

Meeting of Scrutiny Board (City Development)

Wednesday 16th September 2009

Present :

Board members

Ralph Pryke (Lib Dem, chair), Ryk Downes (Lib Dem), Steve Smith (Lib Dem), Christopher Beverley (BNP), Valerie Kendall (Conservative), Gerald Wilkinson (Conservative), David Schofield (Conservative), Brian Selby (Labour), James Lewis (Labour), Mick Lyons (Labour), Tom Murray (Labour)

Council Officers

Caroline Allen
Sean Flesher (Parks and Countryside)

Witnesses

John Illingworth (Labour)
Linda Rhodes-Clayton (Independent)
Tony Green (North Hyde Park Neighbourhood Association)
Kathleen Mason (resident with COPD)
Bill McKinnon (Friends of Woodhouse Moor)

Ralph Pryke (Lib Dem) This is a request for call-in by Councillors John Illingworth and Linda Rhodes-Clayton of the recent Executive Board decision to proceed with a designated barbeque area on Woodhouse Moor. Board members are very well acquainted with the issues. Therefore I shall restrict lengthy discussion of points already considered.

John Illingworth (Lab) “Nemo iudex in sua causa” No one should be the judge of their own case. The council has taken sides in this case. The consultation exercise put forward the council’s case, and didn’t put forward its opponents’. They made it easy to support the proposition by ticking a box. But opponents had to write why. Whereas those opposed gave reasoned argument, supporters did not. You’ll see that opponents have produced reasoned arguments running to several pages. Most of those returned by post were a simple “yes”. The council’s spend on the consultation vastly exceeded the resources of community groups, swamping the opposition by sending out a volume of material that the community couldn’t match. They should have allowed their

case to be argued on a level playing field. Opponents have produced a large amount of reasoned argument. The proposers have not.

There has been no consultation on the option that was recommended to the Executive Board. We're in a worse position now than during the consultation. We don't know size, surface treatment, or where it's going to be located. It will be impossible to enforce. In practice, people will spread all over the Moor as they do at present.

The council has neglected its responsibility to protect the local environment. The decision doesn't balance the human rights of barbeque users against the rights of others. Under the Disability Discrimination Act 2005, the council has a duty to protect local people against smoke pollution. Smoke is distressing to people with respiratory problems.. The smoke issue is just being ignored. The decision makes the Moor a no-go are for people with respiratory disorders.

The Executive Board report speaks of a cellular solution – grasscrete. It says concrete will be used. But a letter to residents from local councillors and Councillor Brett have said “no concrete”. Who are we to believe?

It's not clear how the exercise is to be assessed or how the park will be restored. What other options have been considered ? Has the effect of the decision on other parks like Kirkstall been considered? People will say “Oh, I thought the council allows barbeques in parks”. People who've barbequed on the Moor will say “Oh, we'll go barbeque in Kirkstall now”.

Linda Rhodes-Clayton (Ind) Byelaw 11 (2) (b) states that there should be no lighting of fires except as part of a properly constructed barbeque in a designated area. A disposable barbeque on grasscrete isn't safe. I think you'd need planning permission for what's required. There are two types of grasscrete. Grasscrete is either flags with grass growing through holes, and then you get burnt grass and concrete; or you have tons of concrete poured into plastic moulds. The concrete takes 48 hours to set and then the plastic tops are burned off. The grass takes one to three months to grow. The manufacturer doesn't think the grass would recover, and so you'd get concrete and burnt grass.

Bill McKinnon (FOWM) The needs of local people need to be considered. The decision will mean that other groups won't be able to use the park because of smoke pollution from barbeques. When it was very bad in May last year, as I came up Rampart Road opposite the Moor, I could see a pall of smoke hanging over the park.

A few days later, as I walked up Royal Park Road, I could smell smoke from the Moor. Smoke from barbeques on the Moor forces residents in flats on adjacent Hyde Park Road and other nearby streets to keep their windows closed.

Tony Green (NHPNA) Most parties to this debate agree there is a serious problem. The argument is about means, not ends. In forums I've attended, I've not heard a single councillor or officer say why a similar scheme that failed in 2006 should succeed in 2009. It's been asserted that this scheme will be policed. How, by whom, and at what cost ?

