



Public Session

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Agenda Item No: 10

To: Policy Review
Date: 17 April 2018
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Lead Officer: Julie Slatter, Director of Corporate Services and Commissioning

Title: Review of Parks and Open Spaces Byelaws

Summary:

The Regulation of Pleasure Ground byelaws were adopted for Selby Park in 1899 and amended in 1925 to include four other sites (Selby Recreation Ground, Leeds Road Recreation Ground, East Common Recreation Ground and Scott Road Recreation Ground). The byelaws are outdated and we have been through a prescriptive legal process to update them to ensure they reflect how we currently use our open spaces

The purpose of this report is to set out the proposed byelaws and seek the views of the Policy Review Committee prior to their formal adoption at Full Council.

Recommendation:

To endorse the revised park byelaws for referral to full Council for formal adoption.

Reasons for recommendation:

To provide the Policy Review Committee with the assurance that the prescribed legal process has been followed (including public consultation), thereby mitigating the risk of a challenge to any future enforcement activity.

1. Introduction and background

- 1.1 Selby has a number of public open spaces that directly act as a leisure facility. Over time, the way these open spaces are used has changed. The Council wants to be able to manage the open spaces in a way that meets the diverse

needs of users and encourages residents and visitors to use its open spaces responsibly.

- 1.2 The existing byelaws are outdated and do not correspond with how Selby's residents and visitors are now using or wish to use the open spaces.

2 The Report

- 2.1 Byelaws are local laws set by Local Authorities (and certain other public bodies) which are designed to deal with local issues. Generally, byelaws prohibit certain behaviours in a specific location, where it may cause a nuisance to others.
- 2.2 Byelaws are accompanied by a sanction or penalty for non-compliance and if validly made, breach of a byelaw can attract an offence which can be prosecuted in the Magistrates Courts.
- 2.3 Whilst Local Authorities can draft byelaws they are currently subject to the approval of the Secretary of State (SoS) before they can come into effect. The rationale for this is that byelaws create criminal offences and should therefore be subject to scrutiny by central government.
- 2.4 The Council has an existing set of byelaws covering the use of 'pleasure grounds' (parks and open spaces). The byelaws were first adopted by the Urban District Council of Selby on 11th October 1899 and initially just covered Selby Park. The byelaws were extended on 21st January 1925 to include Selby Recreation Ground (now known as Portholme Road Recreation Ground, Leeds Road Recreation Ground, East Common Recreation Ground (now known as Denison Road Recreation Ground) and Scott Road Recreation Ground (now owned by Selby Community Trust and so not included in the proposed byelaws). The byelaws are outdated and difficult to understand due to the archaic language they are written in. The Council wishes to update them to ensure they reflect how we currently use our open spaces.
- 2.5 The Council has chosen to use a set of model byelaws developed by the Department of Communities and Local Government (DCLG). As the legality of each of the byelaws in the model set has been reviewed by DCLG, their use is effectively a fast track approval process which minimise the potential challenges that bespoke byelaws may raise.

The Procedure for Adopting the Model Set of Byelaws

- 2.5 There is a prescriptive process that the Council needs to follow in order to make a new set of byelaws and a summary of the steps we have undertaken is listed below:
 - Assessment and preparation of draft byelaws
 - Public consultation / analysis of feedback
 - Executive approval to make the application to the SoS

- Application to SoS
- *Publication of proposals/consideration of representations
- *Decision to adopt the new byelaws and revoke the existing byelaws – to be made at Full Council
- *Making the new byelaw
- *Publicity

*These stages assume approval is granted from the SoS

2.6 An initial application was made to the SoS in 2016. This application was refused. We believe that the reason for the refusal to approve the proposed byelaws was due to three small amendments that we had made to the model set. These are:

i. The addition of a provision regarding dogs - no reference is made to dogs in the model set.

ii. The addition of a provision regarding rubbish - no reference is made to rubbish in the model set.

iii. The prohibition of children over the age of 10 years old on the play equipment - the model set makes reference to children under the age of 14 and not children under 10

2.7 The model set of byelaws are still relatively new and other LA's have had similar problems with applications as the SoS decides what they will and will not accept.

2.8 Following discussions with the Executive Member for Housing, Leisure, Health and Culture it was agreed to submit a second application removing the above amendments. This was done in November 2017,

Consultations

2.9 Public consultations were held prior to the submission of each application to the SoS.

2.10 Following the first consultation 17 consultation responses were received in total. Some of the comments received related to the lack of reference to drug and alcohol misuse, dog fouling and the use of drones. The byelaws do not include issues such as drug and alcohol misuse and dog fouling as there is already sufficient legislation that covers this. A restriction on the use of drones is included in the proposed byelaws.

2.11 14 consultation responses were received following the second consultation. Some of the comments received related to the lack of reference to dog fouling, the use of drones, noise from remote controlled cars and restricting football in picnic areas. The byelaws do not include issues such as drug and alcohol misuse and dog fouling as there is already sufficient legislation that covers this. The proposed byelaws include a restriction on the use of drones,

restrictions on ‘...any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons in the ground...’ and ball games will only be allowed in designated areas.

- 2.12 No amendments were made to the proposed byelaws as a result of either consultation.

Next Steps

- 2.13 On 9 February 2018 we received formal notification from the SoS that our application had been approved and the Council gave notice of its intention to adopt new byelaws on 22 February 2018.
- 2.14 The Council received one response to this notice relating to dogs and dog fouling. The byelaws do not include issues such as dog fouling as there is already sufficient legislation that covers this.
- 2.15 The proposed byelaws will go before Full Council for adoption on 15 May 2018.

3 Legal/Financial Controls and other Policy matters

Legal Issues

- 3.1 Whilst Local Authorities can draft byelaws they are currently subject to the approval of the SoS. The procedure for the adoption of the model set of byelaws has been followed.

Financial Issues

- 3.3 None.

Impact Assessment

- 3.4 Due consideration has been given to equality, diversity and community issues, and a screening document has been completed.
- 3.5 The existing byelaws do not allow the use of mobility scooters and similar motorised vehicles in some of our parks and open spaces. The screening acknowledges that the new byelaws will address this issue allowing all residents to have access to these sites.

4. Conclusion

- 4.1 The existing byelaws are outdated and in need of review. The proposed model byelaws are designed to ensure that the Councils parks and open spaces can be enjoyed safely by all users and so that appropriate enforcement action can be taken where necessary.

5. Background Documents

None

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Appendices:

Appendix A - Existing byelaws
Appendix B - Proposed model byelaws
Appendix C - Summary of changes between existing and proposed byelaws