

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	TOURISM AND LEISURE COMMITTEE	22 JUNE 2017	8
PROHIBITION OF BARBEQUES, OUTDOOR COOKING AND OTHER FORMS OF FIRE ON COUNCIL OWNED LAND			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The report outlines a proposal to prohibit or control the use of barbeques, outdoor temporary cooking facilities and other forms of fire on council owned land to mitigate risk to the public and damage to council property in response to a number of complaints.

RECOMMENDATIONS

1. That carry out consultation on the introduction of a public space protection order to prohibit or control the use of barbeques, outdoor cooking on gas or charcoal fuelled facilities and other forms of fire on council owned land within the coastal tourism area of Lytham and St Anne's on the Sea identified in Appendix 1.
2. That the committee approve the erection of temporary advisory signage preventing the use of barbeques, outdoor cooking facilities and other forms of fire at key locations identified in Appendix 2 until the legislation can be put in place.

SUMMARY OF PREVIOUS DECISIONS

Tourism and Leisure Committee – 12 January 2017

Developing a Policy on Events Including Club Days, Festivals and Concerts

1. To approve the proposed policy on events including club days, festivals and concerts as set out in Appendix 1 of the report subject to the word "usually" being inserted (prior to the words set out in last column) in Category D of the Events Categorisation.

The policy approved includes:

10. Barbeques held on Council land as part of events should be done so in a responsible manner and limiting inconvenience and nuisance to others and held in appropriately constructed equipment. Any evidence of a barbeque having taken place should be disposed of responsibly and appropriately once completed along with any litter generated.

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

PROBLEMS ASSOCIATED WITH BARBECUES

1. The council and elected members have received a number of complaints over the last year or so about damage caused to park furniture and grassed areas as a result of barbeques and outdoor cooking on gas or charcoal fuelled facilities, particularly in and around Fairhaven Lake, the sand dunes and Lytham Green, but also at other locations across the borough. The complaints have also included nuisance, noise, disturbance and safety risks associated with the use of barbeques and outdoor cooking on gas or charcoal fuelled facilities in public open space. The council does not have any regulations or legislation in place to prohibit the location or provision of barbeques on council owned land.
2. The potential health and safety risks associated with naked flames in public open areas fuelled by gas or charcoal (or other accelerant) are significant. The council has a duty to safeguard the public, it is reasonable to expect that particularly on council owned land measures are put in place to mitigate risk to the public. The locations that have proven to be popular for barbeques and outdoor cooking are frequented by families with children and animals. The borough has a reputation for attracting residents and visitors that enjoy dog walking, as evidenced by the recent work on the Public Space Protection Orders for dog control, and is renowned for being a family friendly location. Several of the complaints associated with groups holding barbeques or outdoor cooking have also included reports of anti-social behaviour activity.
3. The impact on the local community including damage to council land and property has been the subject of discussion with service providers, complainants and partners. At present there is no legislation in place that can be applied to prevent or restrict the use of barbeques, outdoor cooking or other forms of fire on council owned land. As a consequence elected members have requested that officers investigate the most appropriate legal process necessary to prohibit the use of barbeques, outdoor cooking and other forms of fire on council owned land in the coastal locations of Lytham and St Anne's on the Sea.

PUBLIC SPACE PROTECTION ORDERS ('PSPOs')

4. A PSPO would be the most effective kind of formal control that the council could put in place to control, the use of barbecues and open fire cooking. PSPOs may be made by a district council if they are satisfied on reasonable grounds that two conditions are met:

The first condition is that-

- a. activities carried out in a public place within the council's area have had a detrimental effect on the quality of life of those in the locality or
- b. it is likely that activities will be carried on in a public place within that area and that they will have such an effect

The second condition is that the effect, or likely effect, of the activities—

- a. is, or is likely to be, of a persistent or continuing nature,
- b. is, or is likely to be, such as to make the activities unreasonable, and
- c. justifies the restrictions imposed by the notice.

