposal.</p> <p>ADDITIONAL INFORMATION PROVIDED BY OFFICERS: I can also advise that, in accordance with the relevant secondary legislation, notices have been published in the local newspaper (Wilmslow Express) giving details of the proposals and advising that consultation responses should be made by 21st June 2012. In addition, notices have been put up at the site to assist in raising public awareness of the consultation.</p> <p>OFFICER COMMENTS: The concerns raised about vandalism and rubbish are noted and whilst are not subject of the current decision for the Cabinet Member, will be passed to the managing department of the Council.</p> <p>It should be highlighted that the proposals do not include a Dogs on Leads Order in relation to the site as a whole, but rather a Dogs on Leads Order in relation to the area adjacent to Chancel Lane and north of the River Bollin and a Dogs on Leads by Direction Order in relation to the remainder of the site. It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>

<p>13.</p>	<p>I would like to propose my objection to the planned Dog control orders on The Carrs in Wilmslow.</p> <p>Why ban all dogs when the problem is "out of control dogs". If the Carrs is going to be policed, could you not just impose fines within the existing fouling laws, don't ban free running, well behaved dogs (and owners).</p> <p>This proposal seems somewhat over the top, unless the number of "out of control" dog owners far outweighs the number of sensible owners...which I find hard to believe as someone who walks my dog on The Carrs regularly.</p> <p>We are talking out only a few Irresponsible owners which every effort should be made to apprehend the guilty parties and prosecute them.</p> <p>Surely a more sensible solution would be to have an area around the children's play area where dog leads are compulsory and this should be rigorously enforced. Also where dogs are out of control, surely existing legislation can provide for these circumstances.</p> <p>Thank you for your time.</p> <p>OFFICER COMMENTS: The proposals do not include a Dogs Exclusion Order and do not propose to ban dogs from any part of the site. The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is "reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird."</p>
<p>14.</p>	<p>I am against the measures set out in the document in the Carrs suggesting that all the area from Twinnies Bridge to the playground be designated dogs on lead only.</p> <p>I use the park daily to walk the dog, and am aware that the majority of people who exercise their dogs are responsible, keep their dogs under control and clear up. Most other users are either joggers or people walking. During school term or before ten in the morning there are rarely young children about.</p> <p>I can understand completely asking for the area between the Parish Hall and the first bridge being lead only, as there is the adventure play area, the skate park and a large picnic area where dogs need to be under close control. However, there is no point in extending this across all the Carrs - there are few enough areas to let dogs run off steam in the town as it is and for the majority of the time the main users are dog owners!</p>

	<p>Having been a parent as well as a dog owner, I think it is important for parents to show children how to treat and respect dogs, just as it is important for dog owners to control their dogs in the vicinity of small children.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
15.	<p>I wish to lodge my concerns over the impending dogs on leads order on the Carrs Wilmslow.</p> <p>I believe this order is being implemented due to a small minority of irresponsible dog owners that infrequently use this area for recreational pursuits.</p> <p>The majority of the users are regular dog walkers that are respectful and have well behaved dogs.</p> <p>Should you go ahead with this order you will drive out the majority of people as this area will no longer be suitable to properly exercise our animals.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
16.	<p>I completely disagree with the new dogs on leads plan. Your just wasting council tax on these stupid wardens who are going to want to justify there existence by issuing fines to dog owners whos dogs are doing no harm. It should not be compulsory to have</p>

	<p>your dogs on the lead in a popular dog walking area. I am starting a campaign within Wilmslow high school to get support and abolish this bullshit.</p>
<p>17.</p>	<p>I am writing to object to the forthcoming proposals on dog control orders at the Carrs.</p> <p>I'd firstly like to agree with the 'fouling' order proposed, as, being a responsible dog owner myself, do find it incredibly vile when irresponsible owners leave their dogs' mess around. It only gives everyone else a bad name! I would strongly like to suggest a few more dog waste bins around the park!</p> <p>BUT I do object to the proposal for all dogs on leads.</p> <p>I can understand the objections, to an extent, I myself get upset when unruly dogs (AND owners, AND for that matter, people who don't have dogs), don't treat the park with respect. But why penalise the 99% majority of us that are responsible?</p> <p>Maybe, the end of the Carrs where the children's play areas are could be a 'dogs on leads' area, leaving the rest of the stretch of parkland/river free. I understand children don't need dogs around them.</p> <p>I would have thought policing such a ban would be costly for the council...I would object to paying higher taxes for this. Maybe just fencing off the child's play, natural play and skate ramp area would be a more cost effective compromise.</p> <p>This parkland is a vast, full of everything outdoor paradise - river, woods, open spaces etc - perfect to 'get away from it all' and exercise our dogs properly.</p> <p>PLEASE don't stop our enjoyment of such a beautiful place to walk our dogs.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
<p>18.</p>	<p>I was alarmed to hear of the proposals being put forward to restrict Dog owners and their dogs from enjoying the freedom and joy of running free within the grounds of the CARRS parkland.</p>

