Pleasure Grounds, Public Walks and Open Space Byelaws

To consider an amendment to the draft Pleasure Grounds, Public Walks and Open Space byelaws following the responses to the recent public consultation.

1. Relevant Background Details

The Council is in the process of updating its existing 1972 borough byelaws for Leisure Grounds, Parks and Open Spaces as they do not cover borough changes that have occurred over the past 46 years especially advances in technology for flying model aircraft. The purpose of the update is to:

- Make the byelaws less complex and more consistent with modern practice
- Remove restrictions that are no longer required;
- Reflect changes to the areas owned or controlled by the Council;
- Ensure that any byelaws are a robust framework for tackling the spates of anti-social behaviour that happen from time to time.

In conjunction with the above, a report was presented to the June 2018 One Corby Policy Committee to approve a policy for restricting flying of unmanned model aircrafts from or over Council land.

Part of the process required public consultation on the draft byelaws. The consultation was held from the 8th October 2018 - 8th November 2018. The next stage is for the draft byelaws to be submitted to the Secretary of State for a decision to progress.

It was emphasised within the consultation documentation the Borough Council sees byelaws as being a last resort. It is not the Council’s intention to place unnecessary restrictions on residents, rather it wants local residents to be able to use and enjoy its facilities for the widest possible range of activities that are consistent with the peaceful enjoyment of others. Corby Borough Council will aim to resolve issues through education, dialogue and persuasion before resorting to the application of the byelaws.

2. Report

Twenty seven responses to the consultation have been received; all are with regards to the policy of restricting power-driven model aircraft that are now included in the draft byelaws. Content of responses are detailed within Appendix 1.

This policy agreed in June to restrict power-driven model aircraft caused some debate through social media with 27 responses to the changes in the byelaws in favour of allowing power-driven model aircraft or drones continued use on Council public parks.

Responses made the point that used properly they are safe and there have been minimal accidents recorded so far in the UK. A number of references are made to the fact that power-driven model aircraft or drones used are required to abide by current aviation laws that restrict heights and where they cannot be used.
Due to the number of responses received it is important that these representations are considered and whether any further amendment to the byelaws is required before presenting to the Secretary of State for approval.

3. **Options to be considered (if any)**

**Option One** - To continue to submit the updated draft byelaws to the Secretary of State for approval without amending.

The only exemptions proposed currently in the draft byelaws with regards to power-driven model aircraft is use by the emergency services, building survey work and professional services such as festivals and events media.

Other flying of unmanned model aircraft are currently proposed to be restricted from or over Council land due to concerns the Council could be held liable for subsequent actions brought about by drone and model aircraft activity when operated from land under our ownership, potential risk of accident, injury to other site users or property as a result of user or drone error and potential risk of causing disturbance, annoyance or harassment to occupants and the users of public open space.

**Option Two** - To amend the draft bylaw and the recommendation to agree consent from the Council in specific designated areas allowing power-driven model aircraft or drones; if in possession of the appropriate permit from the Council.

The policy in relation to drones and model aircraft be amended to set out the requirements and criteria for issuing the “appropriate permit” referred to the byelaw.

Therefore if agreeing the above, the following would be implemented;

- The areas to which this option would apply will need risk assessed and ensure that they comply with the CAA regulations and any reasonable measures to reduce risk taken, in order to reduce the possibility of negligence in relation to any incident that could occur.

- The regulations for recreational drone flights are contained within the Civilian Aviation Authority (CAA) Air Navigation Order 2016 (ANO) which is the primary document for all aviation regulations within the UK. In addition to these regulations the government is introducing that owners of drones weighing 250 grams and over will have to register details of their drones and users will have to sit safety awareness tests to prove that they understand UK safety, security and privacy regulations.

  It will also be a requirement that power-driven model aircraft or drones uses before being issued a permit, provide evidence that they have £12m public liability insurance cover.

- Areas may be ruled out due to high usage by the public or the proximity to roads, housing or commercial properties.

**Option Three** - Not to update the 1972 Byelaws.

Existing Borough byelaws for Leisure Grounds, Parks and Open Spaces have not been updated since July 1972 and do not cover advances in technology for flying model aircraft.

