

Sustainable Development Select Committee			
Title	Byelaws for Parks and Open Spaces		
Key decision	No (Yes for Mayor & Cabinet)	Item no	7a
Wards	All		
Contributors	Head of Law; Service Group Manager Green Scene		
Class	Part 1	30 June 2015	

1. Summary

- 1.1 The Council is responsible for various parks, open spaces and gardens in the Borough. The conduct of the public in these locations is regulated by byelaws, which aim to ensure that everyone is reasonably able to use the spaces without unreasonably inconveniencing other users. The byelaws were last updated in 1980 and over time the nature of park usage has altered and the expectations of park users have also changed. The updated byelaws reflect the way in which the Borough's parks and open spaces are used today and the reasonable expectations of users. The updating also ensures that they are easier for park users to understand.

2. Policy Context

- 2.1 Shaping the Future – the Council's Sustainable Community Strategy sets out the broad themes that describe a 'sense of place' that all Council services aspire to. It has six priority areas to which open space contributes to:
- Ambitious and Achieving – where people are inspired and supported to fulfill their potential
Celebrate local achievement so people feel proud of their area and eager to be a part of its success
 - Safer – where people feel safe and live free from crime, anti-social behaviour and abuse
Tackle antisocial behavior and ensure that people feel confident and safe throughout the borough
Keep our children and young people safe from harm, abuse and criminal activity
 - Empowered and responsible - where people are actively involved in their local area and contribute to supportive communities
-Empower citizens to be involved in their local area and responsive to the needs of those who live there.
-Champion diversity and the contribution everyone makes to the borough's quality of life

- Clean, green and livable – where people live in high quality housing and care for and enjoy their environment
- protect and enhance our parks, open spaces and local biodiversity
- Healthy, active and enjoyable – where people can actively participate in maintaining and improving their health and well-being
-improving the well-being of our citizens by increasing participation in healthy and active lifestyles

2.2 Alongside the above the Corporate Strategy sets out the specific contribution of the Council to the delivery of Shaping our future. The strategy has 10 corporate priorities including “clean green and liveable” which has a commitment to “maximise access to and use of our open spaces by all communities and organisations, making them feel safe and open to all”.

2.3 The Council’s Open Space Strategy 2012-17 sets out as one of its key themes to promote a safe and secure environment.

3. Recommendation

3.1 That the Committee considers the proposed byelaws and provides comments they may have to Mayor and Cabinet.

4. Purpose

4.2 To agree referral to Mayor and Cabinet of the new set of parks Byelaws, and the revocation of the existing set which were last updated in 1980.

5. Narrative

5.1 The Council is responsible for public parks, open spaces and gardens in the Borough. The conduct of the public in these locations is currently regulated by byelaws, which aim to ensure that everyone is reasonably able to use the spaces without unreasonably inconveniencing other users.

5.2 The byelaws were last updated in 1980 although an attempt was made in 2004 to introduce new ones but they were never confirmed by the Secretary of State and therefore did not replace the 1980 byelaws. Over time the nature of park usage has altered as has the expectations of users. In addition, the penalties which may be imposed in serious cases of breach are insufficient to act as a deterrent.

5.3 The Open Space Strategy 2012-17 sets out as a key theme to promote a safe and secure environment and has an objective (6.1) to tackle antisocial behaviour and reduce fear of crime. The updated byelaws therefore are required to reflect the way in which the Borough’s parks and open spaces are used today and the responsible expectations of users. The updated byelaws,

which are based upon model wording published by the Department for Communities and Local Government (DCLG), also ensures that they are easier for park users to understand. Because certain of the model byelaws have been amended to address specific Lewisham requirements, provisional approval had to be sought from DCLG, who have now given their provisional approval for the byelaws to be made in the form attached to this report.