	<p>If this order is to be sanctioned there is no-where for us animal lovers to meet and enjoy the experience and the comfort our pets bring.</p> <p>If the issue is dog fouling, then introduce fines for such acts - limiting dogs to a lead will certainly not resolve such an issue.</p> <p>Many friends and colleagues have frequented the CARRS for many a year and have never come across any problems which could potentially lead to these orders being proposed. Therefore, could you please provide the background behind each Order of intent.</p> <p>ADDITIONAL INFORMATION PROVIDED BY OFFICERS:</p> <p>I can confirm that your e-mail will be forwarded to my client department for their information, however I would like to take the opportunity to provides some additional information in response to the query you have raised within your e-mail.</p> <p>The proposals were formulated within a report of the Head of Community Services which was considered by the Cabinet Member for Environmental Services on 30th April 2012. I have attached a link to the report which sets out the background to the decision, including reasons for the proposed orders [link provided].</p> <p>I also attach the link to the webpage in relation to the Carrs where you will be able to view copies of the draft Orders together with the associated plans [link provided].</p> <p>OFFICER COMMENTS:</p> <p>The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
<p>19.</p>	<p>I would like to formally oppose the suggested orders at The Carrs</p> <p>I have two little Pomeranians that love no better than the freedom of being able to run freely that the Carrs offers. It is also an opportunity for them to socialise with other</p>

	<p>dogs large and small without the restriction of being on a lead and therefore feeling less apprehensive when they meet and greet others.</p> <p>I can understand areas, if need be, should be patrolled near car parks or children’s play area but feel that it would be such a shame in this day and age to curtail this wondrous place and activity by restricting dogs to leads.</p> <p>It is a beautiful spot and great place to meet other dogs and owners alike.</p> <p>Surely we cannot curtail the freedom the great outdoors brings. You wouldn’t put a child on child rains and never let them run around. It is all down to responsible dog handling as it is with responsible parenting.</p> <p>Responsible dog owners should be held responsible for reporting those that don’t follow.</p> <p>Please let our voices be heard and oppose any restrictions.</p> <p>Thank you in advance for your time.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
<p>20.</p>	<p>On behalf of the Friends of The Carrs I would like to register our support for the proposed dog control orders for The Carrs, Wilmslow which we believe represent a pragmatic balance between the needs of the largest group of users of The Carrs and the significant minority whose poorly trained or controlled dogs cause problems. Sadly as Chairman of the Friends I receive more complaints and grumbings about the behaviour of dogs and their owners than all other issues put together.</p> <p>Whilst it is true we would like to have seen the picnic area across the river from the Twinnies Bridge car park also designated as an area where dogs must be kept on a lead we nevertheless feel that the proposals will go a long way to addressing the main problems experienced with the behaviour of dogs on The Carrs.</p>

	<p>The question now, of course, is how firmly will the proposed orders, if enacted, be enforced?</p> <p>OFFICER COMMENTS: It is proposed that, if the Orders are approved, enforcement would be carried out by the Community Wardens Department (which includes the Dog Wardens).</p>
21.	<p>Having looked at the proposals for dog owners I am in agreement to having restrictions around the childrens play area & picnic area.</p> <p>I cannot understand the restrictions in the rest of the Carrs.</p> <p>The majority of dog owners are responsible owners & abide by the rules to pick up after their dog & to keep them under control. Walking is the best exercise for both human beings & animals & is an everyday activity whatever the weather.</p> <p>These places are often only used by other members of the public at weekends & school holidays & we often have to pick up the litter left including bottles,cans & barbecues.</p> <p>It is not dog owners that have led to the closure of the public toilets, these were vandalised etc. Would it not have been prudent to have had wardens patrolling & fining these people.</p> <p>OFFICER COMMENTS: The concerns raised about vandalism and rubbish are noted and whilst are not subject of the current decision for the Cabinet Member, will be passed to the managing department of the Council.</p>
22.	<p>I would like to add my wholehearted support to all four of the proposed dog orders for The Carrs in Wilmslow.</p> <p>I believe that all too many dog owners have forgotten that the park is meant to be for everyone to enjoy, and that they (perhaps subconsciously) assume that their dogs can do what they like regardless of the effect they have on others' enjoyment of the area.</p> <p>The Carrs is a fantastic green area right on our doorstep, which we can all enjoy for walks, sports, leisure, wildlife and the general green environment. All too often this is spoiled by a thoughtless dog owner allowing their animal(s) to assault people or scare children. These orders will serve as a clear reminder that anti-social dog owners will no longer be tolerated by the people of Wilmslow.</p> <p>I would like to voice my particular support in favour of the "Dogs on Leads" order which will specify an area where dogs should</p>

