

Dog Control Act Hearing Panel DETERMINATIONS

Date: Friday 3 February 2017
Time: 10am
Venue: Committee Room 2, Level 2, Civic Offices,
53 Hereford Street, Christchurch

Present

Chairperson	Councillor Tim Scandrett
Members	Councillor Deon Swiggs Community Board Member Tim Lindley

24 February 2017

Mark Saunders
Committee and Hearings Advisor
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Election of a Chair

It was resolved on the motion of Community Board Member Lindley, seconded by Councillor Swiggs that Councillor Scandrett be appointed Chairperson of the Hearings Panel for the hearings scheduled for this date.

The objections were dealt with in the following order.

1. 10am - Hearing of objections of Jamie Stanton and Natalie Emson

Hearing of the objections of Jamie Stanton and Natalie Emson of Christchurch to the requirements of notices served on them pursuant to section 55(1) of the Dog Control Act 1996 relating to abating a barking or howling nuisance attributed to their dogs, "Luca" and "George".

Refer page 3 below for determination.

Councillor Swiggs declared a potential conflict of interest in relation to hearing the objection of Aubrey Walker and accordingly took no part in that hearing, leaving the meeting at 11:15am.

2. 11:30am - Hearing of objection of Aubrey Walker

Hearing of the objection of Aubrey Walker of Christchurch to the classifications under section 33A(1)(b)(i) of the Dog Control Act 1996 of their three-year-old, white and tan, female Staffordshire Bull Terrier Cross dog, "Lily", and their three-year-old, white and tan, male Staffordshire Bull Terrier Cross dog, "Pirate", as menacing dogs.

Refer page 16 below for determination.

Meeting concluded at 12:45pm.

BEFORE THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL

17/191101

IN THE MATTER of the Dog Control Act 1996

AND

IN THE MATTER of an objection of JAMIE LUCA STANTON of Christchurch to the notice given to him pursuant to Section 55(1)(b) requiring him to abate the nuisance being created by his male Jack Russell Terrier / Fox Terrier cross dog named 'Luca'

AND

IN THE MATTER of an objection of NATALIE JAYNE EMSON of Christchurch to the notice given to her pursuant to Section 55(1)(b) requiring her to abate the nuisance being created by her male Labrador Retriever dog named 'George'

Hearing: Committee Room 2, Level 2, Civic Offices
53 Hereford Street, Christchurch
3 February 2017 at 10am

Panel: Councillor Tim Scandrett (Chairperson)
Councillor Deon Swiggs
Community Board Member Tim Lindley

Appearances: Jamie Stanton (First Objector / Lawyer for Objectors)
Complainants
Mark Vincent (Team Leader Animal Management)

Determination: 24 February 2017

Hearing Advisor: Mark Saunders

**DETERMINATION OF THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL**
(Dog Control Act 1996, section 55)

The requirements of the notices relating to both Luca and George are modified and the modified requirements are set out herein

Christchurch City Council – Notice of Modified Abatement Requirements

Section 55(5), Dog Control Act 1996

To Jamie Luca Stanton

Address: ... Street, Christchurch

Dog: male Jack Russell Terrier / Fox Terrier cross dog named 'Luca'

This is to notify you¹ pursuant to section 55(5) of the Dog Control Act 1996 that, following the hearing of your objection pursuant to section 55(2) of the Dog Control Act 1996 to the abatement requirements previously notified to you relating to abating the nuisance being created by the dog it has been determined by the Hearings Panel of the Christchurch City Council that the abatement requirements relating to the dog are modified and the modified abatement requirements are that—

1. you must within 3 days from the issue date of this notice contact a professional dog trainer with demonstrated expertise in abating barking behaviour in dogs and agree to engage their services; and
2. you must use your best endeavours to, within 7 days from the issue date of this notice, commence a regular weekly training programme (lasting at least 4 weeks) with that trainer designed to abate the barking nuisance being created by the dog; and
3. you must ensure that within 40 days from the issue date of this notice the Council's Team Leader Animal Management receives, for passing to the Council's Hearings Panel, a signed letter from the trainer you have engaged outlining their qualifications and experience, along with their professional opinion as to whether the barking nuisance being created by the dog has been abated (and will remain so without use of an anti-barking collar), and their report on your degree of cooperation with, and attendance at, the training (noting it lasted at least 4 weeks and its regularity); and
4. if the Council's Hearings Panel is not satisfied with the letter or what it reports for any reason, or the letter indicates, in the view of the Panel, that the opinion of the trainer is that the barking nuisance has not been abated or will not remain abated without use of an anti-barking collar, or if the letter is not received by the Council in time, then the abatement requirement relating to the dog will become an ongoing general requirement to take such reasonable steps as are necessary to abate the barking nuisance; and
5. the Council's Hearings Panel may at their discretion (upon you applying in writing to it before the expiry of the 40 days mentioned in clause 3 above) extend the time given in clause 3 above for the training to achieve abatement of the nuisance; and
6. if the Council's Hearings Panel is satisfied with the letter from the trainer and it has been received within the prescribed time or any extended time approved further to clause 5 above, then the above requirements will be fulfilled.

¹ For the purposes of the Dog Control Act 1996, you are the owner of a dog if—

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

In the event that the Christchurch City Council receives any further complaints relating to the dog barking or howling (or has received any since your objection was heard), this notice of modified abatement requirements shall not prevent the Council's Animal Management Unit from giving a new notice under section 55(1)(b) of the Dog Control Act 1996, the requirements of which will apply in addition to the requirements set out above, and any objection to the new notice will not suspend the requirements set out above.

You are receiving this notice because the Council's Hearings Panel determined that there were reasonable grounds, following receipt of a complaint by a dog control officer, for believing that a nuisance was being created by the persistent and loud barking or howling of the dog, and further determined, after hearing your objection to the abatement requirements the officer notified to you, that the abatement requirements should not be cancelled, but should be modified.

The effect of this notice is further explained by referring to sections 55, 56 and 70 of the Dog Control Act 1996, relevant parts of which are provided below.

Inquiries in respect of this notice may be made to:

Team Leader Animal Management

Christchurch City Council, PO Box 73-037, Christchurch 8154

or by email to: animalmanagement@ccc.govt.nz

or by delivery to: the Civic Offices at 53 Hereford Street, Christchurch; a Council Service Centre; or the Council Animal Shelter at 10 Metro Place, Bromley, Christchurch.