- 5.4 Officers from Green Scene have liaised with the Lewisham Parks Forum, made up of members of all the friends and user groups, to garner their views and take comments. Responses are available in the Background paper attached.
- 5.5 The adoption of clearly set out and updated byelaws will assist the agencies involved with park policing (Glendale, Community Safety team, Police, Environment Enforcement officers etc), to enforce these rules and regulations, principally through persuasion. These groups will help co-ordinate future enforcement of the byelaws and other associated Acts of Parliament which apply to the parks environment, for example the Environmental Protection Act 1990 and Clean Neighbourhood and Environment Act 2005 (Dog Control Order). Enforcement is likely to take place at targeted enforcement sessions rather than on an ad-hoc basis. Members of the public who contravene a byelaw will be given a written caution for a first offence. However, any person offending against any of these byelaws shall be liable on conviction at the Magistrates Court to a fine not exceeding level 2 on the standard scale (currently up to £500.) An effective deterrent will therefore exist to deal with serious contraventions of the byelaws.
- 5.6 The draft set of byelaws attached to this report has been subject to discussion with the Lewisham Parks Forum (Friends and User Groups). As a result of that process several recurring themes have emerged which include issues covered by existing criminal law. The point to note is that where the existing criminal law deals with a problem, the Council is unable to duplicate that in a byelaw. The existing criminal law covers issues such as dog fouling, littering and fly-tipping and in most cases imposes a higher maximum penalty than would apply under the byelaws. Some members of the Lewisham Parks Forum felt that the Council should not ban the climbing of trees or the use of BBQ's. Both these matters are included in the model byelaws for health and safety and environmental reasons.
- 5.6 A certain amount of training will be required for Glendale's parks services team, to carry out informal enforcement duties. This will be undertaken within the terms of the current parks contract.
- 5.7 The new byelaws must be displayed and or be available for the public to read and a number of signs highlighting specific clauses must be erected. The cost of signage, or amendments to signage is anticipated to be in the region of £1000.

6. Financial implications

- 6.1 The cost of adopting the new byelaws is limited to the cost of signage, or amendments to signage which is anticipated to be in the region of £1000. This will be contained within the Green Scene budget.
- 6.2 The training required for Glendale's parks services team to carry out informal enforcement duties will be undertaken within the terms of the current parks contract, at no additional cost to the Council.

7. Legal implications

- 7.1. Section 164 of the Public Health Act 1875 and Section 15 of the Open Spaces Act 1906 enable local authorities to make byelaws for the regulation of public walks and pleasures grounds and of open space and burial ground respectively. Section 12 of the Open Spaces Act 1906 extends the types of land for which byelaws can be made under section 15 of that Act.
- 7.2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provides that the power to make, amend, revoke, re-enact or enforce byelaws shall not be the responsibility of the Council's executive. Furthermore the Council's constitution reserves the making altering and revoking of byelaws to full council.
- 7.3. The procedure for making byelaws is set out in Section 236 of the Local Government Act 1972. That section provides that byelaws must be made under the common seal of the authority making them. The authority must then apply to the relevant Secretary of State, which in this case is the Secretary of State for Communities and Local Government, for confirmation. At least a month before seeking such confirmation the Council must publish a notice in a local newspaper indicating its intention to do so. During this month a copy of the byelaws must be made available at all reasonable hours at the Council's offices for public inspection. There is no legal requirement for a formal consultation process for new byelaws.
- 7.4 Any objections to the byelaws should be sent to the Secretary of State for Communities and Local Government. The Secretary of State may confirm, or refuse to confirm, any byelaw submitted for confirmation, and may fix the date on which the byelaws are to come into operation and if no date is so fixed the byelaw shall come into operation at the expiration of one month from the date of its confirmation.

8. Crime and disorder implications

- 8.1 The byelaws will facilitate and enhance reasonable use of the Borough's parks and open spaces, while at the same time providing a more effective deterrent to serious instances of park misuse.

9. Equalities implications

9.1 The adoption of the new byelaws will clearly set out rules and regulations, which aim to ensure that all members of the community are able to use parks without unreasonably inconveniencing other users.

10. Environmental implications

10.1 A number of byelaws specifically set out to protect the environment, for example protection of flower beds, trees and grassland and the protection of lakes and water courses. Byelaws also include for the protection of fish and other wildlife.

11. Conclusion

11.1 The adoption of the new set of byelaws will provide the community with clearly set out rules and regulations as to how members of the public should conduct themselves in parks and open spaces.

12. Background documents and originator

Lewisham Parks Forum comments on the draft set of byelaws – Martin Hyde,
Green Space Regeneration Manager

1. LONDON BOROUGH OF LEWISHAM

**BYELAWS FOR PLEASURE GROUNDS, PUBLIC
WALKS AND OPEN SPACES**

ARRANGEMENT OF BYELAWS

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SCHEDULE 1 - Grounds to which byelaws apply generally

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Byelaws made under section 164 of the Public Health Act 1875 section 15 of the Open Spaces Act 1906 sections 12 and 15 of the Open Spaces Act 1906 by the LONDON BOROUGH OF LEWISHAM with respect to pleasure grounds, public walks and open spaces.

PART 1 GENERAL

General Interpretation

1. In these byelaws:

“the Council” means the London Borough of Lewisham;

“the ground” means any of the grounds listed in Schedule 1;

“designated area” means an area in the ground which is set aside for a specified purpose, that area and its purpose to be indicated by notices placed in a conspicuous position;

“invalid carriage” means a vehicle, whether mechanically propelled or not,

- (a) the unladen weight of which does not exceed 150 kilograms,
- (b) the width of which does not exceed 0.85 metres, and
- (c) which has been constructed or adapted for use for the carriage of a person suffering from a disability, and used solely by such a person.

Application

2. These byelaws apply to all of the grounds listed in Schedule 1 unless otherwise stated.

Opening times

3. (1) No person shall enter or remain in the ground except during opening hours.
- (2) “Opening hours” means the days and times during which the ground is open to the public and which are indicated by a notice placed in a conspicuous position at the entrance to the ground.
- (3) Byelaw 3(1) applies only to the grounds listed in Schedule 2 Part 1.

PART 2

PROTECTION OF THE GROUND, ITS WILDLIFE AND THE PUBLIC

Protection of structures and plants

4. (1) No person shall without reasonable excuse remove from or displace within the ground:
 - (a) any barrier, post, seat or implement, or any part of a structure or ornament provided for use in the laying out or maintenance of the ground; or
 - (b) any stone, soil or turf or the whole or any part of any plant, shrub or tree.
- (2) No person shall walk on or ride, drive or station a horse or any vehicle over:
 - (a) any flower bed, shrub or plant;
 - (b) any ground in the course of preparation as a flower bed or for the growth of any tree, shrub or plant; or
 - (c) any part of the ground set aside by the Council for the renovation of turf or for other landscaping purposes and indicated by a notice conspicuously displayed.

Unauthorised erection of structures

5. No person shall without the consent of the Council erect any barrier, post, ride or swing, building or any other structure.

Climbing

6. No person shall without reasonable excuse climb any wall or fence in or enclosing the ground, or any tree, or any barrier, railing, post or other structure.

Grazing

7. No person shall without the consent of the Council turn out or permit any animal for which he is responsible to graze in the ground.

Protection of wildlife

8. No person shall kill, injure, take or disturb any animal, or engage in hunting or shooting or the setting of traps or the laying of snares.

Gates

9. (1) No person shall leave open any gate to which this byelaw applies and which he has opened or caused to be opened.
- (2) Byelaw 9(1) applies to any gate to which is attached, or near to which is displayed, a conspicuous notice stating that leaving the gate open is prohibited.

Camping

10. No person shall without the consent of the Council erect a tent or use a vehicle, caravan or any other structure for the purpose of camping.

Fires

11. (1) No person shall light a fire or place, throw or drop a lighted match or any other thing likely to cause a fire.
- (2) Byelaw 11(1) shall not apply to the lighting of a fire at any event for which the Council has given permission that fires may be lit

Missiles

12. No person shall throw or use any device to propel or discharge in the ground any object which is liable to cause injury to any other person.

Interference with life-saving equipment

13. No person shall except in case of emergency remove from or displace within the ground or otherwise tamper with any life-saving appliance provided by the Council.

