

BRISTOL CITY COUNCIL

Neighbourhoods Scrutiny Commission

11th April 2016

Report of: Interim Service Director, Clean and Green

Title: Byelaws for Parks and Green Spaces

Ward: Citywide

Officer Presenting Report: Gillian Douglas

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RECOMMENDATION

Note and comment on progress towards adopting byelaws covering Bristol's parks and green spaces and the timescale for next steps.

Summary

The report explains the new process that needs to be followed to put byelaws in place covering Bristol's parks and green spaces. It summarises the results of the recent public consultation on byelaws and sets out a timeline for bringing the byelaws in to effect.

The significant issues in the report are:

1. The formal process that needs to be followed in developing proposals and adopting byelaws.
2. Preliminary results from the 2016 public consultation exercise.
3. Confirmation of the new process for adopting byelaws – from Department of Communities and Local Government (DCLG)

Policy

The report refers to the development of byelaws for parks and green spaces as defined in the council's Parks and Green Spaces Strategy which was adopted in February 2008.

Consultation

1. Internal

The Neighbourhoods Scrutiny Commission has received previous reports on byelaws and has helped shaped the proposals including holding a scrutiny inquiry day on the topic 'How do we make our parks and green spaces safe for everyone?' in November 2014.

2. External

A public consultation exercise was originally run in 2013 to explore the public's views and support for byelaws. Over 900 people responded with 77% being in favour of byelaws.

In January 2016 we launched a further consultation which ran from 18th January to 20th March. This consultation presented the 24 proposed byelaws and the purpose of this consultation was to:

- help determine how we apply 'designated areas' for certain activities in the parks to which byelaws will apply
- seek opinion on which sites the byelaws should apply to – i.e. only those for which there is evidence of some nuisance behaviour or other sites too.

The 2016 consultation will also inform a regulatory assessment of the proposed byelaws which the council will submit to the Department of Communities and Local Government as part of the adoption process.

We received 813 responses to the consultation. The emerging findings are (the full results will be published in early May 2016) :

The majority of respondents use Bristol's parks and green spaces daily (35%) or weekly (42%).

77% of respondents have their own garden and 16% do not. The remainder did not answer this question.

50% think all possible parks and green spaces should be covered by the byelaws while 41% think only those spaces where there has been anti-social behaviour previously should be covered (with the remaining respondents not expressing a view). This has implications for the number of sites that we include in the schedule of sites to be covered by the byelaws.

58% agree or strongly agree that byelaws will help them to enjoy parks and green spaces. 23% disagree and 19% neither agree nor disagree.

28% agree that the byelaws will make them more likely to use some green spaces that they currently avoid while 37% disagree and 35% neither agree nor disagree.

In relation to the 24 byelaws that the consultation specifically seeks views on (opening times, protection of structures and plants, unauthorised erection of structures, grazing, protection of wildlife, camping, fires, missiles, interference with lifesaving equipment, horses, cycling, motor vehicles, overnight parking, archery, field sports, golf, fishing, blocking of watercourses, model aircraft, provision of services, excessive noise, public shows and performance, aircraft hang gliders and obstruction) we found that :

50% agree that barbecues should be allowed on all sites within the schedule while 32% disagree (18% neither agree nor disagree).

62% agree that horseriding should be restricted to sites bigger than 4 hectares while 12% disagree.

31% agree with the proposal to only prohibit fishing at St George's Park with 21% disagreeing with this proposal and 48% neither agreeing nor disagreeing.

40% agree that flying model aircraft should be restricted to Hengrove Park, 31% disagree and 29% neither agree or disagree.

61% agree that we should set conditions for some of the activities set out in the byelaws e.g. barbecues. 63% think general consent is the approach we should take i.e. allowing activities to happen widely.

Many respondents made text comments in their responses and these will be collated and included in the published results.

Some of the issues that respondents have raised concerns about are :

- 1) the cost of implementing the byelaws e.g. enforcement costs, signage costs.
- 2) Not being allowed to forage.
- 3) Not being allowed to pick berries and fruits or interact with the natural environment – in relation to this point and point 2) we have previously clarified that ‘we have no intention of preventing responsible people from making good use of our natural resources, as long as they are not causing any damage to the plant or its surroundings or wildlife that feed on it’. However, this is still a concern for many people.
- 4) Restricted opening hours
- 5) Children’s tents and gazebos not being allowed – this is not our intention. The consultation documents clarified that ‘This byelaw does not cover tents in parks and open spaces erected during the day or evening for recreational use. The use of the term ‘camping’ applied in the byelaw carries its ordinary English meaning. There needs to be some overnight residence where the occupant is accommodated within an enclosed moveable form of shelter’.
- 6) General support for barbeques unless they are damaging grass or detracting from the enjoyment of others.