Kathleen Mason (COPD sufferer) I am a COPD sufferer. The cause of the disease is active or passive smoking. Three million people in the UK are affected. It causes 30,000 deaths every year in England and Wales. Air changes every day. COPD sufferers are sensitive to these changes. Polluted air exacerbates the problem. Walking down Otley Road this last Sunday evening a young man who had a lighted cigarette up to his mouth passed me - my next breath was clearly affected - as if cut off half way through an inhalation. I will not visit Woodhouse Moor if barbeques are allowed in the park, and neither will I allow my grandchildren to visit it.. The British Lung Foundation has a 10 point airway code. Point 3 says, "stay smoke free". Relaxation of the byelaws will exacerbate the problem for all COPD sufferers. Barbeque smoke is after all still smoke.

John Procter (Con) Members are aware that this is a political issue. So to Friends of Woodhouse Moor and others, forgive me if I treat this issue politically. As regards the meeting of the 7th July, Penny Ewens was there, and Sue Buckle was there. So they know the in-depth consideration that was given to this issue. Then on the 1st September, Friends of Woodhouse Moor wanted cost benefit analysis. John Illingworth and Linda Rhodes-Clayton weren't at either of these Boards so I'm not surprised that they've come forward now. They clearly haven't followed the workings of the Board.

On Monday at Farnley Hall, John Illingworth demanded to see the consultation information twice. Anyone who knows me knows I would arrange for people to see the consultation. We have nothing to hide. And yet Councillor Illingworth turned up at 4.45pm on Monday at Farnley Hall and refused to go. The secretary was called. I find this bizarre when someone hasn't followed the issue closely.

The councillors aren't aware of the Equality Impact Assessment which deals with all issues dealing with disabled people. See page 7 of the Executive Board report. Executive Board members are aware of these concerns.

The real problem is the issue of impromptu campfires. The only difference between us is how we can control these matters. In view of the depth of feeling it was felt that it would be better done by having a small discreet trial barbeque area. At paragraph 3.7.8 we can see what was agreed by the Executive Board. A trial provides an opportunity to gain a greater understanding of the potential merits and demerits of a designated barbeque area.

The Friends are stuck in the past with regards to this argument. Other options are needed. The Executive Board went for option 3 – for a trial – to see how it works. In my view it's a reasonable compromise position where a trial can take place. People like me who listen and come up with a trial and a compromise are damned if we do and damned if we don't. I still hope for a sensible dialogue.

Questions from Board members

Steve Smith (Lib Dem) Does having barbeques in parks break byelaws ?

Caroline Allen The council believes it can be done in a designated area.

Linda Rhodes-Clayton (Ind) What about the wording that requires that they be properly constructed ?

Tom Murray (Lab) It's a question of scale. We were in our local park with our grandchildren and a barbeque was in front of us. One barbeque spoils it for everyone. In this one picture I see clouds of smoke and many people. In such a very populated space, is option 3 a solution ?

Bill McKinnon (FOWM) There weren't many barbeques the day I took that photo. It only takes three barbeques for the entire park to stink of smoke.

Neil Taggart (Lab) The Executive Board decision allows a trial for a designated area therefore a large part of the park will not be designated. So will the byelaws be enforced on the rest of the park ? How will the trial be effected ?

John Procter (Con) Is it appropriate for large numbers of students to come into the park and enjoy themselves ? I think it is. My job is to get more people to use public facilities. If 100s use it – good. The question is how best to deal with it. How can a trial best be enacted ? The original area that would have been used was less than 5% of the entire park. Now we're not even proposing that. If the trial proves unsuccessful – so be it. Friends of Woodhouse Moor will be right. And the debate will be how enforcement takes place. Barbequing will

only be allowed in the designated area. It's a question of logistics involving Parkswatch and a large body of people.

Ralph Pryke (Lib Dem) The Area Committee was told that a designated area would make enforcement easier.

Linda Rhodes-Clayton (Ind) This is not a political issue. There have been meetings to which we've not been invited.

Ryk Downes (Lib Dem) A trial in 2006 that failed was mentioned. How will this trial be better? How do designated barbeque areas in other areas work?

John Procter (Con) Yes they do work. In my own ward at Wetherby some disposable trays are left and are quickly tidied away. They also work well at Otley Chevin.

Sean Flesher We put down 40 concrete slabs near to the bowls pavilion for a limited period and didn't get a chance to evaluate the trial because of opposition from Friends of Woodhouse Moor who were against it on the grounds of aesthetics. There were no signs or bins so the trial was not conclusive.

