



AGENDA ITEM NO.11

Avonmouth and Kingsweston Neighbourhood Partnership

11th June 2013

Report Title: Development of New Byelaws for Parks and Green Spaces (abridged version if you would like the full version it can be found at www.bristol.gov.uk/have-your-say)

1. Context

Byelaws are local laws which are made by a statutory body, such as a local authority, under an enabling power established by an Act of Parliament. Since byelaws create criminal offences, they cannot come into effect unless they have been confirmed by the Secretary of State.

There are byelaws already in place in Bristol (from early 1900s) covering some parks and green spaces. The byelaws give the police and some council officers the power to take enforcement action against people who carry out anti-social activities that are listed in the byelaws. The penalties for non-compliance vary, but are generally dealt with by the Courts imposing a fine following summary conviction.

The aim of having byelaws would not be to stop people enjoying or having fun in parks but to be able to tackle people whose behaviour is persistent and a significant nuisance to others. Some issues are not covered by byelaws e.g. dog fouling, dogs that are not controlled but the council and police do have powers to deal with those issues under separate legislation.

2. Purpose and Scope of New Byelaws for Parks/Green Spaces

- To ensure that all citizens can access and enjoy parks and green spaces free from the effects of anti-social behaviour
- To prevent and enforce against anti-social behaviour in parks and green spaces
- To cover parks/green spaces not covered in the existing byelaws and to fill any gaps in the type of anti-social activities covered by existing byelaws i.e. achieve consistency across the city

The aim of the council and the police is not to criminalise one-off offenders but to provide the leverage where necessary to take enforcement action against persistent or repeat offenders. The approach of the agencies involved is to request that people stop the anti-social behaviour and ensure that people understand what the rules are for any given park or green space. If people choose to continue the behaviour we will take enforcement action. Enforcement usually involves a fine of a few hundred pounds in the first instance.

3. Public Consultation

The public consultation will run from 28 May to 9 August 2013, a period of 12 weeks.

4. Questions for Neighbourhood Partnerships and other interested parties

- 1) Do you agree with the issues we propose covering in the byelaws?
- 2) Which types of anti-social behaviour do you think we should not include and why? (You will find the full range of issues that can be covered by the byelaws at www.bristol.gov.uk/have-your-say)
- 3) What types of anti-social behaviour have we missed that you think we should include and what evidence do you have that these behaviours are a problem?(please give locations, a description of the behaviour/activity and approximate date). We are interested in all types of issues including those that might not be covered by byelaws but could be covered by other legislation.
- 4) Do you have any questions about the implementation of the byelaws?

5. Next steps

Proposals amended in view of consultation results – September 2013

Byelaws drafted and provisional approval sought from DCLG – September 2013

The council formally resolves to adopt the byelaws at Full Council – October 2013

1 month public notice period – November 2013

Byelaws submitted to DCLG/ Secretary of State December 2013

Byelaws in place January 2014

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Report to Neighbourhood Partnerships

Subject : Development of New Byelaws for Parks and Green Spaces

Purpose of Report : to explain the background to development of new byelaws and seek views and input from NP members in order to shape the proposed byelaws

1. Context

Byelaws are local laws which are made by a statutory body, such as a local authority, under an enabling power established by an Act of Parliament. Since byelaws create criminal offences, they cannot come into effect unless they have been confirmed by the Secretary of State.

There are byelaws already in place in Bristol covering some parks and green spaces. The byelaws give the police and some council officers the power to take enforcement action against people who carry out anti-social activities that are listed in the byelaws. The penalties for non-compliance vary, but are generally dealt with by the Courts imposing a fine following summary conviction.

The existing byelaws were put in place around the year 1900 and do not cover all types of current anti-social activities that take place. Also they currently cover only a small proportion of our parks and green spaces (approximately 20 of the 430 identified in the Parks and Green Spaces Strategy) because those sites did not exist at the time the byelaws came in to effect (especially in south Bristol and in the case of notable sites such as Castle Park).

The Department for Communities and Local Government (DCLG) produced set 2 of model byelaws in 2006. They have recently been updated and can be reviewed at the following address:

<https://www.gov.uk/government/publications/pleasure-grounds-public-walks-and-open-spaces-model-byelaw-2>

There is also guidance available from DCLG re implementation of these byelaws.

Council officers began to look at the need for new byelaws in 2012 because of concerns raised by residents and parks users about fishing at night and camping in a couple of parks in Bristol. These issues can be covered by byelaws but rather than develop byelaws for these specific issues it was felt to be more useful to look at the range of issues that byelaws could cover. In considering whether byelaws would be a proportionate means of addressing anti-social activities in parks and green spaces we have looked at evidence over the last 2 years and found a significant body of evidence about the types

of behaviours that byelaws would help us tackle.

