

To: Council
Date: 15 May 2024
Report of: Head of Corporate Property
Title of Report: Draft proposed byelaws for OCC parks and open spaces

Summary and recommendations	
Purpose of report:	Approve progressing the submission of the proposed byelaws for parks and open spaces to the Secretary of State for approval following public consultation
Key decision:	Yes
Cabinet Member with responsibility:	Chewe Munkonge
Corporate Priority:	<ul style="list-style-type: none"> • Safer communities/crime and disorder • Meeting the city's housing need • Sustainability through protection of habitats and the wider environment • Promoting healthy place shaping and more active lifestyles
Policy Framework:	Thriving Communities Strategy and Green Spaces Strategy
Recommendation(s): That Council resolves to:	
<ol style="list-style-type: none"> 1. Approve the proposed byelaws for parks and open spaces following public consultation. 2. Recommend submission of the application to the Secretary of State for approval of the proposed byelaws 3. Notes that upon the Secretary of State granting leave for the Council to make the proposed byelaws there will be a further period of consultation of not less than 28 days. 4. Notes that a further report will be presented to Members to allow them to make a final decision to make the proposed byelaws. 	

Appendices	
Appendix 1	Consultation Report and Regulatory Assessment
Appendix 2	Draft proposed byelaws with amendments following public consultation and proposed recommendations
Appendix 3	Equality Impact Assessment

Introduction and background

1. The Council is required to ensure that its existing byelaws on Parks and Open Spaces are fit for purpose.

Overview

2. Oxford City Council has a set of byelaws in place for its parks, nature areas and play facilities which provide a basic set of rules around the use of these public spaces to ensure people behave in a way which respects the enjoyment, wellbeing and safety of others. They are also aimed to ensure the protection of habitats, wildlife and the wider environment. These byelaws were last reviewed n nearly 30 years ago. The proposed byelaws would provide the opportunity to:
 - Provide a more focused set of byelaws for all of the Council’s green spaces aimed at ensuring the safety and welling being of all users, and the protection of habitats and the wider environment.
 - Remove outdated byelaws such as those prohibiting playing ball games and climbing trees etc, which are inappropriately aimed at minors and conflict with the priority to promote healthy place shaping and more active lifestyles.
 - Adopt new byelaws to better deal with specific issues such as unauthorised use of drones, the lighting of fires and releasing sky lanterns, interference with life-saving equipment and speeding E-scooters in park areas.
 - Adopt new byelaws to provide a clear set of regulations around mooring on Council sites to maintain availability of temporary visitor mooring births and prevent damage to sensitive riverine environments.
 - Revoke the separate set of byelaws in place for Shotover Country Park and include the site under the single, simplified set for all Council’s green spaces and play facilities.
 - Update the list of sites currently covered to address previous omissions and naming errors to ensure consistency, to include new play spaces created since the byelaws were last updated and to remove other sites which have been or are planned to be subject to change of land use

Public Consultation and Regulatory Assessment

3. Following approval by Council in November 2023, and in line with legal requirements forming part of the process for submission of the proposed byelaws to the Secretary of State, a consultation was undertaken to engage public support or opposition to the draft proposed byelaws. The consultation consisted of a widely publicised, open-to-all, online questionnaire (which ran from the 12 February to 8

April), combined with a proactive approach to a wide range of stakeholders for the Council's green spaces.

4. The total number of responses to the online survey was 523. Other comments and suggestions were provided separately from the online survey via email/letter. In addition to recording the quantifiable number of votes in support or opposition to the overall proposal and individual byelaws, all of the comments submitted on the online survey, and those provided separately, were reviewed to identify general feedback themes, concerns and suggestions. A full report has been prepared on the consultation which also contains a set of recommendations and an updated regulatory assessment based on the feedback. The report is provided as **Appendix 1**, but the key findings and recommendations are provided here:

Key findings of the consultation:

