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| Report to: | Beddington and Wallington Local Committee | Date: | 22 January 2019 |
| Report title: | Beddington Park Enforcement Trial | | |
| Report from: | Matt Clubb - Assistant Director of Environment and Community Safety | | |
| Ward/Areas affected: | <ul style="list-style-type: none"> • Beddington North • Wallington North | | |
| Chair of Committee/Lead Member: | Councillor Joyce Melican | | |
| Author(s)/Contact Number(s): | Clair Butland, Environment Development Officer, 020 8770 4365 Andrew Chandler, Head of Neighbourhood Services Clienting, 020 8770 4529 | | |
| Corporate Plan Priorities: | <ul style="list-style-type: none"> • Being Active Citizens • Making Informed Choices • Keeping People Safe | | |
| Open/Exempt: | Open | | |
| Signed: |  | Date: | 14 January 2019 |

1. Summary

- 1.1. This report considers the enforcement and BBQ permitting trial undertaken in the summer of 2018 in Beddington Park (the Park), the impact of the trial, and the options available to continue any services and works to encourage and enforce responsible behaviour within the Park. It provides options and recommends measures for the future of the service in the Park.

2. Recommendations

The Beddington and Wallington Local Committee is recommended to:

- 2.1. Endorse the recommended option 3 detailed in paragraph 6.9.
- 2.2. Recommend the introduction of new fees and charges relating to the pay and display car parking and BBQ to the Environment and Neighbourhood Committee.



3. Background

- 3.1. Beddington Park (the Park) faced a number of issues with regards to the use of the Park, putting increasing pressure on budgets for the service. Large numbers of cars were parking in undesignated areas, which often caused blockages and restricted access to the Park for emergency vehicles. The static BBQs were being used by a minority, held for the whole day, particularly at busy weekends, with large groups not allowing others to use them. This was compounded by groups of people arriving with large gas barbecues or making fires on the ground, large amounts of litter and waste being produced and left in the Park. There were also complaints regarding excessive noise from certain groups and anti-social behaviour.
- 3.2. Following input and feedback from Councillors and stakeholders, it was agreed in order to ensure that the Park remains open and accessible to all members of the community, that an enforcement trial would be undertaken during the summer of 2018.
- 3.3. In October 2017, the Beddington and Wallington Local Committee (the Local Committee) agreed a six month trial, commencing in May 2018 with District Enforcement Ltd (DEL) contracted at no cost to the Council, to carry out the following:
 - engaging with a third party and delegating powers for enforcement in the Park
 - the implementation of a permit/charging system for the static BBQs
 - the introduction of a private parking enforcement solution for the roads within the Park
 - the enforcement of environmental crime experienced within the Park including disposable littering, dog fouling, BBQs and noise.
- 3.4. The Local Committee agreed in October 2018 that the trial be extended until April 2019 to ensure a review of the first six months and that the impact of any changes are managed appropriately.
- 3.5. At the same meeting the Local Committee resolved that options for the BBQs, parking management and environmental enforcement and proposals for the future of any scheme be brought back to the Local Committee on 22 January 2019.

4. Enforcement trial - results

- 4.1. Since the trial started, there have been 104 full day bookings of the BBQs, 152 half day bookings and 128 two hour bookings. There were 131 unauthorised BBQ warnings issued. In total this generated over £10,000 in revenue. Over 80% of the BBQ bookings were made by residents from the Borough.
- 4.2. Representations have been made regarding insufficient toilet provision in the Park and that the BBQs have increased pressure on the current facilities and static BBQs are still being used outside of booking times.



- 4.3. Regarding parking enforcement, there were 661 hours patrolled in the Park. 1,015 PCNs were issued (73% issued for parking on access roads and grass verges or unmarked ground). In addition 47 PCNs were issued on Church Road by Parking Services.
- 4.4. There has been a 65% payment rate on PCNs issued, generating over £45,000 in revenue during the trial from parking enforcement.
- 4.5. DEL have received 211 appeals against the PCNs (78% of the appeals were for parking on an access road or grass verge), with 19 upheld. In addition The Independent Appeals Service received 18 appeals, of which 12 were upheld and 6 were dismissed.
- 4.6. An average of 50% of the parking spaces throughout the Park were recorded as still available during the trial by DEL.
- 4.7. In total 35 littering Fixed Penalty Notices (FPNs) have been issued through the Environmental Protection Act and 101 warnings given for littering and dog fouling. There has been a 68% payment in respect of the FPNs issued, with £1,300 in revenue.

