

DRAFT STATEMENT OF REGULATORY ASSESSMENT

Stoney Stanton Parish Council

BYELAWS FOR PLEASURE GROUNDS, PUBLIC WALKS AND OPEN SPACES

Parish Councils are permitted to make byelaws under The Byelaws (Alternative Procedure) (England) Regulations 2016. Byelaws are local laws, which the Parish Council can enforce through the Magistrates Court.

BACKGROUND AND CONTEXT

Historically the Council has relied upon a set of byelaws created in 1998 which applied to five sites across Stoney Stanton. These byelaws now need to be modernised, corrected and updated. In particular, the 1998 byelaws include and refer to an area of land (War Memorial Park) which the Parish Council does not own. This error has, in recent years, created an additional and unnecessary administrative burden on those using and managing the site.

The Parish Council now wishes to have a standardised and improved set of byelaws to regulate the following sites which have been identified for the purposes of this consultation as follows:

1. Allotments at Nock Verges
2. Carey Hill Park and Meadow
3. Small parcel of land and play area at Brindley Close
4. Small Parcel of land at Disney Close
5. Small Parcel of land at Smithy Farm Drive
6. The Green (centre of the village)
7. The Persimmon Estate and Play area
8. Village Hall Garden
9. Village Hall Recreational Land (South of New Road).

By adopting a new set of byelaws, the Parish Council aims to achieve:

- A Clarity for users on how they can use the grounds and what activities can and cannot take place; and
- B Consistent and comprehensive approach to management of the sites.

The Parish Council has prepared the draft byelaws using the model byelaws provided by the Ministry Housing, Communities and Local Government (MHCLG). Where the Council has decided to limit or prevent an activity, careful consideration has been given the availability of alternative local facilities. The byelaws reflect what, in the Council's opinion, is necessary to ensure that local amenities remain accessible and available for the enjoyment of the whole community.

WHAT THE BYELAWS DO NOT COVER

A byelaw cannot be made where alternative legislative measures already exist that can be used to address the problem. This means that the byelaws proposed by Stoney Stanton Parish Council do not:

1. Apply to the cemeteries at Stoney Stanton. This is because the Local Authorities Cemeteries Order 1977 already creates certain offences in local authority cemeteries, including creating a disturbance, committing any nuisance, interfering with any burial, interfering with a grave, playing any game or sport, or entering or remaining in a cemetery when it is closed to the public. Additional regulation of a cemetery in the form of a byelaw is not necessary unless there is a need to deal with a specific issue there not already covered by the 1977 Order. This is not considered to be the case at Stoney Stanton.
2. Apply to the off-road car parks at St Michaels and Long Street, Stoney Stanton. Byelaws regulating the use of off-road car parks must be in the form of a separate Car Parking Order under the Road Traffic Regulation Act 1984 so the two off road car parks at Stoney Stanton have not been included within this set of byelaws.
3. Deal with issues of anti-social and criminal behaviour as these are correctly dealt with via Public Space Protection Orders.
4. Cover the driving of a vehicle or motor cycle in pleasure grounds and open spaces without lawful authority as this is already an offence under s.34 of the Road Traffic Act 1988.

CONSULTATION PROCESS

The Parish Council now wishes to seek comments from the public on the proposed byelaws and is encouraging comments from residents of Stoney Stanton and also non-residents who visit and use the public facilities at Stoney Stanton.

The Parish Council will also be consulting directly with all users and stakeholders who are likely to be directly impacted by the new byelaws.

The Parish Council will consider carefully all comments that are submitted in response to this consultation by both resident and non-residents users. The comments made will help the Parish Council to decide which byelaws are supported by the community and which byelaws may need to be re-drafted or even re-considered. The consultation phase is therefore an important mechanism by which the Council can ensure that the byelaws created are suitable, relevant, robust, and enforceable.

REGULATORY STATEMENT

Regulation 5 of The Byelaws (Alternative Procedure) (England) Regulations 2016 requires the Parish Council to review whether each byelaw is necessary and whether the burden imposed by each byelaw on individuals, businesses and other interested parties is proportionate. MHCLG guidance requires that the Council consider the following **five questions** set out below. The Parish Council has set out its draft response to each of the five questions for consideration and comment by consultees.

QUESTION 1: The Objective/ Purpose of the Byelaws?

The historical byelaws covering the open spaces in Stoney Stanton are now somewhat dated. They reference a piece of land not owned by the Parish Council but do not include more recently installed facilities such as adult gym equipment and child play areas.

Stoney Stanton Parish Council considers it important that its open spaces are kept safe and accessible to people of all ages. The Council considers that a clearly written, accurate and relevant set of byelaws are an effective way of providing clarity on how the land can be used and what activities can be undertaken.

Where the byelaws are deliberately ignored, the Council wishes to have recourse to effective and robust measures that ensure that nuisance behaviour is tackled and suppressed quickly, effectively and consistently.

The Parish Council does not want to over-regulate use of the land and aims to facilitate a broad range of activity on its land to the extent that this is consistent with the peaceful enjoyment of the amenity by others.

QUESTION 2: Can the Objective Could Be Achieved by Alternative Means?

As set out above, a byelaw cannot be made where alternative legislative measures already exist that can be used to address the problem. MHCLG has designed the model byelaws to work alongside existing legislation and enhance the Parish Council's ability to manage its open spaces effectively. Where Stoney Stanton Parish Council has chosen to adopt a byelaw, this is to tackle a specific and "routine" issue in the local area.

