

Environment Committee Meeting	
Meeting Date	2 March 2023
Report Title	Motion to ban disposable barbeques in public open spaces
EMT Lead	Emma Wiggins, Director of Regeneration & Neighbourhoods
Head of Service	Martyn Cassell, Head of Environment & Leisure
Lead Officer	Graeme Tuff, Greenspaces Manager
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To agree to the Chair of the Environment Committee to send a letter to Central Government and local MPs lobbying for a national ban on the sale of disposable BBQs. 2. To monitor the impact of other Council's use of Public Space Protection orders in resolving the problem.

1 Purpose of Report and Executive Summary

- 1.1 Council recommended that Environment Committee look into the proposed motion titled 'Use of BBQs'.
- 1.2 This report picks up the details of the motion points and makes a recommendation for future action.

2 Background

- 2.1 The Summer of 2022 set new records for heat in the UK and brought to the public awareness the risk of large scale fires in open spaces. Kent saw a number of major incidents and Swale had a few recorded fires in our open spaces (Barton's point and Milton Creek Country Park).
- 2.2 As a result a Motion (see appendix I) was presented to Council on 7 December 2022. Councillors referred the Motion to the next feasible Environment Committee without debate.
- 2.3 The motion asked Councillors to note the comments made by London's Fire Commissioner which amongst other things, suggested a national ban on the sale of disposable barbeques. It also asked specifically to write to Central Government and the local MPs for Swale in support of a national ban. Officers see no issue with this action and the recommendations above support that.
- 2.4 The motion proposed a ban on the use of barbeques from all council owned land to the extent that this is possible, with the exception of registered campsites,

beach huts or events that have a risk assessment in place and a method agreed with the council regarding use and disposal.

2.5 Barbeques have a number of risks when used in public spaces. As mentioned in the motion a single ember could in certain circumstances create a large scale fire, putting those in the public space at risk and greatly impacting nature and biodiversity. Furthermore, if they are left in-situ they create a risk of other users of the spaces touching/falling/stepping on them and causing injury. Finally, it is difficult to dispose of these products safely. They remain hot for a long time after use and are therefore difficult to take home. This results in them either being left or placed in public litter bins and examples have been seen elsewhere where litter bins then catch fire.

2.6 The motion asked for views on how we might control use and implement fines for non-compliance. Swale currently has byelaws in place for our parks and open spaces and foreshores. The 2005 Pleasure grounds, public walks and open spaces document (appendix II) details the sites where the byelaws apply and the conditions of use. Under the protection of the ground, its wildlife and the public, we have a section specifically for fires;

9 (1) No person shall light a fire or place, throw or drop a lighted match or any other thing likely to cause a fire.

9 (2) Byelaw 9 (1) will not apply to;

- a) Any event at which the Council has given permission that fires may be lit;*
- b) The use in a designated area for camping of a properly constructed camping stove or barbeque in such a manner as to safeguard against damage to the ground or danger to any person.*

2.7 Therefore, there are existing legal mechanisms in place to deal with the issue should it be felt required. The issue with byelaws of course is having the resource to enforce them and if we were to enforce, there is no option to impose an immediate fine, and therefore a court case would need to be prepared. In all enforcement we have to consider what is proportionate and the level of fine imposed is generally low. Therefore, one would suggest this mechanism would only be used in extreme circumstances.

2.8 Furthermore the separation of particular instances from enforcement makes for an inconsistent approach and open to challenge. For instance, a beach hut owner could not accurately be evidenced as being a lower risk than somebody simply sitting in a park or beach location. This becomes easier in the example of events, as these are generally pre-planned, registered with the Council and event documents provide evidence of safety and risk assessments. Our 'landhire' form is used to capture this information for any requests to use Council owned land for events.

2.9 The Sheppey Promenade Beach and Foreshore byelaws of 1991 (appendix III), however, do not contain any reference that could be considered to cover the use

of disposable barbeques. Therefore, at the current time it would be difficult to enforce any ban on use of barbeques on the beaches.

- 2.10 We have liaised with a neighbouring Borough, who have recently used different legislation to try and enforce a ban on barbeques in public places. Public Space Protections orders were introduced in the Anti-Social Behaviour, Crime and Policing Act 2014 and allow Councils to implement new controls that require residents to adhere to them. Failure to do so could result in the issue of a fixed penalty notice on the spot. This stemmed directly from a range of incidents that resulted in considerable damage to beach huts, litter bins and personal injuries. Their consultation took 8 weeks and 43% of respondents supported a ban. The Public Space Protection order, amongst other things included '*lighting or fuelling any open fire; and using, lighting or discarding any disposable barbecue*'. This allows for enforcement officers to issue immediate 'fixed penalty notices' (FPNs).
- 2.11 Swale Borough Council has a range of PSPOs in place covering dog offences, alcohol control and the gating of specified alleyways with regular reviews in place. Consultation with the public and police would be required to create a new PSPO related to this motion and evidence would need to directly link to disposable barbeques being the source of incidents.

3 Proposals

- 3.1 It is proposed that the Council support the calls for a national ban on the sale of disposable barbeques and we write to Central Government and local MPs showing our position.
- 3.2 It is also recommended that officers monitor the impacts of other Council's bans and how effective they are, whilst working with Community Safety colleagues to monitor stats on fires.

4 Alternative Options Considered and Rejected

- 4.1 Amend the current byelaw for foreshores and beaches to include a section on fires as per the pleasures grounds byelaws. As discussed, enforcement resources would need to be reviewed at a time where the Council is reassessing what it can and can't do due to the pressures of the Medium Term Financial Strategy. Furthermore, if we are reviewing alternative methods, it would not be best use of officer resource.
- 4.2 Seek to implement a new PSPO immediately and go out to consultation on including the ban on use of barbeques. This is not recommended at the current time as it is not felt there is sufficient evidence to justify the inclusion and we may be challenged on its implementation. This would also not allow time for a review of other Council's bans.

5 Consultation Undertaken or Proposed

- 5.1 We consulted with another Council who have recently implemented a ban.
- 5.2 We have liaised with Kent Fire and Rescue colleagues through the Swale Community Safety Partnership. We have agreed to monitor stats more closely and look at education campaigns due to the increase in wider fires across the Borough (not necessarily barbeques).

6 Implications

Issue	Implications
Corporate Plan	The proposal would align to Priority 2 of the Corporate Plan - Investing in our environment and responding positively to global challenges.
Financial, Resource and Property	The enforcement of byelaws and/or PSPOs would need either an increase in internal officer resource or increased costs of using an external contractor. This would need to be reviewed against the current Medium Term Financial Strategy and against the Council's priorities.
Legal, Statutory and Procurement	As discussed in the main document the Council currently has byelaws in place that could be used if required. There is strict guidance in place for the use of PSPOs and we would need to evidence the impact their use was having in Swale in order to justify.
Crime and Disorder	There has been an increase in fires recorded across Swale in the past 12 months but the source of these is often not known. It is considered the hot weather may have contributed to this but also, we have seen an increase in deliberate acts. As a result, the Community Safety Partnership will be reviewing alongside their priorities.
Environment and Climate/Ecological Emergency	Fires in greenspaces can harm wildlife and affect the biodiversity of the location.
Health and Wellbeing	None Identified at this stage
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	The main report documents the main concerns relating to use of disposable barbeques in public spaces. Consideration could be made in high use areas to install specific barbeque bins where hot items could be placed safely.

Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Motion presented to Council
- Appendix II: The 2005 Pleasure grounds, public walks and open spaces document
- Appendix III: The Sheppey Promenade Beach and Foreshore byelaws of 1991

8 Background Papers

- None