2. Purpose and Scope of New Byelaws for Parks/Green Spaces

- To prevent and enforce against anti-social behaviour in parks and green spaces
- To ensure that all citizens can access and enjoy parks and green spaces free from the effects of anti-social behaviour
- To cover parks/green spaces not covered in the existing byelaws and to fill any gaps in the type of anti-social activities covered by existing byelaws i.e. achieve consistency across the city

The aim of the council and the police is not to criminalise one-off offenders but to provide the leverage where necessary to take enforcement action against persistent or repeat offenders. The approach of the agencies involved is to request that people stop the anti-social behaviour and ensure that people understand what the rules are for any given park or green space. If people choose to continue the behaviour we will take enforcement action. Enforcement usually involves a fine of a few hundred pounds in the first instance.

An officer working group was set up and we debated whether we should aim to cover every single possible park and green space in the city – this would be over 1,600 spaces and would involve a huge amount of analysis to check the status of each space. We felt this was impractical and disproportionate to the scale of the problem on the majority of small patches of green.

The view was that we should focus on the 430 parks/spaces in the council's Parks and Green Spaces Strategy. BCC owns 99% of these spaces and they are communal in that people often travel to use them and have an expectation of being able to access and enjoy them (unlike a very localised space within a housing development that would be seen as the preserve of those residents).

We have looked at the model byelaws and had initial discussion and considered the priority types of behaviour that we would want to cover in Bristol taking in to account the evidence we have from the last 2 years. The behaviours we would want to cover are :

Moving or displacing structures, plants, turf, stones, seats, etc

Unauthorised erection of barriers, structures, posts, rides, building, or other structure

Climbing wall, fence, tree, barrier etc.

Kill, injure, take, disturb, animals, hunting etc

Camping in tent, caravan or vehicle

Fires/Barbecues
Grazing animals
Throwing missiles or devices liable to cause injury.
Motor vehicles driven on area without permission
Over 14 years of age in a designated younger children's play area/ over 14 years of age using equipment in younger children's play
Ball games
Fishing in watercourses, ponds etc
Making loud noise to annoyance of others
Shouting or singing
Playing musical instruments
Playing loud music

There are a number of other behaviours that can be included in byelaws but we have not found evidence of these as significant problems in our parks and green spaces. This may change as a result of evidence brought forward by NPs and during the wider public consultation. The list is :

Person in an area outside of its set opening times
Overnight parking
Leaving open gates
Interference with local authority life saving equipment
Riding horses
Cycling
Skateboarding or similar activity to annoyance of others
Cricket
Archery
Field Sports
Golf
Bathing in watercourses, ponds etc
Ice Skating
Model boats in watercourses, ponds etc
Boats in watercourses, ponds etc
Pollution in watercourses, ponds etc
Blocking watercourses
Flying model aircraft
Landing/taking off aircraft, hanggliders, hot air-balloons
Flying kites
Metal Detectors
Holding or taking part in any public show or performance
Obstructing council employee in their duties or other users of the sit
Removing persons from grounds

3. Public Consultation

It is not a statutory requirement to consult on the development of byelaws. However it is obviously important to consult in order to find out whether

members of the public have additional evidence of anti-social behaviours in parks and green spaces and whether people agree on the scope and content of the byelaws. The public consultation will run from 28 May to 9 August 2013, a period of 12 weeks. It will be important during the consultation to gather the views of interest groups and residents who may be particularly affected by anti-social behaviour in parks and the safety/accessibility of our parks and green spaces e.g. disabled people's groups, park users groups, older people's groups.

We need to ensure we have sufficient evidence of the need for byelaws and address the question of why we need a byelaw to cover each specific issue - e.g. what have we tried and failed to enforce or what are we lacking the power to deal with currently? The collated evidence from the police is summarised at appendix 1. We also have evidence from reports/complaints to the council. The evidence is available in electronic format against a map of the city and the 430 identified parks/green spaces.

Once this consultation process is complete and having considered any issues that consultees have raised, we can draft a set of byelaws using the model ones tweaked as necessary.

We then apply for provisional approval from DCLG. They review our draft and our reasoning from a technical and policy point of view. We need to bear in mind that they are not keen on a disproportionate impact on civil liberties and/or local businesses. Once approval has been received we then approach Full Council to approve and seal the byelaws.

We then go into a statutory notice period with advertisements in the papers etc. If any objections are received they are sent to the DCLG who send a copy to us. We can address any of the arising problems/objections before applying to have the byelaws confirmed.

