

PETITION REQUESTING TO STOP DOGS BARKING AT NO. 35A FAIRFIELD ROAD, UXBRIDGE

Cabinet Member	Councillor Douglas Mills
Cabinet Portfolio	Community, Commerce and Regeneration
Officer Contact	Ed Shaylor, Residents Services
Papers with report	Nil

HEADLINE INFORMATION

Purpose of report	<p>This report seeks to respond to a petition received by the Council to bring to an end the reported excessive loud barking of dogs at 35a Fairfield Road, Uxbridge using the enforcement and legal powers available.</p> <p>The petition was received by Democratic Services on 6th August 2013.</p>
Financial Cost	Nil
Relevant Policy Overview Committee	Residents' and Environmental Services.
Ward affected	Uxbridge North

RECOMMENDATION

That the Cabinet Member:

- a) **Notes the views and concerns of the petitioners.**
- b) **Instructs officers to continue to respond to reports of noise nuisance arising from the property, if these reports appear to indicate the presence of a statutory noise nuisance, and to take any enforcement action which may be appropriate in the circumstances.**
- c) **Instructs officers to prioritise this address for visits when a report is received, to maximise the opportunity to witness a statutory nuisance.**
- d) **Authorises officers to close the case if, after a reasonable period of investigation, there does not appear to be a statutory noise nuisance suitable for enforcement action.**

INFORMATION

Background information

For a Noise Abatement Notice to be considered, there would have to be noise emitted from the premises at such volume as to be prejudicial to health or a nuisance. The usual definition of nuisance caused by barking is that it must be repetitive and uncontrolled, and cause an intrusion so as to unreasonably interfere with other residents' quiet enjoyment of their homes.

The occupiers of 35a Fairfield Road are Mr Rajshi Veja and Mrs Gita Veja who have lived there for a number of years. They possess two adult German Shepherd dogs which are approximately four and three years old respectively.

The Council first received a report in May 2011 that the two dogs resident at this address bark throughout the night and most evenings. The caller felt they must be kept in the garden due to how easily they could be heard. However, by July 2011 there had been no recurrence of the problem. In October and November 2011 the same resident and an additional resident reported problems from dogs barking although there did not seem to be any pattern as to when the dogs barked. Council officers visited the address and heard the dogs barking for about 10 minutes in the front garden. A warning letter was sent and no further reports were received until a third resident reported in January 2013 that the dogs were constantly being left in front garden, sometimes at night, and are barking unsupervised. A second warning letter was sent in January 2013, there were no further reports and in March 2013 the case was closed for a second time. However, reports started to come in again and in July a petition was received. In September a third resident reported being frightened by the dogs' reaction to her dog as she passed by and a fourth resident reported that the dogs are always barking.

Following the resumption of reports during 2013, officers have visited the property a number of times but the barking had always stopped by the time they arrived. Mr and Mrs Veja have been visited at home and they have promised to control the dogs and prevent any repetitive and uncontrolled barking. Whilst remaining adamant that night time barking is at a minimum as the dogs are indoors at night, they have expressed willingness to reduce any nuisance, for example by bringing the dogs in earlier. During the day, the dogs have the run of the rear and front garden areas which are connected, but there is a high wooden gate at the front of the property which is more than adequate to protect any passers by. It is not unreasonable for dogs of this nature to provide a security function for the household, provided there is no excessive noise.

Council officers currently have not heard the dogs to bark for such a duration that a "Statutory Noise Nuisance" occurs. The lead petitioner has informed officers that the reason officers have not been able to witness statutory nuisance is that they do not bark for more than two minutes at a time. The case notes appear to indicate that since 2011, when the dogs were described as barking repetitively and uncontrolled for long periods, it does seem that the situation has improved. The dogs are of course two years older, and it may be that they are looked after differently.

The lead petitioner has been reminded that officers need to hear the barking themselves at a nuisance level before they can take enforcement action, so he needs to call the officers out when the barking is occurring. So far, despite several visits, officers have not heard barking which creates a significant nuisance.

Reasons for recommendation

Although the dogs may bark for short periods on several occasions through the day, for example when they sense dogs going past on the way to the common, this would not constitute a statutory nuisance. In response to a number of calls from residents about these dogs, officers have been carrying out both reactive and proactive visits to the area, but so far have not witnessed a statutory noise nuisance. Contact has been made with the owners of the dogs and advice has been provided.

Alternative options considered

The lead petitioner has been advised of the right to seek authorisation from the Magistrates' Court for independent action by residents to lay information to the court seeking a Noise Abatement Order under section 82 Environmental Protection Act 1990.

Financial Implications

There are no financial implications arising from the recommendations of the report beyond the use of officers' time.

Corporate Finance comments

Corporate Finance has reviewed this report and concurs with the financial implications set out above.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The measures discussed, should reduce the impact on neighbouring residents.

Consultation Carried Out or Required

Consultation has been carried out, with the lead petitioner.

CORPORATE IMPLICATIONS

Legal

There are no direct legal implications arising from the recommendation that the situation is kept under review.

The report correctly identifies that the Council, as well as other aggrieved persons, have powers under Part 3 of the Environmental Protection Act 1990 to tackle noise nuisances. However, the report also correctly cautions that the evidence of Council officers is that no statutory nuisance has been witnessed to date because the barking did not seem to be uncontrolled or for more than short periods. It is important that any nuisances are observed by Council officers before any legal action is commenced.

Should any further steps be considered, legal services should be consulted.

BACKGROUND PAPERS

Nil