To whom should also be addressed the letter referred to in clause 3 above, and any application for an extension of time referred to in clause 5 above, noting that any application for an extension of time, should, in the absence of extraordinary circumstances, be accompanied by a letter from the trainer expressing an opinion that the training will likely be successful in an extended period not longer than an additional 28 days (from the expiry of the 40 days, so that the period should not exceed 68 days from the issue date of this notice), and still it will be at the discretion of the Council's Hearings Panel whether to extend the time.

The Council's Hearings Panel will deal with remaining matters under clauses 4-6 above on the papers, since you have already exercised your right to be heard; only in respect of any application for an extension of time may you make written submissions if necessary, which will be dealt with on the papers.



Signature of Chairperson of the Hearings Panel of the Christchurch City Council

Date: 24 February 2017

Christchurch City Council – Notice of Modified Abatement Requirements

Section 55(5), Dog Control Act 1996

To Natalie Jayne Emson

Address: ... Street, Christchurch

Dog: male Labrador Retriever dog named 'George'

This is to notify you² pursuant to section 55(5) of the Dog Control Act 1996 that, following the hearing of your objection pursuant to section 55(2) of the Dog Control Act 1996 to the abatement requirements previously notified to you relating to abating the nuisance being created by the dog it has been determined by the Hearings Panel of the Christchurch City Council that the abatement requirements relating to the dog are modified and the modified abatement requirements are that—

1. you must within 3 days from the issue date of this notice contact a professional dog trainer with demonstrated expertise in abating barking behaviour in dogs and agree to engage their services; and
2. you must use your best endeavours to, within 7 days from the issue date of this notice, commence a regular weekly training programme (lasting at least 4 weeks) with that trainer designed to abate the barking nuisance being created by the dog; and
3. you must ensure that within 40 days from the issue date of this notice the Council's Team Leader Animal Management receives, for passing to the Council's Hearings Panel, a signed letter from the trainer you have engaged outlining their qualifications and experience, along with their professional opinion as to whether the barking nuisance being created by the dog has been abated (and will remain so without use of an anti-barking collar), and their report on your degree of cooperation with, and attendance at, the training (noting it lasted at least 4 weeks and its regularity); and
4. if the Council's Hearings Panel is not satisfied with the letter or what it reports for any reason, or the letter indicates, in the view of the Panel, that the opinion of the trainer is that the barking nuisance has not been abated or will not remain abated without use of an anti-barking collar, or if the letter is not received by the Council in time, then the abatement requirement relating to the dog will become an ongoing general requirement to take such reasonable steps as are necessary to abate the barking nuisance; and
5. the Council's Hearings Panel may at their discretion (upon you applying in writing to it before the expiry of the 40 days mentioned in clause 3 above) extend the time given in clause 3 above for the training to achieve abatement of the nuisance; and
6. if the Council's Hearings Panel is satisfied with the letter from the trainer and it has been received within the prescribed time or any extended time approved further to clause 5 above, then the above requirements will be fulfilled.

² For the purposes of the Dog Control Act 1996, you are the owner of a dog if—

- you own the dog; or
- you have the dog in your possession (otherwise than for a period not exceeding 72 hours for the purpose of preventing the dog causing injury, or damage, or distress, or for the sole purpose of restoring a lost dog to its owner); or
- you are the parent or guardian of a person under 16 who is the owner of the dog and who is a member of your household living with and dependent on you.

In the event that the Christchurch City Council receives any further complaints relating to the dog barking or howling (or has received any since your objection was heard), this notice of modified abatement requirements shall not prevent the Council's Animal Management Unit from giving a new notice under section 55(1)(b) of the Dog Control Act 1996, the requirements of which will apply in addition to the requirements set out above, and any objection to the new notice will not suspend the requirements set out above.

You are receiving this notice because the Council's Hearings Panel determined that there were reasonable grounds, following receipt of a complaint by a dog control officer, for believing that a nuisance was being created by the persistent and loud barking or howling of the dog, and further determined, after hearing your objection to the abatement requirements the officer notified to you, that the abatement requirements should not be cancelled, but should be modified.

The effect of this notice is further explained by referring to sections 55, 56 and 70 of the Dog Control Act 1996, relevant parts of which are provided below.

Inquiries in respect of this notice may be made to:

Team Leader Animal Management

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or by delivery to: the Civic Offices at 53 Hereford Street, Christchurch; a Council Service Centre; or the Council Animal Shelter at 10 Metro Place, Bromley, Christchurch.

To whom should also be addressed the letter referred to in clause 3 above, and any application for an extension of time referred to in clause 5 above, noting that any application for an extension of time, should, in the absence of extraordinary circumstances, be accompanied by a letter from the trainer expressing an opinion that the training will likely be successful in an extended period not longer than an additional 28 days (from the expiry of the 40 days, so that the period should not exceed 68 days from the issue date of this notice), and still it will be at the discretion of the Council's Hearings Panel whether to extend the time.

The Council's Hearings Panel will deal with remaining matters under clauses 4-6 above on the papers, since you have already exercised your right to be heard; only in respect of any application for an extension of time may you make written submissions if necessary, which will be dealt with on the papers.



Signature of Chairperson of the Hearings Panel of the Christchurch City Council

Date: 24 February 2017

REASONS OF THE HEARINGS PANEL

INTRODUCTION

[1] The hearing was held to consider the joint objection received from dog owners, Jamie Stanton and Natalie Emson ('the Objectors') to the notices issued under Section 55(1)(b) of the Dog Control Act 1996 ('the Act') requiring them to make specified provisions to abate the nuisance being created by the persistent and loud barking of their dogs, Luca and George.

[2] Section 55(1) of the Act is triggered where a dog control officer or dog ranger has received a complaint and has reasonable grounds for believing that a nuisance is being created by the persistent and loud barking or howling of any dog. Under section 55(1)(b) of the Act, the dog control officer or dog ranger may give the dog owner a written notice requiring that person to make such reasonable provision on the property to abate the nuisance as shall be specified in the notice or, if considered necessary, to remove the dog from the land or premises.

[3] A dog control officer from the Christchurch City Council's Animal Management Unit did receive a complaint relating to Luca and George and assessed that they had reasonable grounds for believing that a nuisance was being created by the persistent and loud barking of the dogs, and the officer accordingly gave the Objectors notices requiring the Objectors to fit Luca and George with anti-barking collars, or leave the dogs in the house when the Objectors were not at home, or take both the dogs off the property when the Objectors were not at home.

