

# Agenda Item 8



## Open Report on behalf of Andy Gutherson, Executive Director - Place

Report to:	County Council
Date:	10 December 2021
Subject:	<b>The revocation of Byelaws made under section 164 of the Public Health Act 1875 with respect to land at Anderby Creek, land at Wolla Bank, land at Marsh Yard, land at Moggs Eye, land at Huttoft Car Terrace and land at Chapel Six Marsh in the County of Lincolnshire and dated 24 September 2013</b>

### Summary:

Following the introduction of new car parking management regimes at the six listed sites there is a need to revoke the previous regime of byelaws

### Recommendation(s):

That Council

1. approve the making of and the affixing of the Council's seal to the byelaw attached at Appendix A, revoking the byelaw made by the Council on 24 April 2013 and confirmed by the Secretary of State on 24 September 2013 and attached at Appendix B;
2. delegates to the Executive Director – Place authority to take all further steps necessary to make the said byelaw effective

### 1. Background

To aid in the management of 6 coastal access car parks where concerns had been raised from members of the public and Members about various activities particularly at night time, the County Council introduced a set of Byelaws to enable enforcement to be undertaken against such activities and predominantly prohibit overnight camping on the site.

The Byelaws were confirmed by the Secretary of State on 24 September 2013 and are attached at Appendix B.

Over the 8 years since their introduction, managing the enforcement of the Byelaws has proved problematic in terms of both resourcing and that it could only be achieved by prosecution of offenders. Such prosecutions have not been fully successful in their aims, and the issues associated with overnight camping at the car parks have persisted.

Following a review of options the Council has now implemented a new regime of management through the provision of an Off-Street Parking Order following approval from the Planning & Regulation Committee of 6 September 2021. This regime allows for parking charges to be levied and for a penalty charge notice to be immediately issued for any contraventions.

The new parking management regime renders the existing byelaws unnecessary as they cover all previous prohibitions under the byelaws. It is now, therefore, appropriate that the Byelaws relating to the former management regime are revoked to avoid the confusion caused by two regulatory and enforcement regimes relating to the same sites

#### Process

To provide maximum transparency the Council has followed the process set out in the Byelaws (Alternative Procedure) (England) Regulations 2016. The proposed draft revocation Byelaw was published in a local newspaper, and on the Council's website. Additionally site notices were placed at all relevant car parks, and the documents could be inspected in person at the County Offices reception from 19<sup>th</sup> August 2021 until 16<sup>th</sup> September 2021.

During this period two relevant representations were received objecting to the proposed revocation. The objections have been assessed as part of this report and are attached at Appendices C & D in redacted form together with the Officer's assessment.

Neither of the two formally received objections are considered to undermine the case for revoking the existing byelaws and it is recommended that the revocation proceeds.

If Members approve the making of the revocation byelaw as per officer recommendation, the byelaw will be submitted to the Secretary of State for confirmation.

At least one month before application for confirmation of the byelaws is made, notice of the intention to apply for confirmation will need to be given in one or more local newspapers circulating in the area to which the byelaws are to apply and a copy of the byelaws will need to be deposited at County Offices and be open to public inspection without payment at all reasonable hours.

The byelaw will come into effect on the date specified by the Secretary of State or if no date is given on the expiry of 30 days from the date of confirmation.

## **2. Legal Issues:**

### **Equality Act 2010**

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

The Equality Act duty has been taken into account and the revocation of the byelaws is not considered to give rise to any detrimental impacts on people with a protected characteristic

#### Joint Strategic Needs Analysis (JSNA and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The 6 listed sites provide access to the Lincolnshire Coast in the area known as the Coastal Country Park. Access to these facilities remains as previously and it is only the management of how vehicles access and stay at the site that has changed. Maintained access to the sites will ensure continuing contribution to both the physical and mental wellbeing agendas of the JNSA & JHWS

#### Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The change of regime to one of consistent enforcement through the issuing of penalty charge notices will be more effective and efficient than that which could be achieved through the existing Byelaws. This will have a positive effect on crime and disorder at the listed sites and especially at the Huttoft Car Terrace which has seen an increase in anti-social night-time activity over recent years,

### **3. Conclusion**

No objections have been received regarding the revocation of the byelaws which undermine the case for revocation. Officer recommendation is that the revocation byelaw be made to ensure that there is no ongoing overlap between the two different enforcement regimes.

**3. Legal Comments:**

The Council has power under section 235 of the Local Government Act 1972 to make the byelaw proposed.

The decision is within the remit of full Council

**4. Resource Comments:**

Approval of the recommendations does not have any direct resource implications as implementation and management of the process is expected to be accommodated within existing staff resources already budgeted for in the Council's approved revenue budget.

**5. Consultation****a) Has Local Member Been Consulted?**

Yes

**b) Has Executive Councillor Been Consulted?**

Yes

**c) Scrutiny Comments**

n/a

**d) Risks and Impact Analysis**

It is not considered that there is a risk in the revocation of the existing byelaws. The new management regime of charges and enforcement through the Off Street Parking Order enables the authority to manage the car park in a more proactive and efficient manner. This new regime is already available and operational.

**6. Appendices**

These are listed below and attached at the back of the report

Appendix A	Proposed Byelaws revoking existing byelaw under seal E014026 dated 24 September 2013
Appendix B	Copy of existing Byelaws under seal E014026 dated 24 September 2013
Appendix C	Objection One (Redacted) to the draft revocation byelaw
Appendix D	Objection Two (Redacted) to the draft revocation byelaw

## **7. Background Papers**

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
County Council Report & Minutes 12 April 2013	<a href="https://lincolnshire.moderngov.co.uk">https://lincolnshire.moderngov.co.uk</a>
Planning & Regulation Committee Reports & minutes 6 September 2021	<a href="https://lincolnshire.moderngov.co.uk">https://lincolnshire.moderngov.co.uk</a>

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