

The Vale of Glamorgan Council

Cabinet Meeting: 14 March, 2016

Report of Cabinet Member for Visible and Leisure Services

Rhose Point Public Open Space - Introduction of Byelaws

Purpose of the Report

1. To agree draft byelaws for the public open space areas at Rhose Point to permit the same to be passed to full Council for approval and making.

Recommendations

1. That Cabinet agree to proceed with the introduction of byelaws at the open space and lagoon areas at Rhose Point prohibiting swimming and camping and also prohibiting fishing that has not been duly authorised.
2. That a notice of intention to make the new byelaws be publicised and that Cabinet recommends to Council the following:
 - That Council approve and make the byelaws relating to the public open space and lagoon areas at Rhose Point under sections 12 and 15 of the Open Spaces Act 1906 in the form attached to this report at [Appendix B](#)
 - That the Head of Legal Services be authorised to seal and date the byelaws on behalf of the Council
3. That delegated authority is given to the Director of Environment and Housing Services in consultation with the Head of Legal Services and the Cabinet Member for Visible and Leisure Services to take such steps necessary under the Local Government (Wales) Act 2012 and any statutory guidance under this Act to publicise and implement the byelaws.
4. That should the bye-laws be implemented as proposed any decisions to either designate and area for fishing or to provide permission for such activities will be the subject of a future report to Cabinet.

Reasons for the Recommendations

1. To progress the introduction of the new byelaws.
2. To allow the submission of recommendations to full Council to make the byelaws as required by the Constitution.
3. To enable publicity and implementation of the byelaws.

4. To ensure that such decisions are only taken by Cabinet and are subject to suitable Scrutiny.

Background

2. There has been ongoing concern over recent years amongst a number of Rhoose Point residents regarding various forms of anti-social behaviour on the development and officers have engaged residents to progress the introduction of various byelaws in an attempt to identify and address the specific problems being experienced.
3. Cabinet at its meeting of 9th September 2013 (Minute C2017 refers), approved a public consultation exercise to seek views on the introduction of byelaws at Rhoose Point. This consultation was undertaken between 27th January 2014 and 1st March 2014.
4. Cabinet at its meeting held on 28 July 2014. (Minute C2416 refers) agreed to submit a report to full Council seeking authority to progress a bye-law application to Welsh Government.
5. Full Council on 29 September 2014 (Minute 466 refers) approved that a bye-law application to be made to the Welsh Government.
6. Since this Council decision the Welsh Government has passed new legislation which allows local authorities, in some instances, to enact byelaws without the need to have the byelaws confirmed by the Welsh Ministers. The new legislation also introduces a more direct option for the enforcement of byelaws through the introduction of fixed penalty fines. This new legislation also required that another public consultation be undertaken and required the publication of an initial written statement to begin the process of introducing byelaws to the area. A consultation exercise conducted on this basis opened on 20th May 2015 and closed on 7th August 2015.
7. At its meeting of 21st September 2015, Cabinet considered a report detailing the outcome of this consultation exercise and resolved:
 - (1) T H A T the outcome of the 2015 public consultation exercise in respect of the introduction of byelaws at Rhoose Point be noted.
 - (2) T H A T the introduction of byelaws prohibiting swimming, camping and fishing at the open spaces and lagoon areas at Rhoose Point, with the exception of a designated area for fishing that is provided, managed and policed by a bone fide fishing club that has entered into a service level agreement with the Council, be agreed to proceed.
 - (3) T H A T a notice of intention to make the new byelaws be publicised and the following be recommended to Council:
 - That Council approve and make the byelaws relating to the public open space and lagoon areas at Rhoose Point under sections 12 and 15 of the Open Spaces Act 1906 in the form attached to the report at [Appendix B](#), with the exception of Part 3 Paragraph 6 which should be amended accordingly to reflect resolution 2, above.
 - That the Head of Legal Services be authorised to seal and date the byelaws on behalf of the Council.
 - (4) T H A T delegated authority be granted to the Director of Environment and Housing Services, in consultation with the Head of Legal Services and the Cabinet Member for Visible and Leisure Services, to take such steps necessary under the

Local Government (Wales) Act 2012 and any statutory guidance under this Act to publicise and implement the byelaws

(5) T H A T a further report outlining recommendations regarding enforcement of both these byelaws and other byelaws (including dog control orders) be presented to Cabinet in due course.

Reasons for decisions

(1) To advise Cabinet of the consultation outcomes.