[4] The Objectors were advised of their right under section 55(2) of the Act to object to the requirements of the notices and the Objectors exercised this right jointly. Accordingly, their objection was referred to the Hearings Panel of the Christchurch City Council. The Panel on 3 February 2017 heard the Objectors' evidence and submissions, and also heard from other witnesses to the reported nuisance and from the Animal Management Unit, having previously received a report from Mark Vincent, Team Leader Animal Management, together with the evidence collected by his team relating to the nuisance that was being created by Luca and George and the abatement notices issued in response.

[5] This report notifies the reasons for the determination of the Hearings Panel to modify the abatement requirements and sets out the modified abatement requirements in accordance with section 55(5) of the Act.

BACKGROUND

[6] Since 7 March 2016 and through to 15 August 2016, the Council received complaints relating to the barking of two dogs at the Objectors' property.

[7] The Council's Animal Management Unit investigated the complaints and on the evidence it gathered determined that there were reasonable grounds for believing that a nuisance was being created by the persistent and loud barking of the Objectors' dogs, Luca and George. Accordingly, on 26 July 2016, the investigating officer issued abatement notices in terms of section 55(1)(b) of the Act to the Objectors (one to Mr Stanton in relation to his dog, Luca, and one to Ms Emson in relation to her dog, George).

[8] The Council subsequently received from the Objectors a joint objection to the requirements of the notices. There was discussion at the hearing as to whether the objection was received within time. The Panel accepts Mr Stanton's evidence given at the hearing that the objection complied with the relevant timeframe set out in section 55(2) of the Act.

[9] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the hearing. It is not intended to be exhaustive in its scope, but rather to identify what were considered to be salient comments.

THE HEARING

Christchurch City Council Animal Management Unit

[10] Mark Vincent, Team Leader Animal Management, referred to his written report circulated prior to the hearing. In the report relevant extracts from the Dog Control Act 1996 were provided for the Panel's information and consideration.

- Objects of the Act (Section 4)
- Obligations of Dog Owners (Section 5)
- Functions, duties and powers of territorial authorities (Section 6)
- Barking dogs (Section 55)
- Removal of barking dog causing distress (Section 56)
- Custody of dog removed for barking (Section 70)

[11] Mr Vincent summarised for the Panel the facts on which the decision to issue the abatement notices was based referring to his report and his summary of complaints received by the Council relating to the Objectors' two dogs at their address:

- *On the 7th March 2016, at 2.00 pm*
 - *The Council received a complaint (201137) alleging that the two dogs from ... Street were barking all day. The complainant commented that the barking started at "8.30 am during the day, all day, and quiet on the weekends when the people are home".*
 - *The officers' actions and investigations:*
 - *Established the existence of two dogs at this address*
 - *Provided the dog owner with information relating to a MTTD licence*
 - *Provided the dog owner with a notice to register the 2nd dog, a black Labrador which was not registered with the Council at the time of the visit.*
 - *Issued the dog owner with a BD1*
 - *Issued the complainant with a BD2 information letter*
 - *Advised the dog owner ways to prevent barking nuisance*
 - *Blocking the dogs view of driveway*
 - *Advised fencing was on the way.*
- *On the 8th June 2016, at 3.35 pm*
 - *The Council received a complaint (204535) alleging that two dogs from ... Street were barking non-stop.*
 - *The officers' actions or investigations:*
 - *On the 9 June 2016, at 10.56 am, visited the address and arrived at ... Street to observe both the two dogs barking.*

- *The officer left a voice message with the complainant of the Officers visit to the address*
- *Issued BD1 and BD2 information letters to both parties.*
- *On the 21st June 2016, 9.19 am*
 - *The Council received a complaint (204969) alleging that two dogs from ... Street were barking during the day approximately 8.30 am after the owners leave for work.*
 - *The officer investigated this matter and took the following action:*
 - *21/6 - Conducted a neighbourhood survey to gauge noise nuisance*
 - *Requested complainant to complete the bark recording form*
 - *Advised dog owner barking screen fence was not working, lots of barking still from the dogs*
 - *Established six separate addresses who also had a complaint about the dogs barking*
 - *Requested a consent for the Councils "bark recording" device to be set up at the complainants address – approved.*
 - *30/6 – 8.40 am AMO monitored address dogs barking as normal*
 - *4/7 – AMO collected bark recorder*
 - *6/7 - AMO listened to 'bark recorder" and heard excessive amounts of barking.*
 - *Dog owner advised officer they will buy a bark collar*
 - *AMO asked for dog owner to hear recordings*
 - *8/7 – Barking heard on arrival to property by AMO*
 - *18/7 - officer arrived at 8.49 am, no barking*
 - *18/7 - Dog owner has purchased a ultrasonic barking device*
 - *19/7 - AMO parked across the road from dog property, Labrador barking off and on*
 - *22/7 Noise nuisance exists the AMO issued an abatement notice to both dog owners.*
 - *26/7 - AMO advised dog owner to keep dogs inside, take dogs away or use bark collar*
 - *26/7 Abatement notice served*
 - *...Objection letter from Dog owners received by Council.*
- *On the 1st August 2016, at 4.29 pm*
 - *The Council received a complaint (206399) from a neighbour alleging that two dogs from ... Street were barking all day about 8.10 am until 6.00 pm.*
 - *The officers' actions or investigations:*
 - *On 1 August 2016, advised complainant will monitor barking noise nuisance next day*
 - *On the 2 August 2016, 11.15 am arrived both dogs barking excessively....*
- *On the 15 August 2016, at 10.47 am*
 - *The Council received a complaint (206770) from a neighbour alleging that two dogs from ... Street were barking, they were bored.*
 - *The officers' actions or investigations:*
 - *On the 16 August 2016, the barking (unit 15) set up to monitor noise nuisance*
 - *There was considerable discussions between the dog owners and residents regarding the dogs which are detailed in the documents for consideration.*
- *On the 15 August 2016, at 4.22 pm*

- *The Council received a complaint (206791) from a neighbour alleging that two dogs from ... Street were barking and this was an ongoing problem, bored, locked inside the house....*

The Complainants

[12] The Complainants' evidence was well captured by the below statement of one of them. While the Complainants noted times of improvement in regard to the barking, they also indicated at the hearing that the barking nuisance had started up again as an update to the below statement and asserted that the abatement notices are still necessary.

