

Report of City Solicitor

Report to Director of City Development

Date: 8 October 2020

Subject: Proposal to Amend the Schedule of Sites Governed By the Council's Byelaws for Pleasure Grounds, Public Walks and Open Spaces

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If yes, name(s) of ward(s): Chapel Allerton, Killingbeck & Seacroft, Middleton Park, Temple Newsam, Cross Gates and Whinmoor, Gipton & Harehills, Burmantofts & Richmond Hill, Otley & Yeadon	
Has consultation been carried out? See details within the report	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:	
Appendix number:	

Summary

1. Main issues

- The Council has implemented byelaws to regulate and govern the use of many of the public open spaces managed by the Council.
- A comprehensive review of the sites governed by the byelaws has been carried out to ensure that the list is up to date and accurate and that to ensure that the byelaws are only imposed where they are still necessary.
- The review indicated that nine of the sites listed in the schedule to the byelaws were either no longer used as public open space or the public open space had been reconfigured, or approval had been given to a future disposal or for an alternative use.
- A list of affected sites and the reason for the proposed amendments is set out in paragraph 3 below. The proposed amendments update/amend the plans for nine sites and would remove nine sites from the schedule of sites governed by the byelaws.

2. Best Council Plan Implications

- This review will enable the implementation of decisions taken to ensure that byelaws remain relevant to the current use and operation of sites where they are in place including sites that are surplus to Council requirements, thereby supporting a range of Best Council Plans policy objectives.

3. Resource Implications

- There are no resource implications however reconfiguration of some existing greenspace and removal of the byelaws as outlined and for the purposes detailed will enable some of the sites to be disposed of at financial value generating capital receipts to the Council.

4. Recommendation

- a) The Director of City Development is requested to approve that officers undertake a consultation, a regulatory assessment and seek the approval of the Secretary of State to the proposed amendments to the byelaws in order that a report can be taken to the General Purposes Committee and subsequently to Full Council supporting the modifications proposed.

1. Purpose of this report

- 1.1 The purpose of this report is to initiate the process to amend the byelaws. The proposed amendments would update/amends the plans for nine sites to accurately reflect the areas of public open space governed by the byelaws and would remove nine sites from the schedule of sites governed by the byelaws

2. Background information

- 2.1 The Council is authorised to make byelaws for the regulation of public open spaces public walks and pleasure grounds under section 164 of the Public Health Act 1875, section 15 of the Open Spaces Act 1906 and sections 12 and 15 of the Open Spaces Act 1906. The byelaws enable the Council to govern and regulate the use of sites governed by the byelaws, and to prohibit or control certain activities.
- 2.2 The Byelaws (Alternative Procedure) (England) Regulations 2016 introduced a new procedure to enable local authorities to revoke or amend byelaws. The initial stages of this process require the Council to conduct a regulatory assessment, consult, consider and publish a statement of assessment. This statement, together with draft substitute byelaw and report is sent to seek the approval of the Secretary of State to make the amendment prior to undertaking a formal statutory consultation and Full Council approval.
- 2.3 The sites governed by the byelaws are listed in the Schedule to the Byelaws which are publically available on Leeds City Council's website.

3. Main issues

Nine of the sites listed in the schedule to the byelaws will no longer be used as public open space or the public open space will be reconfigured, or approval has already been given to a future disposal or for an alternative use or development in accordance with both the SAP housing allocation and the approved Council Housing Growth Programme (CHPG). This programme was considered by Executive Board in November 2018 and set out the council's ambitions to deliver 300 new council homes per year on predominantly council owned sites and identified and secured approval for the sites to be allocated to the programme alongside capital funding. A further Executive Board approval in June 2019 was given to allocate five further sites and associated capital investment for an additional 176 units, including the subject sites at Ramshead Approach and Scott Hall Drive. Since then the programme has continued at pace and the council currently has in the region of 750 units in the pipeline at various stages, including c185 units of extra care accommodation.

3.1 The sites are listed in the table below and the boundary plans are attached at Appendix A.

Site Name / Scheme	Ward Members	Category Name (Parks & Countryside)	Site Number (as listed in Byelaws)	Site to be Amended or Revoked	Notes
1. Ramshead Approach	Killingbeck & Seacroft	Local Green Space	1000998	Amend as per plan attached	This site is allocated for housing in the SAP (HG1-216). Site to be developed as new Council housing (22-23 units). Provision of greenspace will be considered and determined through the planning process.
2. Throstle Recreation Ground	Middleton Park	Recreation Grounds	999104	Revoke all of Site as per plan attached	Allocated for housing in the SAP (HG1-368). Site to be developed for council housing (154 units including a 60 bed extra care

					facility). The amount of retained green space will be 2.27 hectares and funding is being made available to make improvements to the green space area
3. Scott Hall Drive	Chapel Allerton	Local Green Space	41213	Amend as per the plan attached	The site has been approved for allocation to the Council Housing Growth Programme for new build council housing by the Chief Officer Asset Management and Regeneration. (16 units) Provision of greenspace will be considered and determined through the planning process.
4. Miles Hill Primary, Beckhills Approach	Chapel Allerton	Local Green Space	90001444 4	Revoke all of Site as per plan attached	The site is partly affected by house building proposals following SAP allocation. The developable site is under contract and will be sold to Taylor Wimpey once the byelaws are removed The layout and configuration of the adjacent greenspace will be slightly different in the new development which will involve substantial new and

