

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

Date: 14 July 2021

Report of: Director of City Development

Report to: Full Council

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

What is this report about?

Including how it contributes to the city's and council's ambitions

- The purpose of this report is to advise of the outcome of public consultations and the outcome of an application by the Council to the Ministry of Housing, Communities and Local Government to amend the Council's byelaws and to make a recommendation to approve the amendments detailed in respect of eight Council owned properties, as required in law, by the Full Council.
- The report is coming to Full Council having been considered by General Purposes Committee on 2 July 2021 who:
 - a) noted the statutory assessment following the consultation responses, and
 - b) confirmed its support for the amendments of the byelaws as outlined, and
 - c) recommended the amendments of the byelaws to Full Council with a recommendation that they be approved.
- The eight sites are no longer used as public open space, or are where the public open space will be reconfigured, or are where 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.
- 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 the list is up to date and accurate and the byelaws are only imposed where still necessary. The review indicated that the sites which are the subject of this report and which are 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.
- The Director of City Development considered a list of affected sites, the reasons for the proposed amendments and gave approval on 13 October 2020 for officers to undertake an initial consultation, a regulatory assessment and to seek the approval of the Secretary of State to the proposed amendments to the byelaws in order that a report could be taken to

the General Purposes Committee and subsequently to Full Council seeking ratification of the modifications.

- A second public consultation on the proposals concluded on 16 April 2021.
- Plans for each of the sites are attached to this report in Appendix 2 indicating the both the current extent of the byelaws and the areas proposed for removal.

Recommendations

Full Council is recommended to:

- a) note the statutory assessment following the consultation responses, and
- b) approve the amendments of the byelaws as detailed

Why is the proposal being put forward?

- The review of the byelaws will enable the implementation of decisions taken to support prudent asset management and the generation of capital receipts supporting a range of Best Council Plans policy objectives. Specifically it will assist with the provision of new housing including affordable housing of varied types and tenures. The decision will ensure the list is up to date and accurate and the byelaws are only imposed where still necessary.
- Approval is now being sought from Full Council, as required by statute, to the proposed amendments to the byelaws.

What impact will this proposal have?

Wards Affected: Please state the specific wards affected here. If city-wide, state "All" for clarity.

Chapel Allerton, Killingbeck & Seacroft, Middleton Park, Crossgates & Whinmoor,
Burmantofts & Richmond Hill

Have ward members been consulted? Yes No

- 1 The first period of public consultation was completed in Autumn 2020 and following the ministerial response the second consultation has been undertaken and completed on 16 April 2021. The responses in both cases have been considered and addressed as outlined in Table 1 and Table 2 in Appendix 1.
- 2 This review will enable the implementation of decisions taken to support prudent asset management and the generation of capital receipts supporting a range of Best Council Plans policy objectives. Specifically it will assist with the provision of new housing including affordable housing of varied types and tenures.
- 3 The proposal does not impact on the current use of the sites identified or any consideration of any present or future proposals for the sites which will be undertaken separately as appropriate.

- 4 There are no equality and diversity / cohesion and Integration issues in relation to this proposal.
An Equality, Diversity, Cohesion and Integration screening has been undertaken for the Council Housing Growth Programme (CHGP) and has determined that the proposals in that programme have a positive impact in terms of equality and diversity and that a full assessment is not required. Additional comments are made in the Regulatory assessment detailed below.

What consultation and engagement has taken place?

- 5 Ward members have been consulted with respect to the sites in their wards and have raised no concerns or objections.
- 6 Public consultations have been undertaken on two occasions to accord with statutory requirements.
- 7 The initial public consultation took place in Autumn 2020 followed by consideration and addressing of a small number of public responses (detailed in Table 1 of Appendix 1) by the Director of City Development. Formal application was then made to the Ministry of Housing, Communities and Local Government seeking ministerial consent to the Council being give leave to the proposed amendments to the byelaws under section 164 of the Public Health Act 1875 and section 15 of the Open Spaces Act 1906, for pleasure grounds, public walks and open spaces. This consent was received on 4 March 2021.
- 8 Following ministerial consent giving leave to the Council to amend the byelaws and pursuant to statutory requirements the further formal public consultation was completed closing on 16 April 2021 enabling the matter to move forward towards consideration at Full Council.
- 9 A number of public responses arising from the second consultation have been considered and these are outlined, together with responses provided, in Table 2 of Appendix 1 to this report together with the statutory assessment undertaken by officers and responses provided.
- 10 The outcome of the public consultations in respect of the eight sites, the statutory assessment undertaken and the proposals to amend the byelaws as detailed, have been considered by General Purposes Committee on 2 July 2021 and approved for consideration by Full Council.

What are the resource implications?