5. Consultation

- 5.1. In order to gain the views in relation on the trial a questionnaire was distributed to all users of the Park through Citizenspace to gain views on the trial. There were 257 responses. In summary:
 - 89% of those who answered the questionnaire are residents of the borough
 - 96% of respondents have used the Park since the trial began
 - 46% of respondents use the Park more than once a week, with 17% using the Park every day.
- 5.2. Opinion was divided on the BBQ provision within the Park with 46% of respondents stating that they thought it was a good idea for the Park and 39% stating that they thought it was not a good idea. Those respondents who have used the BBQs overwhelmingly agreed that they are a good idea for the Park.
- 5.3. There was support for the parking interventions within the Park with 51% of respondents believing parking issues have improved in the Park. When asked how parking could be further improved 29% suggested more parking areas and 20% suggested increased signage, only 4% of respondents said there should be no parking enforcement.
- 5.4. In relation to environmental enforcement, when asked how things could be improved, 37% of respondents suggested a greater presence in the park, with 24% suggesting increased signage. Only 1.9% of the respondents stating that there should not be any enforcement in the Park.
- 5.5. Those responding to the questionnaire who strongly agreed or disagreed, or selected other, were asked to provide commentary. These are included in Appendix A.

- 5.6. Views were also sought from DEL, The Pavillion Cafe and the Police.
- 5.7. The Pavillion Cafe has suggested 2018 was the best year in terms of parking and safety issues, with 2017 being the worst. They suggested that parking signage around the old animal centre needs to be improved and that there are not enough parking spaces in that area given the numbers of visitors to the Park. They felt that litter within the Park is better managed particularly at busy weekends and that the enforcement officers were very helpful in problem solving (e.g. a lost child, general support in the Park, education for park users) and that the ranger approach has worked to reinforce the message.
- 5.8. Feedback from DEL was how important it is that the BBQ booking system is managed, and some interventions were required when people did not book the BBQs. They highlighted that there is still a demand on the Park for people to come and BBQ, and that rubbish clearance could be included as part of the hire fee. The area around the animal centre continues to present a challenge for parking, and where marshalling was provided on bank holidays it clearly helped manage the traffic flow in to the Park.
- 5.9. The Parks Police Service have highlighted how *“the area has been far quieter in relation to the amount of domestic BBQs being brought to the area. Since the Enforcement team have been on site, the area has been free of BBQs and quieter. There have also been a reduced amount of calls to the police and the Safer Parks Team. There was a fear that with the enforcement of BBQs it may spread the issue out into to the rest of Beddington Park as the issue has always been localised around the static BBQs, however, this has not happened. Families with picnics have also appeared to remain around the static BBQ area and along the side of the river by the area. There have been minimal calls to the area last summer and virtually none in relation to the BBQs.”*
- 5.10. A workshop session with key stakeholders was held in December 2018 to present an analysis of, and feedback on the trial to gain views and opinions on potential options for the Park in order to inform this report.
- 5.11. The following groups were represented at the session;
- Friends of Beddington Park
 - Beddington Residents Association
 - Beddington Cricket Club
 - Beddington Park dog owner’s Facebook group
 - St Mary’s Church.
- 5.12. The opinion of the groups on the BBQs was also divided with some preferring that the BBQs be removed altogether as there is an association with parking problems, litter and waste and urination/defecation in the Park citing the lack of toilet provision. Discussions did highlight that if

they were to stay and managed in a way that better responded to these concerns, then consideration should be given to (a) their location, (b) the number of people using them and (c) the fact that full day bookings are not fair for all. Stakeholders also agreed that the frequency of cleaning and litter collections, toilet access, BBQ prices, clearer signage and terms & conditions on the Council's website along with better/more bins should be considered.

