

## ASSEMBLY

19 February 2014

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| <b>Title:</b> Proposed byelaw to ban skateboarding in Arboretum Place and the Town Square   |  |
| <b>Report of the Director of Adult and Community Services</b>   |  |
| <b>Open Report</b>  | <b>For Decision</b>  |
| <b>Wards Affected:</b> Abbey  | <b>Key Decision:</b> Yes   |
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| <b>Accountable Divisional Director:</b>   | Glynis Rogers, Divisional Director<br>Commissioning and Partnerships   |
| <b>Accountable Director:</b>  | Anne Bristow, Corporate Director of Adult and<br>Community Services  |
| <b>Summary</b><br><p>A group of young people have been using Arboretum Place and the Town Square as an informal skateboarding park and residents consider them to be a danger to other users of the space and a considerable nuisance late into the night for residents who live in the flats which surround the area.</p> <p>The area is owned by the Council and as the land owner the Council has the power to ask people to leave. However, despite security services and the Police moving people on, the Council has continued to receive complaints about this issue. A number of other options have been investigated in order to resolve these issues, including engaging with the young people skateboarding in the area and considering alternative areas in which they could skate. These have not produced workable solutions to this issue.</p> <p>In November 2013, a consultation was undertaken with residents and users of the area regarding how they would like the Council to deal with this issue in the longer term. 61% of respondents said they supported a ban of skateboarding in the area.</p> <p>This report therefore asks Members to consider implementing a byelaw to ban skateboarding in this location.</p> |  |
| <b>Recommendation(s)</b><br><p>The Assembly is recommended to agree to support the proposal to put in place a byelaw stating that 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 in the area shown on the map in <b>Appendix 1</b>.</p>  |  |

## Reason(s)

To prevent skateboarding activity in Arboretum Place and the Town Square, as it contributes to the second priority set out in the Council's Corporate Plan 2013/14: assisting to 'build and support a place where people respect one another and enjoy safe and peaceful lives' (Corporate Plan 2013/14) and because residents have clearly stated that they are disrupted by the noise created by skateboarders and feel unsafe due to the activity and nuisance caused.

### 1. Introduction and Background

- 1.1 Arboretum Place and the Town Square are situated adjacent to the Barking Learning Centre (BLC) and Barking Town Hall. This area is seen as the focal point of the Town Square redevelopment, a place where people can sit and relax. They form a large open space which is used by the community for events throughout the year.
- 1.2 Since 2009, and particularly through the summer months in those intervening years, a small number of residents have consistently raised concerns about the noise caused and their perception of the danger caused by skateboarders. These issues have been dealt with at the time of complaint, with some success. However from May to August 2013 the problem re-rose and a significant number of residents complained consistently about the impact the noise of the skaters had on them, and their families, often late into the night.
- 1.3 The Council held public meetings, met with the skaters and tried to mediate between the two parties to find a resolution. This included an agreement around the skaters being able to use the space until 7.00 p.m. and the prospect of alternative venues being sought for their activities. The skaters however, did not abide by the agreement, would not limit the noise they caused and furthermore have stated that they identify themselves as street skaters. As a result they stated that they were unlikely to use any designated skate park, regardless of ongoing improvements to these areas.
- 1.4 As a result both the Police Safer Neighbourhood Team (SNT) and Council Security were tasked with moving the skaters on. Largely the skaters comply with this requirement though they return to the site the next day as there is no sanction in place to prevent them from doing so.
- 1.5 Advice has been received from a Police Crime Prevention Design Advisor and two private companies who manufacture anti-skating devices. Skating in this area mostly takes place on the flat, tiled walkway along the side of the BLC, not generally on the mounds or steps in the area. The only anti-skate measure which could be used on this surface are rumble strips, which would make it more difficult to push other wheeled vehicles (like pushchairs and wheelchairs) over them and could also make it more difficult for anyone with reduced mobility to use the area.
- 1.6 Public consultation around this issue took place in November 2013. A summary of this consultation is attached at **Appendix 2**, with the full results at **Appendix 3**. 92 people responded to the consultation. 82% of respondents felt that this issue had a

significant negative impact on them, and 61% of respondents said that they wanted the Council to apply for a byelaw to ban skateboarding in this location.

## 2. Proposal and Issues

- 2.1 It is proposed that Assembly supports the decision for the Council to put in place a byelaw under section 235 of the Local Government Act 1972 to prohibit any person from using a skateboard or other self-propelled vehicles in the designated area:

*'byelaws made under section 235 of the Local Government Act 1972 by the London Borough of Barking and Dagenham for the good rule and government of the Borough and for the prevention and suppression of nuisances.'* (Local Government Association)

Any person offending against these byelaws shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale (i.e. no more than £500).