- a) The consultation identified clear support for the draft byelaws presented, but were desires expressed to make some amendments.
- b) A majority (60%) of respondents voted in support for the proposed updated byelaws in general.
- c) A majority, and in most cases significant majority, voted in support of each of the individual updated byelaws proposed.
- d) A majority supported lifting the blanket ban on cycling in parks, but a strong desire was expressed for it to be retained for Hinksey Park (other than use of the designated cycle route), and at the Trap Grounds and Lye Valley nature areas (where there are fragile wetland boardwalks and habitats)
- e) Despite general support for the byelaw relating to potential misuse of play areas by teenagers, a number of respondents questioned the appropriateness and viability to enforce an arbitrary age, and it was suggested any clear misuse of play areas could be dealt with instead through use of a general byelaw relating to causing obstruction or annoyance to others.
- f) A significant majority of respondents did not feel they would be unduly impacted by the application of the updated byelaws other than in relation to cycling in parks (reflecting consideration of both positive and negative impacts: the views of cyclists who would be negatively impacted by its retention and positively by the lifting of the ban; and the views of those who think there would be a potentially negative impact on pedestrians by lifting the ban)
- g) There was a significant majority in favour of revoking the old byelaws regarding ball games, tree climbing and wild swimming.
- h) A majority supported the proposal to revoke the existing set of byelaws for Shotover Country Park and include the site under the general park byelaws.

Recommendations based on the consultation feedback

- a) The draft updated set of byelaws presented for consultation should provide the substantial basis for a revised proposal, but it should be reviewed and updated to take account of areas of concern, and, where appropriate, changes made in line with suggested clarifications and additions.
- b) Although many people raised concerns about the proposal to remove the blanket ban on cycling in parks, the majority support suggests, on balance, most people consider the benefits outweigh the negatives. Even if supported, a general ban on cycling in parks is unviable to enforce given the large number

- and scale of the green spaces owned and managed by the Council, but a risk-based prohibition in the requested locations would be an appropriate and reasonable proposal in response to the concerns raised. This can be achieved by including a byelaw within the new updated version which only applies to Hinksey Park, and the Trap Grounds and Lye Valley nature areas (separate Schedule). No suggestions for additional sites were suggested through the consultation process and as such any further amendments would need clear justification to against the consultation findings in favour of allowing cycling.
- c) There is a clear legal definition of an e-bike under UK law: It must have a motor output not exceeding 250w continuously and a maximum speed assistance of up to 15 mph. This will be added to the byelaws to ensure there is a clear distinction between these and motorbikes of any description. There is a general byelaw included which covers dangerous or inconsiderate cycling in park regardless of the type of bicycle being ridden.
 - d) A byelaw is included prohibiting e-scooters. E-scooters are treated differently in law to bicycles and e-bikes. There was also clear support through the consultation that e-scooters should be prohibited from park areas. The definition of e-scooters is broad and based on that used by the Police.
 - e) The parameters for invalid carriages are based on national guidelines that the maximum weight for an invalid carriage (Class 2 and 3 - all powered wheelchairs and mobility scooters) is 150kg and the maximum width 0.85m.
 - f) The byelaw identifying an arbitrary age limit for the use of children's play equipment by teens should be removed.
 - g) The wording of the byelaw relating to the prohibition of fires should be changed to also include specific reference to barbecues and fireworks.
 - h) The wording of the byelaw relating to obstruction should be changed to include reference to endangerment in addition to annoyance.
 - i) As proposed, the old byelaws relating to ball games, tree climbing, and wild swimming should be revoked.
 - j) As proposed, the separate old set of byelaws for Shotover Country Park should be revoked and the site included in the main updated park byelaws.
5. The enforcement of the byelaws very rarely results in progressing to court action and there is no desire to see this change. They are designed to provide a clear set of rules around the use of the Council's many public green spaces for the protection of all users, parks and waterways infrastructure and ecology. In a vast majority of cases, verbal and written warnings and notices highlighting the existence of the byelaws and potential legal action against those in breach of them is sufficient action. Having a more focused and comprehensive set of byelaws available on the website is also aimed to reduce confusion and proactively advise which activities are or are not permitted to avoid breaches occurring in the first place.
 6. Following the now completed public consultation, and subject to approval by Council to progress, the Consultation Report and Regulatory Assessment will be published on the Council's website and in the local media prior to the application being submitted to the Secretary of State.