Mick Lyons (Lab) For many years I lived within walking distance of this park and considered it to be a lung in a densely populated area. When I went there, there were no barbeques. We'd picnics. John says about Wetherby and Otley. But they're not in the centre.. Woodhouse Moor is in an inner city neighbourhood. Why weren't the byelaws used when complaints started in which case this problem would have been dealt with. Why will it work when people who live there say it won't work. And why should students stop other people from using the park? Will there be designated barbeque areas all over the city? We've a beautiful park at Temple Newsam and I don't want it spoilt by barbeques. I don't want kids coughing and spluttering. If this is a trial, is it going to happen all over? If they couldn't prevent it before – how will they now when they've less money? Will they take resources from other areas, other parks? Are we going to have them elsewhere, and how are we going to police them? And where's the money coming from?

John Procter (Con) Mick Lyons is right. A few years ago disposable barbeques weren't available. They're an emerging phenomenon – cheap and easy. Parks were to cater for people who didn't have gardens. Young people in the flats that have been built in the city centre want to go and have a barbeque. Other areas with city centre parks also have problems with barbeques – we're at the start of something. When large numbers of our constituents are demanding something, we've got to listen. How did we think we could stop this?

Enforcement is a major issue, a major resource commitment. It's exactly the same commitment as enforcing a ban. Parkswatch will be the officers enforcing this proposal. There'll be additional training on the gathering of appropriate evidence to bring matters forward to issue fines etc. A lot of work is involved to get a penalty to stick

You might hear about other authorities enforcing bans but you never get details of fines.

It's not a simple matter. That's why a trial area has been suggested.

Brian Selby (Lab) Could Caroline define a properly constructed barbeque ? John Procter says "this is an emerging issue." Looking at the flats that have gone up in Roundhay, there should be a trial at Roundhay Park, and at Temple Newsam. This seems to be happening because students enjoy it. Is this why Woodhouse Moor has been allowed to go ? Members of INWAC have been told it would cost less to enforce a designated area. How much is in the budget to enforce ? Are we saying it's too difficult with so many students ? Isn't this the law of taking the line of least resistance ?

Ralph Pryke (Lib Dem) They already happen at Clarence Dock, East End Park, and Roundhay Park.

Mick Lyons (Lab) They get moved on by wardens at East End Park.

Caroline Allen You've got to look at section 11 (1) which allows an exception to the byelaws if something is formally and deliberately set up – not informal. It's saying a local authority can identify a designated area.,

Brian Selby (Lab) Are we looking at an amendment to the byelaws that will allow a specific designated area ? To do it correctly we'd need to go to consultation on byelaws – people may want barbeques in other parks.

Ralph Pryke (Lib Dem) We may need to get legal advice.

Caroline Allen My colleague will have given detailed advice.

Brain Selby (Lab) Was it an officer delegated decision ?

Neil Taggart (Lab) If there's to be a trial, there should be suitable wording in the byelaws. If it's left woolly, someone will say it's part of the trial, and

anything will be allowed. If there is to be a trial, the byelaws need to be suitably amended.

Ralph Pryke (Lib Dem) Attempts to define a barbeque area don't matter. And the Executive Board have in mind tin foil barbeques.

Brian Selby (Lab) What is the size of the budget to enforce ? INWAC were told that a designated area would be easier to enforce.

John Procter (Con) As one who knows how this works, John Illingworth obviously doesn't know how this works. That's why he's the least effective councillor.

This is one of the bizarrest escapades in the history of call-ins.

Coming part way through the budget cycle, there is no specific budget which says "x" amount for enforcement. £26 million is the global parks budget. Parkswatch will need bolstering. Clearly a disproportionate amount will be allocated initially to enforce this measure. We have given a commitment this will be enforced. There are issues in other parks but they're not on this scale and they don't involve camp fires.

If we were to enforce the byelaw outright in this park, the Friends at Roundhay Park and Temple Newsam would come to me wanting blanket enforcement too. 60 Friends groups would ask for the same. There would be a huge budgetary dilemma. It would cost £1 million to replicate the Parkswatch service. We have to decide what is reasonable to enforce.

Caroline Allen In the existing byelaws, an exception is set out to permit local authorities to set up barbeque areas and so there is no need for amendment to the byelaws.