The area affected by the byelaw is shown in **Appendix 1**, the proposed byelaw would cover all public areas demarcated on this map.

- 2.2 Previous interventions have not reduced this noise. It is therefore felt that a byelaw banning this activity is the final option for the Council to address this issue and ensure residents and individuals using the area feel safe and can live peacefully.

## 3. Options Appraisal

- 3.1 Use the Environmental Protection Act 1990 as a means to addressing the noise nuisance:

- 3.1.1 Although noise monitoring has shown that the sound caused by the skateboarders constitutes a statutory noise nuisance, enforcement under this Act is only possible for individuals aged over 17. The majority of these skateboarders are aged under 17, so it would be difficult to enforce the Environment Protection Act.

- 3.2 Put in place a byelaw:

- 3.2.1 A byelaw would be put in place in line with point 26 of Byelaws for *Pleasure Grounds, Public Walks and Open Spaces* (model byelaw 2) of the DCLG model byelaws, stating that:

*'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.'*

- 3.2.2 This would allow the Council to ban skateboarding in the designated area (shown in **Appendix 1**) and individuals found skateboarding would be subject to a fine or community order (depending on their age and previous offending history).

- 3.2.3 This is a viable option, as it would deter individuals from using the area for skateboarding. It would also allow the Council to continue to allow 'skating' and similar activities as part of an organised event, for example, using the area for an

ice rink at Christmas. It would not criminalise legitimate or considerate use of other wheeled vehicles such as bicycles, scooters or wheelchairs.

- 3.2.4 However, there is a risk associated with the creation of a byelaw in the potential criminalisation of young people. In order to reduce this risk, sufficient advertising of the byelaw should be conducted so that individuals are fully aware of the consequences of using the area to skate. Further to this, the risk is somewhat minimised by previous compliance of young people, who have been willing to stop skateboarding when instructed to do so. A byelaw would ensure that sanctions to prevent skateboarding on a regular basis would be enforceable.

3.3 Do nothing:

Due to the large number of complaints that the Council has received regarding this matter and the length of time that the issue has persisted; if the Council were to do nothing to resolve the issue, public perception of the Council's willingness to respond to the concerns of residents may be negatively impacted.

#### **4. Financial Implications**

Implications completed by: Dan Herholdt

- 4.1 The potential cost of signage is £500 and this can be contained within existing budgets.

#### **5. Legal Implications**

Implications completed by: Paul Feild - Senior Governance Solicitor

- 5.1 Section 235 of the Local Government Act 1972 enables Councils to make byelaws for the good rule and government of the whole or any part of the district or borough and for the prevention and suppression of nuisances. This is subject to the principle that byelaws cannot be made under that section if provision for the purpose in question is made, or may be made, under any other enactment. The Secretary of State has produced model byelaws for control of skateboarding and like activities.
- 5.2 Many of the activities regulated by byelaws made under section 235 are not in themselves a danger or nuisance, but may be if conducted in certain areas or in a particularly hazardous or annoying manner. As an example, local authorities do not have the power under section 235 to make byelaws to prohibit activities such as skateboarding throughout the whole of the borough, but they do have the power to prohibit it in certain places. Therefore, a requirement of the byelaw making power will be that a specific area is identified in which skateboarding causes a particular danger or nuisance to others, or alternatively, to regulate the manner in which those activities can be conducted.
- 5.3 As pointed out in the implications section, the breach of the byelaw is a criminal offence and thus will subject predominately young people to the criminal justice process. This could have consequences for future employment of young people, so such methods for suppression of nuisances should be seen as the very last resort.

- 5.4 Since byelaws create criminal offences, they cannot come into effect unless they have been confirmed by the Secretary of State. In terms of procedure, if it is determined to proceed, it is recommended that the model byelaw is utilised. The Secretary of State would set out the steps to be taken and advise that they should be consulted before any resolution is made.
- 5.5 Therefore, if the Assembly agrees to the principle of making a byelaw, the next step will be the submission of a draft byelaw to the Secretary of State for consideration. Only when provisional approval has been given should the Council make, seal and advertise the byelaws. When the draft has been approved it will be presented to the Assembly for decision. Once the decision is made there are further steps to be taken, including statutory advertisements that the byelaw will be sent to the Secretary of State for their confirmation. They will consider any representation and if it is decided to confirm the byelaw, will set a date, normally at least a month after confirmation, as to when it takes effect.

