



THE COUNCIL'S COMMENTS TO PUBLIC CONSULTATION RESPONSES

Proposed Byelaw 1 – General Interpretation

A concern was raised about class 3 mobility scooters (due to the interpretation of 'Invalid Carriage' in this definition section), however, if the unladen weight of such as a scooter does not exceed 150 kilograms then it would be acceptable to use such a mobility scooter in the Grounds.

Proposed Byelaw 2 – Application

No concerns identified by the consultation.

Proposed Byelaw 3 – Opening Times

No concerns identified by the consultation.

Note: Certain parts of the Grounds may be closed to the public from time to time due to a public show, performance, activities subject to a Designated Area, Provision of Services or in an emergency situation, and will be indicated by a notice placed in conspicuous positions (if practicably possible to carry out due to the purpose of the closure) within the Grounds.

Proposed Byelaw 4 - Protection of structures and plants

Concerns were raised about the effects of wear and tear on the grass due to the over use of the Grounds, however, monitoring is already assessed by the Council's Community and Operational Team with regard to repairs undertaken in the Grounds.

Note: The model clause will update provision for the protection of Structures and Plants in the Grounds, replacing similar provisions contained in the existing Bancroft Gardens and Recreation Ground byelaws.

In addition, matters that may be considered to relate to this Byelaw or Byelaw 5, such as Fly Tipping, Littering, Criminal Damage and Graffiti, or any pollutant, can be covered and enforced by other forms of legislation. Dog fouling is currently covered by Public Space Protection Order made under the Anti-Social Behaviour, Crime and Policing Act 2014.

Note: It is proposed to insert a new sub-clause at 4(1)(c) for the following: Statue, flag, flag pole or notice, due to these types of items being placed on the Grounds. Sub-clause 3, set out in the original byelaw draft, is removed as covered by environmental protection legislation.

As for monitoring of this byelaw, this is already undertaken by the Council's Community and Operational Team on the Grounds, so there is no additional Regulatory Burden.

Proposed Byelaw 5 - Unauthorised erection of structures

Concerns were raised on both sub-clauses.

First, whether such structures under sub-clause 5(1) included items such as, deck chairs, folding chairs or other types, picnic tables, windbreaks, flags or badminton nets etc. The structures, on which the first sub-clause concerns were raised, are considered as everyday items that may be used by the general public when enjoying the amenity of the Grounds and not items that have a degree of permanence, which this sub-clause prohibits without the consent of the Council.

Second, a concern was raised about placards and signs being allowed under sub-clause 5(2), in order to allow for peaceful protest and demonstration in the Grounds. The sub-clause is proposed to restrict such notices, to those already placed there, so to protect the amenity and enjoyment of the Grounds. Any activity of this nature, therefore, is subject to the Council's consent assessment it must take with regard to such a request. Any public meeting or gathering is also subject to the provisions contained in any relevant legislation for these purposes.

Third, there was a concern raised on the number of memorials placed on the Recreation Ground and whether consent should be required from the Council.

Whilst the Council appreciate that members of the public may wish to remember their loved ones with some type of memorial on the Grounds, this byelaw proposes that consent for any memorial on the Grounds is required. In view of this, it is proposed to insert the word '*memorial*' into sub-clause 5(1) to clarify the situation.

Note: Sub-clause 5.1 is a model clause, with the addition of '*memorial*' and will replace similar provisions contained in the existing Bancroft Gardens and Recreation Ground byelaws. Sub-clause 5.2 is a re-wording of a similar clause, contained only in the Bancroft Gardens Byelaw, but will now relate to the Grounds as a whole.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to a request under this Byelaw clause.

Proposed Byelaw 6 – Climbing

No concerns identified by the consultation.

Note: The model clause will update provision for Climbing in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw. As for monitoring this byelaw, such matters are already undertaken by the Council's Community and Operational Team on the whole of the Grounds, so there is no additional Regulatory Burden.

