

Committee : General Purposes	Date 27 March 2013	Classification Unclassified	Report No.	Agenda Item No. 4.1
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Report of Corporate Director Communities Localities and Culture Assistant Chief Executive (Legal Services) Originating Officers: Michael Rowan, Head of Parks and Open Spaces Paul Greeno, Senior Advocate	Title Queen Elizabeth II Olympic Park – Proposed Byelaws Ward affected Bow East
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1. **Summary**

- 1.1 The report deals with proposals for byelaws to cover the Queen Elizabeth Olympic Park following handover of the park in 2013 to the London Legacy Development Corporation. The area of the Queen Elizabeth Olympic Park straddles Newham, Hackney, Tower Hamlets and Waltham Forest and each authority has been asked to make identical Byelaws in relation to Parks and Open Spaces and Public Conveniences.
- 1.2 Byelaws are local laws designed to address potential problem behaviours in a way that complements rather than duplicates existing legislation and it is considered that these Byelaws will assist in ensuring acceptable behaviour in the park so that residents and visitors are able to fully enjoy the park.

2. **Recommendations**

General Purposes Committee is asked to –

- 2.1 Recommend to Full Council that it makes the two sets of byelaws for Queen Elizabeth II Olympic Park which are set out in Appendix 1 and 2.

3. BACKGROUND

- 3.1 The area of the Queen Elizabeth Olympic Park straddles Newham, Hackney, Tower Hamlets and Waltham Forest. Park boundaries and the boundaries of each London borough are shown in Appendix 3.
- 3.2 The Queen Elizabeth Olympic Park will reopen to the public in phases following the Olympic Games. The first part of the Park will reopen on the 27th July 2013, followed by further phased opening on the 31st December 2013 and finally all Park areas will be open to the public from 31st March 2014.
- 3.3 The London Legacy Development Corporation (LLDC) will have a freehold or leasehold interest in most of the land in the Park. As much of the park will be open to the public, the LLDC considers that byelaws and dog control orders to cover the Park, as would be usual as part of the management of a public park, are essential to ensure appropriate behaviour and use of the Park by the public.
- 3.4 The LLDC does not have powers to make byelaws. Accordingly, the LLDC have sought cooperation from Tower Hamlets and the other relevant public authorities with the power to make byelaws for the Park. The LLDC would like each authority to make byelaws in identical form, to assist with the future management of the Park.
- 3.5 The area within Waltham Forest is governed by byelaws made by Lee Valley Regional Park Authority and therefore they are unaffected by these proposals. The Lee Valley Regional Park Authority and British Waterways Board also have byelaw making powers and have already made byelaws which will govern part of the Park.
- 3.6 The majority of the park is located within Newham and it was originally considered whether it may be possible for Hackney and Tower Hamlets to delegate their byelaw making powers to Newham, thus enabling Newham to make byelaws for the entire park. This was rejected however and the three (3) authorities have agreed to make byelaws in identical form to cover the Park.
- 3.7 There are two (2) sets of byelaws which Tower Hamlets are being asked to make that are relevant to management of the Park. These are:
 - Byelaws for pleasure grounds, public walks and open spaces
 - Byelaws for public toilets
- 3.8 These byelaws exist in model form and, provided the Council makes the byelaws in line with the models, which is what is proposed, the Secretary of State's consent should be obtained without delay.

3.9 The process for making byelaws is briefly as follows:-

- Consultation with interested groups and representatives
- Form of bye law approved by Full Council
- Notice in newspaper (30 days)
- Byelaws submitted to Secretary of State for confirmation
- Byelaws come into effect on the date fixed by the Secretary of State when they are confirmed

3.10 The Secretary of State will confirm byelaws where he is satisfied that they are within the Local Authority's powers, do not conflict with any other law and the nuisance merits criminal sanctions and addresses a genuine problem. For this reason model byelaws have been produced which are in a form generally sufficient to enable good rule and management of parks and open spaces.

3.11 The preliminary consultation for the Queen Elizabeth Olympic Park Byelaws ran for a two-week period from 22nd October – 6th November 2012. The groups and organisations consulted were as follows –

Organisations consulted

- The Diocese of London
- The Crown Estates
- National Council for Metal detecting
- British Model Flying Association
- Canal and River Trust
- Tower Hamlets Wheelers
- Ramblers

Equalities Groups/organisations

- Tower Hamlets Accessible Transport Forum
- Interfaith Forum
- New Residents and Refugee Forum
- Rainbow Hamlets
- Real (user-led organisation for people with disabilities)
- Age UK Tower Hamlets
- Older People's Reference Group
- Carer Forum and Mental Health Carer Forum
- Deaf Plus
- Royal London Society for Blind People

Sports Groups

- Tower Hamlets Football Partnership
- Tower Hamlets Sports Council
- Tennis Development Group

- Bowls Group
- Athletics Development Group
- Cricket Development Group

- 3.12 Comments have been received from British Model Flying Association; Tower Hamlets Sports Council; and Real. There were no objections to the Byelaws being made. An issue was raised about dog control, which will be addressed in Dog Control Orders.
- 3.13 Consultation with the public will take place after the Council has made and sealed the Byelaws but prior to an application to DCLG for approval of Byelaws.