Honestly there is nothing more annoying than a frequent barking dog. George and Luca started the moment the owners went to work and stopped when they got home. It felt like they would bark every time someone would walk past, when another dog in the subdivision barked, every time a builder hit his hammer or a car went by - It wasn't like it was happy dogs' playing it was loud, frequent and overtime it actually does your head in.

They are surrounded by neighbours who all spend a lot of time at home during the week but as responsible dog owners you shouldn't want your dogs to be that unhappy when you are away and your neighbours definitely do not need to put up with it.

I drew the line when I had to shut all the windows and doors to the house for my son to have a day sleep and he could still hear the dogs in his bedroom. This was when I called the council for the first time. I expected that you would do everything to make the situation better. Not just for your neighbours but also for your dogs. However multiple phone calls to the council had to be made and it seemed only stalling techniques were used by the dog owners.

I heard the owners were annoyed that I didn't personally approach them but my reply is I wouldn't have been received well as even when Gail the Animal Management Office came to visit you didn't believe there was a problem and even with her help it still took her persuasion on multiple occasions before any measures were put in place to counteract the noise levels.

George and Luca are both quiet when the owners are home and we sometimes hear them being told off if they let out a little bark at the weekend. I used to think if you are telling them off over that little bark that's nothing compared to the weekday barking session.

I want to be a good neighbour with everybody in the subdivision and don't want any hostility but we shouldn't have to put up with barking dogs. Part of the covenants of living in the Preston's subdivision is dogs shouldn't be a nuisance.

We were approached by Jamie about the dogs barking but still took ages for the problem to be rectified.

The noise has improved remarkably but nothing about this process has been simple and George and Luka are smart and seem to work out how to get around the noise barriers. I honestly believe that without the notice of abatement the owners wouldn't keep up with the measures to keep the dogs quiet.

The Objectors

Evidence and Submissions of Mr Stanton

[13] At the hearing, Mr Stanton referred to notes in the papers he took to suggest that the case had been closed, and suggested that there is no valid complaint at this time, and no established nuisance at this time. He also noted that Luca had been kept inside since the notices were issued, and objected to the contention that both dogs were (still) a nuisance, though the Complainants' evidence had been that (previously at least) both dogs were a nuisance and setting each other off; the combination of the barking of both a large and small dog being discernible. The investigating officer had obtained recordings of the barking and was satisfied that both dogs were creating the nuisance. Clarifications at the hearing indicated that the Objectors' submission was that Luca is no longer a source of nuisance being now kept inside, though the evidence from the Complainants indicated that though Luca is no longer such an issue, he is still potentially a nuisance and it is the adherence to the requirement to keep Luca inside that has at least reduced the nuisance created by Luca.

[14] Mr Stanton indicated that he had purchased an ultrasonic barking device to attempt to deal with the problem with George, but it had not worked, and he had tried giving more stimulation and more toys to try address the problem. He indicated trying George on an electric collar for two weeks, and indicated that the investigating officer conceded improvement. Mr Stanton noted that the collar hasn't been used for some time, and indicated that he had not been notified lately of any returning problem.

[15] Mr Stanton submitted that it is not appropriate for abatement requirements to apply for the rest of the dogs' lives, and indicated that he would take steps if a nuisance is again created. Mr Stanton indicated that he did not wish to continuously use the anti-barking collar, as he did not wish to shock George unnecessarily. Mr Stanton indicated that he was not aware that the problem had apparently started up again, since it had improved, and indicated that he will take steps now that he knows. Mr Stanton advised that professional training was not being employed because he thought there was no longer a nuisance, but he would consider an alternative measure to a shock collar.

Close of Hearing

[16] The Panel considered that it had all the information it needed to have regard after considering the evidence, information and submissions available to it.

[17] The Panel closed the hearing and reserved its decision.

PANEL DELIBERATIONS

The evidence which formed the basis for the issuing the abatement notices

[18] The evidence which formed the basis for issuing the abatement notices was not in the Panel's view in any doubt with regard to it supporting the assessment that both the Objectors' dogs, Luca and George, were the dogs whose barking was the source of complaint and the Panel regarded that the investigating

officer had reasonable grounds for believing that a nuisance was being created by the persistent and loud barking of Luca and George.

[19] Mr Stanton's submissions regarding an appearance that the case had been closed and suggestion that there was currently no valid complaint, were in the Panel's view misguided, as the Panel was dealing with the abatement notices which have a life of their own once issued. Insofar as the point related to a submission that the problem had improved, the Panel considered that there was evidence that the problem was capable of improvement and had improved at times, but considered that it had certainly not been finally fixed, and anyway such considerations, while not irrelevant, did not undermine the point that the Panel was able to deal with the abatement notices without their right to so being fundamentally affected by the current status of complaints.

[20] The Panel dismissed any implication that it was under any obligation to find that there is a current active ongoing nuisance, though it regarded that would find such if the Act required, being inclined to believe the Complainants' account that the problem was starting up again (and also that it anyway existed though steps might have been taken as a result of the notices that had masked the underlying problem), and considering that the Objectors appeared somewhat intermittent in their steps to abate the nuisance and appeared to have not taken the matter sufficiently seriously with due consideration for the Complainants.

[21] The Act simply directs the Panel to "consider" objections, and its guide as to how to do so is really the objects of the Act, which offer the guidance that they should ensure that dogs do not cause a nuisance. As noted, the Panel regarded that the investigating officer had reasonable grounds for believing that a nuisance was being created by the persistent and loud barking of Luca and George; being satisfied of that, the Panel could turn its mind to simply ensuring that the dogs do not henceforth cause a nuisance. Notices are not intended to be punitive, but are rather preventive, and the Panel regarded that it should aim for permanent prevention without being punitive, and considered that the Objectors should be not so much concerned with the complaint history (which anyway doesn't help their case to highlight), as they should be with their obligation to ensure that their dogs do not cause a nuisance; the Panel was concerned that the Objectors had not been sufficiently proactive and in the absence of the suggestion that training could resolve the problem, the Panel would not have been persuaded to not confirm ongoing abatement requirements.

Steps taken to abate the nuisance

[22] It was apparent to the Panel that the Objectors had taken some steps to abate the nuisance, but was not persuaded that they were lasting or sufficient. However, the Panel was open to effectively giving the Objectors another opportunity, being satisfied that there was a possibility that professional training could abate the nuisance, and providing the Objectors the opportunity they wanted to avoid the use of an anti-barking collar. Given that training is something that can be completed within a defined period, the Panel considered modifying the abatement requirements to focus on training would effectively allow the Objectors an opportunity to have the requirements not apply for the lifetime of the dogs, if the training was successful.

