

WOLLATON AND LENTON ABBEY AREA COMMITTEE

3 SEPTEMBER 2012

Title of paper:	DOG CONTROL ORDER	
Director(s)/ Corporate Director(s):	Andrew Errington Director Community Protection	Wards affected: Wollaton East and Lenton Abbey Ward
Report author(s) and contact details:	Melanie Fretwell Principal Enforcement Officer Canning Circus Police Station Derby Road Nottingham NG7 1LS Melanie.fretwell@nottinghamshire.pnn.police.uk	
Other colleagues who have provided input:	Tamazin Wilson – Legal Services	
Relevant Council Plan Strategic Priority:		
World Class Nottingham		
Work in Nottingham		
Safer Nottingham		X
Neighbourhood Nottingham		X
Family Nottingham		X
Healthy Nottingham		X
Leading Nottingham		
Summary of issues (including benefits to citizens/service users):		

Over the past few years there have been many complaints in respect of dogs causing nuisance and annoyance to members of the public by being allowed to run loose in and around the Lenton Abbey Estate. Complaints have also been received regarding members of the public allowing dogs to roam around freely without being properly controlled by way of a lead and also in some cases, the dogs have been allowed and even encouraged to attack people and other animals causing injury to both.

It is proposed that a Dog Control Order be made requiring that dogs be kept on leads. This would benefit the community in respect of taking positive enforcement actions against those people who allow their animals to roam around without adequate supervision.

Recommendation(s):

If the Area Committee supports the proposals detailed in the report, it is recommended that it resolves as follows:

- (1) that the information detailed in the report be noted;
- (2) that, having regard to the evidence provided at its meeting on 21 May 2012 and the information available to it at this meeting, including the results of the formal consultation the Area Committee was satisfied that the introduction of Dog Control Orders for Lenton Abbey Estate was a necessary and proportionate additional measure:
 - (a) to help address the problem of dogs being allowed to roam around freely without being properly controlled by way of a lead, and
 - (b) to require the removal of dog faeces.
- (3) that, in respect of comments received during the formal consultation period:
 - (a) verbal comments that the proposed maximum length of the retractable lead of 40 inches was too short to allow dogs to roam, be noted;
 - (b) the Area Committee was satisfied that the maximum length of 40 inches for a retractable lead was sufficient to allow dogs to roam and should be confirmed;
- (4) that the Director of Legal and Democratic Services or Legal Services Manager be authorised to make Dog Control Orders for Lenton Abbey Estate containing enforcement requirements to keep dogs on a lead and remove dog faeces, as indicated in the draft Orders attached to the report.
- (5) that the Director of Community Protection be authorised to place necessary advertisements and arrange for appropriate signage to be erected in accordance with legislative requirements.
- (6) that the amount for Fixed Penalty for offences contrary to the proposed Dog Control Orders be set at £50, in line with the current amount for dog fouling offences across the City.

1. BACKGROUND

- 1.1 The Clean Neighbourhoods and Environment Act 2005 gives the local authority the power to introduce a Dog Control Order which can be applied to any land which is open to the air and which the public has access, with or without payment.
- 1.2 At it's meeting on Monday 21st May 2012, this Area Committee considered a proposal to consult on the potential introduction of two Dog Control Orders for Lenton Abbey Estate contained in appendices 1 and 2 of this report with the following control measures:
 - (a) Requirement to keep dogs on a lead;
 - (b) Requirement to remove dog faeces.
- 1.3 The penalty for committing an offence contained in a Dog Control Order is a maximum fine of level 3 on the standard scale (currently £1,000) although the opportunity to pay a fixed penalty may be offered instead.
- 1.4 The land in question has been the subject of concern for local residents because of a number of dog-related issues, mostly in respect of dogs being allowed to roam freely in the Lenton Abbey Estate without adequate control measures in place. This has included dogs being taken for walks by members of the public who have not ensured their dog(s) is/are on a lead which has resulted in the dog(s) being allowed to intimidate other animals and members of the public. It was felt that Dog Control Orders could help by giving enforcers additional powers to tackle these problems.