(2) To progress the introduction of the new byelaws, and to ensure that designated fishing areas are accredited and properly managed to reflect the concerns raised as part of the consultation exercise as outlined in the report.

(3) To allow the submission of recommendations to full Council to make the byelaws as required by the Constitution.

(4) To enable publicity and implementation of the byelaws.

(5) To provide Cabinet with proposals for implementation of

8. The decisions of Cabinet led to a 'call-in' to the Economy and Environment Scrutiny Committee, from Councillor H.J.W. James, and the 'call-in' was considered at a meeting of this Committee on 6th October 2015. The Committee subsequently recommended:

(1) THAT Cabinet be requested to reconsider its Resolution (2) "...with the exception of a designated area for fishing that is provided, managed and policed by a bone fide fishing club that has entered into a service level agreement with the Council, be agreed to proceed." In view of the issues raised at the meeting, especially with regard to no consultation and that the introduction of an alcohol free zone at Rhoose Point be also considered.

Reason for Recommendation

(1) In view of the concerns raised at the meeting and the issues of antisocial behaviour.

9. At its meeting of 16th October 2015, Cabinet, having considered the views of the Scrutiny Committee (Economy and Environment), resolved:

(1) T H A T it be noted that the Scrutiny Committee agreed for an area to be designated as a fishing area, and also that consideration should be given to the provision of litter bins and benches in the area, as well as considering declaring the area an alcohol-free zone.

(2) T H A T these matters will be further considered in a future Cabinet report on the possible byelaws for the area.

(3) T H A T in relation to the alleged legal interest of Welsh Water, as no knowledge of such interest was known, future enquiries would be made and would form part of the future Cabinet report.

Reasons for decisions

(1) To note the comments of the Scrutiny Committee.

(2) To further consider the points raised.

- (3) To determine any alleged legal interest by Welsh Water.
10. This report seeks to address all the outstanding matters referred to above and to progress the introduction of the most appropriate byelaws at Rhoose Point, based on the information currently available.

Relevant Issues and Options

11. On reading the minutes and recommendation (1) of the Economy and Environment Scrutiny Committee of 6th October 2015, it does appear to be somewhat at odds with the later resolution of Cabinet which advised that the Scrutiny Committee "agreed for an area to be designated as a fishing area". The Scrutiny Committee recommendation does not seem to indicate such agreement.
12. Certain members of the Scrutiny Committee were clearly concerned with what they deemed to be a significant amendment to the original recommendation put forward within the Cabinet report of 21st September 2015, the information they were given as part of the Cabinet report prior consultation and the details contained in the public consultation exercise of August 2015 on Rhoose Point byelaws. The resolution; "That Cabinet agree to proceed with the introduction of byelaws prohibiting swimming, camping and fishing at the open space and lagoon areas at Rhoose Point", had the following statement added to reflect the views of the Cabinet members at that meeting; "With the exception of a designated area for fishing that is provided, managed and policed by a bone fide fishing club that has entered into a service level agreement with the Council".
13. As part of the Cabinet report protocol local ward members were consulted prior to the Cabinet meeting and provided with a summary of the main points of the Cabinet report. They were advised that the report would seek to give the Council powers to "make and implement byelaws to cover, regulate, and control swimming, fishing and camping". It was not stated that fishing would be prohibited. A copy of the summary is attached at [Appendix A](#).
14. Turning to the public consultation exercise undertaken in August 2015, respondents were asked, "Do you agree with the following activities being prohibited?" With 'Swimming', 'Fishing' and 'Camping' listed.
15. Of the 199 respondents, 182 of which were local residents, 81% felt swimming should be prohibited with 87% suggesting the same for camping. Though still in the majority a lesser figure of 65% suggested that fishing should be prohibited. In the free text section of the consultation document there was a suggestion of a permit for activities and alternative control measures for fishing.
16. On consideration of all the information made available at its meeting Cabinet decided to add the supplementary statement to reflect a wish to permit suitably controlled and managed fishing swimming at some time in the future, should this become a viable option. For the avoidance of doubt, there is no such proposal currently under consideration. Also such an arrangement would have to be the subject of a further report to Cabinet. As it stands the proposal is therefore to prohibit swimming, fishing and camping via a byelaw arrangement.
17. Enforcement of the byelaws is still an issue that is under consideration by officers. Cabinet will receive a further report on enforcement which will also consider the role of Public Spaces Protection Orders, for the control of dogs and alcohol consumption.
18. Consideration of a possible alcohol ban at Rhoose Point was requested by both the Economy and Environment Scrutiny Committee and Cabinet, though the imposition

of a byelaw is not the correct legislative process for this. Anti-social behaviour powers were reformed by the 'Anti-social Behaviour, Crime and Policing Powers Act 2014', and this permits Council's to implement Public Spaces Protection Orders (PSPO) to cover land where there is a risk of nuisance detrimental to the local community's way of life. The maximum duration of a PSPO is three years and they are designed to break cycles of inappropriate behaviour.

