

Report To: Cabinet

Date of Meeting: 5th September 2022

Report Title: Bye Laws for Pleasure Grounds, Public Walks and Open Spaces

Report By: Cameron Morley - Waste and Cleansing Services manager

Key Decision: N/A

Classification: open

Purpose of Report

To present new, updated byelaws for our parks and open spaces as approved by the Secretary of State for Levelling Up, Housing and Communities, for adoption by Full Council.

Recommendation(s)

- 1. Cabinet considers the following report for presentation to an extraordinary Full Council meeting on 14th September 2022 to adopt the byelaws for pleasure grounds, public walks and open spaces and the revocation of existing byelaws stated in Section 1 of this report.**

Reasons for Recommendations

1. The current byelaws for parks and open spaces are out of date. The proposed new single set of byelaws for pleasure grounds, public walks and open spaces will supersede the old byelaws which will be revoked by Full Council.
2. The proposed byelaws have been approved by the Secretary of State for Levelling Up, Housing and Communities following public consultation and due legal process required to adopt new byelaws.

Background

1. There are several byelaws covering parks and open spaces in the Borough.
 - a. Byelaws with respect to Pleasure Grounds, 1965.
 - b. Byelaws with respect to skating on pieces of water in Alexandra Park, 1902.
 - c. Byelaws with respect to the parks known as the East and West Hills, 1923.
 - d. Byelaws relating to Warrior Square Gardens (Restriction on Ball Games), 2003.
2. The proposal is to replace the out-of-date byelaws with a single set of byelaws for pleasure grounds, public walks and open spaces and revoke the old byelaws.
3. The byelaws for pleasure grounds, public walks and open spaces are wholly separate from the adopted byelaws for Local Nature Reserves.

Process for declaring byelaws

4. In proposing the new byelaws, the council has followed the legal process set out in the Byelaws (Alternative Procedure) (England) Regulations 2016/165 (the regulations). The summary procedure, together with the council's actions is outlined in Appendix 1.
5. The proposed byelaws are consistent with the government's standard template for byelaws and have been approved by the Department for Levelling Up, Housing and Communities for adoption by Hastings Borough Council and are attached as Appendix 2.

Public Consultation

6. The legal process required the council to undertake a public consultation to seek wider community views. A 6-week consultation took place from 15th July 2021 - 30th August 2021.
7. The consultation resulted in a total of 42 responses. 29 were opposed to the byelaws and 12 approved. One response was neutral.
8. Most opposition responses related to the proposed cycle route in Alexandra Park. Whilst cycling in parks is an emotive issue, the consultation was solely about new byelaws for parks, not about cycling or a proposed cycle route in one of our parks. The byelaws prohibit cycling in any park or open space unless on a designated route. There are presently no designated cycle paths in any of our parks and open spaces, therefore cycling is prohibited until such times as designated cycle paths are implemented.
9. Around 25 respondents requested additional byelaws to prohibit loud music, to have dogs on leads, banning professional dog walkers, banning release of balloons and various other suggested prohibitions.
10. The government require the council to present them with rigorous evidence to support any deviation from the model byelaws that were subject to consultation. Whilst we received requests for addition byelaws by members of the local community, the council has no material evidence to present to government to support the need for additional byelaws, and therefore a deviation from the model byelaws.

11. Following the consultation, the council presented the draft byelaws to the Secretary of State for Levelling Up, Housing and Communities seeking their approval for the council to progress towards adoption.
12. The Secretary of State approved the draft byelaws in January 2021. A further 28-day public consultation from 25th February - 25th March 2022 was done which provided an additional opportunity for representations to be made.
13. This further consultation resulted in 39 responses, the overwhelming majority of which were objections to the proposed cycle route in Alexandra Park and cycling in Alexandra Park in general.
14. Presently there are no designated cycle paths in any of our parks and open spaces, so even after the byelaws are implemented, cycling would still be prohibited until such times as designated cycle paths are implemented.

Conclusions

15. The council has followed proper consultation and all due legal process in proposing new and updated byelaws for pleasure grounds, public walks and open spaces. The proposed byelaws are based upon the model byelaws published by the Department for Levelling up, Housing and Communities. The draft byelaws which have been subject to two rounds of public consultation have been approved by the Secretary of State for the council to consider adoption.
16. The new byelaws for pleasure grounds, public walks and open spaces should be presented to Full Council for adoption within 6 months from the end of the representation period, by 25th of September 2022. As the 25th September 2022 falls on a Sunday the decision must be made by Friday 23rd September 2022 at the latest. It is recommended that the decision be made at an extraordinary Full Council by 14th September 2022.