2. REASONS FOR RECOMMENDATIONS (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 A bundle of evidence to support the proposed consultation for Dog Control Orders was made available for members of Committee to inspect prior to the Committee Meeting on 21 May 2012. This included details of a number of concerns from Residents who are wary of dogs who are allowed to roam free around the Lenton Abbey Estate.
- 2.2 Consultation over the proposal to introduce the Dog Control Orders detailed in paragraph 1.2 above on the land in question was carried out by placing an advert in the Topper Newspaper, asking shops in the relevant area to display information about the proposed Orders and displaying information on notice boards in the relevant area.

Outcomes

- 2.3 As a result of evidence collated following the Consultation:
 - (a) Members of public appear to be in support of the proposed Dog Control Orders. The Council has not received any letters or responses to the Advert in writing;
 - (b) some verbal comments were received which were in support of the proposed Order(s), but expressed concerns relating to the length of lead a dog should be kept on. No other objections have been received to the making of the proposed Dog Control Orders, verbal or otherwise.

Matters for Consideration

Length of Retractable Lead

2.4 Investigations have shown a retractable lead for a large dog would have an average length of 40 inches. The concerns raised are not being able to allow their dogs to roam on a longer retractable lead

Comment

2.5 Should the length of lead not be specified in the Order, this would allow for irresponsible dog walkers to potentially allow their dogs enough lead length to attack other animals / people and would not support the aims of the making of this Order. It should also be noted that the requirement to keep dogs on a lead of 40 inches would only apply over the land covered by the Order, and not on surrounding land such as Wollaton Country Park where there are no current restrictions. In addition, defences are available to an offence under such an Order, namely that the person has a reasonable excuse for failing to keep the dog on a lead of 40 inches or less, or the owner, occupier or other person or authority having control of the land has consented to this. Authorised officers would have discretion when enforcing any such Order, and training will be given. There are currently no enforcement powers for Community Protection Officers to require that dogs are kept on leads and this would be an additional power.

Recommendation

That the Committee determines whether a maximum length of lead of 40 inches is a proportionate solution in affording protection to the residents and allowing dog owners to allow their pets a reasonable amount of freedom whilst keeping them under control or, if not, indicates what an appropriate length would be.

Dog Fouling

2.6 If a Dog Control Order is made requiring dogs to be kept on leads in the Lenton Abbey Estate, the application of the Dogs (Fouling of Land) Act 1996 to the area covered by the Dog Control Order would be revoked. This would mean that it would no longer be an offence to fail to clean up after a dog which had defecated in that area.

Comment

2.7 The health problems associated with dog fouling are well known and dog mess can cause considerable nuisance and annoyance in a community.

Recommendation

That an additional Dog Control Order be made to re-impose this requirement for the Lenton Abbey Estate.

Fixed Penalty Notice Charges

- 2.8 The costs of the Fixed Penalty is set at a default amount of £75.00 . However each Local Authority has the autonomy to set the Fixed Penalty at any level within a specified range; in this case, such amount may be prescribed, not less than £50 and not exceeding £80.

Comment and Recommendation

- 2.9 Fixed Penalties for offences of Dog Fouling across the City are currently set at £50. It is recommended that the Fixed Penalty for offences contrary to the proposed Dog Control Orders be set at £50.

3. OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Use of the existing Dogs (Fouling of Land) Act 1996 which is currently an effective tool for tackling dog fouling was considered. However, this does not cover wider dog issues such as the ability to require that dogs be kept on leads.
- 3.2 It should be noted that no further reports have been received since the consultation period commenced regarding complaints of dog owners behaving in an irresponsible manner in the Lenton Abbey Estate. However, there have been no objections to the proposed Dog Control Orders other than the concerns expressed regarding the length of lead allowed referred to in paragraph 2.3 above.
- 3.3 Individual action with the RSPCA and Dog Warden assistance has had some impact however this action is a reactive action and does not tackle the wider problem of dogs being allowed to roam free and foul the land. There are currently limited resources available to the RSPCA and Dog Wardens in tackling this issue and the introduction of Dog Control Orders will provide better tools and powers to a wider Enforcement Team in dealing with these problems.
- 3.4 Civil action against individual owners including civil tools and powers to tackle these problems are available in the forms of Anti-Social Behaviour Orders, however, this is cumbersome and difficult to implement due to the legislative requirements and time frames. The use of a Dog Control Order provides additional powers and remedies which can be used alongside or as an alternative to civil action and which will be considerably quicker and more effective.

4. FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY)

- 4.1 Once the Dog Control Orders have been approved and the required signage erected, there will be no ongoing financial implications. The costs of enforcing the Order will be met within the existing roles of the Community Protection Officers and the Dog Wardens.
- 4.2 It was resolved at an earlier meeting that the cost of bringing the Orders into force would be shared equally between the ward Councillor budget for Wollaton and Lenton Abbey Ward Councillors and Community Protection Services.

5. RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS, CRIME AND DISORDER ACT IMPLICATIONS AND EQUALITY AND DIVERSITY IMPLICATIONS)

Legal Implications

- 5.1 Government Guidance indicates that before an authority makes a Dog Control Order it should consider whether the order is **necessary** and **proportionate**. In reaching a conclusion Committee should consider the results of the consultation (including the number of consultation responses), the existing powers which the council has, and proposals for enforcement.
- 5.2 The guidance indicates that the Committee should 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 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 due restrictions. Failure to properly consider the matters listed in paragraphs 5.1 and 5.2 could result in any subsequent Dog Control Order being vulnerable to challenge.

General

- 5.3 The enforcement agencies would use these powers fairly and proportionately. Those affected will have recourse through the courts in the normal way.

6. EQUALITY IMPACT ASSESSMENTS (EIAs)

- 6.1 Exemptions are available to Dog Control Orders to some sections of the disabled Community.
- 6.2 The Orders would not apply where a person in control of a dog has:-
- (a) a reasonable excuse for failing to comply with an Order; or
 - (b) Is acting with the consent of the owner or occupier of the land, or any other person or authority which has control of the land, for example dogs working on the land with the consent of the land owner.

There is also an exemption from the dog fouling offence for people with disabilities in respect of trained assistance dogs.

- 6.3 Under the Council's Fair and Just Nottingham Equity Scheme, these proposed Dog Control Orders complies with the underlying principles of the scheme and promotes fair and individual enforcement based on the Orders.

7. LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- 7.1 Record of complaints

8. PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

8.1 Crime and Disorder Act (1998)

8.2 Clean Neighbourhoods and Environment Act (2005)

8.3 Environmental Protection Act (1990)

8.4 Dogs (Fouling of Land) Act 1996

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (prescribed Offences and Penalties etc) Regulations 2006 (SI 2006/1059)

**The Nottingham City Council (Lenton Abbey Estate)
Fouling of Land by Dogs Order 2012**

The Nottingham City Council hereby makes the following Order:

- 1 This Order comes into force on [X]
- 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 objects, 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:

Given under the Common Seal of }
NOTTINGHAM CITY COUNCIL }

SCHEDULE

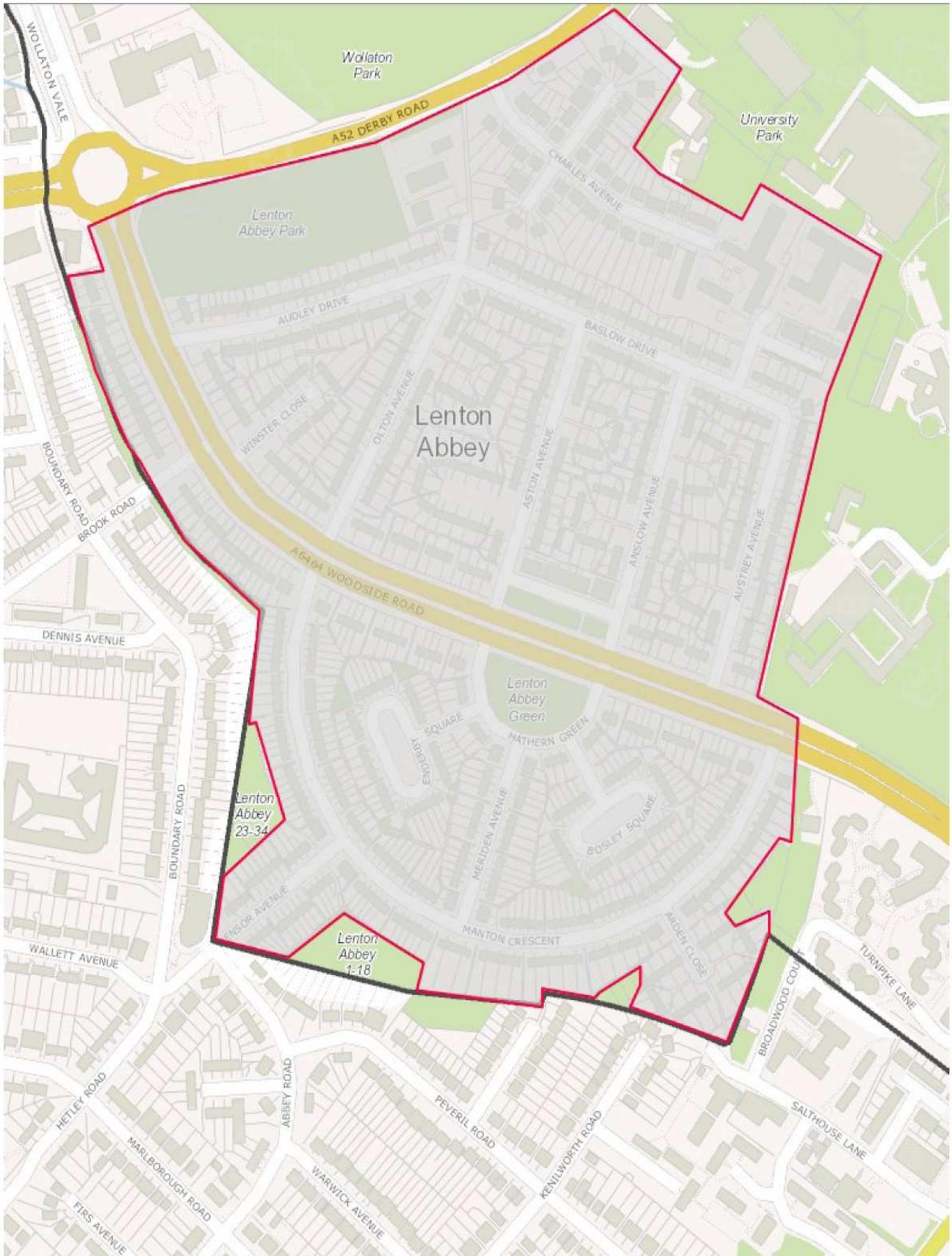
This Order applies to all land open to the air and to which the public are entitled or permitted to have access with or without payment which is delineated by a thick red line on the plan attached to this Order which shall include those places described in Parts 1 and 2 inclusive and in the event of a conflict between the plan attached to this Order and Parts 1 and 2 of this Schedule the plan attached to this Order shall take precedence.

Part 1

Anslow Avenue
Arden Close
Aston Avenue
Audley Drive
Austrey Avenue
Baslow Drive
Bosley Square
Charles Avenue
Enderby Square
Hathern Green
Lawley Avenue
Manton Crescent
Meriden Avenue
Olton Avenue
Varden Avenue
Wensor Avenue
Winster Close
Woodside Road from its junction with the A52 to its junction with Manton Crescent

Part 2

Lenton Abbey Park including the Tennis Courts and Bowling Green
Lenton Abbey Green
St Barnabas Church grounds



Proposed Dog Control Order Map

Areas to include:-
 Anslow Avenue, Arden Close, Aston Avenue, Audley Drive, Austrey Avenue, Baslow Drive, Bosley Square, Charles Avenue, Enderby Square, Hathern Green, Lawley Avenue, Manton Crescent, Meriden Avenue, Olton Avenue, Varden Avenue, Wensor Avenue, Winster Close, part of Woodside Road, Lenton Abbey Park

- Districts
- Place Names 400k
- NET_Line_One_400k
- Roads_400k
- Motorway
- Primary Road
- A Road
- Rail_Line_400k

0 98.9 Meters



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The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (prescribed Offences and Penalties etc) Regulations 2006 (SI 2006/1059)