	<p>never be off a lead. This area appears to include the children's play areas, and so would help to ensure that the newer wooden area (and access to / from it) is protected from out of control dogs. I have two young children, and have witnessed a number of incidents where children have been scared by dogs bounding towards them across this new area - either their owners don't care about the wellbeing of children using the park, or they are not in proper control of their dogs, both of which are frankly unacceptable.</p> <p>If there are good dog owners complaining about these proposed orders, then unfortunately they will have to pay the very small price of having their animal on a lead through the designated area, and they will only have the less reputable dog owners to blame for this minor inconvenience becoming necessary.</p> <p>I look forward to hearing more details about when and how these orders will be implemented, as well as how they will be properly enforced. Many thanks for your work on this.</p>
23.	<p>I am writing this email in response to the 'Dogs on Leads' order that is looking to be implemented at The Carrs.</p> <p>I believe this to be unfair on the majority of the dog owners (myself included) who are responsible and who do clean up after our dogs when there are a small minority who don't have the respect to do this.</p> <p>Please take this email as clear objection to the order that is looking to be implemented and maybe more focus should be taken at looking at those that aren't responsible</p>
24.	<p>I live very near to The Carrs and wish to give my full support to the proposed dog control orders in this Wilmslow park. My only reservation is that the orders do not, in my view, go anywhere near far enough. The Control Orders should apply to the whole of The Carrs, not the very small area that is proposed - though what is proposed is better than nothing at all.</p> <p>You will be aware that in Greater Manchester, including nearby Wythenshawe, dog control orders are much stricter than in Chester East.</p> <p>As a result, we now have very many more visitors from the GM area who come here simply to exercise their dogs, often allowing them to run free with a consequent increase in noise levels, soiling, and general nuisance. This could be reversed by the simple expedient of applying comparable control orders, and enforcing them vigorously.</p> <p>I also suggest that commercial dog walkers pay a fee for the privilege of using the park - they are, after all, using The Carrs for business purposes and financial gain.</p>
25.	<p>I have been a dog owner for the past 30 years and have regularly walked on the Carrs. I have read the proposed dog control order and I have a number of concerns about the proposal.</p> <ul style="list-style-type: none"> • What are the reasons for these proposals and what is their aim.

- Has there been public consultation before the proposed legislation was made public.
- If these proposals are ratified then what is the cost of implementation. A dog warden would have to be on the Carrs on a daily basis throughout daylight hours otherwise there is no point in implementing.
- I note that he/she will have powers to instruct the dog owner to put the dog on a lead without any explanation. In all walks of life if a person is requested to do something or challenged then an explanation is normally given. No explanation leads to alienation of the dog warden I would have thought that she/ he would wish to have a good relationship with the dog walkers
- A maximum of 4 dogs will be allowed per person, Will this mean that friends walking their dogs together will not be permitted.

I do not understand why these measures have been put forward as I have rarely seen antisocial dog behaviour, in fact if you walk during the week you rarely see more than a few people walking their dogs rain or shine.

I find children are a problem. Their behaviour is so unpredictable. Very few know how to approach a dog, screaming, shouting, I have even witness one child hitting one of my dogs with a stick, no reprimand from the mother who thought it was funny. I always put my dogs on leads

When I see children approaching because of the way some behave. Will the Council be arranging for children to be educated on the way they behave towards dogs.

Litter is also a major problem plus bad language, could something not be done about this or is it that dog walkers are an easy target. Has the Council been inundated by complaints?

In conclusion should the proposals be implemented I would wish to know the cost as I pay my Council Tax and as I have already stated these proposals require Dog wardens on a daily basis.

ADDITIONAL INFORMATION PROVIDED BY OFFICERS:

I can confirm that your e-mail will be forwarded to my client department for their information. Given the queries raised within your e-mail I would also like to take the opportunity to provide some additional details so that you have the opportunity to provide further comments in the light of this information if you so wish.