5. A PSPO may apply to all persons, to persons in a specified category or to all persons except those in specified categories. They can prohibit specified things being done in the restricted area, specify things to be done by persons carrying on specified activities in that area, or do both of those things.
6. PSPOs are enforceable by fixed penalty notices or prosecution. They expire after three years, but can be extended for a further three years if the council considers it necessary to prevent the original behaviour from occurring or recurring.

CONSULTATION

7. Before making a PSPO, the council must consult the police and any community representatives the council consider appropriate. Areas for consultation in relation to a PSPO to control barbecues and open fire cooking might include:
 - Is the quality of life of local people and holidaymakers affected by barbecues and open fire cooking?
 - Is the effect of the activity continuing, persistent, or merely sporadic?
 - Is the effect of the activity unreasonable?
 - If they are to be controlled, should barbecues and open fire cooking be prohibited entirely in the seafront amenity areas, or restricted as to time or location? If the latter, at what times and in which locations should the controls apply?
 - Would controls be capable of effective enforcement?
 - Are there any implications of imposing controls that would specifically engage the council's statutory duties regarding equalities?

ALTERNATIVES

8. Other mechanisms for controlling barbecues and open cooking fires are summarised below. These are not considered as effective as a PSPO, and so are summarised only briefly below.
9. **Byelaws** require confirmation by the Secretary of State. Confirmation is normally granted, but not necessarily quickly. The 'fast track' process, can only be used after satisfying specific and extensive requirements on consultation. They can only be enforced by prosecution. Anyone prosecuted can, in their defence, argue that the byelaw is unreasonable. However, Byelaws do not automatically expire.
10. The council could use its powers as **landowner** under the civil law to control behaviour. No consultation would be needed. However, complex interactions between the council's position as landowner and the special status of most of the land involved under Victorian and Edwardian statutes dealing with parks could complicate matters legally. In any case, any controls could only be enforced by injunction.
11. The council could put up non-mandatory **advisory signs**. These could not be enforced, but may have a deterrent effect.

CONCLUSION

12. The committee is asked to authorise the officers to begin consultation on prohibiting the use of barbeques, outdoor cooking using gas or charcoal fuelled facilities and other forms of fire on council owned land in the coastal tourist locations of Lytham and St Anne's on the Sea within the area outlined on the map included as Appendix 1, and report the results to a future meeting of the committee.
13. If the controls were introduced, the events policy will need to be amended to take account of them.

14. It is proposed that until the any formal measures are put in place, that temporary advisory signage is introduced at the key locations listed in Appendix 2. Officers employed to monitor services in the borough or operate facilities in any of the locations listed in Appendix 2 will request that barbeques, outdoor cooking and other forms of open fire are not carried out if any activity is identified.

IMPLICATIONS	
Finance	There are no direct financial implications as a result of this report
Legal	The report outlines the necessity to investigate and implement the appropriate legal process to introduce legislation to prohibit the use of barbeques and outdoor cooking on council owned land
Community Safety	The purpose of implementing the prohibition of barbeques and outdoor cooking on council owned land is to mitigate risk to the local community
Human Rights and Equalities	There are no direct human rights or equalities implications as a result of this report
Sustainability and Environmental Impact	There are no direct sustainability or environmental implications as a result of this report
Health & Safety and Risk Management	The prohibition of barbeques and outdoor cooking on council owned land is aimed at addressing safety and risk issues associated with the fuels used and potential damage

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

Attached documents

Appendix 1 – Area within which prohibition on council owned land will be applicable

Appendix 2 - Locations at which temporary advisory signage will be located until the legislation is in place

Appendix 1 – Area within which prohibition on council owned land will be applicable



Red line indicates area for proposed prohibition on council owned land

Appendix 2 - Locations at which temporary advisory signage will be located until the legislation is in place

- Designated entrances to the sand dunes complex
- Ashton Gardens
- Promenade Gardens – open space areas
- Land between Beach Terrace Café & Fairhaven Lake
- Fairhaven Lake
- Lytham Green