Proposed Byelaw 7 – Grazing

No concerns identified by the consultation.

The model clause will update provision for Grazing in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to a request under this Byelaw clause.

Proposed Byelaw 8 - Protection of wildlife

Concerns were raised in respect of the protection to birds, their nests and eggs, and to dangerous dogs.

With regard to the protection of birds, although the clause is a catch all for all animals, the Wildlife and Countryside Act 1981 covers the protection of birds.

The Dangerous Dogs Act 1991 covers situations with dogs, which are dangerously out of control, in either a public or a private place. In addition, if a dog owner is menacing another member of the public, by way of their dog, an offence of intentional harassment, alarm or distress, or threatening abusive or insulting behaviour, under the relevant public order act, may apply.

Note: The model byelaw clause will update provision for the Protection of Wildlife in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw. The clause, in addition, permits the Council (or those given consent by the Council) to take steps in the event that it has to undertake measures to resolve a situation that is considered a danger or nuisance to the general public and/or its officers.

Note: It is proposed to move the wording '*without the consent of the Council*' after '*no person*', to provide better clarity to the clause.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to a request under this Byelaw clause.

Proposed Byelaw 9 - Camping

A concern was raised about the exact interpretation of this clause, as to whether sleeping bags (or such similar items) are allowed anywhere in the Grounds, as the clause does not specifically state such items although usually associated with such matters.

Whilst no parts of the Grounds are specifically set aside for camping, this clause allows the Council to designate areas in the Grounds for camping associated with specific events only. Such items aforementioned, therefore, unless associated with a specific event, would not be enforced under this clause but by other measures available to the Council.

Note: The model clause will update provision for Camping in the Grounds, replacing similar provisions currently contained in the existing Bancroft Gardens and Recreation Ground Byelaws.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may however, be reduced if consenting to a request under this Byelaw clause.

Proposed Byelaw 10 - Fires

Concerns were raised about bringing a fire hazard into the Grounds and items being projected from outside the Grounds into the same.

To clarify, with the latter, this proposed byelaw cannot control such instances happening. The Council, therefore, would have to seek other lawful measures in the event that such an instance occurred. With the former, due to the wording of Clause 10(1)(b), this would govern the instance of a fire hazard being brought into the Grounds.

A provision that has been supported as part of the public consultation was the prohibition of Sky Lanterns being released from the Grounds, due to the issues such items being considered a cause of danger to property outside of the Grounds.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced, first, as a health and safety measure for those enjoying the amenity of the Grounds and second, to permit the Council to control any event or amenity that it has given permission for, which involves a potential fire hazard.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds in respect of such matters. Any Regulatory Burden may, however, be reduced if consenting to a request under this Byelaw clause.

Proposed Byelaw 11 - Missiles

Concerns were raised about the types of items that could cause injury from inside the Grounds, and such devices being propelled/discharged outside but into the Grounds.

With the former, whilst most everyday amenity items could cause some kind of injury, the clause is directed at those devices where the Council considers that the propelling or discharging of such a device is liable to cause injury to a person. With the latter, this proposed byelaw cannot control such instances happening from outside the Grounds, therefore, the Council would have to seek other lawful measures to prevent such events occurring. A further concern was raised over fireworks. The enforcement, however, of such items is covered by relevant firework legislation.

Note: The model clause will update the provision for Missiles for the Grounds, replacing similar provisions currently contained in the existing Bancroft Gardens and Recreation Ground Byelaws.

As for monitoring, this is already undertaken by the Council's Community and Operational Services on the Grounds so there is no additional Regulatory Burden.

Proposed Byelaw 12 – Interference with Life-saving equipment

No concerns identified.

The model clause will update provision for Life Saving Equipment for the Grounds, replacing similar provisions currently contained only in the Recreation Ground Byelaw.

As for monitoring, this is already undertaken by the Council's Community and Operational Services on the whole of the Grounds so there is no additional Regulatory Burden.