Financial implications

7. The additional cost of updating the byelaws is expected to be less than £10,000, which will be met from the existing Regen budget. Most of the research into and documentation for submitting the application to the Secretary of State for approval following consultation and regulatory and equalities assessment has already been completed internally by officers.

Legal issues

8. The statutory guidance issued by Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government provides that byelaws should always be proportionate and reasonable. Where a byelaw is no longer necessary, it should be revoked. The Byelaws (Alternative Procedure) (England) Regulations 2016 introduce new arrangements for byelaws.
9. The Secretary of State may give leave for the Council to make the proposed byelaw, or it may request minor technical and formatting changes when giving leave to make the byelaw.
10. Once the Secretary of State has given leave, the Council must give notice of the proposed byelaw in one or more local newspapers circulating in the area to which the byelaw applies and on its website. The notice must state the consultation period, of not less than 28 days, within which the public may inspect the draft byelaws. The notice must also state the address, and if necessary, the e-mail address, to which members of the public may send representations about the proposed byelaws. The Council must consider all representations received, including objections, before making any decision about whether or not to make the proposed byelaw.
11. The adoption of any byelaws, following consultation and assessment, must take into account the Council's equality duties. In summary these legal obligations require the Council, when exercising its functions, to have 'due regard' to the need to: (i) eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act; (ii) to advance equality of opportunity between people who share relevant protected characteristic and those who do not; and (iii) foster good relations between people who share a relevant protected characteristic and those who do not (which involves tackling prejudice and promoting understanding).

Level of risk

12. There are minimal risks associated with the updating of the existing byelaws as well as new byelaws. The new arrangements for making byelaws transfer the accountability for making byelaws to local councils. The risks are mitigated by the regulatory assessment of the proposed draft set of new byelaws to ensure that the proposed byelaws are proportionate. Officers have considered the objectives of the proposed byelaws and whether the objectives can be achieved in any other way, short of a byelaw.

13. The main risk is that the Secretary of State could choose to defer his decision to allow time for further consideration. Considerable care has been taken when drafting the draft set of new byelaws as they include moorings, e-scooters and drones which are not included in the Model byelaws, which are considered useful in preparing the draft.

Equalities impact

14. The adoption of the proposed draft set of new byelaws will be subject to consultation, appropriate approvals and equalities impact assessments. The Equalities Impact assessment can be found at Appendix 4. The Council will continue to monitor equalities impact throughout the development of the proposed byelaws.

Carbon and Environmental Considerations

15. There are few environmental considerations arising directly from this report and no impact is anticipated on the environment. The proposed set of new byelaws will contribute positively to environmental protection.

Report authors	Chris Bell and Tazafar Asghar
Job title	Green and Blue Spaces Development Manager
	Barrister (internal OCC)
Service area or department	Corporate Property Services
Telephone	07768 238906
e-mail	cbell@oxford.gov.uk

Background Papers: None	
1	Or - list all background papers
2	
3	
4	

Please note in the table below the version number of your report that was finally cleared at each stage. Different committees and reports require different clearance stages – please seek advice.

Report Stage	Version Number
First Draft: <i>Commissioned and cleared by Director</i>	24/6/24
Second Draft: <i>Cleared by Legal and Finance - mandatory</i>	24/6/24

<p>Organisational Draft: <i>Cleared by the Chief Executive</i></p>	
<p>Final Draft: <i>Sent to the Board Member for information</i> <i>Sent to the Board Member for clearance</i></p>	
<p>Final Report: <i>Sent to Labour Group if required</i></p>	
<p>Final Report sent to Committee Services: <i>by deadline for reports- mandatory</i></p>	

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