The Nottingham City Council Dogs on Leads (Lenton Abbey Estate) Order 2012

The Nottingham City Council hereby makes the following Order:

- 1 This Order comes into force on [X].
- 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 of not more than 40 inches in length unless -
 - (c) he has a reasonable excuse for failing to do so; or
 - (d) 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

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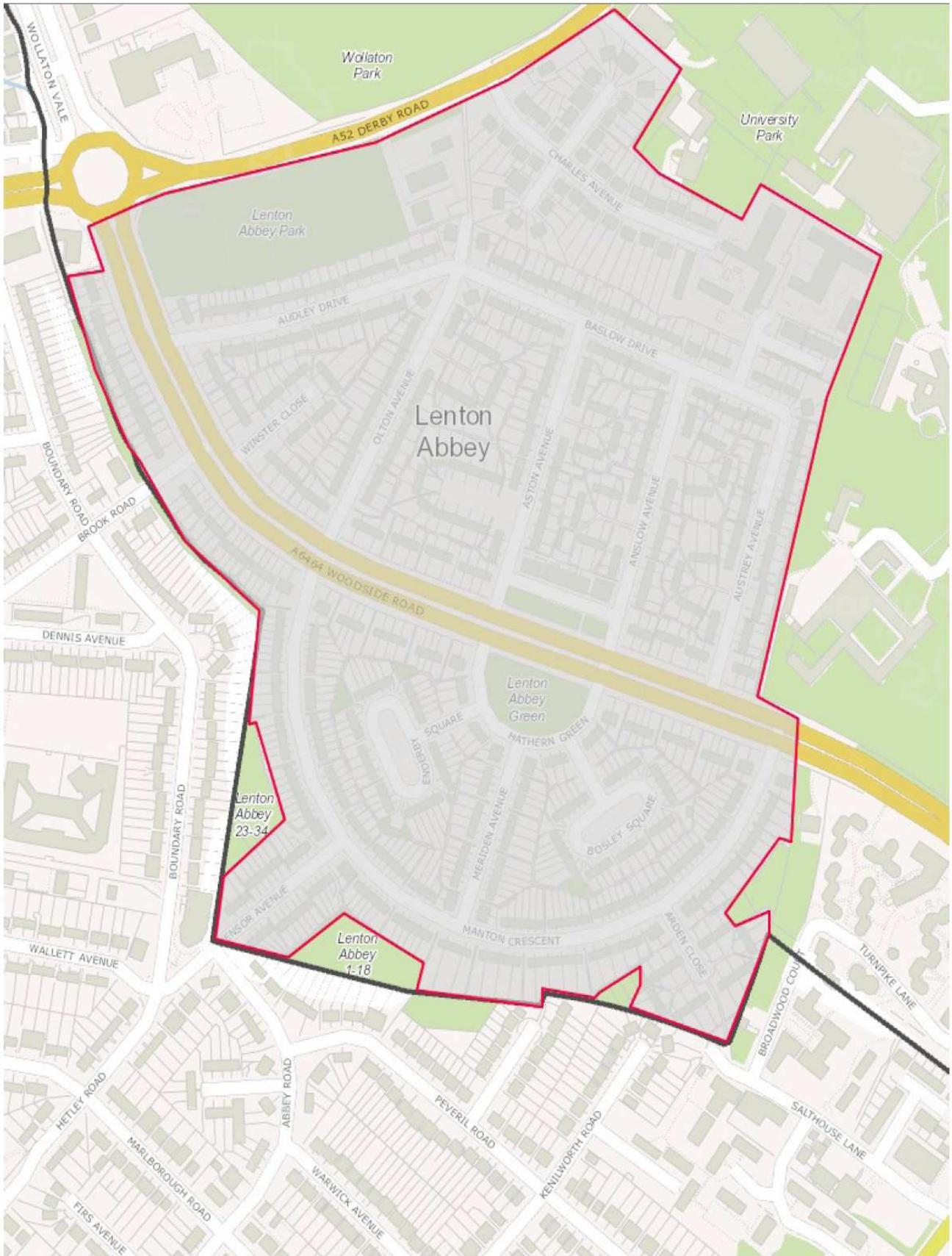
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