Proposed Byelaw 13 - Horses

A concern was raised about the exact interpretation of the clause namely, '*walking on*' a horse into the Grounds. What other types of animals could be brought into the Grounds, as the clause specifically only referred to horses.

With regard to '*walk on*', this means to lead the horse on foot into the Grounds whilst other types of animals, which are not covered by the provisions of this proposed byelaw, would be assessed under other forms of legislation to cover any such situations arising.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced as a health and safety measure to those enjoying the amenity of the Grounds.

As for monitoring, this would be undertaken by the Council's Community and Operational Services in conjunction with their other duties and has, therefore, been assessed as providing minimal, if any, additional Regulatory Burden.

Proposed Byelaw 14 - Cycling

The draft cycling byelaw clause attracted the second highest set of responses after the proposed Byelaw 15 below.

To clarify three concerns (one being a total objection to the cycling byelaw provision) on prohibiting cycling on the Grounds or part of it.

The respective byelaw's intention is to prohibit cycling except where there is a designated route for cycling (or any lawful right to cycle). For further clarity, a Sustrans Route No. 41 passes over the Tramway Bridge and then through the Recreation Ground on its way to the Shipston Road and beyond. The route, therefore, is in place for users to access the Recreation Ground (from south to north and vice versa) and beyond that to the Town Centre, if cycling from the south of the Grounds. Please see the website [Find a route on the National Cycle Network - Sustrans.org.uk](https://www.sustrans.org.uk) for further details. Note: the Council will highlight the route for users.

One further point to be clarified is that the proposed byelaw does not prohibit the Council opening up additional cycling routes on further parts of the Grounds.

The next set of concerns related to the Tramway Bridge and the proposed byelaw's intention to continue the current byelaw prohibition of cycling over the bridge. The consultation process has highlighted the issue that some cyclists are ignoring the signs placed at either end of the bridge to dismount, which is causing an issue for users whether on foot or by use of a mobility scooter. The Council will therefore look to arrange new and clearer signs for the bridge and will assess the situation should any further issues arise.

A final response clarified the wording of the byelaw with regard to all types of cycles. The original draft included the word '*bicycle*'. This was, however, an error as the wording should have followed the model byelaw wording and included '*cycle*' (as it was later referred to in the byelaw) so encompassing all types of cycles.

Proposed Byelaw 15 - Motor Vehicles / Motor Cycles / Trailers

The majority of the consultation replies concerned the parking of motorbikes on the Bancroft Gardens, the majority in favour of a biker meet (generally a Wednesday).

The parking of motorbikes falls into two parking groups namely, those parked either on the footway adjoining Waterside or, at the back edge of the promenade running parallel with the footway (for clarity, part of the promenade is generally not used for bikes so to allow the general public to walk between the two rows of motorbikes).

With regard to those motorbikes parked on the footway adjoining Waterside, this area is maintained at public expense and, therefore, under the control and enforcement powers of the Warwickshire County Council as the highway authority. As such, this proposed byelaw does not allow the District Council to permit any parking of motorbikes on that area.

As for those motorbikes parked at the back of the promenade, this is an area within the control of the District Council, however, the proposed byelaw, if confirmed, does not automatically permit parking on the promenade. The proposed byelaw permits the District Council to designate an area on the Grounds (but likely on Bancroft Gardens where parking is officially sought), if an assessment considers it safe to do so.

There were also two points of clarification, first, the wording of this byelaw and the definition of Motor Cycle. With the former, the words '*it*' and '*space*' set out in the original draft byelaw clause wording should refer to a Designated Area, therefore, the byelaw has been amended to clarify this. Second, the Council considers the definition of Motor Cycle to cover the use of Segways and e-Scooters (and such similar machines).

Note: The model clause will update the parking provision for the Grounds replacing similar provisions currently contained only in the Recreation Ground Byelaw.

