

North Tyneside Council

Report to Cabinet

Date: 21 February 2022

Title: Proposed Acceptable Use of Authority Owned Land Policy

Portfolio:	Elected Mayor	Cabinet Member:	Norma Redfearn
Report from Service Area:	Commissioning and Asset Management		
Responsible Officer:	Mark Longstaff Director of Commissioning and Asset Management	(Tel:(0191) 6438089)	
Wards affected:	All Wards		

PART 1

1.1 Executive Summary:

This report seeks authorisation for the Director of Commissioning and Asset Management to develop and draft a new borough wide Policy that will outline how permission to use Authority owned land can be applied for as well as setting out the various activities that will be prohibited or restricted on land owned by the Authority. The Policy will relate to open public spaces such as parks and beaches.

It is hoped that this Policy will be seen by residents and visitors to the borough as a way of ensuring that the Authority's parks, beaches and other open spaces are enjoyable and safe places to visit.

It is intended that the draft Policy will be subject to a 6-week period of public consultation before a final decision is made on its implementation.

1.2 Recommendations:

It is recommended that Cabinet:

1. Authorise the Director of Commissioning and Asset Management to take all necessary steps to draft an Acceptable Use of Authority Owned Land Policy taking into account the principles outlined in section 1.5 of the report;
2. Authorise the Director of Commissioning and Asset Management following consultation with the Deputy Mayor and the Director of Law and Governance to publish and undertake public consultation on the draft Acceptable Use of Authority Owned Land Policy;

3. Authorise the Deputy Mayor in consultation with the Director of Commissioning and Asset Management and the Director Law and Governance to amend and approve the adoption of the Acceptable Use of Authority Owned Land Policy on behalf of the Authority having regard to the consultation responses;
4. Authorise the Director of Commissioning and Asset Management to publish the Policy, and;
5. Authorise the Director of Commissioning and Asset Management to undertake future reviews the Acceptable Use of Authority Owned Land Policy as appropriate and to make amendments to the Policy following consultation with the Deputy Mayor and the Director of Law and Governance.

1.3 Forward Plan:

Twenty-eight days' notice of this report has been given and it first appeared on the Forward Plan that was published on 21 January 2022.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2021-2025 Our North Tyneside Plan:

A Secure North Tyneside

We will work with Northumbria Police to prevent and tackle all forms of anti-social behaviour.

1.5 Information:

1.5.1 Background

The Authority's Strategic Property Team has noted a considerable increase in enquiries to use land owned by the Authority for miscellaneous activities. There has also been a correlated rise in Members Enquiries and complaints from members of the public about inappropriate activities taking place in public open spaces such as beaches and parks that are owned by the Authority.

An example is the noticeable increase in the use of drones at St Mary's Lighthouse Nature Reserve, which is part owned by the Authority and classed as a Site of Special Scientific Interest (SSSI) by Natural England. This increase has caused multiple disturbances and a potential danger to wildlife. Other activities such as balloon and sky lantern releases can be harmful to the environment and can also pose a fire risk.

It is therefore appropriate for the Authority to consider the implementation of a borough wide Policy that will set out how individuals can apply for permission to use Authority owned land where appropriate, and the factors that will be taken into account when assessing such applications, as well as specifying the activities that will not be permitted on Authority owned land.

An officer working group was established in response to a number of activities of concern who are working together to draw up a draft Policy. The service areas represented on the Group, including the Community and Public Space Protection Team, have examples of activities that have been brought to their attention either by Members, or members of the

public, in addition to those that officers have observed themselves, which could be considered inappropriate and unacceptable for a number of reasons. Those reasons can include health and safety issues, potential damage to property as well as environmental and wildlife issues.