James Lewis (Lab) Paragraph 3.7.8 gives no details of the trial area, the size of it, what it will cover, no detail of construction, no detail of signing, literature. It just says that it will be cellular paving flush with ground. To John Procter - Why has this Executive Board paper been agreed when no useful information has been supplied to the Executive Board ?

John Procter (Con) We wanted something flexible that could be discussed with Friends of Woodhouse Moor, INWAC and ward members. If we'd come with a plan, all sorts of problems would have been raised. My hope was that grown up sensible dialogue could take place.

I wonder why Executive Board members keep getting called to these call-ins.

Ralph Pryke (Lib Dem) There's not usually such fine detail in a proposal. This is a work in progress subject to discussion with Friends of Woodhouse Moor etc.

John Procter (Con) We're keen not to have a rigid approach.

John Illingworth (Lab) You've provided no answer to factual questions.

Gerald Wilkinson (Con) As a Wetherby area councillor, since we've had a designated area installed in the wilderness area, we've had no complaints. Before that, we'd visits from the fire brigade on numerous occasions.

Mick Lyons (Lab) When police motorcyclists were taken off, councillors at Temple Newsam got in touch with the Chief Constable. Now we've got them back on again. Police motorcyclists don't affect the Parks budget. If we're talking about putting a designated area in one park, the fear is that one will also be put at Roundhay, Morley and Temple Newsam. They'll say that what's good enough at Woodhouse is good enough for the rest of city. If it goes forward here, it leaves it wide open. Is it your intention if some groups come forward that you'll consider that too ?

John Procter (Con) The police motorcyclists on Temple Newsam were catching criminals escaping onto the park. They weren't enforcing our byelaws. West Yorkshire Police won't enforce council byelaws. I won't offer Councillor Lyons or his colleagues a leaflet opportunity. I will not say "Trial barbeque areas coming to a park near you". There is not the scale of barbequing and camp fires in other parks. It's been successful in Otley and Wetherby. Therefore we're having a trial on Woodhouse Moor.

Mick Lyons (Lab) He's saying it could happen in other areas of the city. It's getting politically nasty.

Ryk Downes (Lib Dem) They're allowed in Otley and Wetherby so I can't see why Woodhouse Moor should be any different. If a leaflet were to go out it would be irresponsible. At paragraph 3.5.7 the fire service say they're concerned about the danger caused by people having barbeques in back yards if they're not allowed to have them on the Moor.

Brian Selby (Lab) Lots of other activities are banned. A trial period in a small area. Where is the nearest property to the proposed area ? Where will the trial area be ? So far as smoke, noise etc are concerned, how many houses will be

affected Can Sean tell us ? Unless Executive Board officers are now doing the day to day running of the department.

John Procter (Con) He clearly hasn't been listening. It doesn't surprise me. My hope is Friends of Woodhouse Moor will sit down and talk about where there is to be a designated area. At the moment there is no plan. It's not decided.

Brian Selby (Lab) And if there's no agreement, what would you do then ?

Ralph Pryke (Lib Dem) How long is a piece of string ?

Valerie Kendall (Con) If it ain't broke – don't fix it. There are barbeques but they're not a major problem at Roundhay Park. They don't come across our radar. We would have been told of a concern at Roundhay Park and hopefully never will.

Steve Smith (Lib Dem) It's about appropriate use of parks. They're for the enjoyment of all subject to infringement of the rights of others. I used this park years ago. I remember snowballing in the park. We no longer get snow. And I remember skateboarders. We've accommodated their requirements by building a skateboard park.. The current scheme is not working and a total ban might not work. We're being offered a trial, but if it doesn't work, it will come back to the Executive Board. You and the department are on notice. If it doesn't work, I would not support continued use of barbeques on Woodhouse Moor. My biggest concern is smoke and that needs to be addressed. I will watch the trial very closely.

Tom Murray (Lab) It's worrying that John Procter said that this is an emerging problem which could affect all our parks. So our policy at this stage should be that we will enforce our current byelaws. I've heard from residents about the trial that they would like. It embraces all the things that John Procter's trial does. We're talking about education, signage, and education. We could market it as "Parks for picnics." Looking at this picture, I don't see any criminals. Enforcement would be easy. The message would be "We have parks for picnics, not parks for barbeques".