As for monitoring, this is already undertaken by the Council's Community and Operational Services Section on the Grounds as a whole, so there is no additional Regulatory Burden.

Proposed Byelaw 16 – Overnight Parking

No concerns identified by the consultation.

The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being proposed to enable the Council to control overnight parking on Designated Areas if the need arises.

As for monitoring, such activities are already undertaken by the Council's Community and Operational Services Section so there is no additional Regulatory Burden.

Proposed Byelaw 17 Children's play areas and 18 Children's play apparatus

The two Children's play area clauses were omitted from the original draft byelaw. Following consideration from the Council's Head of Community and Operational Services, with regard to the safety of children under the age of 14, it has been proposed to insert the clauses into an amended draft byelaw. The wording of this clause is not covered by existing byelaws on the Grounds.

As for monitoring of the play areas on the Grounds, this is already undertaken by the Council's Community and Operational Services Section so there is no additional Regulatory Burden.

Proposed Byelaw 19 - Skateboarding, etc.

A concern was raised as to the Council's exact intentions on this byelaw. To clarify, the Council is to make available the Grounds for such an activity (including that of electric skateboards), where permitted to do so by conspicuous notices in the Grounds. With the premise, however, that this is undertaken in a safe and reasonable manner, so not to cause danger or give reasonable grounds for annoyance to other persons.

Note: The wording of this clause is not covered by existing byelaws on the Grounds. The monitoring of such activities is already undertaken by the Council's Community and Operational Services so there would be no additional Regulatory Burden.

Proposed Byelaw 20 and 21 - Ball Games and Rules

No concerns identified by the consultation.

The model clause will update provision for Ball Games in the Grounds, replacing similar provisions for all ball games currently contained only in the existing Bancroft Gardens Byelaw.

Monitoring is already undertaken by the Council's Community and Operational Services so there is no additional Regulatory Burden.

Proposed Byelaw 22 - Cricket

A concern was raised about the exact interpretation of this clause with regard to using a bat with other types of balls, other than a cricket ball or using the latter with any type of hitting instrument, other than a cricket bat.

To clarify, due to the type of equipment used in a formal game of cricket, this clause prohibits the use of such items in the Grounds except in a safe and controlled environment, such as a Designated Area in the Grounds (Stratford-upon-Avon Cricket Club's ground in the Grounds being an example).

Note: The model clause will update provision for Cricket in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw.

Monitoring is already undertaken by the Council's Community and Operational Services so there is no additional Regulatory Burden. Any Regulatory Burden may, however, be reduced if consenting to an event run by another party.

Proposed Byelaw 23 – Archery

No concerns identified by the consultation.

Note: The model clause will update provision for sports such as Archery in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw where such activity is prohibited unless in a Designated Area.

Monitoring is already undertaken by the Council’s Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to an event run by another party.

Proposed Byelaw 24 – Field Sports

No concerns identified by the consultation.

The model clause will update provision for Field Sports in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw where such activities are prohibited unless in a Designated Area.

Monitoring is already undertaken by the Council’s Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to an event run by another party.

Proposed Byelaw 25 – Golf

No concerns identified by the consultation.

The model clause will update provision (subject to a minor amendment in the clause replacing ‘space’ with the wording ‘a Designated Area’) for Golf in the Grounds, replacing similar provisions currently contained only in the existing Recreation Ground and Borough Sports Field Byelaw.

Monitoring is already undertaken by the Council’s Community and Operational Services so there is no additional Regulatory Burden. Any Regulatory Burden may, however, be reduced if consenting to an event/concession run by another party.

Proposed Byelaw 26 - Bathing

A concern was identified with regard to the wording of the clause. The amended draft byelaw will remove the words '*except without the consent of the Council*' to simplify the Proposed Byelaw.

Note: The model clause will update provision for bathing in the Grounds, replacing similar provisions currently contained only in the existing Bancroft Gardens Byelaw.