Examples of the activities that will be considered as part of the development of the Policy and that will be consulted on (if considered appropriate) as activities that will either be prohibited or restricted include: -

- Use of Unmanned Aerial Vehicles (UAVs) or drones on SSSI sites (unless approved by the Authority and Natural England)
- Setting off fireworks/firework displays
- The release of balloons and/or sky lanterns
- Camping
- Bonfires or firepits
- The riding or racing of quadbikes and/or motorbikes
- Metal detecting

The officer working group will continue to formulate the draft Policy and consult with the Deputy Mayor before it is published and made available for public consultation. The working group, amongst other things, are considering the following principles when shaping the draft policy and considering whether the activities such as those listed above are likely to: -

- Disturb wildlife
- Damage the environment
- Reduce the value of an asset
- Be considered as anti-social or cause a nuisance to the general public

If there is a breach of the proposed Policy, then officers will have regard to the Authority's Enforcement Policy and Code for Regulators and the circumstances surrounding the breach before enforcement action is considered. Breaches of the Policy could either result in a warning being issued to an individual or enforcement action being taken through the civil courts or potentially through the Magistrates' Court. In either case, court action would only be taken if it was considered a proportionate step to take and being in the public interest. Enforcement action through the Courts will always be the last resort.

The Authority currently regulates public spaces in the borough using Public Spaces Protection Orders (PSPOs). These are made under a specific legislation featuring a statutory test and currently tackle irresponsible dog ownership and the public consumption of alcohol. The PSPOs must be reviewed every three years and can be extended for a further period of time if that is considered to be appropriate. The required review will commence later this year with draft proposals being considered separately by Cabinet in the early part of 2023 prior to undertaking a statutory consultation process. However, the development of this Policy will inform the review of PSPOs.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

To agree to the principle of implementing a Policy to control unwelcome activities on Land owned by the Authority, comprising the borough's parks, beaches and areas of public open space.

Option 2

Not to agree to the principle of implementing a Policy in which case many unwelcome activities may continue to occur on the Authority's land.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

The recommended option, Option 1, is considered to be the best way to potentially reduce the number of unwelcome activities that take place on land owned by the Authority, if a subsequent delegated decision is taken to implement a Policy following the period of public consultation.

1.8 Appendices:

None

1.9 Contact officers:

Niall Cathie – Strategic Property Manager – Tel. 0191 643 6517
David Dunford – Senior Business Partner – Tel. 0191 643 7027

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

There are no background papers or research reports.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no finance and resource implications arising from this report other than a potential reduction in officer time dealing with enquiries from members of the public wishing to carry out activities which will no longer be permitted on the Authority's land, if the delegated decision is taken to implement a new Policy.

2.2 Legal

The legal implications in relation to this matter are set out in the body of the report.

The Policy will have to be considered alongside other policies such as the Authority's Enforcement Policy and there may be occasions when repeated anti-social behaviour in open spaces requires consideration to Public Space Protection Orders being made either for a specific area or areas in the borough or indeed the whole of the borough.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

The Strategic Property Group which provides robust governance to all strategic property matters confirmed its support for the principle of implementing a Policy on 19th December 2021. The membership of the group includes the Elected Mayor, Cabinet Members, Directors and Senior Council Officers.

2.3.2 External Consultation/Engagement

Northumbria Police have been consulted and are in support of the Authority's proposal to implement a Policy as an effective way to reduce the number of anti-social activities taking place on land owned by the Authority and which may require the intervention of the police service.

A draft Policy will be subject to an appropriate period of public consultation.

2.4 Human rights

There are potential Human Rights issues that will have to be taken into consideration when formulating the Policy, such as the right to assembly and association.

2.5 Equalities and diversity

An Equality Impact Assessment will be undertaken to inform the engagement plan to ensure that people with protected characteristics have an equal opportunity to know about and take part in the public consultation

2.6 Risk management

There are no risk management implications directly arising from this report.

2.7 Crime and disorder

It is considered that the implementation of a Policy will assist in the reduction of the number of anti-social activities taking place on the Authority's land.

2.8 Environment and sustainability

It is considered that a Policy will assist in the reduction of the number of activities taking place on the Authority's land and which can potentially harm the environment.

PART 3 - SIGN OFF

- | | |
|-----------------------------|--|
| • Chief Executive | <input checked="checked" type="checkbox"/> |
| • Director(s) of Service | <input checked="checked" type="checkbox"/> |
| • Mayor/Cabinet Member(s) | <input checked="checked" type="checkbox"/> |
| • Chief Finance Officer | <input checked="checked" type="checkbox"/> |
| • Monitoring Officer | <input checked="checked" type="checkbox"/> |
| • Assistant Chief Executive | <input checked="checked" type="checkbox"/> |