4. **ENFORCEMENT**

- 4.1 There will be three (3) levels of enforcement. Firstly, the primary “enforcement” role will be undertaken by security employed by LLDC. The intention by LLDC will be to employ 51 security staff. These will be working in shifts 24/7. These officers will not have enforcement powers but will be the first line in terms of nipping any issues in the bud. This will be by way of an informal chat. The security staff will however also monitor anti-social behaviour and gather evidence of hot spot areas where such behaviour is taking place. This would then escalate to the second level of enforcement.
- 4.2 Secondly, the LLDC have been in discussion with the Metropolitan Police and the park will have a dedicated “Safer Parks Team” of Police similar to the Safer Neighbourhood Teams. These officers will report persons for breach of Byelaws and/ or other offences where appropriate.
- 4.3 The third level of enforcement is where they will call on local authority enforcement officers to conduct special exercises should this be necessary. In that event they would meet our costs associated with the exercise. Any enforcement by the Council of the Byelaws will be in accordance with the Council’s enforcement policy, adopted by Cabinet on 8 September 2010. The policy sets out the following clear principles for the Council’s enforcement action:

raising awareness of the law and its requirements;
proportionality in applying the law and securing compliance;
consistency of approach;
transparency about the actions of the Council and its officers; and
targeting of enforcement action

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 5.1 The report sets out for consideration the sets of byelaws for Queen Elizabeth II Olympic Park which the Council has been asked to make identical Byelaws in relation to Parks and Open Spaces and Public Conveniences. There are no direct financial implications emanating within these proposals.

6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 6.1 The Council has power under section 235 of the Local Government Act 1972 to make byelaws for –

- The good rule and government of the whole or part of the borough.
- The prevention and suppression of nuisances in the borough.

- 6.2 The Council has additional powers to make byelaws –

- For the regulation of public walks or pleasure grounds under section 164 of the Public Health Act 1875.
- For the regulation of open spaces for which it has acquired control under the Open Spaces Act 1906 and for the days and times of admission to such spaces and for the preservation of order and prevention of nuisances in those spaces.

- 6.3 Section 236 of the Local Government Act 1972 sets out the current procedure for making byelaws. Byelaws must be made under the Council's seal, but do not take effect until they are confirmed by the Secretary of State. Before applying for confirmation, the Council must: give notice of its intention to apply for confirmation in a newspaper circulating in the borough; and must make a copy of the proposed byelaws available for public inspection at the Council's offices. If a person requests a copy of the byelaws, the Council must make one available (for which the Council may charge a fee not exceeding 10p per hundred words).

- 6.4 In order to obtain confirmation, the Council must submit an application to the Department of Communities and Local Government ("DCLG"). The Secretary of State may either confirm or refuse to confirm any byelaw submitted for confirmation under section 236 of the 1972 Act. The Secretary of State may fix a date on which the byelaws come into effect, but if he does not specify a date the byelaws come into effect one month from the date of its confirmation.

- 6.5 The DCLG has indicated that in considering an application for confirmation, the points on which it will concentrate are as follows –

- that the byelaws are *intra vires* the relevant legislation and that any action required by the legislation, such as consultation with a named public body, has been taken;
- that they do not duplicate or conflict with the general law, existing byelaws or any local Act, or common law;
- that the nuisance they address merits criminal sanctions and that, to a reasonable person, the penalty available is proportionate;
- that they directly address a genuine and specific local problem and do not attempt to deal in general terms with essentially national issues; and
- that they do not conflict with Government policy.

6.6 The DCLG has published model byelaws which set out what the Government considers to be appropriate wording. Byelaws which exactly follow a model will in most cases satisfy the considerations set out above.

6.7 The making and revoking of byelaws is a matter for full Council. This is confirmed in Article 4.02(j) of the Council's constitution. The Council's constitution gives the General Purposes Committee (GPC) responsibility for recommending to Full Council the making of byelaws.

7. ONE TOWER HAMLETS CONSIDERATIONS

7.1 Recent studies by the Commission for Architecture and the Built Environment (CABE) suggested that providing good quality local green space is a very effective way to tackle inequality. People living in deprived urban areas view green space as a key service and one of the essentials in making a neighbourhood liveable.

7.2 When people were asked if they experienced any barriers to using their local green spaces, the biggest single barrier to accessing urban green space was safety. This was expressed both in terms of the physical environment and the perceived threat of others. Around a third of people reported they would use urban green space more if safety were improved.

7.3 Therefore, effective enforcement of Byelaws and other supporting legislation within the borough's parks and open spaces has the potential to improve the experience of park users and increase use by the community.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 Byelaws are designed to protect parks and open spaces and the plants and wildlife within them. Effective implementation of the Byelaws will help to ensure access to nature for everyone in the borough.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The principal risk would be ensuring that the New Byelaws are publicised and enforced effectively from date of implementation. This risk will be minimised once the issue on Enforcement has been resolved with LLDC.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The New Byelaws will support improved enforcement and community engagement specific to behaviour in the Queen Elizabeth Olympic Park. For this reason they will play their part in helping to drive down crime, littering and vandalism which in turn will help dealing with crime. They will also help to increase the use of the park by reducing fear of crime and ASB levels helping to promote a healthier, happier and more cohesive community. This will have efficiency benefits for adult social care and public health costs by keeping people healthier and more active for longer.

11. EFFICIENCY STATEMENT

- 11.1 Included in 9 above.

12. APPENDICES

Appendix 1 – Proposed Byelaws for Parks & Open Spaces

Appendix 2 – Proposed Byelaws for Public Toilets

Appendix 3 – Map showing the Park boundaries and the boundaries of each borough

**Local Government Act, 1972 Section 100D (As amended)
List of “Background Papers” used in the preparation of this report**

Brief description of “back ground papers”

Name and telephone number of holder and address where open to inspection.

Non-exempt representations in relation to the consultation

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