The byelaws do not incorporate other relevant changes and additional recreational land that the Council has adopted over the last 46 years. To remain with the 1972 byelaws would
mean that parks and open spaces created after this date would remain not covered by any Council byelaws.

4. **Issues to be taken into account:-**

   **Policy Priorities**
   The updating of the byelaws that includes a policy regarding flying unmanned model aircrafts from or over Council land allows officers to be consistent in their approach when dealing with requests from members of the public.

   **Financial**
   There are minimal financial costs for the public consultation on changing the byelaw and this being advertised in the local press.

   If the decision is to remain with the policy of not allowing unmanned Model Aircraft and Drone, there is the possibility of legal challenge which may have associated costs.

   **Risk**
   The Council is at a higher risk if mitigating actions have not been undertaken to reduce the likelihood of an accident on Council pleasure grounds, public walks and open spaces.

   The introduction of a permit with regulations for recreational drone flights would reduce the risk.

   **Legal**
   The Byelaws (Alternative Procedure) (England) Regulations 2016 introduced new arrangements for byelaws. The regulations simplify the procedures for making new byelaws and amending byelaws, including replacing the Secretary of State for Communities and Local Government’s role in confirming byelaws. This is now a matter for the Council, having taken account of any representations made about the proposed byelaw. The Secretary of State’s role now is simply to consider an application to make byelaws, and then give leave to do so.

   The new arrangements transfer the accountability for making byelaws to local councils. Local councils should ensure that a proposed byelaw is proportionate and necessary before making any new byelaw. Under these new arrangements, the Secretary of State now only considers the draft byelaws, report and deregulatory statement provided by the local authority, and will either give or refuse leave to proceed. In this case leave has been given. The new arrangements allow the Council to make only minor modifications to the proposed byelaws after leave has been given.

   The current byelaw was created in 1972. The purpose of the amendment is to bring the byelaw up to date with modern society and incorporate in the schedule the many new parks and open spaces that Corby Borough Council has acquired and enjoyed the ownership of since the byelaw’s creation and covers advances in technology for flying model aircraft.

   The amended byelaw is based on the “model byelaw” issued by central government and many of the provisions are the same as the original but set out in a manner that specifies certain activities, rather than particular activities requiring interpretation. This removes ambiguity and provides a more plain English approach to setting out the Council’s regulation of the areas and the responsibilities of residents and visitors to them.

   If the blanket ban policy is maintained for flying model aircraft, Corby Borough Council would need to be able to justify, if challenged, the proportionality of this throughout the borough, rather than in areas of reported nuisance or incidents.
Performance Information

The updating of the byelaw and the community consultation will be undertaken jointly by staff in Culture and Leisure and Legal Services.

Human Rights

Not applicable to this report.

Equalities

It should be noted that before resolving to adopt the byelaws, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not.

The equality assessment report will cover the required permission for members of the general public wanting to fly unmanned model aircrafts and drones from or over Council land as a recreational activity.

Community Safety

Permission or not giving permission to flying unmanned aircrafts or drones, will be to ensure the Council protects residents and visitors to the Council’s parks from any dangerous use, unauthorised filming and potential risk of causing disturbance, annoyance or harassment.

Byelaws have the force of law within the areas to which they apply. They are accompanied by some sanction or penalty for their non-observance. They are enforced through the magistrates’ court and contravening a byelaw can result in a fine upon successful conviction.

Conclusion

The Civil Aviation Authority recognises that unmanned flying model aircrafts and drones are rising in popularity and have introduced regulations for their use. This is reflected in the number of responses to the recent public consultation response to update the byelaws and the rising number of requests from members of the public to fly drones in parks and open spaces.

Taking all factors and responses into consideration it is concluded that it would be preferable to consider amending the Unmanned Model Aircraft Policy to allow powered model aircraft and drones to be used from or over Council land if they are in possession of a permit from the Council, that complies with existing and emerging/new civil aviation regulations.

Areas may be ruled out due to high usage by the public or the proximity to roads, housing or commercial properties.