The proposals were formulated within a report of the Head of Community Services which was considered by the Cabinet Member for Environmental Services on 30th April 2012. I have attached a link to the report which sets out the background to the decision, including reasons for the proposed orders, together with information about the statutory process in relation to consultation [link provided].

As you will note from the report, in accordance with the relevant secondary legislation, the proposed orders are currently subject to a consultation exercise and all responses received will be reported back to the Cabinet Member for Environmental Services before a final decision is made.

I note your query in relation to the proposed Dogs (Specified Maximum) Order and attach for information a copy of the

	<p>proposed Order. As you will note the offence within the Order relates to cases where a person in charge of more than one taking more than four dogs onto land which is covered by the remit of the Order.</p> <p>In terms of the proposed Dogs on Leads by Direction Order, as you will note from the draft Order (a copy of which is attached) the offence is to fail to comply with the direction of an authorised to put a dog on a lead. Article 4(b) of the Order clarifies that an authorised officer would only be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.”</p> <p><u>Additional response</u> Thank you for your email and the information which answers some of the questions that I posed. I am sadden to see the number of dogs one can walk on the Carrs. I have 5 dogs in total they are Bolognese,(very small white dogs) 3 are able bodied however, the other one has only 3 legs, a defect from birth so some of the time during the walk, rides around in a buggy, the other one is 16 years of age and rides round in the buggy also. At one given time I may have 4 dogs on the ground and one in the buggy but most of the time I have 3 on the ground and 2 in the buggy. I consider myself a very responsible dog owner and it is a great pity that I will be penalised. Yes, I do pick up all my dogs poo and I have control over the dogs.</p>
26.	<p>I wanted to write to say that I really support the proposed new rules for dog walkers in the Carrs, in particular the ‘dogs on lead’ control order. I have two young children and have often felt it a shame that there isn’t a space where children can run about freely in the park (outside the fenced in play area) without the risk of a dog bounding up to them. It will also enable people to have picnics or play games in this area without being disturbed by dogs.</p>
27.	<p>I would like to express my concern and opposition to the proposed plans for keeping dogs on the lead at the Carrs in wilmslow. I have walked at the Carrs for the past 5 years with my 3 children and 2 dogs. Its a beautiful, safe environment and wonderful exercise for my family and especially my 2 dogs. I am a responsible dog owner who cleans up after the dogs and am always aware if anyone looks alarmed I will pop my dogs on the lead until they are passed. I feel the responsible people are having to pay the price for the odd walker who doesn't respect other people's feelings and the fabulous park. My dogs are very friendly and enjoy having good runs, its very sad if this is taken away from them because of the Minority of irresponsible dog owners/walkers. Another really important part of walking at the Carrs is the lovely, friendly people I meet every day. On the weekdays it's nearly all dog walkers and we have a great community where we look out for each other and each others dogs. I would miss this so much. Thank you for taking into account our thoughts and feelings and hopefully we can all carry on walking happily together.</p>

	<p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
28.	<p>I refer to East Cheshire’s proposal to restrict dogs access to the Wilmslow Carrs Park unless on a lead. While I appreciate the reasons due to a few uncaring dog owners allowing their dogs to foul the area without clearing up the mess.</p> <p>You obviously intend to monitor the area to ensure dogs are kept on leads and not fouling the area with a large fine if seen doing so. Surely, therefore, there should be no need to keep dogs on leads, the monitoring and fine will ensure this!</p> <p>Dogs require exercise off leads and the Carrs being the only convenient public area, especially for elderly people and working people, your intentions do seem to be extreme.</p> <p>If your proposals go through without reasonable consideration to dog owners views, perhaps you could also consider insisting feral youths are also placed on leads! They light enormous bonfires and barbeques destroying the grass and leaving large quantities of beer cans, cardboard crates, pizza boxes, bottles, wrappers and countless other items.</p> <p>I feel it unfair to consider penalising one group of mainly law abiding people, whilst seemingly ignoring the others!</p> <p>Furthermore, the Council is not helping matters, of dog waste disposal, by not replacing the dog waste bin near the tennis courts, which was removed some considerable time ago!</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or</p>