4. Questions for Neighbourhood Partnerships and other interested parties

The questions we would like you to consider and respond to during the consultation period are :

- 1) Do you agree with the issues we propose covering in the byelaws?
- 2) Which types of anti-social behaviour do you think we should not include and why?
- 3) What types of anti-social behaviour have we missed that you think we should include and what evidence do you have that these behaviours are a problem?(please give locations, a description of the behaviour/activity and approximate date)
- 4) Do you have any questions about the implementation of the byelaws?

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Byelaws Q and A

1. What is a byelaw?

A byelaw is a local law which allows enforcement agencies to charge people who breach the prohibited behaviours set out in the byelaw.

2. Who has the power to enact a byelaw?

Local authorities can draft byelaws pursuant to primary legislation but ultimately the Secretary of State has to approve the byelaws.

3. Why is Bristol City Council proposing new byelaws for Bristol's parks and green spaces?

So that we can ensure all residents and citizens of Bristol are able to use the city's parks and green spaces safely and without having to experience anti-social behaviour. We also want to protect residents who live close to parks and green spaces and who may be affected by anti-social behaviour in those spaces.

4. How many parks and green spaces will be covered in the new byelaws?

432 as defined in the Parks and Green Spaces Strategy.

5. What about other green spaces in the city?

There are an estimated 1,600 green spaces in the city. These will not all be covered because not all are owned by the city council, some are very small, some are specific to particular residents and are not used by the wider community and because administratively it would take a long time to determine the status of all these spaces. Acts of public disorder can still be tackled on these spaces under general legislation but they will not be covered by the new byelaws.

6. Don't we have byelaws already?

Yes, we have byelaws that were adopted in the late 1800s/early 1900s but these do not cover all the anti-social behaviours that can happen in our parks and green spaces and more importantly they only cover about 20 parks/green spaces i.e. about 5% of the total. The reason for this is that many of our parks and green spaces did not exist 100 years ago.

7. What happens if someone breaches a byelaw?

In the first instance they will be asked to stop the behaviour by an enforcement officer e.g. a Police Community Support Officer (PCSO). If they persist they can be charged and will appear in the magistrate's court. The penalty is a fine.

8. How will you make sure the public understands and is aware of the byelaws?

The consultation period will help raise awareness of the proposed byelaws, their purpose and content. We will use community newsletters, community noticeboards and the council website to raise awareness of the consultation and the byelaws once they are in place. In some cases we may install specific signage to let park users know what is allowable and what is not allowable.

9. Is the council trying to stop people enjoying parks and will people be criminalised?

The aim is exactly the opposite. We want all communities to be able to access and enjoy the city's parks and green spaces. A small minority of people sometimes spoil it for others or are a nuisance to local residents who live close to parks/green spaces. This is the problem we want to tackle. There is no aim to criminalise people. We would rather raise awareness and encourage compliance but will use enforcement where people are intent on breaching the byelaws.

10. Why has the council based its new byelaws on the nationally developed 'model byelaws'?

The model byelaws were developed to cover a long list of anti-social behaviours and activities that can occur in parks and green spaces across the country. In Bristol we do not experience all of these activities and some are more likely to happen in rural settings. We have taken from the model byelaws those behaviours that we have evidence for in Bristol – at some locations and on some occasions.

11. Why is the council consulting for 12 weeks, haven't you already made up your mind?

The council is proposing the byelaws, but by law we do not have to consult. We want to consult with you the public because a) it is important that you understand why we are proposing these byelaws and we need to hear your views b) we need to know what you think about the new byelaws and whether you think we have included the right things and c) we are interested in your experiences of anti-social behaviour in parks so that we can cover these issues and resolve them.

12. How long will it take to put the byelaws in place?

Subject to the prescribed statutory procedural requirements, our aim is to have the byelaws in place by January 2014. In the process we will have to go to Full Council for councillors to agree the proposals, to the Department for Communities and Local Government (DCLG) and finally to the Secretary of State.

13. Will the public have an opportunity to object?

Yes, as well as raising issues during the consultation the public can raise objections directly with DCLG during a 1 month statutory notice period that will probably happen after Full Council, later in 2013.

14. Aren't you using a sledgehammer to crack a nut?

We don't think so. Anti-social behaviour in parks can cause misery to other park users and residents and damage to the environment that can be costly to repair. We will always appeal to people to comply and think of other users but the byelaws give us the option to enforce where people refuse to comply.

15. If I want to complain about anti-social behaviour in a park/green space who do I contact and who will take action?

If the matter is immediate or urgent or happening out of hours the first point of contact should be the Police. You can dial 101 and report the matter. The other option is to report to the council through our complaints system. In either case we will visit the site, find out what is happening and make a decision about whether enforcement action needs to be taken. We will inform you of the outcome.