

CABINET REFERRALS

24 January 2017

7.1 CA/007/17 BYELAWS FOR SELECTED PARKS AND OPEN SPACES WITHIN DACORUM

Decision

Resolved to Recommend:

- (1) the Draft Byelaw to Council as attached as Appendix A of the Cabinet report for the Parks and Open Spaces in the Borough listed in paragraph 11 of the report and further draft byelaws to be drafted for consideration and consultation to prevent the feeding of wildfowl and wild animals, and permit model powered boats where appropriate.**
- (2) authority be delegated to the Assistant Director (Neighbourhood Delivery) in consultation with the Portfolio Holder for Environmental, Sustainability and Regulatory Services to carry out the required impact assessment, consultation, agree the 'scheme' noted under paragraph 7 of the Cabinet report and submit the application to the Department of Communities and Local Government.**
- (3) authority be delegated to the Assistant Director (Neighbourhood Delivery) to determine which areas within the Parks and Open Spaces listed in paragraph 11 of the Cabinet report shall be permitted or designated for relevant activities**
- (4) authority be delegated to the Assistant Director (Neighbourhood Delivery) to authorise officers to issue fixed notices and/or commence prosecution proceedings to enforce breaches of the Byelaws.**
- (5) authority be delegated to the Assistant Director (Neighbourhood Delivery) in consultation with the Assistant Director (Finance and Resources) to agree fee levels for any chargeable activity permissible by the Byelaws.**
- (6) the revocation of the byelaws listed in paragraph 13 of the Cabinet report.**

Reason for Decision

To consider new byelaws for selected parks and open spaces within the Borough and detail the steps required for them to be approved by the Secretary of State.

Corporate Objectives

The Byelaws will help promote a Clean, Safe and Enjoyable Environment

Monitoring Officer/S.151 Officer Comments

Monitoring Officer

The draft byelaw, and the process by which the Council is seeking to bring it into force, is in accordance with The Byelaws (Alternative Procedure) (England) Regulations 2016 and sections 235-238 of the Local Government Act 1972 (as amended).

There must be a full assessment of the impact on those persons affected by the proposed byelaw, and the council from a regulatory perspective, before the byelaw is submitted to the Secretary of State and this should include appropriate consultation.

Deputy S151 Officer

Any costs incurred will need to be contained within existing budgets. Any additional income generated will need to be factored into the budget setting framework once it can be known with a degree of certainty.

Advice

Councillor Marshall introduced the report she explained that byelaws for the Council's Parks & Open Spaces had been drawn up to deal with unacceptable behaviour which could damage the open space &/or spoil other users' enjoyment and where the issue is not addressed through current legislation.

The Byelaws are intended to be in DBC's "back pocket", to use when unsuitable or unreasonable behaviour does not cease despite requests to do so. The byelaws are an instrument of last resort, not first resort.

DBC has some old byelaws, which do not cover all the major open areas & do not address current usages, which potentially damage the parks – like boot camps, (commercially run fitness activities), model aeroplanes, etc. The new "activities" covered are listed in paragraph 15 of the report.

The process of making byelaws was made easier in February last year. Standard model byelaws have been published by the DCLG, but nevertheless, to have byelaws approved, one has to be clear in the objectives – in the **local** problems sought to be overcome, be clear that existing legislation does not already provide the remedies sought and that the byelaw is a proportionate tool to deal with the problems. Having assessed that and consulted, application is made to the Secretary of State for permission to make the byelaw.

This matter has been to both Strategic Planning & Environment OSC and Housing & Community OSC. Initially, the proposal was to have the byelaws just cover those 7 open spaces which have green flags but it was realised that really we should widen the scope. Strategic Planning & Environment OSC recommended having the byelaws cover the whole Borough, but that would unlikely to be acceptable to the Secretary of State as being too unspecific in its scope.

Housing & Community OSC recommended that all the major open spaces be included and the list at paragraph 11 of the report, does I think do that.

The addresses on the list need to be more specific – such as Warners End is not meant to be the whole ward but the area bounded by Warners End Road, Spring Lane and Gadebridge Road and Galley Hill/Polehanger Lane. Jocketts is Shrubhill Common.

This is not a money-raising exercise but there is scope in the proposed byelaws to charge for organised events, such as commercially run fitness activities, in the form of a licence. The licence would also deal with issues of insurance, risk assessment of the activity and the extent of the activity.

I am asking Cabinet that it agrees to seek the Council's approval to start the process of introducing and implementing these byelaws but you may wish to consider whether the areas listed at paragraph 11 are appropriate and the activities covered are appropriate.