	<p>disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
29.	<p>I am very disturbed by East Cheshire Council’s proposals for dog walking in The Carrs, Wilmslow as I believe this to be the first step to “Dogs on Leads at all times.”</p> <p>I am 72 years old and have walked my dogs on the Carrs for the past fifty years. I am now severely disabled with arthritis and am unable to hold leads for any length of time. My dogs are obedient and thoroughly enjoy a romp in the park. For my part, my dogs ensure that I exercise every day where I meet many friends. All of this could be taken away from me and other elderly and disabled people.</p> <p>Also please do not forget the many families who enjoy taking children and dog to play in the park. Should these pet loving children be denied this pleasure?</p> <p>I always pick up after my dogs. I NEVER leave litter, glass bottles, beer cans, used bar-B-Qs or dirty nappies!! These people leave danger for children and vandalise this place of beauty.</p> <p>I do however agree that the top end of the park up to the first bridge should be “Dogs on Leads only” as the facilities for children are in this area.</p> <p>Do please ask the Council to remember that the company of one’s dogs on a country walk are a national institution. No more straight jackets PLEASE.</p>
30.	<p>Just a quick objection to the plans to force dog owners to keep their dogs on leads in The Carrs. I think it should be a place where the typical dog walker can walk their dogs, but if dogs become dangerous then these are the owners who should be prosecuted. It would be penalising the many for the actions of the few.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact</p>

	<p>upon the majority of responsible dog owners who use the site.</p>
<p>31.</p>	<p>We are writing to express our concern about proposed changes to the dog-walking rules at The Carrs, Wilmslow.</p> <p>The vast majority of dog-walkers are responsible people who have good control over their dogs, and clear up after them, making use of the bins provided.</p> <p>We agree that everyone should clear up after their dogs; that they should have no more than two dogs off lead per person at any one time; and that there should be a maximum of four dogs per person at any one time (with a warden to enforce these requirements).</p> <p>We are very concerned that having to keep dogs on leads can bring about its own problems, especially during the winter months when ground conditions can become difficult to walk on – more so if you have a keen dog and I actually use a walking pole in winter.</p> <p>An alternative to the present proposal for ‘dogs on leads’ could be: after 11am until dusk, Monday to Friday and at weekends.</p> <p>As regular early morning walkers, we see more desecration of the park as a result of people bringing their picnics, BBQ’s, alcohol etc and then leaving the detritus and broken glass for someone else from Cheshire East to spend numerous hours clearing it all up. This is a regular occurrence, especially during the summer months. The truck often can be piled high with rubbish from these inconsiderate people. We feel that this particular problem should certainly be more of a priority issue than keeping dogs on leads.</p> <p>We agree that a warden is a good idea to remind the minority of dog walkers how to behave in a public park and maybe even educate certain members of the general on rubbish disposal!</p> <p>Please don’t make walking our dogs in the park a difficult experience – we all want to enjoy the facilities.</p> <hr/> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>

	<p>In terms of the hours during which the proposed Dogs on Leads Order would have effect, it is noted that the relevant secondary legislation does make provision for the Order to have effect during prescribed times/periods; however, officers would suggest that the introduction of such time periods would not be practicable from an enforcement perspective and would not achieve the benefits which are sought by the proposed introduction of this Order.</p>
<p>32.</p>	<p>I am writing in response to the notice regarding Dog control orders and would like to make the following comments:</p> <p>I regularly walk my 4 dogs down the Carrs and along the river footpath towards Styal. I always pick up my dog waste and deposit it in the bins provided. All my dogs are extremely well behaved. They are extremely well trained, they have excellent recall and pose no threat to other people or other dogs. However, I have noticed on a few occasions individuals with several dogs who in my opinion do not have control of them. It is always those same <u>few</u> individuals who give other dog owners a bad reputation. On the odd occasion, I take an elderly neighbour's dog out with my own dogs when the owner is unwell. Of course I keep that dog on a lead until it is returned home to its owner.</p> <p>Therefore I am extremely upset and strongly oppose the proposed dog control order regarding the maximum number of dogs walked by an individual. What an excellent idea to have some sort of warden supervising the area for those 2 individuals of which the order may apply to but at the same time the Council should be patrolling and monitoring the Carrs for the members of the public (both adults and children) who leave litter, used barbecues, bottles, food scraps, discarded clothing and dirty nappies. Also those individuals who vandalize the footbridges and trees. The graffiti in the skateboard park area along with the large amount of broken glass bottles and beer cans make it look like a no go area . I myself am disgusted by people who do not clean up after their dog but why do we all have to be penalised for the minority. I have been walking along the Carrs on a daily basis for the last 24 years and have often wondered why the Council do nothing about the antisocial behaviour from people which is a greater problem instead of just targeting dog owners. Lets have some fixed penalties and notices posted regarding these issues AND TAKE ACTION - see if it can make a difference.</p> <p>I look forward to hearing a response but in the meantime please can you confirm receipt of my objections.</p>
<p>33.</p>	<p>I would like to object to some of the proposed dog control orders in regards to the The Carrs.</p> <p>Although dog controls are vital in public places, to have a blanket order across the entire park (leads on at all times) would be a gross injustice to dogs & owners who use the space responsibly. I do agreed on a 'fouling order' but then again this sort of law has been around for some time. Perhaps increased dog waste bins with free waste bags attached to said bins would improve owned use if such facilities.</p> <p>If a 'on leads only' ruling is to be brought out then perhaps it should be contained to a smaller area where children would benefit (ie the children's play area). To cover the entire park with 'on leads only' proposal is outrageous in my opinion. For the entire dog loving</p>