The next stage will be to seek approval from the Secretary of State for the draft byelaws covering Pleasure Grounds, Public Walks and Open Spaces that are Council owned.

5. Recommendations

The Committee approve:-

1. Option Two, to amend the draft byelaw and unmanned model aircraft policy to allow powered model aircraft and drones to be used from or over designated Council land, if they are in possession of a permit from the Council that complies with existing and emerging/new civil aviation regulations; and

2. The draft byelaws covering Pleasure Grounds, Public Walks and Open Spaces being presented to the Secretary of State for approval.
Background Papers
Corby Borough Council, byelaws with respect to the regulation of recreational grounds and other open spaces July 1972.
The Civilian Aviation Authority (CAA) Air Navigation Order 2016 (ANO) www.caa.co.uk
Guidance on Local Government Legislation for on byelaws www.gov.uk

List of Appendices
Appendix 1 - Consultation Responses.

Officer to Contact
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Appendix 1

Responses to consultation on byelaws for pleasure grounds, public walks and open spaces

The consultation opened on Monday 8th October and closed on Thursday 8th November 2018

Model Aircraft (Byelaw 36)

1. why are you trying to ban them they bring pleasure to the person controlling them, they are being used in a public area, and in an open space, where are people meant to go to enjoy their hobbies if you keep banning them from doing so. you are meant to be trying to get more people to the area and making it a better place for the local economy but with banning things like this people will not come to the area to enjoy there hobbies as such does this not mean that the council is taking away from the local economy and alienating people for having hobbies in this area. if people are not allowed to use them in open spaces where are they suppose to use them???

2. I don’t see why this is an issue. I have no problem with drones being used in public parks, etc when they are used safely. If this means issuing a licence to operate, then so be it. This is a leisure pastime and gets people out in the fresh air. This will in turn improve health in the borough. This could also lead to having Council organizes / approved activities, competitions etc. This is modern tech and a lot of people and children would be very interested.

3. There is no need for a blanket ban on radio controlled models as this is already covered by the Civil Aviation Authority Laws. It would also NOT be a significant positive impact as there are no negative impacts now. You say that there would be a positive increase in regulation but you cannot supercede theCAA. You also mention health and safety, absolutely poppycock. This is also covered by the police and CAA, criminal damage, abh, gbh, assault etc.. and is legally enforced when reported! Spend our council tax monies/time on things to help the community, not interfering where there are already stringent laws in place.

4. 4. Hi, I feel that Done flying in public spaces should be allowed. This is probably less dangerous than ball games and so on. There surely is no privacy issue as it will be in a public place? Maybe you could just put a limit on size?

5. 5. How many incidents have the council been alerted to? Very few I expect. This is taking a sledge hammer to a walnut, and will be very difficult to enforce. Save your money, you need it.

6. 6. Good day, A by-law that I understand that exists in Corby is that vehicles are allowed to park in bus stop bays unless there is double yellow lines. I have a vested interest in this as I am a Corby bus driver. It is about time discipline was put back on the roads. With more passengers being wheel chair users it is more difficult to debus them safely. Busses are huge vehicles and this by law would help us help the passengers.

7. 7. No evidence presented that significant health & safety incidents have occured or that the use of remote controlled aircraft presents a significantly greater risk that flying large kites.

8. I have no issues with anyone flying model aircraft or drones in public parks
9. As an Avid drone flyer and photographer I really don't see the need for this ban. As I'm aware there have been no complaints about drones hitting people or damaging any public property. The chances of anyone being hit by drone is near impossible you have more chance of being hit by a golf ball in the west glebe Park were they like to hit golf balls (which is not a golf course) as I am aware all the places that you are proposed to banning drones are all the places I pay council tax to maintain to be honest this is a waste of money there are better things Corby council could be spending money on like taken care of parks and recreation and moving on drug dealers that deal drugs in kiddies parks. These drones are not cheap and we don't buy them to just to muck about I have recently started to sell my photos online and if this ban comes in it would affect my photos being sold. I think maybe if you look into what these drones do and all the safety technology that's on then you would see.

