



Report of the Assistant Chief Executive (Corporate Governance)

Report to Executive Board

Date: 2 September 2008

Subject: Revision of byelaws for pleasure grounds, public walks and open spaces

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

Executive Summary

1. This report advises Executive Board of proposals to revise the byelaws applying to pleasure grounds, public walks and open spaces and asks Executive Board to recommend to full Council that the revised byelaws be sealed and placed on deposit for public response, following which an Application will be made to the Secretary of State to confirm the new byelaws. The byelaws are being revised as a result of changes in land ownership by the Council. Some areas of land covered by the previous byelaws have now been disposed of or are shortly to be disposed of. Other areas of land have been acquired by the Council and these areas need to be covered by these byelaws.

1.0 Purpose of this report

- 1.1 This report advises Executive Board of proposals to revise byelaws applying to pleasure grounds, public walks and open spaces and asks Executive Board to recommend to full Council that these byelaws be adopted subject to public consultation and confirmation by the Secretary of State.

2.0 Background information

- 2.1 Byelaws are local laws made by a Local Authority which apply only to their area. They are a form of delegated legislation. The decision to make a byelaw should be in response to a local problem. Byelaws cover issues which are not already covered in national Acts of Parliament or statutory instruments. Government will not allow the Council to make a byelaw where national law already provides for the issue. Subject to that however it is for the Council to decide what byelaws it wishes to introduce. Depending on the subject matter of the proposed byelaw the approval of the relevant Government Department must be obtained before the byelaws take effect. In most cases the Government Department will have a model byelaw for the Local Authority to follow. Guidance issued by Central Government recommends that any Local Authority wishing to introduce a byelaw obtains provisional approval for the text of that byelaw before the byelaw is made by full Council and put on deposit for public consultation.
- 2.2 The making of byelaws is a function reserved to full Council. As this report considers a council and not an executive function it is not eligible for call in. Full Council must resolve to attach the seal of the Council to the draft byelaw and place it on deposit at the office of the Council for inspection of the public at all reasonable hours. The Council must publish notice of intention to apply for confirmation of the byelaws in one or more newspapers circulating in the area to which the byelaws apply. A period of one month is allowed for the public to inspect the proposed byelaws and make comment upon them. After that period the Local Authority may apply to the relevant Secretary of State for confirmation of the byelaw. Where no objections have been received from the public byelaws are normally confirmed and returned to the Council. Upon confirmation the Secretary of State will fix a date at which the new byelaws come into force. Where objections are received the Council will be asked to comment on the objections before a decision is taken by the Secretary of State. Ultimately the Secretary of State has the power to order a public enquiry to deal with objections.

3.0 Main issues

- 3.1 On 11th January 2006 full Council approved a set of byelaws for pleasure grounds, public walks and open spaces. This set of byelaws was subsequently confirmed by the Secretary of State on 31 July 2006 and those are the byelaws currently in force in the Leeds area. As a result of changes in land ownership within the Council some of the sites covered by the previous byelaws have now been disposed of or it is intended to dispose of some or part of those sites in the near future. Additionally other land has been acquired by the Council or adopted for use as open space. This land is not covered by the current byelaws. It is therefore proposed to revise the byelaws to take into account this change in land ownership.
- 3.2 Since the Secretary of State recommends the use of model byelaws the Council has also redrafted the byelaws to comply with the current model. The amendments to the byelaws are cosmetic rather than amendments in form with issues that were

covered by previous byelaws being covered equally by the revised version. The proposed revised byelaws are attached as **Appendix 1**.

3.3 Provisional approval for the revised byelaws has been granted by Communities and Local Government.

3.4 For Members information the main changes to land ownership and therefore to coverage of the byelaws is attached at **Appendix 2**.

4.0 Implications for council policy and governance

4.1 Since these byelaws are an update of the previous byelaws there are no implications for Council policy and governance.

5.0 Legal and resource implications

5.1 Revision of byelaws will require the placing of a public advert to indicate that the byelaws are on deposit for consultation. The costs of revising the byelaws are to be met from within the Parks & Countryside budget.

5.2 There are no legal implications.

6.0 Conclusions

6.1 That the byelaws covering pleasure grounds, public walks and open spaces should be revised and updated by the making of new byelaws in line with the current model.

7.0 Recommendations

7.1 Executive Board are requested to consider this report and the draft byelaws attached at Appendix 1.

7.2 Members are asked to recommend to full Council that the draft byelaws be made, sealed and placed on deposit and that the Assistant Chief Executive (Corporate Governance) be authorised to advertise the intention to apply for confirmation of the byelaws and subsequently to apply to the Secretary of State for confirmation.

Background Papers

Byelaws for Pleasure Grounds, Public Walks and Open Spaces approved by Leeds City Council on 11th January 2006

Guidance issued by Communities and Local Government on making byelaws at www.communities.gov.uk/localgovernment/360902/byelaws