					improved public open space. Revocation is sort to enable this layout modification.
5. Middleton Leisure Centre Pitches	Middleton Park	Recreation Grounds	90000437	Amend as per plan attached	Plans are to include the area within a broader area of Council ownership to the east proposed for development .The majority of the area currently subject to byelaws will continue to be so. The byelaws need to be revoked in respect of the area indicated to enable this.
6. Redhall Sports field	Cross Gates and Whinmoor	Recreation Grounds	999017	Revoke across whole site as per plan attached	The larger Redhall site is made up of two housing allocations within the Site Allocation Plan and is to be sold for redevelopment. One of these allocations is currently public open space and is effected by byelaws. As part of the redevelopment of the site an element of public open space will be retained, however the boundary of this space has not yet been determined. It is therefore recommended that the byelaws at Redhall be lifted in full to enable reconfiguration discussions to be progressed in due course.
7. Harehills Park (Cottages)	Gipton & Harehills	Local Green	1001192	Amend as per plan attached	The byelaws cover a complex of cottages

		Space			which should not be subject to byelaws. These cottages are being considered for disposal by the Council. The park which forms the majority of the site will continue to be subject to the byelaws
8. Scholes Road,(John Smeaton Playing Fields)	Cross Gates and Whinmoor	Recreation Grounds	90001722	Revoke across whole site as per plan attached	The site is part of the leisure centre. A planning application will be submitted shortly by Taylor Wimpey and Persimmon for development of the land with a new primary school and retail, including community facilities such as a dentist and doctor. The balance of the site (if there is one) will show residential use in the application. The planning application is for the east Leeds extension which will include areas of open space
9. Copperfields Playing Fields	Burmantofts & Richmond Hill	Recreation Grounds	90001607	Revoke across whole site as per plan attached	Allocated for housing in the SAP and includes a former school site. Negotiations are ongoing with an existing user, a sports club using the playing pitch areas regarding alternative provision. This is to enable reconfiguration of the whole site for development including potential new pitch provision

					on or off site, a new school and housing.
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4. Corporate considerations

4.1 Consultation and engagement

4.1.1 Consultation has taken place with ward members with respect to those underlying projects and disposals detailed 1 to 6 and 8 above as part of those projects with no concerns raised. With respect to sites/properties 7 and 9 proposals for these sites are still evolving and will be the subject of comprehensive ward member consultations in due course. The proposal here however is to modify the byelaws, so far as they affect those sites/properties rather than to commit the future of those properties. This does not prejudice the continued current uses of those properties or future discussions about their use going forward but is an opportunity which leaves all options open for the property in the future. Whilst the final decision to revoke or amend byelaws is a Council function rather than an Executive function the Executive Member for Resources (from an asset management and capital receipts perspective) and the Executive Member for Communities (from a housing delivery perspective) have been consulted on the proposal to amend the byelaws and have raised no queries or concerns with the proposals.

4.1.2 The regulatory assessment and initial consultation are required to answer the following points:

- What is the objective of the proposed byelaw?
- could the objective be achieved in any other way, short of a byelaw?
- what will be the impact of the byelaw upon those affected by it?
- will the proposed byelaw increase, or decrease, the regulatory burden imposed upon those affected by it, and can the local authority express this increase or decrease as a financial cost or benefit?
- how does making the proposed byelaw compare with taking no further action?

Given the limited nature of these amendments, and the previous approvals and associated consultations, the proposal is that the regulatory assessment can be done with the minimum (14 day) consultation before a statement of assessment is prepared for the Secretary of State. Consideration by the Secretary of State is likely to be no more than 30

days with the final consultation requiring no less than 28 days before the amended byelaw can be approved and sealed.

4.2 Equality and diversity / cohesion and integration

4.2.1 None in relation to this proposal. An Equality, Diversity, Cohesion and Integration screening has been undertaken for the CHGP and has determined that the proposals have a positive impact in terms of Equality and Diversity and that a full assessment is not required.

4.3 Council policies and the Best Council Plan

4.3.1 The development of new council housing will address priorities within the City Priority Plan to provide additional affordable housing and support housing growth.

Climate Emergency

4.3.2 The CHGP update submitted to Executive Board in June 2019, set out the activity being taken through the programme to respond to the climate emergency. The proposed new housing will be built to the Leeds Standard which primarily focusses on cutting carbon, improving air quality and tackling fuel poverty, and central to this is the well-being of tenants.

4.4 Resources, procurement and value for money

4.4.1 Several sites as detailed within the attached schedule are proposed for sale and development for housing at financial value and will therefore generate capital receipts to the Council supporting the Council's spending programme.

4.5 Legal implications, access to information, and call-in

4.5.1 The Byelaws (Alternative Procedure)(England) Regulations 2016 enables a council to revoke or amend byelaws using a streamlined process

4.5.2 The power to make, amend, revoke or re-enact byelaws is reserved to full council in accordance with Paragraph F of Schedule 1 to the Functions and Responsibilities Regulations

4.6 Risk management

This decision is low risk. Proposals for the long term future use of sites, or the disposal of sites are subject to consultation and a separate decision making process, and the provision of alternative greenspace will be considered as part of the planning process.

5. Conclusions

5.1 The schedule to the byelaws is out of date and no longer accurate and it is therefore necessary to initiate the process to amend the byelaws to ensure that they are up to date and relevant to the future use of each site in question.

6. Recommendations

6.1 The Director of City Development is recommended to approve officers undertaking a consultation, a regulatory assessment and seek the approval of the Secretary of State to the proposed amendments to the byelaws in order that a report can be taken to the General Purposes Committee and subsequently to Full Council, supporting the modifications proposed.

7. Background documents¹

7.1 None.

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¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix A

The Plans