Matters relied on in support of the objection

[23] The Panel duly considered the Objectors' evidence and submissions advanced in support of their objection, and while they were not persuaded to cancel the notices, they were inclined to modify the abatement requirements as discussed to come some way to meeting the Objectors' objection to ongoing abatement requirements particularly relating to the use of an anti-barking collar, since there was an appearance that, even though the dogs weren't being started on the training as young as would be ideal, a training requirement could potentially offer a permanent solution, giving the Objectors the benefit of the doubt on this occasion that they will dedicate themselves seriously to carrying through on the training and be persistent with it.

[24] The Panel were not persuaded that only George was the issue now, and perceived that, given the training should be largely conducted at the Objectors' home, it would be sensible and best that Luca also be involved in the training, and decided that imposing the same training requirement on Luca would be justified, and better serve the Objectors' wish to try to avoid ongoing requirements, as the alternative considered was an ongoing requirement that Luca to be kept inside the house, though it was apparent that even that would not be entirely adequate to abate the nuisance, and imposing the training requirement on both dogs held out the better hope of dealing conclusively with the nuisance in the Panel's view, noting that it was reasonable to believe that there was a potential element of the dogs setting each other off, suggesting that involving both dogs in the training would be sensible.

Other relevant matters

[25] The Panel was concerned about the distress and annoyance the barking nuisance had caused the Complainants, and expressed a wish to fairly address and abate that distress and annoyance, recognising it was not acceptable and recognising the obligation of dog owners set out in section 5(1)(e) of the Act "to take all reasonable steps to ensure that the dog does not cause a nuisance to any other person, whether by persistent and loud barking or howling or by any other means" and the object of the Act as set out in section 4 to "...to make better provision for the care and control of dogs— ...by imposing on the owners of dogs, obligations designed to ensure that dogs do not cause a nuisance to any person...". However, the Panel perceived that professional training offered a serious and appropriate chance to address and abate the nuisance, being satisfied that the Objectors were apparently capable of taking seriously the opportunity they would be given by the abatement requirements being modified to training requirements.

[26] The Panel were hopeful that their trust in the Objectors to take seriously the opportunity to avoid an anti-barking collar and ongoing requirements would not prove misplaced, noting that they were reluctant to give any suggestion that there should be tolerance for any ongoing barking nuisance, regarding that the Complainants had suffered enough, and there should be no onus on them to have to continuously contact the Objectors about the barking nuisance.

[27] The Panel considered Mr Stanton's suggestion that he was not made directly aware by the Complainants when the barking nuisance re-emerged, and were encouraged that there might be some improved communication following the hearing between the Objectors and Complainants, but the Panel rejects any suggestion that the Complainants should be obliged in the matter, since the Act places the obligation on the dog owner to ensure their dog does not cause a nuisance, and the Objectors were well aware that their dogs had a propensity to create a barking nuisance. The Objectors should bear the

obligation to monitor the barking nuisance, and cannot wait for reports from the Complainants. If the Complainants see fit as a gesture of good faith to extend some tolerance during the training period reciprocating the Objectors' expected commitment to training, that would be commendable, but the onus is on the Objectors to be proactive and they cannot complain if the Complainants assert their entitlement to be free of the nuisance, and so it is hoped that the Objectors will be immediately proactive to abate the nuisance.

RESULT

[28] Having considered the objection of the Objectors to the requirements of the abatement notices issued relating to their dogs, Luca and George, together with the evidence and submissions of those who have written to the Council and/or appeared before the Panel, and having regard to the provisions of the Dog Control Act 1996, it is determined that the abatement requirements relating to Luca and George are **modified** as set out in the above Notices of Modified Abatement Requirements; the Panel considering that the investigating officer had reasonable grounds for believing that a nuisance was being created by the persistent and loud barking of Luca and George, and regarding that it was reasonable that the abatement requirements not now be cancelled, but being persuaded to modify the requirements to give the Objectors an opportunity to employ professional training to abate the nuisance, which if successful (and if there are no new complaints resulting in a new notice), would accommodate the Objectors' preference to avoid the use of anti-barking collars.

CONFIRMED THIS 24TH DAY OF FEBRUARY 2017



COUNCILLOR TIM SCANDRETT

CHAIRPERSON

**BEFORE THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL**

17/201382

IN THE MATTER of the Dog Control Act 1996

AND

IN THE MATTER of an objection of AUBREY JOHN WALKER of Christchurch to the classification under Section 33A(1)(b)(i) of his female white and tan coloured, Staffordshire Terrier cross dog named 'Lily' as a menacing dog

AND

IN THE MATTER of an objection of AUBREY JOHN WALKER of Christchurch to the classification under Section 33A(1)(b)(i) of his male white and tan coloured, Staffordshire Terrier cross dog named 'Pirate' as a menacing dog

Hearing: Committee Room 2, Level 2, Civic Offices
53 Hereford Street, Christchurch
3 February 2017 at 11:30am

Panel: Councillor Tim Scandrett (Chairperson)
Community Board Member Tim Lindley

Appearances: Aubrey Walker (Objector)
Phoebe Gemmell (Complainant)
Kevin Wilson (Witness)
Mark Vincent (Team Leader Animal Management)
Chris Todd (Investigating Animal Management Officer)

Determination: 24 February 2017

Hearing Advisor: Mark Saunders

**DETERMINATION OF THE HEARINGS PANEL
OF THE CHRISTCHURCH CITY COUNCIL**
(Dog Control Act 1996, section 33B)

The classifications of both Lily and Pirate as menacing are upheld

REASONS OF THE HEARINGS PANEL

INTRODUCTION

[1] The hearing was held to consider an objection received from dog owner, Aubrey Walker ('the Objector') to the classification under Section 33A(1)(b)(i) of the Dog Control Act 1996 ('the Act') of his female, white and tan coloured, Staffordshire Terrier cross dog named 'Lily' and his male, white and tan coloured, Stafford Terrier cross dog named 'Pirate' as menacing dogs.

[2] Section 33A(1)(b)(i) of the Act relates to a dog that a territorial authority considers may pose a threat to any person, stock, poultry, domestic animal, or protected wildlife because of an observed or reported behaviour of the dog. Under section 33A(2) of the Act a territorial authority may classify such a dog as menacing, and following a report that the Objector's dogs, Lily and Pirate, had attacked another dog, the Christchurch City Council's Animal Management Unit did so classify both Lily and Pirate as menacing dogs by giving notice to Mr Walker of the classifications and other prescribed matters, including his right to object to the classifications under section 33B of the Act.

