



## **Report to Council**

**Subject: Byelaws for pleasure grounds, public walks and open spaces**

**Date: 6 March 2006**

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### **1. Purpose of the Report**

To update Council on the progress made in extending the Byelaws applicable to pleasure grounds, public walks and open spaces further to the report to Council dated 11 June 2004 and to obtain approval for a further extension.

### **2. Background**

In March 1997 byelaws for the Borough's recreation grounds came into operation.

The byelaws covered a range of issues concerning the management and operation of the Borough's recreational facilities, these range from the control of vehicles that may be driven within a park, trading, protection of flower beds, trees and grass, control of rules and regulations associated with the playing of games, control of the flying of model aircraft and kites, the use of metal detectors, control from noise and the protection of wildlife. The byelaws also relate to the control of dogs and the removal of canine faeces.

The removal of canine faeces byelaw was superseded by The Dogs (Fouling of Land) Act 1996. The Act specified that such byelaws cease to have an effect.

Part 6 of the new Clean Neighbourhoods and Environment Act 2005 empowers the Borough to make Dog Control Orders in relation to open and public land. A fixed penalty notice can be served for the offences of, dog fouling, failing to keep dogs on lead, exclusion of dogs from land and the number of dogs that a person may take on the land.

Part 6, proposed to come into force on 6 April 2006, revokes The Dogs (Fouling of Land) Act 1996. There will then be no prohibitions in relation to dog fouling on open land, unless and until the Borough makes Dog Control Orders.

Part 6 of The Clean Neighbourhoods and Environment Act therefore amalgamates all existing powers of the Borough to prosecute for canine faeces, into Dog Control Orders.

The existing byelaws imposing dog bans and a requirement for dogs on lead, will still remain enforceable unless a Dog Control Order is made in relation to these prohibitions. Where a Dog Control Order is made, it revokes the existing byelaw.

The 1997 byelaws for pleasure grounds and open spaces (that do not relate to dogs) are still relevant and enforceable.

### **Update on the Arnot Hill Park Byelaws**

The Council approved the recommendations in the report dated 11 June 2004, which were to extend the byelaws to areas listed in that report and to apply for specific byelaws in relation to Arnot Hill Park.

The byelaws in relation to Arnot Hill Park were- (1) No person shall without reasonable cause, enter the lake at Arnot Hill Park or the surrounding area of land contained within its perimeters as defined by boundary fencing of any type, (2) No person shall throw or discharge any missile into the lake or surrounding area of land as described in (1) above, and (3) No person in charge of a dog shall permit the dog to enter into the lake or surrounding area as described in (1) above.

The application for the byelaws specific to Arnot Hill Park were submitted and (1) and (2) are currently being processed by the Office of the Deputy Prime Minister. (3) was submitted to DEFRA, but is likely not to be processed on the basis that we should apply for a Dog Control Order.

Since the Report in 2004 it has become apparent that the general open space byelaws ought to be applied for in relation to further open spaces and not limited to those listed in the 2004 Report.

### **Extension of byelaws to other open spaces**

Attached to the Report at Appendix 1, is a list of the areas where the 1997 open space byelaws are in force. However since 1997, other areas of recreation have come into use throughout the Borough. A list of these areas is appended at appendix 2.

Many of these new areas are geographically close to existing areas and failure to apply the byelaws equally to all similar open spaces will put those areas without protection at risk from abuse and anti social behaviour.

The byelaws are designed to promote good practice in the use of the open spaces and to stop behaviour that might cause concern or harm to other users. Whilst there are other laws covering more extreme anti social behaviour, byelaws provide a more specific guide to acceptable behaviour for parks and open spaces.

### **Application Process**

There are 2 application processes. The first is a Fast Track procedure, where the Council adopts "model" byelaws with out amendment, it can then seal and advertise them, hold them on deposit and then send them to the ODPM for confirmation. The second, is where there are amendments or additions to the "model" or for byelaws that are not covered in the "model", this "standard" procedure, involves submitting the Byelaws to the ODPM for provisional approval, then sealing and advertising and sending for confirmation. The ODPM endeavours to process Fast Track applications in 10 working days. The ODPM can take a very long time to process standard applications

It is proposed to submit these byelaws under the Fast Track system, despite the “model” being altered slightly, to make them appropriate to the grounds on which they are to apply. If the ODPM thinks that they have been altered too much, they will return them to us to apply under the standard system.

### **3. Proposal**

To note the progress made on the Arnot Hill Park byelaw, since the Report to Council dated 11 June 2004.

To make byelaws in relation to those areas listed in Appendix 2 to this report, in the form of the draft byelaws at Appendix 3 of this report.

### **4. Resource Implications**

There are no resources implications applicable.

### **5. Recommendation**

That Council resolves

1 that the proposed byelaws are necessary in the local context

2 that the application for byelaws is reasonable and that other means of addressing the situation at which byelaws are directed are inappropriate or insufficient

3 to formally make the Byelaws and authorise the solicitor to seal and date the Byelaws on behalf of the Council;

4 that the byelaws be advertised in accordance with the recommendations of ODPM and then after the period of deposit be sent to the Secretary of State, with a copy of any objections received, for confirmation.

5 not to make byelaws in relation to the control of dogs, prohibiting dogs and the removal of canine faeces and to await the coming into force of Part 6 of the Clean Neighbourhoods Act 2005 and then to make dog control orders in relation to all open spaces of the Authority.

### **6. Wards Affected**

All