



Open Spaces

Registered Charities



Changing Legislation

A brief explanation of proposed changes to legislation governing the City of London's Open Spaces

The City of London provides 14 green spaces in and around London for the benefit of local communities. Most are registered charities operating at little cost to the general public.

**IMPROVING THE LEGISLATION
GOVERNING THE CITY OF LONDON
CORPORATION'S OPEN SPACES**

Introduction

The City of London Corporation owns Open Spaces outside the City of London which together cover almost 11,000 acres and attract an estimated 23 million visits every year. Most are run as registered charities. The City Corporation's involvement goes back to the 19th Century when it first joined the fight to protect important green spaces against encroachments by landowners, so that they would be available for the health and recreation of future generations of Londoners.

The City Corporation's Open Spaces are largely governed under special Acts of Parliament, many of which date back to the 1870s. Among the most important of these are the Hampstead Heath Act 1871, the City of London (Various Powers) Act 1877, the Corporation of London (Open Spaces) Act 1878 and the Epping Forest Acts 1878 and 1880, although further powers were obtained from Parliament in the 1930s and 1970s. The legislation has generally stood the test of time and served its purpose well. However, as the years have gone by it has become clear that there are certain areas where the City Corporation's legal powers need to be clarified and brought up to date.

The City Corporation is therefore considering the promotion of a private Bill in Parliament, including new provisions aimed at securing the best possible future for its Open Spaces. The proposals currently in mind can be grouped under three headings:

- 1. Clarifying the general management powers available to the City Corporation in the Open Spaces.**
- 2. Providing greater flexibility to generate revenue for the benefit of the Open Spaces, in a way that does not**

undermine their use for public recreation and enjoyment.

- 3. Providing more efficient and effective tools to deal with crime, anti-social behaviour and nuisance in the Open Spaces.**

Further details for each of these headings are given later in this document.

Formal consultation with interested parties on the final proposals will be part of the Parliamentary process. However, the City Corporation would like to share with you at this early stage some general ideas of what might be included, and to hear your thoughts. This will allow your views to be taken into account as detailed proposals are drawn up.

The Open Spaces which could be covered by the proposals are:

- *Ashted Common,*
- *Bunhill Field¹,*
- *Burnham Beeches,*
- *Coulsdon Common,*
- *Epping Forest,*
- *Farthing Downs,*
- *Hampstead Heath*
- *Highgate Wood,*
- *Kenley Common,*
- *Queen's Park,*
- *Riddlesdown,*
- *Spring Park,*
- *Stoke Common,*
- *West Ham Park,*
- *West Wickham Common.*

Differences in the existing legal regime and in circumstances on the ground will mean that the practical effects of any new legislation may vary from space to space. Legislation might also provide the opportunity to address technical issues specific to particular Open Spaces, although these are not dealt with in this paper.

It should also be noted that many of the rules governing the Open Spaces are set out in

¹ *Bunhill Field is not a registered charity, is located in Islington and is managed as part of the City Gardens*

byelaws rather than Acts of Parliament. The proposals referred to in this document would not affect the byelaws in place at each Open Space, any changes to which would be the subject of a separate process.

1. Clarifying the general management powers available to the City Corporation in the Open Spaces.

In relation to its Open Spaces, the City Corporation occupies the dual role of landowner (more particularly charitable trustee) and statutory authority under the applicable legislation. It is not always easy to work out the precise relationship between the City Corporation's statutory powers and its common-law powers as landowner.

To clarify the City of London's management powers and responsibilities, it would be useful to provide in legislation a suite of powers applicable across the Open Spaces, which expressly define the City Corporation's ability to exercise certain general functions of land management. These proposals are not intended to lead to any significant change in the running of the Open Spaces. Rather, they will be directed principally at clarifying the basis on which existing activities are undertaken, and enabling greater consistency of approach.