PART 3

HORSES, CYCLES AND VEHICLES

Interpretation of Part 3

14. In this Part:

“designated route” means a route in or through the ground which is set aside for a specified purpose, its route and that purpose to be indicated by notices placed in a conspicuous position;

“motor cycle” means a mechanically-propelled vehicle, not being an invalid carriage, with less than four wheels and the weight of which does not exceed 410 kilograms;

“motor vehicle” means any mechanically-propelled vehicle other than a motor cycle or an invalid carriage;

“trailer” means a vehicle drawn by a motor vehicle and includes a caravan.

Horses

15. (1) No person shall ride a horse except:
- (a) in any of the grounds listed in Part 2 of Schedule 2; or
- (b) in the exercise of a lawful right or privilege.
- (2) Where horse-riding is permitted in any ground by virtue of byelaw 15(1)(a) or a lawful right or privilege, no person shall ride a horse in such a manner as to cause danger to any other person.

Cycling

- 16 No person shall without reasonable excuse ride a cycle in the ground except in any part of the ground where there is a right of way for cycles

Motor vehicles

- 17 (1) No person shall without reasonable excuse bring into or drive in the ground a motor cycle, motor vehicle or trailer except in any part of the ground where there is a right of way or a designated route for that class of vehicle.
- (2) Where there is a designated route for motor cycles, motor vehicles or trailers, it shall not be an offence under this byelaw to bring into or drive in the ground a vehicle of that class for the sole purpose of transporting it to the route.

Overnight parking

- 18 No person shall without the consent of the Council leave or cause or permit to be left any motor vehicle in the ground between the hours of 10 p.m. and 6 a.m..

PART 4

PLAY AREAS, GAMES AND SPORTS

Interpretation of Part 4

- 19 In this Part:

“ball games” means any game involving throwing, catching, kicking, batting or running with any ball or other object designed for throwing and catching, but does not include cricket;

“golf course” means any area within the ground set aside for the purposes of playing golf and includes any golf driving range, golf practice area or putting course;

“self-propelled vehicle” means a vehicle other than a cycle, invalid carriage or pram which is propelled by the weight or force of one or more persons skating, sliding or riding on the vehicle or by one or more persons pulling or pushing the vehicle.

Children’s play areas

- 20 No person aged 13 years or over shall enter or remain in a designated area which is a children's play area unless in charge of a child under the age of 13 years.

Children's play apparatus

- 21 No person aged 13 years or over shall use any apparatus stated to be for the exclusive use of persons under the age of 13 years by a notice conspicuously displayed on or near the apparatus.

Skateboarding, etc

- 22 No person shall skate, slide or ride on rollers, skateboards or other self-propelled vehicles in such a manner as to cause danger or give reasonable grounds for annoyance to other persons.

Ball games

Prohibition of ball games

- 23 No person shall play ball games in the grounds listed in Schedule 2 Part 3.
- 24 No person shall play ball games outside a designated area for playing ball games in such a manner:
- (a) as to exclude persons not playing ball games from use of that part;
 - (b) as to cause danger or give reasonable grounds for annoyance to any other person in the ground; or
 - (c) which is likely to cause damage to any tree, shrub or plant in the ground.
- 25 It is an offence for any person using a designated area for playing ball games to break any of the rules set out in Schedule 3 and conspicuously displayed on a sign in the designated area when asked by any person to desist from breaking those rules.

Cricket

- 26 No person shall throw or strike a cricket ball with a bat except in a designated area for playing cricket.

Archery

- 27 No person shall engage in the sport of archery except in connection with an event organised by or held with the consent of the Council.

Field sports

- 28 No person shall throw or put any javelin, hammer, discus or shot except in connection with an event organised by or held with the consent of the Council or on land set aside by the Council for that purpose.

Golf

- 29 No person shall drive, chip or pitch a hard golf ball except on the golf course.
- 30 (1) No person shall play golf on the golf course unless he holds a valid ticket issued by or on behalf of the Council entitling him to do so, which ticket shall be retained and shown on demand to any authorised officer or agent of the Council.
- (2) No person shall enter on to or remain on the golf course unless:
- (a) taking part in the game of golf or accompanying a person so engaged; or
- (b) doing so in the exercise of a lawful right or privilege.
- (3) No person shall offer his service for hire as an instructor on the golf course without the consent of the Council.

PART 5

WATERWAYS

Interpretation of Part 5

- 31 In this Part:

“boat” means any yacht, motor boat or similar craft but not a model or toy boat;

“power-driven” means driven by the combustion of petrol vapour or other combustible substances;

“waterway” means any river, lake, pool or other body of water and includes any fountain.

Bathing

- 32 No person shall without reasonable excuse bathe or swim in any waterway except in a designated area for bathing and swimming.

Ice skating

- 33 No person shall step onto or otherwise place their weight upon any frozen waterway.

Model boats

- 34 No person shall operate a power-driven model boat on any waterway except in a designated area for model boats.

Boats

- 35 No person shall sail or operate any boat, dinghy, canoe, sailboard or inflatable on any waterway without the consent of the Council except in a designated area for the sailing or operation of boats.

Fishing

- 36 No person shall in any waterway cast a net or line for the purpose of catching fish or other animals except in a designated area for fishing.

Blocking of watercourses

- 37 No person shall cause or permit the flow of any drain or watercourse in the ground to be obstructed, diverted, open or shut or otherwise move or operate any sluice or similar apparatus.

PART 6

MODEL AIRCRAFT

Interpretation of Part 6

- 38 In this Part:

“model aircraft” means an aircraft which weighs not more than 7 kilograms without its fuel;

“power-driven” means driven by:

- (a) the combustion of petrol vapour or other combustible substances;
- (b) jet propulsion or by means of a rocket, other than by means of a small reaction motor powered by a solid fuel pellet not exceeding 2.54 centimetres in length; or
- (c) one or more electric motors or by compressed gas.

General prohibition

- 39 No person shall cause any power-driven model aircraft to:
- (a) take off or otherwise be released for flight or control the flight of such an aircraft in the ground; or

- (b) land in the ground without reasonable excuse.

PART 7

OTHER REGULATED ACTIVITIES

Provision of services

- 40 No person shall without the consent of the Council provide or offer to provide any service for which a charge is made.

Excessive noise

- 41 (1) No person shall, after being requested to desist by any other person in the ground, make or permit to be made any noise which is so loud or so continuous or repeated as to give reasonable cause for annoyance to other persons in the ground by:
- (a) shouting or singing;
 - (b) playing on a musical instrument; or
 - (c) by operating or permitting to be operated any radio, amplifier, tape recorder or similar device.
- (2) Byelaw 42(1) does not apply to any person holding or taking part in any entertainment held with the consent of the Council.

Public shows and performances

- 42 No person shall without the consent of the Council hold or take part in any public show or performance.

Aircraft, hang gliders and hot air balloons

- 43 No person shall except in case of emergency or with the consent of the Council take off from or land in the ground in an aircraft, helicopter, hang glider or hot air balloon.

Kites

- 44 No person shall fly any kite in such a manner as to cause danger or give reasonable grounds for annoyance to any other person.

Metal detectors

- 45 No person shall without the consent of the Council use any device designed or adapted for detecting or locating any metal or mineral in the ground.

PART 8

MISCELLANEOUS

Obstruction

- 46 No person shall obstruct:
- (a) any officer of the Council in the proper execution of his duties;
 - (b) any person carrying out an act which is necessary to the proper execution of any contract with the Council; or
 - (c) any other person in the proper use of the ground.

Savings

- 47 (1) It shall not be an offence under these byelaws for an officer of the Council or any person acting in accordance with a contract with the Council to do anything necessary to the proper execution of his duty.
- (2) Nothing in or done under these byelaws shall in any respect prejudice or injuriously affect any public right of way through the ground, or the rights of any person acting lawfully by virtue of some estate, right or interest in, over or affecting the ground or any part of the ground.

Removal of offenders

- 48 Any person offending against any of these byelaws may be removed from the ground by an officer of the Council or a constable.

Penalty

- 49 Any person offending against any of these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Revocation

- 50 The byelaws made by the London Borough of Lewisham on 5th March 1980 and confirmed by Secretary of State for the Home Office on 18 August 1980 are hereby revoked.

SCHEDULES

SCHEDULE 1

GROUND TO WHICH BYELAWS APPLY GENERALLY

The grounds referred to in byelaw 2 are:

Baxter Field

Beckenham Place Park

Bellingham Green

Bellingham Play Park

Blythe Hill Fields

Bridghouse Meadows

Broadway Fields

Brookmill Park

Chinbrook Meadows

Cornmill Gardens

Deptford Memorial Gardens

Deptford Park

Downham Playing Fields

Downham Woodland Walk

Durham Hill

Eckington Gardens

Edith Nesbit Gardens

Evelyn Green

Ferranti Park

Folkestone Gardens

Fordham Park

Forster Memorial Park

Friendly Gardens

Friendsbury Gardens

Grove Park Library Gardens

Hatcham Gardens

Hilly Fields

Home Park

Horniman Play Park (Triangle)

Kirkdale Green

Ladywell Fields

Ladywell Green

Lewisham Memorial Gardens
Lewisham Park
Luxmore Gardens
Manor House Gardens
Manor Park
Margaret McMillian Park
Mayow Park
Mountsfield Park
Northbrook Park
Pepys Park
Ravensbourne Park Gardens
River Pool Linear Park
Riverdale sculpture park
Riverview Walk
Sayes Court Park
Southend Park
St. Andrew's Churchyard (disused)
St. Bartholomew's Churchyard (disused)
St. Margaret's Churchyard (disused)
St Mary's Churchyard (disused)
St Paul's Churchyard (disused) (including Mary Ann Gardens)
Sue Godfrey Nature Reserve
Sydenham Wells Park
Telegraph Hill Park

SCHEDULE 2

GROUND S REFERRED TO IN CERTAIN BYELAWS

PART 1

OPENING TIMES BYELAW 3 (1)

Beckenham Place Park
Deptford Park
Downham Woodland Walk
Eckington Gardens
Edith Nesbit Gardens
Forster Memorial Park
Friendsbury Gardens
Grove Park Library Gardens
Horniman Play Park (Triangle)
Lewisham Park
Luxmore Gardens
Manor House Gardens
Manor Park
Mayow Park
Mountsfield Park
Northbrook Park
St Paul's Churchyard disused (including Mary Ann Gardens)
Sayes Court Park
Southend Park
Sydenham Wells Park
Telegraph Hill Park (lower section)

PART 2

HORSE RIDING PROHIBITED EXCEPT IN CERTAIN GROUNDS (SUBJECT TO
BRIDLEWAY, ETC) BYELAW 15 (1)

Hilly Fields

PART 3

GROUND S WHERE BALL GAMES ARE PROHIBITED BYELAW 24

Downham Woodland Walk

Friendsbury Gardens

Sayes Court Park

St Paul's Churchyard (disused) (including Mary Ann Gardens)

Lewisham Memorial Gardens

Deptford Memorial Gardens

St Mary's Churchyard (disused)

St. Andrew's Churchyard (disused)

St. Bartholomew's Churchyard (disused)

St. Margaret's Churchyard (disused)

SCHEDULE 3

RULES FOR PLAYING BALL GAMES IN DESIGNATED AREAS (BYELAW 26)

Any person using a designated area for playing ball games is required by byelaw 26 to comply with the following rules:

- (1) No person shall play any game other than those ball games for which the designated area has been set aside.
- (2) No person shall obstruct any other person who is playing in accordance with these rules.
- (3) Where exclusive use of the designated area has been granted to a person or group of persons by the Council for a specified period, no other person shall play in that area during that period.
- (4) Subject to paragraph (5), where the designated area is already in use by any person, any other person wishing to play in that area must seek their permission to do so.
- (5) Except where they have been granted exclusive use of the designated area for more than two hours by the Council, any person using that area shall vacate it if they have played continuously for two hours or more and any other person wishes to use that area.
- (6) No person shall play in the designated area when a notice has been placed in a conspicuous position by the Council prohibiting play in that area.