Crime and Fear of Crime

17. The byelaws are a statutory instrument that can lead to prosecution and a criminal conviction.

Local People's Views

18. Two consultations took place and representations received to inform the proposed decision.

Legal

19. The due legal process for adoption of byelaws has been followed.

Timetable of Next Steps

20. Please include a list of key actions and the scheduled dates for these:

| Action | Key milestone | Due date (provisional) | Responsible |
|------------------|--------------------|----------------------------|---------------------|
| Cabinet agree to | Extraordinary Full | 14 th September | Chief Legal Officer |

| | | | |
|---------------------------------|---------|--|--|
| present byelaws to Full Council | Council | | |
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Wards Affected

(All Wards);

Policy Implications

Reading Ease Score:

Please identify if this report contains any implications for the following:

| | |
|---------------------------------------|---|
| Equalities and Community Cohesiveness | N |
| Crime and Fear of Crime (Section 17) | Y |
| Risk Management | N |
| Environmental Issues & Climate Change | N |
| Economic/Financial Implications | N |
| Human Rights Act | N |
| Organisational Consequences | N |
| Local People's Views | Y |
| Anti-Poverty | N |
| Legal | Y |

Additional Information

Appendix 1 Summary legal process for declaring byelaws for pleasure grounds, public walks and open spaces

Appendix 2 Byelaws for pleasure grounds, public walks and open spaces.

Officer to Contact

Officer Murray Davidson, Environment and natural Resources manager
 Email Parks@hastings.gov.uk
 Tel

Appendix 1 Summary legal process for declaring byelaws for pleasure grounds, public walks and open spaces

21. The process for making byelaws which govern the pleasure grounds and parks is set out in the Byelaws (Alternative Procedure) (England) Regulations 2016/165 (the Regulations), a summary is as follows:

| The legal process | Actions taken by Hastings Borough Council |
|--|---|
| The council drafts the proposed byelaws based on a standard template published by the Department for Levelling Up, Housing and Communities. | April 2021, the council drafted a set of byelaws based on a standard template published by the Department for Levelling Up, Housing and Communities. |
| Public consultation to seek wider community views. | <p>Public consultation was undertaken between 15th July 2021 and 30th August 2021.</p> <p>The consultation was publicised in the local press, available on the council's web site and available through the information centre.</p> <p>The council wrote directly to a number of organisations that would have an interest in commenting.</p> |
| The council publish a Statement of Assessment on its website to confirm the byelaws are both reasonable and proportionate. | The Statement of Assessment confirming the bye laws were both reasonable and proportionate was published on the council's web site on 24 th September 2021 |
| Following the public consultation, the Council write to the Department for Levelling up, Housing and Communities seeking their approval of the proposed byelaws. | The council wrote to the Department for Levelling Up, Housing and Communities on 24 th September 2021 seeking their approval of the proposed byelaws. |
| The Department for Levelling up, Housing and Communities confirm whether they approve the proposed byelaws. | 24 th January 2022, the Secretary of State for Levelling up, Housing and Communities confirmed the draft byelaws for approval. |

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| <p>On receipt of approval from the Department for Levelling up, Housing and Communities, the Council publicise the proposed byelaws on its website and in a local newspaper and any other way it sees fit, giving a further 28 days for further representations.</p> | <p>A 28-day consultation was undertaken 25th February to 25th March 2022</p> |
| <p>The Council review representations received during the 28-day period. Only minor amendments can be made to the proposed byelaw. Major amendments would require the whole process to start again.</p> | <p>All representations received have been reviewed.</p> |
| <p>The Council decide within 6 months of the end of the representation period whether to make the byelaws. If it does make the byelaws, it will publish the decision and the byelaws on the Council website and publicise as it sees fit.</p> | <p>Full Council are required to approve the byelaws and revoke old ones.</p> |
| <p>If the Council decide to make the byelaws the Council must make them under common seal and publicise the byelaws seven days before they come into force.</p> | |

Appendix 2 Proposed Byelaws for Pleasure Grounds, Public Walks and Open Spaces