- ♦ The management of plants, trees and other vegetation is naturally an important part of the City Corporation's work in the Open Spaces. Under much of the current legislation, a duty is imposed to "protect" or "preserve" the vegetation and the "natural aspect" of the Open Spaces. The City Corporation has always applied a common-sense interpretation of this, which does not prevent the carrying out of works to control or manage plant-life where this is part of legitimate land management. Legislation would, however, provide the opportunity to clarify the situation by expressly setting out the appropriate powers. The existing duty to preserve the natural aspect of the Open Spaces would be maintained.
- ♦ Grazing activity is carried out on some of the Open Spaces, and the City Corporation would like to give this a firm basis in legislation. This would, again, be subject to the duties to preserve the "natural aspect" of the Open Spaces, and also to those commoners' rights that are still exercised.
- ♦ The City Corporation would like to have a formal procedure for entering into arrangements with utilities providers concerning utilities infrastructure (such as water pipes or telephone lines) running through the Open Spaces. Sometimes it is beneficial to permit this in the interests of those living or working in and around the Open Spaces, although any proposals are of course carefully scrutinised to make sure that they do not have harmful effects. Such infrastructure is usually underground and has no lasting effect on the amenity of the Open Spaces.
- ♦ It would also be useful to have an express power to enter into arrangements with local councils concerning local roads in and around the Open Spaces. Arrangements could cover, for instance, the installation of cattle grids in council-owned roads, the provision of traffic-calming systems, measures to reduce vehicle damage to verges or the erection of fences besides hazardous stretches of road.
- ♦ In most of the Open Spaces, the City Corporation already has the power to make arrangements for external providers to run services and facilities, for instance cafés, refreshment kiosks and car-parks. However, under powers set out in the 1930s, leases like these are limited to only three years at a time. This limitation produces uncertainty for the providers and naturally makes it difficult to attract the long-term investment needed to ensure a high standard of facility. By removing or extending this limitation the City Corporation could enter into longer-

term arrangements with external providers to run cafés and other facilities. This would bring the situation into line with normal practice at other parks and open spaces.

The historic three-year limit on contracts discourages many potential business partners. By extending or removing this limitation we can encourage more investment into facilities, and improve quality standards.

2. Providing greater flexibility to generate revenue for the benefit of the Open Spaces, in a way that does not undermine their use for public recreation and leisure.

As a result of cuts to local and central government spending, combined with wider economic circumstances, the funding of public open spaces has come under considerable pressure in recent years. This is expected to continue for the foreseeable future. The City Corporation's Open Spaces are by no means immune from these pressures. The need for budgetary discipline across the City Corporation's range of activities means that new sources of revenue need to be found.

While the City Corporation's powers as landowner might already give some ability to raise revenue in the ways described below, it would be more transparent and give greater certainty to have the powers set out clearly in legislation, subject to defined processes and controls.

It should be stressed that any revenue raised from the Open Spaces will go directly to the upkeep and management of the Open Space concerned.

- ◆ There are buildings and other areas within the Open Spaces which have the potential to provide attractive venues for those wishing to hold social or professional events. Examples could include weddings and civil ceremonies, conferences and

training courses. Where such events could take place without significant disruption to the visiting public or other harm to amenity, it is considered that they could provide a useful source of revenue for the Open Spaces.

- ◆ Some events do already take place in some of the Open Spaces, in reliance on the City Corporation's general powers as charitable trustee. It is not always clear, however, how these implied powers interact with the statutory schemes which govern the Open Spaces, and difficulties can arise, for instance, if a small area of land needs to be cordoned off for the duration of such an event.
- ◆ The central purpose of the Open Spaces is to provide recreational facilities for the public at large. Any use of that Open Space for private events must not undermine this principle and any interference with public rights of access would therefore be permitted only on an occasional and strictly limited basis. This will need to be stated clearly in any new legislation.

We already receive many requests to use our buildings for wedding ceremonies. This would always be done sensitively and with consideration for the public.

- ◆ Views would be welcome on whether we should introduce a scheme of paid licences for those wishing to use the Open Spaces to carry on certain business activities. Examples could include fitness instructors and commercial dog-walkers. The City Corporation's provisional view is that those who use the Open Spaces for private profit should reasonably be expected to make some contribution to the running costs of those spaces. Similar schemes are currently in operation in other open spaces, such as the Royal Parks.

- ◆ Some of the Open Spaces contain accommodation and other buildings originally designed for staff, but which are no longer required for this purpose. The City Corporation would like to allow private use to be made of these buildings, through appropriate lease arrangements whilst retaining them as the City of London's property.