[3] Mr Walker exercised his right to object to the classifications of Lily and Pirate as menacing and in accordance with his right to be heard in support of his objection it was referred to the Hearings Panel of the Christchurch City Council. The Panel on 3 February 2017 heard Mr Walker's evidence and submissions, and also heard from other witnesses to the reported attack and from the Animal Management Unit, having previously received a report from Mark Vincent, Team Leader Animal Management, together with the evidence collected by his team relating to the incident and classifications.

[4] This report notifies the determination of the Hearings Panel and the reasons for its determination in accordance with section 33B(3) of the Act.

BACKGROUND

[5] On 17 August 2016 at 5:18pm, the Council received a complaint from Phoebe Gemmell alleging that on that same day her dog was attacked by her neighbour's two dogs.

[6] The Council's Animal Management Team investigated Ms Gemmell's complaint and on the evidence it gathered, particularly a statement dated 22 August 2016 from a key witness, Kevin Wilson, determined that the alleged dog attack did occur. They further determined that the dogs that attacked the Complainant's dog were the female, white and tan coloured, Staffordshire Terrier cross dog named 'Lily' and the male, white and tan coloured, Stafford Terrier cross dog named 'Pirate', owned by the Objector, Mr Walker, and on 9 September 2016, in accordance with section 33A(1)(b)(i) of the Act, they classified these dogs as menacing.

[7] Photographs on file depict the injuries to the Complainant's dog as a result of the dog attack.

[8] Mark Vincent, Team Leader Animal Management, considered the evidence collated by the Investigating Animal Management Officer, and considered the recommendation to classify the Objector's dogs, Lily and Pirate, as menacing. In his view there was sufficient evidence to prove that both Lily and Pirate had attacked the Complainant's dog and he therefore signed the documents classifying the female,

white and tan coloured, Staffordshire Terrier cross dog named 'Lily' and the male, white and tan coloured, Stafford Terrier cross dog named 'Pirate', as menacing.

[9] On 16 September 2016, the Council received from the Objector, Mr Walker, a formal objection to the classifications of his dogs, Lily and Pirate, as menacing.

[10] The following report and assessment summarises a considerable volume of oral and written evidence and submissions presented to the hearing. It is not intended to be exhaustive in its scope, but rather to identify what were considered to be salient comments.

THE HEARING

Christchurch City Council Animal Management Unit

[11] Mark Vincent, Team Leader Animal Management, referred to his written report circulated prior to the hearing. In the report relevant extracts from the Dog Control Act 1996 were provided for the Panel's information and consideration.

- Objects of the Act (Section 4)
- Obligations of Dog Owners (Section 5)
- Functions, duties and powers of territorial authorities (Section 6)
- Territorial authority may classify dog as menacing (Section 33A)
- Objection to classification of dog under section 33A (Section 33B)
- Effect of classification as menacing dog (Section 33E)
- Offence to fail to comply with section 33E(1) or Section 33EB (Section 33EC)

[12] Mr Vincent summarised for the Panel the facts on which the decision to classify the Objector's dogs as menacing were based referring to his report and the attachments thereto.

[13] Mr Vincent's report noted that every dog owner has a legal responsibility and obligation to control and contain their dog at all times to avoid unexpected attacks like this, and that the Council uses the classifications available to it through the Dog Control Act 1996 to prevent attacks reoccurring, assessing that the seriousness of this attack passed the threshold for classifying both Lily and Pirate as menacing.

[14] Mr Vincent concluded that based on the evidence and pursuant to his delegated authority as Team Leader Animal Management he had determined that the Objector's dogs, Lily and Pirate, were in breach of section 57(2) of the Dog Control Act 1996 and in accordance with section 33A of the Act on 9 September 2016 classified both Lily and Pirate as menacing dogs.

[15] At the hearing, the Investigating Animal Management Officer, Chris Todd, clarified for the Panel what he had observed at the location of the attack, noting that there was a lot of patch up work on the fence between the properties of the Objector and Complainant. He noted that they had patched up the hole that led to the attack and done a lot of extra work, but it is an old fence with ongoing issues, emphasising that it is a rotten old fence that could have issues again, and the fence really needs replacing to properly and reliably contain dogs.

[16] Mr Todd noted that there was indication that the Complainant's dog contributed to incident in pushing through a fence, and may even have started the fight. However, he considered that there was nothing to justify the level of attack of Lily and Pirate on the Complainant's dog, George, and considered that it was no obstacle if Lily and Pirate started their attack on George as a defence, since their attack went beyond mere defence and they took it back over the line as a sustained aggressive advance revealing that the Lily and Pirate would be justifiably and appropriately classified as menacing.

The Complainant

Evidence of Phoebe Gemmell

[17] On 18 August 2016, Ms Gemmell gave a statement to the Investigating Animal Management Officer describing what happened as follows:

I was returning home from hospital when I received word that my dog had been attacked. It was Kevin who had called me. Malcolm, my partner, had left George, our dog, secure in the backyard. It looks like George has pushed over a side fence and got out into the part of the property where the driveway borders onto the neighbour's backyard. We think George has pushed the iron fence through to number 90 where the two [white bull breed dogs, one male, one female, one with a black mark around an eye] live. When I returned home I found George by the garage panting and covered in blood. I was told that one of the white dogs could be loose on the property, so we moved George to the backyard. This is where I saw all of the blood at the site of the attack. I went to the driveway to see if the neighbour was home. Another neighbour told me they had seen my dog running up and down the driveway before the attack. I returned to my dog and phoned the police, ccc and the vet. We then immediately left for the vet clinic. We returned later that night without George because he requires surgery for major bite wounds. He is currently covered in wounds and will remain at the vet for treatment.

[18] On 19 August 2016, Ms Gemmell further wrote the following email to the Investigating Animal Management Officer:

Dear Chris,

I am sending this email as I feel the need to let you know how traumatic this whole dog attack has been for me.

I know we have spoken on the phone a number of times and working with you through this incident there has been good communication and good understanding of what has happened.

I really feel sick to the pit of my stomach that this attack has occurred and am terrified that it may happen again and maybe it might not be my dog that gets attacked next time what if it's one of our children, grand children or anyone or any other animal.

It was only two weeks ago I spoke with the neighbour saying that this fence needed to be fixed and more secure as one of his dogs was half over the fence when I had got home that afternoon. Our neighbour told me that day that it was only last week the dogs killed his pet magpie.