## 6. Other Implications

- 6.1 **Risk Management** – There are three major risks associated with the ban of skateboarding in Arboretum Place and the Town Square; these are listed below with steps taken to mitigate them:

People may not abide by the byelaw resulting in increased criminalisation of young people. However, to date, young people have been mostly compliant when asked to move on or stop skating by security officers. It is felt that, provided the skaters are given enough information and guidance on the byelaw, they should comply with its ruling. Further to this, there are a number of out-of-court disposals, which can be used for young people who offend if it is a relatively low level offence, their first offence (except in certain circumstances) and they plead guilty. If a young person were to be convicted of skateboarding in Arboretum Place and the Town Square, breaking the byelaw, it is likely that they would be subject to an out-of-court disposal, as opposed to a higher level order. In most cases, this type of disposal would not affect later career opportunities, etc.

In addition to this, if the byelaw is put in place, members of the community may request similar byelaws in other areas. However, there have been minimal complaints from residents about sporting activities in other local areas and if the level of complaints received about the skateboarders in Arboretum Place and the Town Square were to be received about another area, the Council would be required to carry out a similar exercise to understand the extent of the issue and alternative options.

Imposing a byelaw may result in the potential displacement of skateboarders to other areas in which they may create a further nuisance. To date, when skateboarders have been moved on from the area, they have relocated to Abbey Green. Abbey Green is a large open space, removed from residential areas. It is felt that this is a positive alternative for skateboarders, as it allows them to skate in a safe, well-lit area, without disturbing residents. If the byelaw were to create displacement to other areas, this would need to be dealt with through further consultation and assessment of alternative options.

6.2 **Contractual Issues** - none

6.3 **Staffing Issues** - none

6.4 **Corporate Policy and Customer Impact** – The proposal has strong links to the Council's Corporate Plan (2013-2014), Community Strategy (2013-2016) and Community Cohesion Strategy (2012-2015)

A key priority of the Council's Corporate Plan (2013-2014) is 'Reduced crime and fear of crime'. One of the steps towards this is to:

*Build and support a place where people respect one another and enjoy safe and peaceful lives through the delivery of the Cohesion Strategy (Barking and Dagenham Council's Corporate Plan 2013/14)*

This is echoed in the Council's Community Strategy. If the proposal is agreed, it will directly support the enhancement of peaceful and safe lives for residents of the affected area.

Further to this, the proposal would enhance community cohesion. *Together: A Community Cohesion Strategy for Barking and Dagenham 2012 to 2015* states that according to a 2011 Residents Survey, 52% of residents in Barking and Dagenham feel that people from different backgrounds get on well together. The strategy outlines the need to increase this sense of cohesion. Respondents to the consultation expressed that they felt intimidated by the skateboarders and saw them as 'gangs'. This shows that the activity is causing users of the area to have negative perceptions of young people, which is detrimental to community cohesion.

6.5 **Safeguarding Children** – A large number of the responses from residents stated that the noise from skateboarders had a detrimental impact on the wellbeing of their children and several respondents raised concerns about their children being able to perform at school due to this. The proposal balances the needs of the children residing in Arboretum Place and the Town Square with the needs of the young people skating in this area as the area where skateboarding is to be banned is a very small area where there are high numbers of residential premises, but not to restrict this activity in areas where issues of noise are likely to have less of an impact.

6.6 **Health Issues** – If agreed, the proposal should improve the health of residents of Arboretum Place and the Town Square who have reported sleep deprivation and negative impact on health as a direct result of skating in the area.

However, there is also a risk that the proposal will have a negative effect on the health of young people using the area to skate as skating is a good form of exercise. However, the proposal will only prohibit skateboarding in a small area (see **Appendix 1**) In order to mitigate this, it will be ensured that young people are aware that they are not prohibited from skating outright and they will be signposted to other areas where they can skate freely.

6.7 **Crime and Disorder Issues** – Discussed in body of report

6.8 **Property / Asset Issues** – If the byelaw is agreed, there could be a positive impact on property in the area. Currently, there are a number of unoccupied shop units in Arboretum Place and the Town Square. This may be impacted by the skateboarding that is occurring directly outside of shop fronts, potentially dissuading businesses from leasing units. Responses to the consultation identified that young people skating leave litter in the area, which makes it an unattractive environment for those using it. It is therefore felt that the byelaw could increase selling and leasing potential of the area by reducing disruption and litter.

**List of appendices:**

- Appendix 1 – Map of affected area
- Appendix 2 – Public Consultation Summary
- Appendix 3 – Public Consultation Responses