	<p>community to be punished for the sins of the minority is unjustified and nonsensical! Should we also ban all teenagers from the park due to the few louts who intimidate those using the space on Friday & Saturday nights?</p> <p>I trust that my objection to these proposed control orders will not fall on deaf ears. Those of us who use the park responsibly & value the welfare of our dogs will suffer immensely if out dogs are not allowed to exercise & get the freedom they deserve.</p> <p>OFFICER COMMENTS: The proposals incorporate a Dogs on Leads Order in relation to an area of the site adjacent to Chancel Lane and north of the River Bollin, and proposed a Dogs on Leads by Direction Order in relation to the remainder of the site.</p> <p>The proposed Dogs on Leads by Direction Order does not impose a requirement to keep dogs on leads at all times, but rather provides that an authorised officer be able to give a direction under the Order to put and keep a dog on a lead if such restraint is “reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on land to which the Order applies or the worrying or disturbance of any animal or bird.” It is therefore suggested that, subject to the area covered by the Dogs on Leads Order, the proposals should not impact upon the majority of responsible dog owners who use the site.</p>
34.	<p>I am writing to oppose the restriction of allowing dogs off the lead in the Carrs, Wilmslow north of the River Bollin and adjacent to Bollin Hill and the Chancel Lane Car Park.</p> <p>Many walkers use the Carrs for their own exercise and to give their dogs a free run, on most days of the week, on most days of the year, and they appreciate the flora and fauna and the great beauty of the area. I am not the only person who has been doing this for over 50 years.</p> <p>The newest adventure playground is being used for very young children – even babies – for whom I imagine it was not envisaged. On one recent occasion I witnessed two hysterical mothers (obviously not dog lovers) screaming as someone’s animal crossed the area, although being called to order by their owners.</p> <p>Instead of penalising the regular users, perhaps the playground should be fenced in some way, or even more obviously advertised as a “no-go” area. Please stop restricting our freedom in using and appreciating the Carrs, without holding the treat of fines over us. It is a pity our current Local Authority is now so remote from the area we love.</p>

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CHESHIRE EAST COUNCIL

CABINET MEMBER FOR ENVIRONMENT

Date of Meeting:	23 rd July 2012
Report of:	Head of Community Services
Subject/Title:	Regularisation of Market Provision
Portfolio Holder:	Councillor Rod Menlove

1.0 Report Summary

- 1.1 As part of the Council's localism aspirations a decision was taken by Cabinet in September 2011 to transfer a number of assets and services to the relevant Town and Parish Councils. This included the transfer of Markets.
- 1.2 This report provides the legal position in relation to the methods by which market rights may be established together with information in relation to the existing markets at Alsager, Knutsford, Middlewich, Nantwich, Sandbach and Wilmslow. The report requests the consolidation of the existing market rights by the application of the powers within Part III of the Food Act 1984 (as amended).

2.0 Decision Requested

- 2.1 That, without prejudice to the Council's existing market rights however acquired, a resolution be passed establishing the markets set out within the Appendix to this report under Part III of the Food Act 1984 (as amended).
- 2.2 That the resolution above in relation to the markets at Alsager and Sandbach shall come into force only if the Certificate of Lawfulness of Existing Use or Development (CLEUD) is granted by the Local Planning Authority.
- 2.3 That the resolution at 2.1 shall only come into force in respect of those markets listed in the Appendix which do not take place on the highway or for which the consent of the Highway Authority has already been provided in respect of those markets or a Traffic Regulation Order (if applicable) has been made.

3.0 Reasons for Recommendations

- 3.1 The decision at 2.1 above has been requested in order to consolidate and regularise the position in relation to market rights prior to the proposed transfer of markets to the Town and Parish Councils.