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

What are the legal implications?

- 12 The Byelaws (Alternative Procedure)(England) Regulations 2016 enables a Council to revoke or amend byelaws using a streamlined process.
- 13 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.

14 A regulatory assessment of the proposed byelaw changes, to ensure that the proposed byelaw is proportionate, has been undertaken. The Regulations require that the assessment must include at least the following considerations:

- 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?

These issues are addressed in paragraph 14 below.

14. Regulatory Assessment

Objective

The byelaws were created in 2008 and the list of sites they relate to has never been amended. The objective of the proposal is to amend the list of sites so it accurately reflects those which remain the subject of these byelaws. An accurate site list will inform the public and those charged with enforcement of the byelaws as to which sites are the subject of restrictions.

Alternative Means Available

Enforcement of the byelaws is subject to the Council and proper signage at its sites. The Council could choose not to enforce on certain sites instead of removing them from the byelaws. This however would unfairly restrict the site use of persons who were respecting the signage in place or the restrictions known to have been in place since 2008. Much of the enforcement of the byelaws relies on the public reporting issues, a process assisted by the publication of the byelaws on the Council website. This requires an accurate site list to be available to the public.

A full revocation of the byelaws would remove a mechanism for the Council to control and manage the use of leisure spaces

The amendment of the byelaws is only possible through the process as set out in the Regulations.

For the reasons set out above, there are no identified alternative means available.

Impact of proposed byelaw amendment on all persons identified

Although the consultation responses has identified the people interested in preserving their open spaces, the points raised do not relate to these byelaws or their proposed amendment. The proposed amendments to the byelaw do not itself restrict or remove access to any site it lists or removes from its list. There is no identifiable impact of the proposed byelaw amendment on the people identified.

Regulatory Burden

There is no additional regulatory burden identified by this proposed byelaw amendment. The regulatory burden may actually reduce with public/enforcement queries relating to sites not covered by the byelaws being avoided.

Taking No Action

For the reasons set out in "Alternative Means Available" above it is preferable that the proposed action be taken rather than no action and leaving the site list inaccurate and create a negative impact on some site disposals.

Equality Act

Although not a specified requirement of the Regulations, it is a requirement for every decision the Council makes that its public sector equality duties are considered when a decision of proportionality is to be made. The proposal does not affect access to any of its sites. No sites are being added to the byelaws and as a result the use of the sites are not being restricted by these proposals. Consequently no Equality Act issues have been identified arising from this proposal or its consultation responses.

Regulatory Assessment Conclusion

- The byelaws were created in 2008 and the list of sites they relate to has never been amended. The objective of the proposal is to amend the list of sites so it accurately reflects those which remain the subject of these byelaws. The proposal deletes, but does not add any sites to the list. The proposal therefore makes no additional restrictions or impositions on how people can use open spaces in the Leeds area. There is therefore no identifiable impact on the public arising from the proposed amendments to the byelaws.
- The proposed amendment to the byelaws adds no additional regulatory burden as the byelaw restrictions remain unchanged on the sites that remain.
- Given that the proposal adds no additional regulatory burden, has no identifiable impact on the public and gives no rise to Equality Act issues, it is concluded that the decision to proceed with the amendments is both desirable and proportionate

15. The proposal to remove the sites from the byelaws was taken by General Purposes Committee as a Significant Operational Decision and therefore not subject to call in.

What are the key risks and how are they being managed?

15 No specific risks have been identified. Proposals for the long term future use of the sites, or the disposal of sites is subject to consultation and a separate decision making process, and the provision of alternative greenspace will be considered as part of the planning process where new uses are proposed requiring planning consent.

Does this proposal support the council's 3 Key Pillars?

Inclusive Growth Health and Wellbeing Climate Emergency

16 No specific issues arise from the proposal itself however where sites are subsequently taken forward for housing development the provision of modern new homes will support health and well-being. Climate Emergency issues will be considered through any planning consent process that may arise on any future proposed new uses for the sites. Where sites form part of the Council's CHGP any proposed new housing built by the Council 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.

Options, timescales and measuring success

a) **What other options were considered?**

17 Consideration of the options and assessment of alternatives are outlined in the consideration of the alternative means available and the regulatory assessment detailed above.

b) How will success be measured?

18 The proposal will be concluded successfully by approval to removal of the sites from the byelaws, as outlined, by Full Council.

c) What is the timetable for implementation?

19 Modification of the byelaws as proposed is effective with effect from any approval given by Full Council.

Appendices

1 Appendix 1 - Table 1 providing details of the responses received and considered from the first public consultation and the responses provided.

Table 2 providing details of the responses received and considered from the second public consultation and the responses provided.

2 Appendix 2 - Plans

Background papers

3 None