

REGULATORY COMMITTEE

12 JULY 2019

Subject: **Review of Byelaws for Bancroft Gardens, Recreation Ground and the Tramway Stratford-upon-Avon**

Lead Officer: **Tony Perks**
Contact on 01789 260610

**Lead Member/
Portfolio Holder:** **Councillor T Harvey**

Summary

By resolution on 17 December 2018, Council resolved (1) that Regulatory Committee Terms of Reference be amended to allow it to make, amend, revoke, re-enact and enforce all byelaws, subject to ratification by Full Council and (2) that subject to the above, the review of byelaws for the Bancroft Gardens be delegated to the Regulatory Committee.

Following the resolution, the byelaws for the Bancroft Gardens, Recreation Ground and Tramway were reviewed by officers with a view to encompassing the three areas aforementioned under one byelaw (based on the model byelaws provided by the Ministry of Housing, Communities and Local Government ("MHCLG")) and thereby revoking all previous byelaws for those three areas.

As part of the first stage of the byelaw review, an assessment and consultation process must be undertaken (in accordance with the Legal Implications section below) to ascertain whether the proposed byelaw is proportionate and as part of that process, Regulatory Committee is being consulted first before further consultation is undertaken with other relevant parties to assist the Council in undertaking the assessment.

Recommendation

That Regulatory Committee approves the draft byelaw for the Bancroft Gardens, The Tramway and Recreation Ground to enable the assessment and consultation process to continue in accordance with the Legal Implications section below.

1 Background/Information

- 1.1 The draft byelaw is set in eight parts with two schedules, with the respective schedules setting out the legislation that governs their use and rules for playing ball games in designated areas. (as attached at **Appendices 1 and 2**)
- 1.2 The eight parts consist of the following:
Part 1 – General Provisions;

Part 2 – Protection of the Grounds, its Wildlife and the Public;

Part 3 – Horses, Cycles and Vehicles;

Part 4 – Play Areas, Games and Sports;

Part 5 – Waterways;

Part 6 – Model Aircraft and Drones;

Part 7 – Other Regulated Activities; and

Part 8 – Miscellaneous Provisions.

- 1.3 The review of the pleasure ground and walk byelaws came about following the use of the Bancroft Gardens by motorcyclists which highlighted that the byelaws for the Bancroft Gardens (which includes the governance of the Tramway) and Recreation Ground were outdated and in need of review.
- 1.4 The draft byelaw is based on the model byelaws as provided by MHCLG that relate to the use of a pleasure ground, public walk and open spaces however with amendments applicable to the use of those grounds.
- 1.5 The draft byelaw will not only clarify the responsibilities of officers of the Council when managing and controlling the grounds but will in addition assist the general public to easily reference and understand what matters can or cannot be undertaken.
- 1.6 With regard to the motorcycle issue (and motor vehicles and trailers in addition), section 17 of the draft byelaw sets out a provision where the Council can set aside such areas for controlled use of these particular vehicles.
- 1.7 If the byelaw is approved as set out, or, approved subject to modifications, then the Council can proceed further with the consultation stage of the model byelaws process to enable it to undertake the assessment required as part of the process.

2 Options available to the Regulatory Committee

- 2.1 To approve the draft byelaw to enable the assessment and consultation process to continue in accordance with the Legal Implications; or
- 2.2 To approve the draft byelaw, subject to modifications, to enable the assessment and consultation process to continue in accordance with the Legal Implications; or
- 2.3 Reject the draft byelaw.

3 Evidence Base

- 3.1 As set out in this report and associated appendices.

4 Members' Comments

- 4.1 Not applicable

5 Implications of the proposal

5.1 *Legal/Human Rights Implications*

- 5.1.1 The general procedure covering the creation, amendment and revocation

of byelaws that relate to pleasure grounds and walks is set out in the Legal Implications section of the report to Council on 17 December 2018.

- 5.1.2 Under 5.1.6 of that report, The Secretary of State will consider the draft byelaw (if new or an amendment), report and deregulatory statement provided by the Council and will, within 30 days, either give leave to make the byelaw, or not give leave to make the byelaw. The Secretary of State may also choose to defer his decision to allow time for further consideration.
- 5.1.3 However, before the Council submits an application in respect of the above paragraph, it must undertake an assessment and consultation process.
- 5.1.4 In preparing an application for the Secretary of State to assess, the Council must:
 - 5.1.4.1 Prepare a draft of the proposed byelaw;
 - 5.1.4.2 Carry out an assessment of whether the regulatory burden imposed by the proposed byelaw is proportionate, which must include, but need not be limited to:-
 - (1) identification of the objective which the proposed byelaw is seeking to secure;
 - (2) whether the objective intended to be secured by the proposed byelaw could be satisfactorily secured by alternative means;
 - (3) the impact of the proposed byelaw on all persons identified by the authority as being potentially affected by it;
 - (4) whether the result of the proposed byelaw would increase or lessen the regulatory burden on persons potentially affected by the proposed byelaw, insofar as possible expressing that increase or reduction in monetised form, and
 - (5) how these alternative means and the proposed byelaw compare with carrying out no further action; and
 - 5.1.4.3 Prepare a statement of the above assessment.
 - 5.1.4.4 In carrying out an assessment under paragraph 5.1.4.2, the Council must consult with such persons as it considers are potentially affected by the proposed byelaw.
 - 5.1.4.5 In respect of a statement under 5.1.4.3, the Council must record in the statement:
 - (1) conclusions as to the impact of the proposed byelaw on persons potentially affected by the byelaw;
 - (2) conclusions as to whether the proposed byelaw results in an increase in the regulatory burden; and
 - (3) in the event that the proposed byelaw results in an increase in the regulatory burden, the reasons why such an increase is considered to be proportionate and necessary.
 - 5.1.4.6 The Council must publish the statement on its website, and publicise the statement in such manner as it considers is likely to bring the statement to the attention of persons who live in its area or may otherwise be affected.

5.2 ***Financial***

- 5.2.1 There will be a modest cost in the exercise of reviewing the byelaws however this is not expected to be significant and will be accommodated within existing budgets
- 5.2.2 When the review of the byelaws is complete, there may be resourcing issues with regard to the enforcement of the byelaw.

5.3 ***Environmental***

- 5.3.1 As the proposed byelaws are more relevant to modern social practice, the review should improve the environment in and around the Bancroft Gardens, The Tramway and Recreation Ground.

5.4 ***Corporate Strategy***

- 5.4.1 There are no Corporate Strategy implications

5.5 ***Analysis of the effects on Equality***

- 5.5.1 The proposed are more reflective of modern society and should have a positive effect on equality. Equality impact assessments will be undertaken, where appropriate, as part of the implementation process if the Committee support the proposed byelaw.

5.6 ***Data Protection***

- 5.6.1 There are no data protection implications and a data protection impact assessment is not required.

6 Risk Assessment

- 6.1 The byelaw for The Bancroft Gardens, The Recreation Ground and The Tramway need to be updated to ensure effective management of these areas.

7 Conclusion

- 7.1 Members are invited to assess the draft byelaw for The Bancroft Gardens, The Recreation Ground and The Tramway as the first step in the consultation process required to enable the Council to undertake the assessment to ascertain whether the proposed byelaw is proportionate for the management of the three grounds.

Tony Perks

HEAD OF TECHNICAL AND COMMUNITY SERVICES

Background papers:

- (1) Draft byelaw with Plan – Appendix 1 and 2
- (2) Council report of 17 December 2018 (copies of the report can be found at: