



Report of: Executive Member for Environment and Transport

Meeting of:	Date:	Ward(s):
Council	26 September 2019	Highbury East

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SUBJECT: Byelaw for the Management of Barbeques on Highbury Fields

1. Synopsis

- 1.1 The decision to allow barbecues in Islington's parks was taken in 2011 following a review of the management and enforcement of barbecues in parks across the borough.
- 1.2 The Council received a number of complaints in regard to the use of barbecues on Highbury Fields, particularly in relation to the smoke they could produce, but also associated noise.
- 1.3 After public consultation and provisional approval from the Secretary of State (SoS), this report proposes that the Council should proceed with making a byelaw to introduce controls as a necessary and proportionate way of providing the Council with the powers to better manage the use of barbecues on Highbury Fields and minimise the impact to local residents and other park users.

2. Recommendations

- 2.1 To note that the Council has now received provisional approval for the barbecue byelaw submitted to them on 14 June from the Secretary of State (see appendix 4), and further that the SoS has stated that subject to the consideration of any objections which the SoS may receive, the byelaws may be submitted to the department for confirmation if they are formally adopted by the Council.

2.2 To resolve to adopt the Proposed Byelaws attached at Appendix 2, and proceed with the next steps to formalise the byelaw as outlined below.

3. Background

3.1 On the 2nd April 2019 a decision was made by the Corporate Director for Environment and Regeneration to proceed with applying to the Secretary of State for permission to make a byelaw to help us manage the use of barbecues at Highbury Fields.

3.2 The terms of the draft byelaw that are proposed are:

- * To restrict the area of Highbury Fields in which use of barbecues is permitted.
- * Not to include any specific prohibition on the use of disposable barbecues within the permitted area
- * To include a time restriction to only allow the use of barbecues within the permitted area, between the hours of 10am and 9pm on any given day.

The byelaw would require persons within Highbury Fields (including inside the permitted area) to comply with directions given by any authorised officer in relation to the placement, lighting, use, extinguishing or disposal of any barbecue or related paraphernalia. The byelaw would also allow the Council's authorised officers to extinguish, seize or dispose of any barbecue or related paraphernalia in Highbury Fields and any person offending against any of these byelaws may be removed from Highbury Fields by an authorised officer.

3.3 The consultation on the proposed byelaw occurred between the 7th February 2019 and the 7th March 2019 achieving 647 survey responses. The consultation was widely promoted to residents, park users, community park groups, the Islington Friends of Parks Forum, Disability Action in Islington, the Metropolitan Police and London Fire Brigade.

3.4 The consultation results clearly demonstrate public support for a byelaw to give the Council the ability to better manage the use of barbecues on Highbury Fields. (see appendix 1 for full consultation report). No changes have been made to the draft byelaw as a result of the consultation.

3.5 On the 23rd July 2019 the Council received provisional approval from the Secretary of State to make the byelaw (see appendix 4).

3.6 On the 12th August 2019, an update was sent to all respondents to the consultation that requested to be kept updated on the progress of making the byelaw.

This resulted in three people contacting the Council to reiterate their request for barbecues to be banned outright and expressed concern at the additional costs associated with the cleaning and management of barbecues at Highbury Fields.

3.7 One resident has also already made a representation to the SoS. The basis for the challenge is;

- the continued use of barbecues deprives and deters ALL actual and potential users of quiet and safe enjoyment of this public space.
- the smoke from barbecues generates causes health issues for users of the Fields and those living around them.

3.8 **Next Steps**

Once the byelaw has been made and sealed, the Council then advertises the byelaw, placing a notice in one or more local newspaper circulating in the area notifying the public of its intention to apply for confirmation of the byelaw, and holds the byelaw on deposit for a minimum of one month and inviting representations to the Secretary of State within the consultation period.

The Council will be notified of any representations received and which the Council must consider and provide a response to the issues raised prior to any application to the SoS for confirmation.

The Secretary of State then makes his decision on whether or not to confirm the byelaw. Where objections have been received, the objections and the Council's response to those objections will be considered and taken into account before a decision on confirmation is reached.

If the byelaw is confirmed and signed, it will be returned to the Council. Byelaws normally come into force one month from the date of confirmation, unless there are special circumstances which would make an earlier date desirable.

4. Financial Implications

- 4.1 The cost of administering the byelaw will be met from existing budgets

5. Legal Implications

- 5.1 The Council submitted an application for provisional approval of the Proposed Byelaws to the Secretary of State. This is a non- statutory step in accordance with the relevant Guidance. It is where the Secretary of State can say whether in principle, the Proposed Byelaws are in order. The Council received the Secretary of State's provisional approval on 23rd July 2019.

Upon receipt of the provisional approval, the Council is required to formally adopt the Proposed Byelaws and then follow the statutory requirements of advertising and depositing the byelaw as set out in s236(4) and (5) of Local Government Act 1972. It is at that stage that members of the public will have a formal opportunity to respond to the advertisement and to make representations if they wish to the Secretary of State as to why the Byelaw should not be confirmed. The Council will be notified of any such representations and will be required to provide a response to the Secretary of State before he decides whether or not formally to confirm the Proposed Byelaws.

6. Environmental Implications and contribution to achieving a net zero carbon Islington by 2030

- 6.1 The proposed byelaw restricting barbecues to a certain area of Highbury Fields may lead to an improvement in air quality in other areas of the park during times of the year when barbecues are used, although it may worsen air quality in the proposed area if the concentration of barbecues in that area increases. However, as previously noted, smoke from barbecues is likely to be within acceptable air concentration levels. The proposals in

this report are about better managing the existing use of Barbecues on Highbury Fields and any future overall net impact on carbon emissions is not possible to predict or quantify.

7. Resident Impact Assessment

- 7.1 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.
- 7.2 A Resident Impact Assessment was completed on 23rd November 2018 (attached at Appendix 3) and a summary is included below.
- 7.3 No negative impacts on people with protected characteristics were identified. However, the byelaw will formalise the use of barbecues in Highbury Fields and be of benefit to people with protected characteristics who live around Highbury Fields.

8. Reason for recommendations

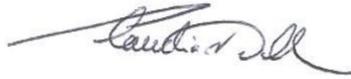
- 8.1 The consultation results clearly demonstrate public support for a byelaw to give the Council the ability to better manage the use of barbecues in Highbury Fields, protecting the freedom of people who want to enjoy a barbecue while also taking into account local concerns, minimising the impact on residents and other park users.
- 8.2 The byelaw will allow us to better manage the use of barbecues in the park in future, keeping them to a defined area and requiring that all barbecues be extinguished by 9pm.
- 8.3 Allowing barbecues in our parks has been very popular. Most Islington residents don't have any private outdoor space, and the byelaw will preserve their right to barbecue in Highbury Fields, as long as they do so responsibly, cleanly and safely.

Appendices:

- Appendix 1 – Highbury Fields BBQ Consultation Report
- Appendix 2 – Draft BBQ Byelaw
- Appendix 3 – Resident Impact Assessment
- Appendix 4 - Islington Provisional Approval Letter from Secretary of State

Final report clearance:

Signed by:



16.9.19

Cllr Claudia Webbe, Executive Member for
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Date

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