- 5.13. Participants of the groups agreed that more parking enforcement and clearer signage is key to the management of the problems in the Park, and if any further solutions (such as charging) were to be introduced then it should be managed in a way that prevents issues highlighted throughout the trial and consultation. It was presented by some that line marking and keeping certain areas clear of cars should be considered, particularly if BBQs were to be kept in the Park. Some said that charging should not be considered at all, and that if there was to be an overflow car park/area in the Park it should be managed appropriately.
- 5.14. The stakeholders agreed that there must be environmental enforcement in the Park, with a greater presence, and increased fine levels to deter anti-social behaviour.
- 5.15. There was a clear consensus that any revenues generated should be reinvested in the Park.

6. Options

- 6.1. Since the presentation to Local Committee in October 2018, Neighbourhood Services has reviewed the performance data, engaged with stakeholders, and investigated further how other local authorities and parks organisations are managing such services. The information gathered has helped to inform the options presented in more detail in this report.
- 6.2. Options have been explored that will present zero cost to the Council, with the expectation that there would be a revenue share element built in to the contract which is common in contracts of this type. It is important to consider that all options are only viable if the response from the market allows capital and ongoing revenue costs to be met by introducing the service.
- 6.3. The options presented are based on the feedback received from the engagement with stakeholders, the questionnaire responses and the workshop session. A Strengths Weaknesses Opportunities and Threats (SWOT) analysis of each option has also been conducted and can be found at Appendix B.
- 6.4. The trial has provided an opportunity to present what is feasible for the future of any services in the Park. It must be remembered that there is an element of risk when working in parks that is difficult to model as services are so affected by weather conditions, and this risk has to be allowed for.
- 6.5. All options have been costed based on performance data from the trial. Revenues have been modelled and explored to ensure the services can be run at zero cost to the Council over a four year term that would be attractive to the market. Any capital investment required from the Council will need to be re-couped over the proposed contract period.

- 6.6. The revenues generated would usually be expressed as a percentage for the Council and a percentage for the provider. All options have been banded into the following brackets of overall revenues to be shared between the Council and the provider over the four year term (this is not an annual amount):
- £5,000 to £40,000
 - £40,000 to £80,000
 - £80,000 to £100,000
 - £120,000 plus.
- 6.7. Option 1
- Removal of the static BBQs.
 - Parking enforcement as currently employed in the Park with improved signage.
 - Introduction of a Public Space Protection Order (PSPO) for the Park, increasing the level of fines for environmental offences.
 - No additional toilet provision.
 - Explore improved litter and waste management provision at weekends with Idverde.
 - Potential revenues to be shared between the Council and the provider of between £40,000 to £80,000.
- 6.8. Option 2
- Keep the existing six static BBQs, but limit the maximum number of users to 12 at any one time.
 - Remove the option of all day bookings for BBQs.
 - Increased charges for weekend bookings and decrease the charges for mid-week bookings.
 - Introduce wardens/rangers for six months of the year over peak season.
 - Parking enforcement as currently deployed in the Park with improved signage, and additional bays in area outside the cricket club.
 - Overflow parking in paddock area on bank holidays for a fixed fee charge.
 - Level of fines for environmental offences to remain at current levels enforced through the Environmental Protection Act.
 - Additional toilet provision with a fixed 50p charge, cleaned and managed by the contractor.



- Explore improved litter and waste management provision at weekends with Idverde.
- Potential revenues to be shared between the Council and the provider of £80,000 to £100,000.

6.9. Option 3

- Keep the existing six static BBQs, but limit the maximum number of users to 12 at any one time.
- Introduce four additional larger 'party bbq zones' throughout the Park, with option to add an additional two in year 3 of the contract.
- Removal of all day bookings, increased charges for weekend bookings and party BBQs, decreasing charges for bookings in the week.
- Introduce wardens/rangers six months of the year over peak season.
- Parking enforcement as currently deployed in the Park with improved signage, and additional bays in area outside the cricket club.
- Introduction of pay and display parking with 1 hour free period. Modelled on a charge of £3 for 4 hours in peak season, and £1.50 for 4 hours out of season.
- Overflow parking in paddock area on bank holidays with fixed fee charge.
- Introduction of a PSPO for the Park, increasing the level of fines for environmental offences.
- Free of charge toilet provision cleaned and managed by the contractor.
- Explore improved litter and waste management provision at weekends with Idverde.
- Potential revenues to be shared between the Council and the provider in excess of £120,000.