John Procter (Con) 'Soundbites' will be heard elsewhere. Councillor Murray will be aware that barbeques are not a new problem,. Councillor Murray did nothing about them. They have been escalating year by year. We are not looking to implement a trial anywhere else in the city. There will be no proposal, no trials on my watch.

John Illingworth (Lab) To sum up :

John Procter says that there has been a disability assessment. But this has neither been seen nor produced. In this disability assessment, how much attention has been paid to respiratory problems ? We need to know if the problem of respiratory disease has been addressed or not.

These other barbeque areas. Are they permanent ? Are they by car parks ? Where are they in relation to grassy areas ?

John Procter has not answered most of the questions that we raised.

I'm not a member of this Scrutiny Board and didn't attend its meetings as most members don't attend.

With regard to the issue of the inspection of the survey forms. I was shown 500 colour photocopies from which information had been removed – not originals. But I was given the impression that I was looking at the originals. It was only on the next day that it was acknowledged they were photocopies. The misunderstanding and bad feeling could have been avoided if I'd been told they were photocopies.

The consultation was biased and bound to lead to a biased outcome. Placing a tick is easy.

There has been no information about the trial area.

We don't know whether the designated area will be concrete or not.

There will be smoke.

We've not heard how this scheme will be assessed.

There's been no consideration of the likely effect on other parks. Why ?

Bill McKinnon (FOWM) We've been told that this trial will only last for a year. But the year won't start until April 2010 and it will continue until April 2011, to be followed by an assessment period of as yet undetermined length. In the warm weather of late Spring and early Summer, children will be barred from the park during all of this period, as they have been for the past five years, since the problem began.

Councillor Procter said that the original proposal was for just 5% of the park. But a large proportion of the park is taken up by the allotments and bowling greens. So 5% of the park represents a much larger proportion of the park that's available to the public.

We've been told that there are designated areas at Wetherby and Otley. But these towns are so far away from Woodhouse Moor that they weren't even a part of Leeds prior to local government re-organisation in 1974. They haven't had the same problem with barbeques that Woodhouse Moor has had. The town clerk at Wetherby has told us that when she visited the barbeque area there, she found three trays on stones. And when a Friend visited Otley Chevin at the weekend, he was unable to find a barbeque area..

On the one hand, Councillor Procter says that the problem on Woodhouse Moor is unique and so you need have no fear that other parks will be subjected to a similar trial. And on the other hand, he says that if he gave us enforcement of a ban, all the other Friends groups would ask for a blanket ban too. But if the problem on the Moor is unique as he claims it to be, then all he has to do is point this out to the other Friends groups.

I note that Councillor Procter said that the resources needed to enforce a ban would be identical to the resources needed to enforce a designated area.

Councillor Procter says that there are no hard details of the proposed designated barbeque area because he wants to be flexible and agree the details with the Friends of Woodhouse Moor. If Councillor Procter wants to involve the Friends of Woodhouse Moor, surely the time to do it was at the multi agency meetings which gave rise to the proposal and which took place in May, June and July 2008 and included representatives from the two universities and student unions, but excluded residents' groups.

Councillor Procter says that the police won't enforce the council's byelaws. But the police have stated publicly that if the council make an effort to enforce the byelaws, the police will assist them.

Councillor Downes mentioned the fire brigade's belief that if people are prevented from having barbeques on the Moor, they'll be more likely to have them in back yards, and that this would be more dangerous.. There's a fundamental difference between barbeques in gardens and barbeques that have been allowed in a park. If my neighbour has a barbeque and the smoke from it creates a nuisance, I can ask him to extinguish the barbeque. If he refuses, I can take an action against him to the courts to prevent him from having further

barbeques. But if barbeques are allowed in the park, the only thing I can do if I find the smoke offensive, is not visit the park.

No one who has spoken in favour of this proposal has addressed the smoke problem.

Decision

Options

1. Release decision.
2. Reconsider decision.

Neil Taggart (Lab) I'd like to recommend option 2

For :

Brian Selby (Labour)
James Lewis (Labour)
Mick Lyons (Labour)
Tom Murray (Labour)
Neil Taggart (Labour)

Against :

Ryk Downes (Lib Dem)
Steve Smith (Lib Dem)
Christopher Beverley (BNP),
Valerie Kendall (Conservative),
Gerald Wilkinson (Conservative),
David Schofield (Conservative),