19. As PSPO's is a reasonably new legislative process that could be applied across many areas of the Vale of Glamorgan, particularly for dog related offences, this will be the subject of a future, more detailed report, to Cabinet. This report will review the position with alcohol related incidence at Rhoose Point and other areas, though if byelaw are introduced at Rhoose Point this may well negate the need for any further related restriction.
20. In terms of the concerns raised about any possible interest in the land designated for the byelaws from Dwr Cymru (Welsh Water), this should not have any impact on the byelaw process. Dwr Cymru has a permit arrangement with Natural Resources Wales (NRW) to discharge sewage from their sewage pumping station into one of the lagoons in an emergency situation. This is similar to the consent that was in place initially for Cofton Ltd and then for the Vale of Glamorgan when our officers managed the pumping station. The frequency and levels of discharge is monitored by NRW. As is the case with waste water infrastructure, Dwr Cymru will also have easements over areas of Vale of Glamorgan land which would permit their access, and prevent construction on top of the infrastructure. Again this would have no bearing on any byelaw, or regulated activities that could result at any point in the future.
21. Unless otherwise specified the proposed new byelaws (copy attached at [Appendix B](#)) prohibit the following activities:-
 - Swimming;
 - Fishing;
 - Camping;
22. The next stage of the procedure is the publication on the Council's website of a second written statement detailing the outcome of the consultation process and the decision of Cabinet to progress with the introduction of the byelaws by authorising the publication of a notice of intention to make the byelaws and recommending to Council to make the byelaws. The notice of intention to make the byelaws must give at least 6 weeks' notice before the byelaws are made. Under the Council's constitution byelaws can only be made by Council and therefore, the matter of making the byelaws will be referred to the next available meeting of Council.

Resource Implications (Financial and Employment)

23. The administrative cost of implementing the byelaws is within the existing Parks budget.
24. In addition to these costs the installation of the necessary signage will be approximately £5,000 and will be funded from within the existing Parks revenue budget for 2016 / 2017.
25. There is likely to be an ongoing cost of an enforcement mechanism and a further report will be presented to Cabinet on this in due course.

Sustainability and Climate Change Implications

26. The introduction of byelaws could assist in protecting the natural environment at Rhoose Point.

Legal Implications (to Include Human Rights Implications)

27. The Local Government Byelaws (Wales) Act 2012 gives the Council powers to introduce and make byelaws under sections 12 and 15 of the Open Spaces Act 1906 to regulate and control such activities as swimming, camping and fishing. The 2012 Act also enables the Council to issue fixed penalty notices for offences against byelaws.
28. The Council is required to follow the processes introduced by the 2012 Act and any statutory guidance issued in connection with that Act.
29. There are no Human Rights implications associated with this report, but byelaws must not be inconsistent with National or European legislation

Crime and Disorder Implications

30. The introduction of the byelaws and the potential improved ability to enforce those byelaws will have a positive impact on Crime and Disorder issues.

Equal Opportunities Implications (to include Welsh Language issues)

31. Any signage in connection with the new byelaws will be bi-lingual.

Corporate/Service Objectives

32. The Corporate Priority and service aim is "To achieve a quality of the environment through the promotion and use of sustainable practices and by making the best use of current and future resources"
33. The Service Objective is "To provide, manage and maintain Parks, open spaces and play areas".

Policy Framework and Budget

34. The matter of making byelaws is a matter reserved for full Council under the constitution. However, the matter of dealing with the outcome of the consultation exercise and other procedural issues in connection with introducing the new byelaws process can be a decision for the Executive.

Consultation (including Ward Member Consultation)

35. This is a longstanding issue and local ward members have been consulted on the introduction of byelaws. As part of the process of introducing the new byelaws, a wide range consultation exercise has been undertaken including consultation with the public and external bodies, interested groups and representatives.

Relevant Scrutiny Committee

36. Economy and Environment.

Background Papers

None.

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