Monitoring is already undertaken by the Council's Community and Operational Services so there is no additional Regulatory Burden.

Proposed Byelaw 27 - Ice skating

No concerns identified by the consultation, however, it is proposed to amend draft byelaw by removing the words '*except without the consent of the Council*' to simplify the proposed Byelaw.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced as a health and safety measure. Monitoring will be undertaken by the Council's Community and Operational Services in conjunction with their other duties. With this being more of a seasonal matter, the Regulatory Burden is deemed as very minimal.

Proposed Byelaw 28 – Model Boats

No concerns identified by the consultation.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced to provide clarity as to any designated area being provided for such use.

Monitoring will be undertaken by the Council's Community and Operational Services in conjunction with their other duties. Due to the lack of designated areas for this to happen, however, the Regulatory Burden would be limited.

Proposed Byelaw 29 - Boats

A concern was raised about the soliciting of the general public with regard to boat hire from the Grounds (this particular clause currently contained only in the Bancroft Byelaw), however, Sub-Clause 29.(2) addresses the issue raised in the concern above.

Monitoring is already undertaken by the Council's Community and Operational Services in conjunction with their other duties on the Grounds. Any Regulatory Burden would, however, be limited if consenting to an event/concession run by another party.

Proposed Byelaw 30 - Fishing

No concerns identified by the consultation, however, it is proposed to amend draft byelaw by removing the words *'except without the consent of the Council'* at the end of the clause and insert *'without the consent of the Council'* after the word *'person'*.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced to provide clarity as to any designated area being provided for such use.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds with regard to this byelaw clause. Any Regulatory Burden may be reduced if consenting to an event/concession run by another party.

Proposed Byelaw 31 - General prohibition

A concern was raised that the clause did not cover controlling the flight of an aircraft into the Grounds. Except in the case of emergency, or without reasonable excuse, the proposed Byelaw cannot control such instances happening. The Council may, however, seek other lawful measures in the case such an event happened where exceptions to landing in the Grounds did not apply.

Note: The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced first as a health and safety measure, and second, for users to enjoy the amenity of the Grounds without the disturbance of model aircraft or drones.

Monitoring will be undertaken by the Council's Community and Operational Services on the Grounds in conjunction with their other duties and is assessed to be of limited Regulatory Burden. This may, however, be further reduced if consenting to an event run by another party.

Proposed Byelaw 32 – Provision of Services

A concern was raised about the soliciting of the general public with regard to boat hire from the Grounds however this has been addressed in Clause 29.

To clarify this Byelaw, however, the same is a general catch all for Council consent requests when providing goods and services on the Grounds (although Byelaw 29 is specific to Boats). The model clause will update provision for Provision of Services in the Grounds, replacing similar provisions contained in the existing Bancroft Gardens and Recreation Ground Byelaws.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to an event/concession run by another party.

Proposed Byelaw 33 - Excessive noise

Concerns were raised whether this clause only applies to persons in the Grounds and not causing annoyance to anyone outside of the Grounds. In addition, clarity was requested whether the clause prohibited any event involving repeated noises, which is sanctioned by the Council.

The first part of the clause obliges individuals to act responsibly and respect the needs of others. Any offender can be removed by council officers or the Police, the provisions for undertaking this are set out in the byelaw. This provision may also assist with any noise issues annoying those not in the Grounds.

With regard to events sanctioned by the Council, an assessment is taken by the same (the consent process as set out in the Miscellaneous section), before providing consent for a concession/event or repeated concession/event to take place. Any previous issues, therefore, would be assessed as part of a consent request.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds. Any Regulatory Burden may, however, be reduced if consenting to an event/concession run by another party.

Proposed Byelaw 34 – Public shows and performances

Concerns were raised with regard to current events that currently take place on the Grounds and whether the proposed byelaw would have an impact on those particular events.

