



Title: **Proposed Amendment to Byelaws to Allow Cycling in Torbay Parks and Pleasure Grounds**

Public Agenda Item: **Yes**

Wards Affected: **All Wards in Torbay**

To: **Council** On: **8 December 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

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1. What we are trying to achieve and the impact on our customers

- 1.1 To promote cycling in Torbay as a method of sustainable travel that will reduce traffic congestion and improve the general health of residents and visitors.
- 1.2 To seek approval from the Secretary of State to amend the byelaws in Torbay in order to allow cyclists to use parks and pleasure grounds on designated routes only.

2. Recommendation(s) for decision

- 2.1 **That Torbay Council begin a period of consultation to consider whether the Secretary of State should be asked to approve an amendment to the existing byelaw in order to allow cycling in Torbay Parks and Pleasure Grounds, on designated routes only.**
- 2.2 **That if, following consultation, no objections are received the recommendation will be passed to the Secretary of State for consideration.**
- 2.3 **That if any objections are received the Executive Head of Residents and Visitor Services, in consultation with the Executive Lead for Safer Communities and Transport, be delegated authority to consider and determine the objections before proceeding to the Secretary of State.**

3. Key points and reasons for recommendations

- 3.1 The Torbay Local Transport Plan sets out proposals for developing the National Cycle Route and improving facilities for cycling.
- 3.2 The proposed amendment to the byelaw will allow cycling in Torbay's parks and pleasure grounds, on designated routes only.
- 3.3 This in turn will allow safer cycling to be promoted within Torbay, helping to improve sustainability and reduce emissions, reduce road casualties and improve the health of residents and visitors to Torbay.
- 3.4 It is important to note that the proposed amendment will allow cycling on designated routes only; this will reduce any potential conflicts with other users.

For more detailed information on this proposal please refer to the supporting information attached.

**Sue Cheriton
Executive Head of Residents and Visitor Services**

Supporting information

A1. Introduction and history

A1.1 Torbay Council is promoting cycling, by the provision of a cycle network across Torbay, through its Local Transport Plan as a means to:

- a) Promote sustainable travel;
- b) Reduce Traffic Congestion; and
- c) Improve the health of its residents and of visitors

A1.2 Key to the provision of a safe and viable network is the use of off road options where possible. Torbay's Parks and Pleasure Grounds may give an opportunity in a number of areas to provide safe off road sections of cycle route.

A1.3 Current cycle routes under consideration include proposals for a route through Hollicombe Park and Hollicombe Head, linking to Paignton Harbour. This off road section will provide a safer alternative to cycling with traffic and will help to promote Torbay to cyclists.

A1.4 Currently the byelaws in Torbay relating to public parks and pleasure grounds do not allow cycling, section 5. (ii) states that:

A person shall not except in the exercise of any lawful right or privilege ride any bicycle, tricycle or other similar machine in any part of the pleasure ground.

Legal advice has been taken and it is considered that the provision of a cycle route would not constitute a lawful right or privilege. It is therefore considered that, in the current situation, providing a cycle route in a park or pleasure ground in Torbay would be a circumvention of the byelaw and would not allow cyclists to legally cycle on that route.

A1.5 In order to regularise the situation it is proposed that the byelaws be amended to allow cycling in parks and pleasure grounds in Torbay. It should be noted that, in order to control the passage of cycles and to prevent general disruption to other users, this amendment will seek to allow cycling on designated routes only.

A1.6 Currently any amendment to byelaws must be considered by the Secretary of State for approval. On the 31 August 2010 the Minister for Communities and Local Government outlined plans to give councils a new power to review outdated byelaws. This power would remove the need for alterations to byelaws to be considered by the Secretary of State and was originally expected to be in place in the spring of 2011. However this power has not yet been granted and a date for its expected implementation has not been announced. It is therefore proposed that, following a period of consultation and the support of the Council, the proposal be sent to the Secretary of State for consideration.

A1.7 The Minister for Communities and Local Government has published, at www.communities.gov.uk/documents/localgovernment/doc/133580.doc, a set of model byelaws for pleasure grounds, public walks and open spaces. It is therefore intended to replace section 5. (ii) of the current Torbay byelaw with the wording in section 20 of the model byelaw, which states that:

No person shall without reasonable excuse ride a cycle in the ground except in any part of the ground where there is a right of way for cycles [or on a designated route for cycling].

Allowing cycling on designated routes and rights of way only will preclude general cycle access to parks and pleasure grounds and reduce any potential conflict between cyclists and other users.

A1.8 As the proposed wording set out in the model byelaw has been sanctioned by The Minister for Communities and Local Government it is not expected that the Secretary of State will have any objections to the amendment.

A1.9 The guidance which accompanies the model byelaw states that:

In the case of byelaws which imply that skateboarding, roller skating and cycling will be confined to particular areas, local authorities should consult widely about the implications of such byelaws and, in particular, with any local disability groups (including associations for those with sight and hearing limitations) to ensure that their opinions are taken into account and that any operational matter (such as appropriate signing) can be considered.