6.10. Option 4

- Move the existing static BBQs to a dedicated "cook and go zone" (yet to be identified), and limit the maximum number of users at any one time to 12.
- Introduce six additional larger 'party BBQ zones' throughout the Park.
- Removal of all day bookings, increased charges for weekend bookings and party BBQs, decreasing charges for bookings in the week.
- Introduce wardens/rangers for six months of the year over peak season.
- Parking enforcement as currently deployed in the Park with improved signage, and additional bays in area outside the cricket club.

- Introduction of pay and display parking with 2 hour free period. Modelled on a charge of £3 for 4 hours throughout the year.
- Overflow parking in paddock area on bank holidays without charge.
- Introduction of a PSPO for the Park, increasing the level of fines for environmental offences.
- Additional toilet provision with 50p charge, cleaned and managed by the contractor.
- Explore improved litter and waste management provision at weekends with Idverde

- 6.11. In response to the concerns raised, results of the trial, feedback through consultation and the workshop session officers have considered all options. It is considered that Option 3 presents the most feasible opportunity within the resources available to generate a response from the market.
- 6.12. Option 3 will provide a sustainable solution that responds to the issues the Park is facing, generates revenues and allows an innovative approach to be tested further in the market.
- 6.13. Option 3 minimises risk to the Council and provides the greatest revenues. The Council has explored and tested how any capital costs can be met through the “invest the save” programme to determine its viability.

7. Next Steps

- 7.1. Option 3 requires the extension of the existing contract with DEL and requires a procurement exercise to be carried out, this is detailed in the indicative timeline below.

| Procurement Stages | Indicative dates |
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| Environment & Neighbourhoods Committee | 7 March 2019 |
| Extending powers under existing Public Space Protection Order | March 2019 |
| Invitation to Tender | April 2019 |
| Extend existing contract with DEL | 2 May 2019 |



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| Tender Submissions | May 2019 |
| Tender evaluation | June 2019 |
| Award Contract and mobilisation starts | July 2019 |
| Existing contract extension with DEL | 2 November 2019 |
| Contract start date and commencement of services | 3 November 2019 |

- 7.2. By pursuing Option 3 the Council will seek to introduce a Public Space Protection Order for the Park increasing Fixed Penalty Notice fines for environmental offences to £100. This would include the use of disposable BBQs and lighting of fires.
- 7.3. A PSPO can be made if the Council is satisfied on reasonable grounds that the activities carried out, or likely to be carried out in a public space:
- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality
 - is, or is likely to be, persistent or continuing in nature
 - is, or is likely to be, unreasonable and
 - justifies the restrictions imposed.
- 7.4. The contract will be managed and reviewed as part of the core services delivered by Sutton Council and Neighbourhood Services from this point.
- 8. Financial**
- 8.1. All options presented assume the service will operate on a full cost recovery basis for the authority mitigating any risk to the Council. In the event the contract does not perform there is a risk that the Council may be exposed to liability in respect of any expense incurred.
- 8.2. Moreover, if the provider withdraws from the contract at any stage the Council will need to meet the cost of any revenue costs incurred or outstanding repayment of capital monies.
- 8.3. Assumptions made in the calculations are based on the information and evidence collected during the trial and have been estimated on a prudent basis which should allow an inbuilt element of tolerance to cover unforeseen costs.