That fence has been in terrible condition and not good enough to hold in his two dogs or my 52kg dog.

Nothing had been done about the fence and then of course the worst possible thing has happened.

I really have been blaming myself for the fact George got out from the back of our section and feel so upset that this has happened as I love my dog so much and to see him in the state he is in with all his horrific wounds has really upset me.

If Kevin who lives behind us hadn't intervened and managed to get the two dogs off George, George wouldn't have survived another 3 minutes of that attack.

And the fact Kevin risked being attacked himself scares me.

I cannot be more thankful that Kevin was home when this all happened.

As you know Jo (officer 12664) called over yesterday at 2.10 for me to make a statement which I have done.

And I understand someone will be out to see Kevin to get a statement off him today.

George was at the vets for just over 24 hours and needed surgery yesterday and we were able to pick him up last night.

I do wish that you could see the damage these two dogs have done to George it just breaks my heart.

Our vet at parklands will be writing a report on Saturday and sending it through to me which I will then email on to you.

Chris I really want to know how the two dogs (lily and pirate) are registered as staffies when clearly they are pittballs or pittball crosses.

These dogs are dangerous dogs and do they now have the taste for blood.

I am terrified of these dogs.

*Regards
PJ Gemmell*

[19] The report from the vet Ms Gemmell mentioned was sent through to the Animal Management Unit by her on 26 August 2016 and reported as follows:

23/8/16

To whom it may concern

George, a 7 year old Bernese Mountain dog owned by the Gemmells was treated at Ourvets Parklands last week. His owners have asked me to provide a report on his treatment.

George had wounds over multiple limbs, around his anus, both sides of his face and inside his mouth that required flushing and suturing under general anaesthetic . While some of the wounds may have been sustained by trauma from a fence or other structure, most of them were dog bite wounds.

George is on antibiotics and anti inflammatories and recovering well.

The cost of his initial treatment was \$1355 with further costs of follow up appointments.

If you require more information please feel free to contact me at the clinic on....

Kind regards

Thea Taylor BVSc (dist.)

[20] At the hearing, Ms Gemmell added to her statement that dogs are still able to get through the fence between the Objector's property and hers, reporting that as recently as 10 January 2017, her partner, Malcolm, had to kick back a dog that was stuck trying to get through, and noting a concern about the dogs getting part through and potentially injuring themselves on the fence. Nothing, she said, had been done about it and she was fearful in respect of children coming over. She noted that the incident had been an emotional rollercoaster for her, as her dog is like her child, and she noted the medical costs and lack of apology from the Objector.

[21] Ms Gemmell emphasized how flimsy the fence between the neighbours is, noting that it wouldn't be difficult for a dog to come through again. She described the extra secure area in her backyard where she keeps George as an extra level of separation, indicating that it was a one-off him getting through.

[22] The photographs on file depicted the facial injuries George suffered as a result of the attack on him by Lily and Pirate, and also depicted the state of the fence between the relevant properties, and the blood where the attack had occurred. One photo depicted blood around a hole in the fence, but others depicted blood around the verandah.

Evidence of Kevin Wilson

[23] On 22 August 2016, Mr Wilson gave a statement to the Investigating Animal Management Officer describing what happened as follows:

On 17/8/16 at approximately 4:45pm I was in my lounge at [address] when I heard 'George' the dog from [address] barking. I didn't pay much attention to him until I heard another unknown dog barking as well. I thought this was unusual so I walked down my driveway to check if 'George' was ok. As I got half way down my drive I could see 'George' on the verandah of his house and I could see one of the [2 white/tan staffy crosses, 1 male, 1 female] dogs was attacking his face; I ran through the gate into the property at this point noticing the other [white/tan staff cross] dog attacking 'George' at his rear. I picked up a shovel which was lying on the driveway and hit both attacking dogs. This gave me enough time to get in and shoo them both out of the property and down the drive. I came back to check on 'George' and phoned his owner.

[24] At the hearing, Mr Wilson clarified in regard to the fence that the problem started with Mr Walker taking half of it down to try to get more room to get cars down the property, and described issues with the new fencing proposed by Mr Walker including in relation to the positioning of the rails and the possibility of dogs using the rails as footing to enable them to get over.

The Objector

Evidence and Submissions of Aubrey Walker

[25] At the hearing, Mr Walker essentially accepted that Lily and Pirate attacked George, albeit questioning why his dogs alone were being picked on when there was indication that George also contributed to the incident. He noted that given George was kept behind two fences, George pushing through a fence in the first instance initiating the situation that gave rise to the attack. He also referred to the neighbour that saw George running up and down, which he suggested wound his dogs up.

[26] The file also disclosed that Mr Walker had a vet visit arising out of the incident and included the following vet notes regarding Lily:

*Client Name: Mr Walker
Patient Name: Lily
Breed: Staffordshire Bull Terrier
Age: 2 years and 11 months old
Sex: F*

Clinical Records

*Date: 18 AUG 16 16:45
Vet: J
Notes: Dog fight - check over.*

*Dog in fight 24 hrs ago.
Apparently in a fight 24hrs ago but O. did not see this.
Fight was with the neighbour's dog and dog stayed in neighbours kennel.*

*Dog has some dried blood around head
There are 2 little puncture wounds on top of head but these are dry and not discharging.
There is some very mild haemorrhage to sclera of R. eye.
Mild wounds to inner lip L. side superficial.
Plan Will cover dog with ABs and pain relief.*

*Clav 250 mg 1 bid #20 have given enough for other dog who doesn't appear to have sustained any injuries.
Rimadyl 100mg 1/2 bid #10 Likewise for other dog - 5 days' worth.
RV Parklands Mon or before if reqd.
Drugs Dispensed:
1 x Consultation
20 x Clavulox Tabs 250mg 250's
10 x Rimadyl Chewables 100mg 60's*

[27] Mr Walker indicated that he had apologised to Ms Gemmell's partner, Malcolm. He also indicated that he wasn't told of the amount of the vet bill or approached about reparation, and upon prompting by the Panel indicated that he would look at reparation when things are sorted out, and he just wanted things to be fair.

[28] Mr Walker also advised that he sent through a fencing notice to attempt to address the matter of the fence, and suggested that Malcolm had been smashing the fence to get his attention, and making a joke of it. Mr Walker noted that he had been home-invaded in the past and he needs the fence constructed in a way that people can't climb over it, and it was the competing specifications for the fence between neighbours resulting in stalemate that was preventing the fencing being resolved presently. Mr Walker indicated that if the fencing dispute could be resolved, he was ready and able to get the fencing replaced.