Our Open Spaces have many lodges and offices which under current legislation must stand empty if not being used by staff. Renting would provide a good source of income, and help preserve these buildings for the future.

- ◆ Certain of the proposals in section 1 might also give the opportunity to raise revenue, such as those concerned with granting rights for utilities and letting out cafés, although revenue would not be the main focus of these measures.

3. Providing more efficient and effective tools to deal with crime, anti-social behaviour and nuisance in the Open Spaces.

One of the biggest difficulties in managing the Open Spaces is that of people who abuse the advantages they offer, to the detriment of other visitors. Problems include littering or fly-tipping; damage to wildlife or plants; improper use of bicycles or vehicles; camping, barbecues or fires; dog fouling and behaviour; and disorderly or indecent acts.

Existing byelaws are generally wide enough to cover most of the harmful activity which takes place. However, it is considered that the City Corporation's enforcement powers are out of date and have fallen behind those of other managing bodies in similar positions. Legislation would provide the opportunity to modernise these powers in order to make enforcement more efficient and effective.

- ◆ Legislation could provide the opportunity to bring the maximum fines under the

byelaws into line with the "standard scale" which applies to equivalent byelaws elsewhere. In most of the City Corporation's Open Spaces the fine is currently fixed at a maximum of £200, an amount which has remained unchanged since the 1970s. Most other public open spaces in and around Greater London apply a "level 2" fine. This is currently £500 but is shortly to rise to £2,000 under government proposals. There would appear to be no good reason for this disparity and it is proposed that "level 2" fines should also apply to the City Corporation's Open Spaces. This would provide a more effective deterrent to those who might infringe the byelaws.

Linking with the national standard scale of fines will help deter fly-tippers and keep penalties in line with other authorities.

- ◆ A power could be sought to give Fixed Penalty Notices (otherwise known as "on-the-spot" fines) for offences committed under the byelaws. Currently the only means of enforcing the byelaws is to carry out a full prosecution in the magistrates' court. Although effective, this is a time-consuming and costly process, both for the City Corporation and for the person accused. Fixed Penalty Notices give offenders the option of avoiding formal prosecution by paying a smaller fine (usually no more than £100). This is often a more efficient and proportionate way of dealing with misbehaviour. The advantages of Fixed Penalty Notices are already well recognised in the legal system, with legislation in recent years making them available for an increasing number of minor offences.
- ◆ Along similar lines, the City Corporation would like to be classed as a "litter authority" for the Open Spaces, so that it would be able to give Fixed Penalty Notices for littering.

The City Corporation's policing of the Open Spaces focuses on educating users about proper behaviour, rather than formal enforcement. This is not intended to change. Fixed Penalty Notices would, however, offer a lighter-touch option in those cases where misbehaviour is serious or persistent enough to warrant formal sanction.

- ◆ An express power could be sought to dispose of rubbish and other objects left in the Open Spaces without proper authority. Sometimes it is already clear that the City Corporation can do this in reliance on its general powers to manage the Open Spaces, for instance in the case of general litter. In some cases, however, such as camping equipment or unlicensed signage, the legal position is less clear-cut. It would seem reasonable to be able to dispose of objects which are left in circumstances where they appear to have been abandoned, or which are not collected within a reasonable period.
- ◆ Views would also be welcomed on whether or not the City Corporation should have the power to exclude persons from the Open Spaces in cases sufficiently serious to warrant it. The public have a right to access the Open Spaces, but if this right is abused in a serious or persistent manner then it might be thought that exclusion for a certain period of time could be an appropriate way of protecting the enjoyment of the law-abiding majority of visitors.

How to have your say:

We hope this document has demonstrated both the need for changes to current legislation, and the desire that these changes are proposed first and foremost for the benefit of the users of the Open Spaces.

It is important that the general direction of the proposals is clear, understood, and supported by local groups and interested parties before the formal Parliamentary process gets underway.

If you have comments or questions, first please speak to representatives at your local Open Space.

If you wish to contact someone directly regarding the implications at Hampstead Heath, Queens Park or Highgate Wood please address this to:-

Bob Warnock

Superintendent - Hampstead Heath,
Highgate Wood & Queen's Park
Heathfield House,
432 Archway Road,
London,
N6 4JH

Hampstead.heath@cityoflondon.gov.uk

Telephone: 020 7332 3322