4.0 Wards Affected

- 4.1 Alsager, Knutsford, Middlewich, Nantwich North and West, Sandbach Town, and Wilmslow East

5.0 Local Ward Members

- 5.1 Cllr R Fletcher, Cllr D Hough, Cllr S Jones, Cllr S Gardiner, Cllr O Hunter, Cllr P Raynes, Cllr P Edwards, Cllr S McGory, Cllr M Parsons, Cllr P Butterill, Cllr A Moran, Cllr B Moran and Cllr R Menlove

**6.0 Policy Implications including - Carbon reduction
- Health**

- 6.1 The transfers are in line with the council policy of transfer and devolution of assets and services to Town and Parish Councils.
- 6.2 This initiative aligns with the first priority of the Sustainable Community Strategy “nurturing strong communities” and is part of Cheshire East’s stated drive to ensure that working locally is at the heart of what it does.
- 6.3 National Policy is designed to decentralise government and give communities power to make a difference in their area. This initiative clearly aligns with this national policy.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

- 7.1 The decision to transfer the markets to the Town Councils is in line with the original decision of Cabinet on 5th September 2011 and the financial implications have therefore previously been considered and approved. The establishment of the markets pursuant to the Food Act is required prior to the transfer.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Market rights can be created in a number of ways, i.e.:
- (i) a franchise can exist by grant from the Crown (or by presumption of a lost grant from the Crown arising from long uninterrupted use);
 - (ii) the right to hold a market may be conferred by statute, e.g. by local Act
 - (iii) a market may be established under section 50 of the Food Act 1984; or
 - (iv) certain local authorities may make provision for the sale of animals etc under the Animal Health Act 1981.
- 8.2 The creation of market rights confers on the holder the right to hold a market and, subject to the provisions of the grant or statute under which the rights are held, both (a) the power to charge tolls in connection with that market; and (b) the common law right to maintain an action for disturbance against anyone setting up a rival market within six and two-third miles of the market area.

- 8.3 'Street trading' for the purposes of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 means, subject to prescribed exemptions, "the selling or exposing or offering for sale of any article (including a living thing) in a street." The Schedule provides an exemption for "anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order." Markets which are established by virtue of charter or statute are therefore exempt from the street trading regime; as a result trading at such a market in a street which had been designated as a 'consent street' for the purposes of street trading, would not require authorisation by way of a consent.
- 8.4 The markets operated by the Council across the Borough have been established over a period of many years and on different basis, for example, Sandbach Thursday market is operated on the basis of a 1579 Charter, whilst the Ministry of Health Provisional Order Confirmation (Macclesfield) Act 1949 provides the Council with the express power to establish and hold markets in the area of the former Macclesfield Corporation. In addition, the Council operates a number of markets which have been in existence for many years, but for which it has been difficult to definitively evidence the basis of the market rights. As a general principle, in order to establish a prescriptive right on the basis of long user, the user must be able to demonstrate at least twenty years continuous use as of right. Details of the specific markets which are the subject of this report currently operated by or on behalf of the Council within the Borough, and the basis on which those markets are operated (if known) are set out within the Appendix to this report.
- 8.5 Section 50 of the Food Act 1984 (as amended) ('the 1984') provides local authorities with the power to establish markets within their area, subject to the proviso that a market may not be established so as to interfere within any rights, powers or privileges enjoyed in respect of a markets within the area without the consent of the person with the benefit of such rights. Section 52 of the 1984 Act provides that a market authority may appoint the days on which, and the hours during which, markets are to be held. Section 53(1) of the 1984 Act states that a market authority may demand in respect of the market such charges as they may from time to time determine. Section 60 of the 1984 Act makes provision for the making of byelaws dealing with matters including the regulation of the market place and the prevention of nuisances or obstructions in the market place. Once transfer of the markets has taken place it will be the responsibility of the individual Town or Parish Council to establish any future markets within their parished area and to ensure that all of the legal requirements connected with any such establishments are complied with.
- 8.6 Markets have been included within the proposals relating to the transfer of assets from the Borough Council to the relevant Town/Parish Council as part of the 'Transfer of assets' project. In the circumstances it is suggested that a definitive basis for markets rights is established in order to facilitate the proposed transfers. It is suggested that the most practicable solution is to consolidate the existing market rights by applying the provisions of Part III of

the Food Act 1984 (as amended) to the existing markets listed within the Appendix to this report.