10. I do not see a problem with flying drones in Corby parks, so long as the operator has a license, drones now come with a wealth of technology and all will return to base once a low battery indicator is activated, I hope you see sense and allow this to continue.

11. Can you explain why these bylaw have not changed this is a 21st century modern gadget. You are saying this could cause environmental issue and health and safety problems but I’m sure cars with poor engine emission causing more harm that a drone. Also your more likely to fall over your Kirb and walkway more than a drone falling from the sky. If this is controlled with a licensed operator like your fishing lake my opinion this would be more affective rather than stopping altogether. This way you can police the users.

12. The Corby Borough Council are wrong to ban Drones, this technology is safe and a low risk compared to other activities that are allowed in Corby parks. I am all for Drone Flying in Corby.

13. A blanket ban is unnecessary. Current aviation laws cover all that is needed. This is just more red tape.

14. I believe the current CAA guidelines are sufficient

15. As a regular user, with my family, of local pleasure grounds, public walks and open spaces over several years as a resident of Corby, I have never seen any evidence of any antisocial or unsafe activity involving radio controlled model aircraft or drones. The introduction of a bylaw is unnecessary and excessive with no positive impacts. There is however a significant negative impact upon those people who presently safely and legally participate in a harmless and fun leisure activity. It is very much in the public interest that those who wish to participate in this activity continue to be permitted to do so in our public spaces, as it represents exactly the right use of those public spaces, i.e. for healthy outdoor family recreational pursuits, which justify the money spent on the maintenance of those public spaces. Please also consider also that this bylaw may indirectly discriminate against those with mobility difficulties whose outdoor recreational options may already be limited to exactly this sort of activity.

16. Do not have any problems whatsoever for those using drones in public areas as long as they follow CAA rules and laws. There is no need for council involvement as there are strict laws already.

17. CAA guidelines are robust enough, no additional bylaw is required and in my opinion would be a waste of resources.
18. I object to this change. The majority of drone owners are responsible and there are very few examples of harm caused by drones. All this will do is create more expense for the council to enforce a rule against something that isn't causing a problem in the first place.

19. We have laws to control the use of drones and model aircraft in place. You are overreaching. Have there been any cases of physical harm to anyone caused by model aircraft in the borough that are not covered by current law? This proposal is not in the public interest.

20. 100% Disagree, the existing regulations provided by the CAA provide robust regulations with regards to the flying of drones and other aircraft, there is absolutely no need for the further regulation , You may as well ban people flying kites while your at it.

21. Disagree, CAA regulations already in place. Any infringement resulting in injury to third parties would not be the fault or responsibility of the council. CAA and Police would be responsible for enforcing already existing regs. New CAA regs will require all hobbyists as well as commercial operators to undertake a competency test, thus ensuring they understand their responsibilities as a drone pilot.

22. i have no objections to drones aslong as there flown safely

23. I see no problem with any radio control flying if it is done safely.there are very few people doing this .i have no objection to allowing flying

24. Model aircraft pose no more risk to the public that a stray football, golf ball or others sports items that are used in a public park or public area. How many complaints have been made regarding model aircrafts and can the council share the risk assessment in securing the health and safety of the public. Risk assessment will show the perception of risk and likelihood, which would come out lower than someone hitting a golf ball in a park.

25. The new drone laws are Robust, there is no need for a Byelaw. If Corby Borough Council are going to discriminate against model flying aircraft eg: Drones, then you must ban Cricket as balls can be launched in any direction out of control, same for football, golf balls flying through the air are more dangerous compared to a drone. Also Corby Council allow fair ground rides onto it's land there are many instances of injury with fairground rides, just Google it. So if Corby Borough Council allow other activities as above you will not be able to secure Health & Safety to the members of the public. You must ban all these activities if Drones are banned.There is no such thing as privacy in a public area. You will have to ban people from taking photo's & Video in Parks from mobile phones or other recording devices. . The Civil Aviation Authority encourage safe drone flying. Other Councils in the UK also allow drone flying in their parks. This byelaw will not stop people who have a disregard for the law.

26. Aircraft, hang gliders and hot air balloons (Byelaw 41)

27. I see no problem with flying done sensibly