It is therefore intended that consultation will take place to determine whether there are any objections to the proposal. Should there be any objections these will be brought back to members for consideration. If there are no objections the proposal will be presented to the Secretary of State for approval.

A1.10 It is not intended to open up all parks and pleasure grounds for cycle use. If the amendment is approved by the Council and the Secretary of State proposals for routes in individual parks and pleasure grounds will be taken to the Transport Working Party and Place Policy Development Group for them to recommend approval by the Executive Head of Residents and Visitor Services.

A1.11 Whilst Hollicombe Head is the only open space currently being considered for implementation of cycle routes through parks or pleasure grounds, long term cycling strategies have also identified Victoria Park, Cliff Gardens and Preston Green, Paignton and Torre Abbey Meadows and Princess Gardens, Torquay as possible future links in strategic cycle schemes.

A1.12 The Place Policy Development Group have considered this issue and given their support.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 Should any objections be received these will need to be considered by members before the proposal can be submitted to the Secretary of State for approval. To save the proposal having to come back to the full Council it is proposed that the Executive Head of Residents and Visitor Services, in consultation with the Executive Lead for Safer Communities and Transport, be delegated authority to consider and determine any objections.

A2.1.2 If Torbay Council were to provide a cycle route through a park without the proposed amendment to its byelaws this could be construed as circumventing the current byelaws and the Council could be held liable if there is any conflict between a cyclist and another legitimate park user.

A2.1.3 If the amendment is not approved Torbay Council will be unable to lawfully provide cycle routes in any of the parks and pleasure grounds in Torbay and key proposals for sections of the Torbay cycle network will not therefore be able to be implemented.

A2.1.4 If the National Cycle Network is not progressed through Torbay the future funding for sustainable transport measures may be compromised.

A2.1.5 Unlawful cycling is often currently observed within parks and pleasure grounds as cyclists attempt to avoid cycling through traffic. By allowing cycling only on designated routes and rights of way the Council will avoid opening up parks for general cycle use and the ability of the general public to continue the peaceful enjoyment of open spaces in Torbay will be protected.

A2.2 Remaining risks

A2.2.1 Diversification into new growth areas, including leisure cycling, offers a further avenue for a sustainable future, this opportunity could be lost if further suitable cycling routes and facilities are not provided.

A2.2.2 Proposals for routes in individual parks and pleasure grounds will still require approval from the Transport Working Party and the Place Policy Development Group.

A3. Other Options

A3.1 If the amendment to the existing byelaws is not made then options for off road cycle links will be limited and therefore more on road cycling will need to be considered.

A4. Summary of resource implications

A4.1 Consultation on the amendment to the byelaws, will be undertaken by the Authority's Partner Consultant, Jacobs, in conjunction with officers from Streetscene and Place. Officers from Legal Services will advise on wording and presentation of the proposals to the Secretary of State. Costs for this process will be contained within existing revenue budgets.

A4.2 Funding for the implementation of individual sections of cycle route through parks and pleasure grounds will be sought on a case by case basis, with support for each section sought from the Transport Working Party and the Place Policy Development Group. The only scheme currently identified is at Hollicombe Head, which will be funded from the Council's existing capital plan as part of the New Growth Points Strategic Cycleway Project. Future schemes may be funded from capital or revenue sources, or from section 106 contributions. Any capital funding allocations will be linked to the Council's approved capital plan in consideration with the Council's overall priorities.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There will be no impact on equalities and crime and disorder. There will be no direct impact on sustainability but, by allowing more off road cycle routes to be provided, the proposal will indirectly improve sustainable travel options across Torbay and help to reduce the emissions of greenhouse gases, pollutants and particulates.

A6. Consultation and Customer Focus

A6.1 Outline consultation has been undertaken on the Hollicombe to Paignton Harbour Cycle route, the results were presented to the Transportation Working Party on the 28 January 2011.

A6.2 It is proposed that further specific consultation on the amendment to the byelaw be undertaken following approval of this report.

A6.3 The longer term benefits of the proposal will be to:

- reduce traffic congestion;
- improve the health of residents and visitors to Torbay;
- offer improved sustainable transport options, particularly for shorter and leisure journeys, and reduce vehicle emissions.

A7. Are there any implications for other Business Units?

A7.1 The proposal has received the support of the following business units:

- Legal Services
- Strategic Planning

Appendices

None

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

1. Report to People (Communities) Policy Development Group dated 19 July 2011 and titled "Hollicombe to Paignton Harbour Cycle Route"
2. Issues Paper presented to Transportation Working Party on 28 January 2011 and titled "Hollicombe to Paignton Harbour Cycle Route"
3. Local Transport Plan 3.
1. Byelaws made by the Mayor, Alderman and Burgesses of the Borough of Torbay with respect to Pleasure Grounds (11 August 1978)
2. Model Byelaws - Set 2: Byelaws for Pleasure Grounds, Public Walks and Open Spaces (published at www.communities.gov.uk/documents/localgovernment/doc/133580.doc, May 2006)