- 8.7 By virtue of the General Permitted Development Order temporary markets are included within the category of a class B use and, provided that the market is not held within the curtilage of a building, land may be used for the purpose of a market for no more than 14 days per calendar year as permitted development. In cases where markets are held on a more frequent basis planning consent for a 'change of use' may be required. Taking this into account the Farmers markets at Knutsford, Nantwich and Sandbach and the Artisan market at Wilmslow, which take place on 12 days per calendar year, fall within permitted development. The markets at Knutsford, Middlewich and Nantwich have planning permission in place for market use. The markets at Alsager and Sandbach (outside of the Market Hall) and Wilmslow may not have specific permissions in place, however, the Council has made an application to the Local Planning Authority on the basis that the two/three markets have existed for a sufficient period of time for a Certificate of Lawfulness of Existing Use or Development to be granted. This has not been determined as of yet and therefore any resolution made on the basis of the facts contained within this report shall remain subject to such certificate being granted in respect of the markets at Alsager, Sandbach and Wilmslow.
- 8.8 It may be suggested that the placing of market stalls in a highway is prima facie an obstruction to that highway if it would unreasonably interfere with the rights of members of the public to pass and repass along the highway. The powers within Part VIIA of the Highways Act 1980 provide the Council with the power to provide service and amenities on footways and highways where vehicular traffic is prohibited by traffic order. However, where a Council proposes to (i) place an object or structure in a highway for a purpose which will result in the production of income; and (ii) grant a person permission under section 115E to use the object or structure, they may not do so unless the consent of the frontagers with an interest has been obtained to (a) the placing of the object or structure; (b) the purpose for which it would be placed; and (c) to the proposed grant of permission. This is relevant in relation to the markets at Nantwich, Sandbach and Wilmslow. In Nantwich, the outdoor market (on Tuesdays, Thursdays and Saturdays) is situated on the footpath immediately in front of the market hall and the Farmers Market takes place on Town Square, which is pedestrianised highway. In Sandbach the market on Thursdays and Saturdays takes place on the footpath at Little Common and the footpath to the front and side/rear of the Market Hall and in addition to this the Farmers Market takes place on The Cobbles, which is highway land. In Wilmslow the market at Bank Square on Fridays takes place on highway land and in addition to this the Artisan Market at Grove Street and Bank Square takes place on highway land. The Council as Highway Authority must consider whether the markets cause an obstruction of the highway and if so it must obtain consent to such obstruction as detailed in this report. Any decision made as a result of this report will be subject to such consent being obtained where required.

9.0 Risk Management

- 9.1 There is a risk that the Town/Parish Councils will not accept the transfer until the markets are established under the Food Act.
- 9.2 Sandbach Market takes place on Scotch Common on a Thursday. Scotch Common is a registered Village Green. Any use which existed upon land registered as a Village Green 20 years prior to the application for such registration taking place can lawfully continue without being in contravention of its status as a Village Green. The Council has not been able to definitively prove 20 years prior use for this purpose. The market at Sandbach on a Thursday was established by Market Charter in 1579 but as the purpose of this report is to regularise the position in relation to all of the markets the market at Scotch Common has been included in this report for the sake of completeness.

10.0 Background and Options

- 10.1 On 5th September 2011 a decision was taken by Cabinet to transfer a number of assets and services to the relevant Town and Parish Councils. This included the transfer of Markets listed within the report.
- 10.2 The regularisation of the markets provision is needed in order to provide a consistent and uniform approach to enable the successful transfer to the relevant Town/Parish Councils.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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CESHIRE EAST BC – MARKETS

ALSAGER

Market, Fairview car park, Alsager Wed

(Details of how this market was established are unknown, operating since 1994)

KNUTSFORD

Market (indoor/outdoor) Tues, Fri and Sat

(Details of how this market was established are unknown, operating since approx 1950)

Farmers market, Silk Mill Street 1st Sat of month

(Details of how this market was established are unknown)

MIDDLEWICH

Market, Southway car park Tuesday

(Details of how this market was established are unknown, operating since 1985)

NANTWICH

Market, Market Street Tues, Thurs, Sat

(Saturday market established c1850. Tuesday and Thursday markets, details of how these markets were established are unknown)

Farmers Market, Town Square Last Sat of the month

(Details of how this market was established are unknown)

SANDBACH

Market, The Commons/Market Hall Thurs and Sat

(Market on Thursday established by Market Charter. Market on Saturday, details of how this market was established are unknown)

Farmers Market, The Cobbles 2nd Sat of the month

(Details of how this market was established are unknown)

WILMSLOW

Market, Bank Square Friday

(Details of how this market was established are unknown)

Wilmslow Artisan Market, Grove

Street and Bank Square 3rd Sat of the month

(The Council has not previously established this market)