The proposed byelaw would only have an effect if an application for such a public show or performance did not meet the terms of the Council's consent process.

Monitoring is already undertaken by the Council's Community and Operational Services so there is no additional Regulatory Burden. Any Regulatory Burden may, however, be reduced if consenting to an event/concession run by another party.

Proposed Byelaw 35 – Aircraft, hang gliders and hot air balloons

No concerns identified by the consultation.

The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced first as a health and safety measure, and second, for users to enjoy the amenity of the Grounds without the disturbance of such matters.

Monitoring is already undertaken by the Council's Community and Operational Services on the Grounds as to any request of such nature. Any Regulatory Burden may, however, be reduced if consenting to an event run by another party.

Proposed Byelaw 36 - Kites

A concern was raised about the clarity of the original drafted byelaw clause and whether sub-clauses (a) to (c) in the same included the Grounds or just the Recreation Ground. For simplicity, the original clause has been replaced entirely by the model byelaw clause so it relates to the Grounds as a whole.

Note: The wording of this Byelaw is not covered by existing byelaws on the Grounds.

Monitoring would be undertaken by the Council's Community and Operational Services in conjunction with their other duties and has been assessed as providing no additional Regulatory Burden.

Proposed Byelaw 37 – Metal detectors

No concerns identified by the consultation.

The wording of this clause is not covered by existing byelaws on the Grounds, therefore, the model clause is being introduced to enable such activities to be undertaken should there be any cause to permit this.

Monitoring will be undertaken by the Council's Community and Operational Services in conjunction with their other duties and has been assessed as providing no additional Regulatory Burden on the Grounds. Any Regulatory Burden may be reduced, if consenting to a concession by another party.

Proposed Byelaw 38 Obstruction 39 Savings 40 Removal of Offenders 41 Penalty

No concerns identified by the consultation.

Proposed Byelaw 42 - Revocation

Sub-Clause 42(d) should read as follows (in place of that set out in the original draft byelaw):

The byelaw relating to the Borough Sports Field (now included as part of the Recreation Ground) made by Stratford-on-Avon District Council on 16 June 1986 and confirmed by the Secretary of State on 5 August 1986.

Miscellaneous

With regard to the Regulatory Burden of the consent process, as highlighted on many byelaw clauses, this depends on the nature of the application. To clarify, the consent process will act to ensure the activity: does not cause nuisance or anti-social behaviour; that it is being carried out safely and the public are protected; any necessary protections, such as public liability insurance, are in place; and that it meets the tests of necessity and proportionality.

A concern was raised about the clarity of the changes being made from the previous byelaws to one new byelaw. The above references for each particular clause, will advise what is currently included on either the Bancroft Gardens (including The Tramway) or Recreation Ground Byelaws or both or what is being proposed.

As to enforcement of the byelaw, this can be undertaken by various means: namely discussions between an offender and a council officer/police, to removal of an offender by the same; empowerment of a member of the public to request others to cease their behaviour; or as a last resort resolution of prosecution of the offender for a breach of the byelaw. Any issues will be assessed on a case by case basis.

In respect of objections to the new byelaw, these were minimal, either relating to a certain byelaw provision or the new byelaw in total. With the former, the Council's position and therefore, reasoning, is set out above with regard to the necessity or proposed working of the byelaw clause.

As to the latter, the motorcycle parking issue at Bancroft Gardens caused the Council to review its current byelaws for the same and adjoining areas at the Recreation Ground and The Tramway (including the Tramway Bridge), as they are effectively managed as one pleasure ground. The review concluded that the current byelaws were out of date (the Bancroft Gardens byelaw for example being 120 years old) and no longer fit for purpose. The objective of the proposed byelaw is to provide a contemporary set of rules, which can be relied upon as a basis for the effective and equitable management of these pleasure grounds, which in turn enables the general public to understand what matters can, or cannot, be undertaken so all can enjoy the amenity of those areas.