


Sent: 07 October 2013 13:12
To: Patrick Kilburn
Cc: 
Subject: RE: Use of skateboards on Valley Gardens Footpaths

Hi Patrick

Not sure where to start with that, he makes plenty of points but doesn't really ask any questions. So I will just try to cover the points he makes relating to the byelaws:

1. The Valley Gardens byelaws are actually called "Byelaws with respect to certain pleasure grounds" and do exclude Bogs Field.
2. The Bogs Fields are however specifically covered by the Harrogate Borough Council Act 1986 (I presume this is the one he is referring to, I am not aware of a 1996 Act) in that we can make byelaws under that Act relating to Bogs Field but I am not aware of any specific byelaws regulating Bogs Field.
3. His assertion that there is no potential for prosecution for byelaws made under the HBCA 1986 is incorrect though. Clause 29 of the 1986 Act states that "Any person who intentionally obstructs any officer of the Council acting in execution of this Act or of any byelaws made under this Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale". Even if this clause was not included we could have included the fine clause in the byelaw. The problem being there has not been any byelaws made under the Act relating to Bogs Field, or I am not aware of any.

That's the easy part done with. Now let's look at the actual provision in the byelaw governing pleasure grounds.

1. To me there seems to be contradiction in clause 4 of the byelaw, or at least a lack of clarity, for which I will be paraphrasing. It begins by stating that all vehicles are prohibited from coming on to the grounds, but at 4(i)(a) allows bicycles, tricycles or other similar machines. Could a skateboard/scooter be a 'similar machine'? To me it could. So it seems they are allowed on the grounds. It then goes on to say that provided the Council has set apart a space on the grounds for the use of any class of vehicle that the byelaws should not prohibit the driving of the vehicle from the entrance to the space set aside for that class of vehicle. Again in my opinion this could include a skate park (the space set aside for the use of that vehicle), so skateboard users (the class that the space is set aside for) should be allowed to enter/exit the grounds on their skateboard if they are using the space set aside for them (the skate park). It seems clear to me. But then the byelaw, at 4(ii) specifically states that "A person shall not except in the exercise of any lawful right or privilege ride any bicycle, tricycle or other similar machine on any part of the ground". That final clause to me seems to outright prohibit the riding of vehicles on any part of the grounds. The only saver is that it can be argued that the 'lawful right or privilege' is the right conveyed on them to use the skate park.

2. It is useful to note though that clause 4(i) is concerned with the bringing of vehicles on to the grounds, rather than the actual riding/driving of the vehicle, which is covered in 4(ii).

3. Mr Wray's interpretation of the clauses, and the problems it causes, does seem sensible to me. If we are saying that skateboard users have the right to use the skate park then we can't prohibit their use anywhere on the grounds as we have set aside a space for them to use so they have the right to ride their vehicle to that space. The same goes for clause 4(ii) as we are giving the skateboard users the 'lawful right or privilege' to use their skateboards, so again they would be permitted to ride anywhere in the grounds.

4. I do not necessarily agree with his assertion that the users of the skate park are breaking the law though. His opinion is that the Council can only set aside space for vehicles that are prohibited from the grounds in 4(i), but I do not see that. The clause states 'for the use of any class of vehicle' so I don't think it means just vehicles that are prohibited in clause 4(i), but I do appreciate that it could be interpreted that way. If it was meant to mean what Mr Wray says I feel the correct wording would have been 'for the use of any class of vehicle prohibited under this byelaw'. Although it could just be poorly drafted which leaves it open to interpretation either way.

I think that covers the byelaws references he makes. I hope that helps. As for whether he is right or wrong, it all depends on the interpretation of the byelaw, unfortunately the way it is worded it could be argued either way.

Regards

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

-----Original Message-----

From: [REDACTED]

Sent: 13 December 2013 16:50

To: Patrick Kilburn

Subject: RE: Use of skateboards on Valley Gardens Footpaths

Hi Pat

I think what [REDACTED] email and research shows is that the byelaws are contradictory and probably not fit for purpose anymore and if there is a real problem here we may need to look at revising them along with everything else we have to do.

What I would say is yes so long as we identify a route they can ride to the skatepark but not around the gardens. This would have to be an education with the riders as it would be not easy to police .