[29] Mr Walker advised that Lily and Pirate are in the process of leaving his property to go with their original owner as he was only baby-sitting them. He indicated that Pirate had already left in the last 7 days, and that Lily was presently giving birth to puppies. He clarified that Lily and Pirate will definitely be permanently departing the property.

Close of Hearing

[30] The Panel considered that it had all the information it needed to have regard to under section 33B(2) of the Act after considering the evidence, information and submissions available to it.

[31] The Panel closed the hearing and reserved its decision.

PANEL DELIBERATIONS

The evidence which formed the basis for the classification

[32] The evidence which formed the basis for the classification was not in the Panel's view in any doubt with regard to it supporting the assessment that both Lily and Pirate attacked Ms Gemmell's dog, George, resulting in George suffering the injuries reported in the photographs and vet notes.

[33] The evidence suggested to the Panel that the attack resulted from Lily and Pirate not being kept under effective control and that Lily and Pirate could attack another dog again if again not kept under control. The evidence suggested that Lily and Pirate had an apparent propensity to such an attack in some circumstances as demonstrated by the attack that led to the classifications and were aggressive dogs.

[34] The Panel, having regard to the evidence which formed the basis for the classifications of Lily and Pirate as menacing, considered that it was sufficient to form the basis for the Animal Management Unit's classifications, recognising that it would proceed to consider Mr Walker's evidence and his submissions in support of his objection to the classifications.

Steps taken to prevent any threat to the safety of persons or animals

[35] It was not practical or appropriate for the Panel to hear the fencing dispute between the neighbours, but the Panel considered that even if it gave the Objector the benefit of the doubt that he was sincerely

trying to progress fencing designed to prevent any threat created by the dogs, it had not received evidence or submissions from Mr Walker that would persuade it that he was taking such steps that the classifications would be unnecessary for advancing the object of the Dog Control Act 1996 to make better provision for the control of dogs by imposing on owners of dogs obligations designed to ensure dogs do not injure, endanger or cause distress (section 4 of the Act).

[36] Indeed the Panel was concerned about the lack of submission around any steps to prevent the threat Lily and Pirate may pose wherever else they may have gone or be going, Mr Walker simply advising that Pirate had permanently left his property and Lily would soon too. The Panel would have expected reassurances about how the threat the dogs poses was being addressed as part of the handover, if it was being expected to rescind the classifications. Rather, considering the lack of reassurances, and unapologetic fact that Lily was pregnant though the Act may require her to be neutered soon (the lawmakers manifesting an apparent belief that it is inconsiderate to the safety of the community to breed from aggressive dogs), the Panel perceived in the Objector's wanting presentation a lack of proper regard for the mentioned object of the Act, which is ultimately aimed at public safety.

[37] The Panel considered that Mr Walker did not have Lily and Pirate under effective control at the time of the incident to prevent the attack, and considered that there was not evidence that sufficient steps had been taken to prevent the threat Lily and Pirate pose. The Panel had to have regard to the objects and provisions of the Act, the nature of the attack and the injuries that George suffered, and the need to address the threat, and, in light of these considerations, it considered that the steps taken by the Objector were not sufficient in all the circumstances of this case to persuade the Panel to rescind the classification.

Matters relied on in support of the objection

[38] The Objector didn't deny the Witness's account of the incident to his credit. The Panel appreciated that George may have contributed to the attack, and took due account of the point, but did not regard it as a persuasive point, since it had a clear sense from the nature of the attack and the injuries George suffered that Lily and Pirate met the definition of menacing. The Panel saw no excusing the attack Lily and Pirate inflicted on George and the distress it has caused the Complainant and hoped that the Objector would follow through on reparation to the Complainant.

[39] The Panel saw no basis to doubt that Lily and Pirate are a threat, and though they might have given the Objector the benefit of the doubt in relation to his sincerity in regard to the fencing matter, given that it was impractical and inappropriate to effectively litigate a fencing dispute before the Panel, the Panel felt the attention to the fencing dispute when the Objector would finally disclose that Lily and Pirate were permanently departing the property left Mr Walker's objection fundamentally lacking and left it seeming somewhat misguided all along in not grasping the Panel's concern for the ongoing safety of the community, which implied that he should have come prepared to reassure that he had done his utmost to prevent the threat. Lily and Pirate were registered in Mr Walker's name and he was anyway responsible for them; even if he was obliged to hand them back to another person, the Panel was disappointed to find Mr Walker coming to it with nothing to offer to demonstrate at least some attempt to ensure that Lily and Pirate will not pose a threat in the future wherever they may be.

[40] For the reasons canvassed above the Panel considered that they should not rescind the classifications having had regard to the matters relied on by the Objector in support of his objection. The

Panel perceived that Lily and Pirate had demonstrated a capacity for violently attacking other dogs at least that couldn't be controlled and accordingly considered that Lily and Pirate pose a threat. The Panel considered that in light of the injuries Lily and Pirate had caused to George the classifications should be in place and upheld, noting that it is a preventative measure designed to ensure that the dogs do not injure, endanger, or cause distress, and is not intended to be punitive.

Other relevant matters

[41] The Panel had regard to the evidence as a whole and considered that it had all the information it needed to have regard to under section 33B(2) of the Act. The Panel noted that every objection to a menacing dog classification is considered on its own merits and having regard to the circumstances particular to the case. The Panel, having regard to all relevant matters, considered that upholding, and not rescinding, the classification would be justified by the evidence and submissions and would align with the objects of the Act.

RESULT

[42] Having considered the objection of Mr Walker to the classifications of his dogs, Lily and Pirate, as menacing dogs, together with the evidence and submissions of those who have written to the Council and/or appeared before the Panel, and having regard to the matters contained within the Dog Control Act 1996 and referred to in section 33B(2) of the Act, it is determined that the classifications of Mr Walker's female, white and tan coloured, Staffordshire Terrier cross dog named 'Lily', and his male, white and tan coloured, Stafford Terrier cross dog named 'Pirate', as menacing dogs be both **upheld** for the reasons indicated herein and for the reason that the Panel considers that the dogs may pose a threat because of the reported behaviour of the dogs.

CONFIRMED THIS 24TH DAY OF FEBRUARY 2017



COUNCILLOR TIM SCANDRETT
CHAIRPERSON