The Parish Council understands that both the making and enforcement of a byelaw is an act of last resort where alternative practical means of deterring unwanted activity is inadequate. The Parish Council will, wherever possible seek to resolve any issues through education, advice and dissuasion before taking enforcement action. However, the Council considers that the byelaws are an essential tool for Council staff members to have available to them to deal with situations where efforts to tackle issues through practical measures prove ineffective.

QUESTION 3: What Will be the Impact of the Byelaw Upon Those Affected by it, as Demonstrated by the Consultation Process?

The Council anticipates that the byelaws will have a positive impact on the vast majority of users. The proposed byelaws will reassure members of the public that a transparent, consistent and fair set of rules apply to all the Council's open spaces in Stoney Stanton. The Council intends that the proposed byelaws will make its sites more inclusive, safer and free from anti-social behaviour.

The byelaws will provide a clearer regulatory framework, which will clarify the responsibilities of Council Officers when managing and controlling the areas.

The Council accepts that the prohibition of some activities will have a negative effect on some users of the facilities. The Council will examine all feedback received during the consultation process and to determine the extent to which any negative impact is offset by the positive impact to other users. For example, amongst other things, the Council will consider:

1. The health and safety risk to other users
2. The number of people affected negatively by the byelaw
3. The risk to the privacy of users
4. The availability alternative facilities in the parish
5. The need for a consistent approach to regulation

6. The size of the site.

QUESTION 4: Will the proposed byelaw increase, or decrease, the regulatory burden imposed upon those affected by it?

The Council anticipates that the proposed byelaws will have a positive impact in terms of Regulatory Burden on children and adults generally as the open spaces will be safer places to meet, play and visit. All users will be able to rely on the fact that the open spaces are accessible and safe places to exercise and relax.

The Parish Council has identified the following byelaws as creating an additional layer of Regulatory Burden:

Byelaw 10: Fires

This byelaw will increase the Regulatory Burden on those wishing to light fires. Byelaw 10 regulates Fires and the Parish Council has chosen to expand the wording of Byelaw 10 to require the permission of Council for the lighting of fires. The Council considers that this wording will allow its groundsmen and contractors to burn green waste if required when clearing areas of the site. The wording will also allow the Parish Council to hold events at the Grounds which include a barbeque.

Byelaw 12: Horse Riding

This byelaw will increase the Regulatory Burden on horse riders. Byelaw 12 effectively prohibits horse riding on all its grounds. The Council considers the impact to be proportionate and necessary as the sites listed at Schedule 1 are, in the view of the Parish Council either smaller than 10 acres or do not allow for safe horse riding.

Byelaw 16: Adult Gym Equipment

This byelaw will increase the Regulatory Burden on those wishing to use Adult Gym Equipment. Byelaw 16 is a non-standard byelaw that has been drafted by the Parish Council for the safety of users. This byelaw applies to Ground 2 only and the restrictions are confirmed by a conspicuous on-site notice.

Byelaw 17(1): Games

This byelaw will increase the Regulatory Burden on those wishing to play games. The Parish Council has chosen to expand the wording of Byelaw 17(1)(c) to refer to "building vehicle or apparatus". The Parish Council notes that (1) the play area and open space land at Brindley Close (Ground 3) is very close to houses and roads; and (2) the Carey Hill Play area (Ground 2) is next to a squash court and a car park.

Byelaw 17(2): Ball Games

This byelaw will increase the Regulatory Burden on those wishing to play ball games: Byelaw 17(2) includes the additional wording - "*no persons shall play ball games where this is prohibited by a notice conspicuously displayed*". Council considered this byelaw to be necessary at Ground 3 (Play Area and Meadow at Brindley Close) which is a very small grassed area surrounded by houses. The Council has had issues with complaints about

damage caused by ball games at this location. The Council did not want to go so far as to ban ball games except in designated areas so the wording at Byelaw 17(2) was considered to be a compromise offering maximum flexibility but some restrictions where necessary.

Byelaw 21: Trading

This byelaw will increase the Regulatory Burden on those wishing to trade. Byelaw 21 regulates the Provision of Services and the Parish Council has chosen to expand the wording here to include the sale of any “commodity and article”. This is to allow the wording of the new byelaw to align with the wording of the 1998 Byelaws and ensure continuity of practice.

Byelaw 22: Excessive Noise

This byelaw will increase the Regulatory Burden on those undertaking activities which generate excessive noise. The wording of Byelaw 22 has been expanded to protect “persons in the ground *or in the surrounding areas*”. The Parish Council considers this additional layer of regulatory burden to be necessary as all of the Grounds in Schedule 1 are surrounded by private/business properties. The Council wishes to ensure that activities taking place on the Grounds do not impact negatively on neighbouring and adjoining land.

QUESTION 5: How Does Making the Proposed Byelaw Compares with Taking No Further Action?

By taking no further action, Stoney Stanton Parish Council risks facilitating an increase in anti-social, disruptive and nuisance behaviour. A fully considered, up-to-date and relevant set of byelaws will equip the Council with an effective, reliable and robust mechanism to tackle local issues and respond to complaints from members of the public efficiently and effectively. This, in turn, will encourage local users of the amenities to access and make the most of the open spaces, thereby facilitating and strengthening community wellbeing and cohesion.