- 8.4. The proposal provides an opportunity to create an income stream for the Council that can be used to reinvest in the parks throughout the Borough.
- 8.5. There is also the opportunity here for increased income generation should the provider over perform on the contract.
- 8.6. The capital costs of the preferred Option 3 is £28,300 in year 1 and a further £6,300 in year 3 and is for expenditure on the pay & display machine, car park improvements, new BBQ equipment and toilet refurbishments. Any proposals would have to be considered as an “invest to save” scheme and would be dependant on whether the surplus income that the Council receives covers the additional revenue costs and the capital financing charges. Based on these capital costs, the annual capital finance charges to be met by revenue would be £5,931 per annum from 2020/21 rising to £8,097 from 2022/23 for the period up to the end of 2024/25.
- 8.7. Any “invest to save” scheme would have to be re-considered once the tenders have been evaluated and any additional capital budgets would have to be approved in a separate report to the Strategy & Resources Committee.

9. Legal

- 9.1. The Council’s existing PSPOs were Designated Public Protection Orders (DPPOs) made under Section 13 of the Criminal Justice and Police Act 2001 (the 2001 Act) to restrict the consumption of alcohol. These were made before the Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act) came into force on 20/10/14.
- 9.2. The DPPOs in place when the 2014 Act came into force remained valid for three years from 20/10/14 and after which they are treated as PSPOs ensuring the continuing protection of the public and breaches are tackled under the 2014 Act.
- 9.3. These PSPOs cannot be varied to include additional prohibitions /restrictions to deal with certain anti-social behaviour in the Park contemplated.
- 9.4. The Council is empowered to make a PSPO by Section 59 of the 2014 Act, which is supplemented by guidance issued by the Secretary of State and Regulations which stipulate the requirements for the making of a PSPO. This includes a requirement to consult with the Police and whatever community representatives it thinks appropriate.etc.
- 9.5. In deciding whether to make a PSPO and, if so, what should be included in it, under Section 72 of the 2014 Act, the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”).
- 9.6. Under Section 66 of the 2014 Act any challenge to the validity of a PSPO must be made in the High Court by an interested person within six weeks of it being made. An interested person is an individual who lives in, or regularly works in, or visits the restricted area. This means that

only those who are directly affected by the restrictions have the power to challenge. The validity of a PSPO can be challenged on two grounds only: -

- a) that the Council did not have power to make the order, or to include particular prohibitions or requirements imposed
- b) that the procedural requirements for making the PSPO (for instance, consultation) were not complied with.

- 9.7. On any application to the High Court challenging the validity of a PSPO the Court may suspend the operation of the Order or any of the prohibitions or requirements imposed by it until the final determination of the proceedings. If the Court is satisfied the Council did not have the power to make the PSPO, or it did but the Council failed to comply with the procedural requirements and, the applicant has been substantially prejudiced by that failure, it may quash the Order or any of the prohibitions or requirements imposed by it.
- 9.8. It is a criminal offence under Section 67 of the 2014 Act, without reasonable excuse to: -
- (a) do anything prohibited by a PSPO: or
 - (b) to fail to comply with any requirement imposed by a PSPO.
- 9.9. A person convicted of such an offence may be fined up to £1,000 (Level 3 of the Standard Scale) and ordered to pay costs. A police constable, or an authorised person, may enforce an offence by initially issuing an Fixed Penalty Notice (FPN, giving the recipient the opportunity to pay the FPN to discharge his/her liability to conviction for the offence.
- 9.10. The 2014 Act enables the Council to determine the amount of an FPN up to a maximum of £100, and the Council can to reduce the penalty if it is paid in “less than 14 days.
- 9.11. In principle, the Council as the owner of the Park may make arrangements for the control and management of parking by users of the Park subject to any controls/restrictions on the use of the land in question which will be considered before the proposed procure exercise is undertaken.

4. Appendices and Background Documents

| Appendix | Title |
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| A | Questionnaire commentary |
| B | Beddington Park Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analysis |



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| Background documents |
| None |

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| Audit Trail | | |
| Version | Final | 15 January 2019 |
| Consultation with other officers | | |
| Finance | Yes | Steve Watts Tony Cooke |
| Legal | Yes | David Fellows |
| Other Officers: | Yes | Victoria Jeffrey Mark Dalzell Matt Donaldson Chris Lyons |
| Equality Impact Assessment required? | No | N/A |