

24 October 2022

Caroline Leet
Edenbridge Town Council

Our Reference: Kent 22/511
Your Reference:

By email only: townclerk@edenbridgetowncouncil.gov.uk
chief.executive@kentalc.gov.uk

Dear Caroline,

Re: Client: Edenbridge Town Council
Subject Matter: Byelaw questions

I have been allocated this request to advise upon and I have seen your emails dated 13 October 2022 together with a copy of draft byelaws.

The issue in this request is the effect of the town council's draft byelaws.

The first point to make is that the byelaws are stated to be based on NALC's model byelaws but they are in fact based on the government's model byelaws, the NALC does not produce model byelaws. As a result, this advice cannot be a definition of what was intended by the byelaws as that is only known to the government. The advice will therefore be restricted to the legal effect of the byelaws.

The request provides a copy of the draft byelaws and asks a set of specific questions.

- 1. Protection of structures and plants 4 (2) No person shall walk on or ride, drive or station a horse or any vehicle a, b & c... (Page 5). The Recreation Ground in Edenbridge has issues with travellers with trotting carts which they drive/race on the grass and sports pitches of the Rec. Would this byelaw cover this?**

The wording would cover trotting carts but only in respect of driving over the three specified areas which do not include grass areas. The draft byelaws could be modified to ban racing horses or vehicles on the grass areas.

- 2. HORSES, CYCLES AND VEHICLES Interpretation of Part 3: can we included the wording 'electric/battery scooters and go-carts' ? (Page 6).**

The definition of motor vehicle as any mechanically propelled vehicle covers battery or electrically propelled vehicles. In any event the draft byelaws can include anything that the town council wishes to include.

3. Horses (14) do Travellers have a “lawful right or privilege” that they can exercise over public land under Byelaw 14? (In which case would override number 4?) (Page 6). Can we specifically say ‘no horse riding’ under this byelaw?

I do not know the history of the area or of what rights and privileges apply to it. The draft byelaws can exclude horse riding although this could be challenged if there is an existing public right of horse riding.

4. Part 6 Model Aircraft (page 9). Two questions:

(i) Does this include drones? If it does can we add the wording drone in the interpretation?

It would be wise to add drone to the definition to avoid misunderstanding by users.

(ii) 33(a) can the wording ‘or across’ ground be added. It would then read ‘take off or otherwise be released for flight or control the flight of such an aircraft in or across the ground’;

As stated above, the draft byelaws can include whatever the town council wishes to include so long as they do not interfere with existing legal rights (such as the rights of commoners).

(iii) Can our Byelaws still operate on adjacent water meadows land managed by the Town Council under licence? It previously was and included in the schedule 1. (Page 12)

The byelaws can cover any property operated by the town council whether as owners or as occupiers.

I hope that this clarifies the position but if the council requires any further information or advice, please contact NALC again.

Yours sincerely,

Gary Barker
Solicitor
NALC