Should there be modifications to these model byelaws, bear in mind that DBC will have to justify the making of these byelaws to DCLG.

I suggest consideration of prohibiting the feeding of wildfowl and wild animals, particularly when thinking of the Water Gardens. Clearly enforcing such a byelaw would only be very much the last resort and the Government might balk at that – but the damage done by Canadian geese and the fact that the food also attracts rats needs to be taken into account. A possible way round is to put 2 versions of the byelaws to DCLG – one with feeding wildfowl/animals and one without.

Should we include prohibition on drones? On fundraising and soliciting or gathering money? Maybe such activity should be licenced by DBC?

Byelaw 33 on page 41 of the report prohibits power-driven model boats on any waterway. Thinking of the Water Gardens, and its proposed use for model boating, there could be conflict between the operators of powered and non-powered boats. But is it too draconian to prohibit power-driven model boats?

I recommend the Cabinet amend the printed recommendations to include (1) to consult & to apply for permission to DCLG and (2) to include prohibition on feeding wildfowl/wild animals

Councillor Elliot supported the byelaw for prohibition for feeding wild fowl; however felt that if there was a byelaw for restricting boats, this would restrict leisure activity within the area too.

Councillor Harden also supported the byelaw for prohibition for feeding wild fowl; however he too disagreed with restricting boat usage to clubs because this would not encourage other individuals who were not part of a club.

Councillor Tindall felt that if individuals were encouraged to use the waterways then safety measures would need to be in place. It would be easier if it was restricted to clubs as the safety measures would be easier to manage.

Councillor Williams asked why a byelaw had to be introduced for the use of boats and model boats.

B Lisgarten explained that the parks and open spaces officer had reported problems with people tearing up the waterways with power boats. If it was restricted to clubs, it would encourage the introduction of local rules and ways to regulate it.

Councillor Sutton asked how other local authorities approached this along with encouraging people to their town.

B Lisgarten said that she was unaware of how others approached this however a draft list of byelaws for Dacorum could be put forward for consultation which would raise people's views and opinions.

Councillor Williams noted that there was a new boating platform and therefore could the wording of the byelaw set out restrictions to certain defined areas of the waterways. He added that the regeneration board had been discussing the area and they too felt that it was not appropriate to feed wild fowl.

Councillor Sutton noted that the government were looking into stronger byelaws for the use of drones and therefore felt that DBC should wait to see what is introduced.

Councillor Williams asked if DBC had a byelaw, would government legislation overpower it. B Lisgarten confirmed that if legislation existed then DBC could not have a byelaw for the same thing.

Councillor Williams said that he would support the use of drones in parks and open spaces only as this would avoid privacy rules near private property. He felt that this should be put out to consultation.

Councillor Harden agreed and said the council should wait to see what legislation the government introduces for the use of drones.

D Austin explained that the use of the drone code could be used as a way forward to promote the code.

It was discussed and agreed that members were not keen on introducing byelaws for fundraising.

Voting

None.

7.2 CA/008/17 SENIOR OFFICER PAY POLICY

Decision

Resolved to Recommend:

- 1. to adopt the Pay Policy for 2017/18 as set out in appendix 1 to this report.**

Reason for Decision

To set the Council's pay policy for the financial year 2017/18, as required by Section 38 of the Localism Act 2011.

Corporate Objectives

The Council's policies in respect of pay and terms and conditions support all five of the Council's strategic objectives as part of ensuring that services to the community can be delivered to the required standards and with due regard to economy, efficiency and effectiveness.

Monitoring Officer/S.151 Officer Comments

Monitoring Officer:

The Senior Officer Pay Policy is required by virtue of section 38 of the Localism Act 2011 and this Pay Policy complies with the statutory requirement and associated guidance.

Deputy S.151 Officer:

There are no budgetary pressures arising from the decisions in this report. Any amendments if required under recommendation 2 will need to be met from within existing approved budgets.

Advice

Councillor Harden explained that Section 38 of the Localism Act 2011 ('The Act') requires local authorities in England to prepare, approve and publish a pay policy statement. The statement must detail the authority's own policies towards a range of issues relating to the pay of its workforce, particularly its senior staff ('Chief Officers', as defined in the Act) and its lowest paid employees. The pay policy statement must be prepared for each financial year.

R Smyth added that job titles have been amended and a few minor tweaks made.

Councillor Marshall asked what scope the council had in making tweaks to the pay policy and was what the council did part of the national agreement.

M Rawdon said that there were a few minor exceptions, such as for sick pay, however in the main it follows the national agreement.

Voting

None.