

RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO COMMUNITY SERVICES COMMITTEE

DECISION

meeting date: 9 JANUARY 2022
title: OPEN SPACE USE
submitted by: JOHN HEAP, DIRECTOR COMMUNITY SERVICES
principal author: MARK BEVERIDGE, HEAD OF CULTURAL SERVICES

1 PURPOSE

1.1 To seek a recommendation from Committee for the control of activities on and above the Council's Open Space areas.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - To help make people's lives healthier and safer.
- Corporate Priorities - To sustain a strong and prosperous Ribble Valley.
- Other Considerations – To have a consistent approach for the use of our land.

2 BACKGROUND

2.1 The Council's open spaces are amenity areas used by all sections of the community. Generally, these spaces are used for walking, informal recreation, dog walking, picnics etc.

2.2 The areas include the Castle Grounds, Brungerley Park, Edisford River Bank, Kestor Lane, John Smiths, the football pitches and play areas, as well as many other plots of land across the Borough.

2.3 In recent times there have been increasing numbers of people asking for permission to carry out a range of activities including; drone flying (unmanned aerial vehicles, UAVs), metal detecting and personal trainers running their exercise classes on our land. These activities also probably happen without us being asked in advance as well.

2.4 At the current time if permission from the Council is sought by people to carry out any of the activities in 2.3, the answer has been that formal permission will not be granted on the basis that in giving such a permission then the Council could be held accountable if there is a problem arising from the activity.

2.5 When formal permission is given to an activity, be that a football match or an event on Council owned land, we issue a contract, whether that involves a fee being paid or not. This requires that the organisation that is then using a space does so in manner which is controlled, has insurance cover for the participants and agrees to the Council's conditions of use. None of this would apply to people who use the spaces informally, primarily because the Council unless notified of an issue would not be aware of every use of the open spaces and does not have the resources to police every area throughout the week.

3 ISSUES

- 3.1 The principal issue with the types of activities which we are asked about is they may have an impact on other users of the open spaces. For example, metal detecting although in many cases carried out by responsible people, can result in depressions in the land and in the worst case simply a hole, if the person chooses not to fill in where they dig, which in turn presents a risk to other users of the area. For UAV users they ought to be covered by CAA Regulations and have their own insurance, but not all will. For personal trainers they would be in receipt of fees for their services and other users of our open spaces in a similar situation are asked to pay a fee for use of the space.
- 3.2 The open spaces are covered by the Council's public liability insurance and for claims against the Council, negligence must be proved by the claimant. In all cases this is investigated by our insurers as they are the ones who must decide on the validity of the claims. In an average year we receive several insurance claims from the public using our land.
- 3.3 The issue for anything other than informal recreational use which is an activity which does not require our permission, is when the Council gives permission for specific activities when asked, this then places some responsibility on the Council in the event of a problem arising from that activity. Which is why if formal permission is given, we enter into a contract with the organiser.
- 3.4 For activities such as Park Run, we have given our permission and support to that activity as it offers considerable community benefit. For other events such as Fun Fairs or concerts at the Bandstand we either have a charge or accept some responsibility for the wider community benefit.
- 3.5 Whilst the Council has no wish to stop people using the open spaces for legal activities, the issue is their potential impact on the Council's liability as the landowner. The informal arrangement which has been in place to date does require to be formalised, to prevent any future issues with requests that may be submitted.
- 3.6 For areas such as the Castle Grounds, which has special status, permission for any metal detecting would only be granted in the event of a specific archaeological undertaking.

4. CONCLUSION

Drones

- 4.1 It is recommended that UAV flying should be prohibited over Council owned land, save where it can be demonstrated that it would reduce risks from working at height, as part of a building survey or linked to filming permission the Council grants for professional companies or news gathering purposes. In these instances an application to do so would be required to be submitted to the Council in advance to ensure that all necessary CAA Licences, insurances and qualifications are in place in advance. Many of our sites are close to other properties and granting permission may cause disturbance, annoyance or harassment to those occupants or the users of public open space. The implementation of these arrangements will assist in limiting this risk.

Metal Detecting

- 4.2 It is recommended that the Council prohibit all metal detecting on its land save where this is linked to a survey as part of an approved programme of archaeological investigation. A number of specific problems can arise from the

activity: damage to tree roots, plants and wildlife, creation of trip hazards and the loss of information as a result of the removal of artifacts from their original location. Also disturbance to listed parks such as Kestor Lane or protected sites such as the Castle grounds. The limitation on these activities would therefore reduce this risk. In the event of an archaeological investigation, an application would be required to be submitted in advance and that the Council could assess the risk of any damage being cause and so that the appropriate agreement could be put in place to ensure that the Council is properly indemnified in the event of any damage being caused.

Fitness Classes

- 4.3 There are various Acts of Parliament which encourage the use of Open Spaces for recreation, s.164 Public Health Act 1875, S.19 Local Government (Miscellaneous Provisions) Act 1976). However, where individuals or businesses are seeking to use the areas for organised classes, this must be regulated to minimise conflict between existing users and to ensure that such operators have the require qualifications and insurance. It is recommended therefore that the Council implement a permit system and a policy to such use.

5 RISK ASSESSMENT

- 5.1 The approval of this report may have the following implications.

- Resources – The administration of all events is part of one post in Community Services, therefore if the number of transactions were to increase significantly that work would exceed the staff resource available to carry it out. The Council does not have the resources to monitor all the of the open spaces and the types of activities which may be occurring.
- Technical, Environmental and Legal –The Legal department shall be consulted in the development of the recommended policies and procedures.
- Political – None in the context of this report
- Reputation – The public open spaces are a resource used by all sectors of the community both resident and visitors. Use by one group can and does sometime have an impact on others which is then the responsibility of the Council to resolve.
- Equality & Diversity – An equality impact assessment shall be completed in developing the policies and procedures referred to above.

6 RECOMMENDED THAT COMMITTEE

- 6.1 Approve the proposals set out in the report with regard to use of drones, metal detecting and fitness classes on Council owned land; and
- 6.2 Delegate authority to the Director of Community Services to prepare and carry out the relevant consultation upon the above policies.

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