Context

DCLG have defined a new process for the adoption of byelaws for parks and green spaces. We became aware of this change in late 2015 and new regulations have now been passed in 2016. The new guidance (dated 1 March 2016) can be found at <http://researchbriefings.files.parliament.uk/documents/SN01817/SN01817.pdf> and this sets out the process we must now follow. The key change is that is that Full Council now formally agrees the byelaws where as previously formal sign off was done by the Secretary of State as the final step in the process. The guidance states that ‘new regulations were made reforming the procedure for making some byelaws in England. This followed several years of debate over reducing or removing the Secretary of State’s role in confirming the majority of proposed byelaws, beginning under the 2005-10 Labour government. This was designed to ensure a simpler, more straightforward process and local “ownership” of such laws’.

Proposal

The steps we now need to take to adopt the byelaws are :

- collate and consider the consultation responses and shape our proposals taking these in to account;
- prepare the regulatory assessment;¹

¹ The regulatory assessment is an assessment of whether the burden imposed as a result of the new byelaws is

proportionate and as a minimum the assessment must include:

- i. Identification of the objectives the new byelaws seek to achieve.
- ii. Identification of any alternative means of securing the objective intended to be secured by the proposed byelaws
- iii. Whether the objective intended to be secured by the proposed byelaws could be satisfactorily controlled by alternative means
- iv. The impact of the proposed byelaws on all persons potentially affected by them
- v. Whether the result of the proposed byelaws would increase or lessen the regulatory burden on persons potentially affected by them
- vi. How the alternative means and the proposed byelaws compare with doing nothing at all

- publish a statement of that regulatory assessment and submit the proposals and the assessment to the Secretary of State;
- if and when given clearance by the secretary of state to do so, publish an advertisement of intention to make byelaws; and then
- make a report to Full Council recommending that byelaws be made to come into force on a date to be fixed.

The timeline we have set out is :

Dates	Task
18th January – 20 March 2016	Public consultation in relation to designations and the regulatory assessment that the council will now be required to prepare. This stage is completed.
11 April 2016	Report to Neighbourhoods Scrutiny Commission – summary of consultation responses and key issues to be considered in finalising our proposals including the content of the regulatory assessment; Review final public consultation report and findings.
29th March - 19th April 2016	Review final public consultation report and findings. Prepare the regulatory assessment taking the Scrutiny Commission's comments into account and submit it in draft to the DCLG for their comment (informal process during the pre-election period).
9th May 2016	Publish a statement of the regulatory assessment and submit the proposals and the assessment to the Secretary of State. Publish results of public consultation.
June 2016 (date not in our control but anticipated to be within one month of submission)	If and when given clearance by the Secretary of State to do so, publish an advertisement of intention to make byelaws; Prepare for byelaws implementation – staff training and awareness; design and locate on-site and online information.
July 2016	Make a report to the next possible meeting of Full Council recommending that byelaws be made to come into force on a date to be fixed.
Date between July and October 2016	Any byelaws made by Full Council would come into force on the day fixed, not less than 14 days after the Full Council meeting.

	Produce public byelaws information and upload on-site (e.g. parks noticeboards) and online.
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Our target date for adoption of the byelaws at Full Council is July 2016 but this is dependent on DCLG's response being positive and timely.

Other Options Considered

To abandon our proposals for new byelaws. We have ruled out this option on the basis that there is support for the byelaws from the majority of consultation respondents and the byelaws will give us the ability to promote positive behaviour and to take enforcement action where necessary.

Risk Assessment

Not having byelaws limits our ability to tackle anti-social behaviour in parks that affects the enjoyment of other park users and in some cases damages the park/green space.

Public Sector Equality Duties

- 8a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:
- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
 - ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
 - iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - tackle prejudice; and
 - promote understanding.
- 8b) The equalities profile of respondents is known from the consultation and will be published as part of the results. The aim of the byelaws is to ensure parks and

green spaces are welcoming and safe for all citizens and visitors to use. We will also need to take account of equalities issues in the regulatory assessment.

Legal and Resource Implications

This report is for information only at this stage.

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None