Item: 9


Policy on Intentional Balloon and Sky Lantern Releases.

Report by Executive Director of Development and Infrastructure.

1. Purpose of Report
To advise on monitoring the effectiveness of the policy statement on intentional balloon and sky lantern releases and to consider the introduction of byelaws.

2. Recommendations
The Committee is invited to note:

2.1.
That, in July 2015, the Council approved a policy statement in respect of Intentional Balloon and Sky Lantern Releases.

2.2.
That minor amendments have been made to the Policy Statement in respect of Intentional Balloon and Sky Lantern Releases in order to reflect recent statistical changes, with the updated Statement attached as Appendix 1 to this report.

2.3.
That, since approval of the policy statement in 2015, there has been one incidence where advice was provided to prohibit the intentional release of balloons at a Council endorsed event, resulting in the balloon release not going ahead.

2.4.
That Orkney does not have a problem in respect of intentional balloon and sky lantern releases, as detailed in section 6 of this report.

It is recommended:

2.5.
That, given the lack of evidence showing that intentional balloon and lantern releases are a significant problem in Orkney, a byelaw prohibiting releases should not be developed at this time.

3. Policy Aspects
The retention of the Policy on Intentional Balloon and Sky Lantern Releases continues to support the Council’s priorities in relation to promoting successful, thriving communities.
4. Introduction

4.1.

At its meeting held on 11 June 2015, the Development and Infrastructure Committee noted:

4.1.1.

That the Council had received representations with regard to the intentional release of balloons and sky lanterns and the effect that might have on the environment.

4.1.2.

That the issue of intentional release of balloons and sky lanterns had not previously been addressed by the Council.

4.1.3.

That local authorities had a responsibility to keep public open spaces free from litter, however the release of balloons and sky lanterns was yet to be deemed as littering in terms of the Environmental Protection Act 1990.

4.1.4.

That 33 local authorities in the UK had balloon/lantern release policies, including Shetland, Highland and Aberdeenshire.

4.1.5.

The draft policy statement in respect of the prohibition of intentional balloon and sky lantern releases, attached as Appendix 2 to the report by the Executive Director of Development and Infrastructure.

4.2.

The Committee recommended:

4.2.1.

That the Intentional Balloon and Sky Lantern Releases Policy Statement, attached as Appendix 1 to the Minute, be approved.

4.2.2.

That the Executive Director of Development and Infrastructure should submit a report, to a meeting of the Committee within the next 12 months, exploring the feasibility of developing local byelaws extending the prohibition beyond the limited scope of the policy statement, referred to at paragraph 4.2.1 above.
4.2.3.
That the Executive Director of Development and Infrastructure should monitor the effectiveness of the policy statement, referred to at paragraph 4.2.1 above, for a minimum period of 12 months, and thereafter submit a report, to an appropriate meeting of the Committee.

5. Background

5.1.
Although local authorities have a statutory duty to enforce the Environmental Protection Act 1990, the release of balloons and sky lanterns is yet to be deemed littering under the legislation. However, this does not diminish a local authority's responsibility to keep public open spaces free from litter.

5.2.
The Council would have justification for creating a byelaw under section 201 of the Local Government (Scotland) Act 1973.

6. Review

6.1.
In order to establish if it is necessary to draft and apply for confirmation of a byelaw, as set out in Section 202 of the Local Government (Scotland) Act 1973, evidence of known balloon and/or sky lantern releases within Orkney was sought.

6.2.
At time of writing, no complaints have been received alleging balloon and/or sky lantern releases, nor is there any anecdotal evidence of balloon and/or sky lantern releases within Orkney outwith the scope of the Council's policy statement.

6.3.
Since approving the Policy Statement, there has only been one known incidence where advice was provided to prohibit the intentional release of balloons at a Council endorsed event. The balloon release did not go ahead.

6.4.
Despite there being no evidence to suggest that Orkney has a problem with regards to intentional balloon and sky lantern releases, it should be noted that, at time of writing, approximately 60 local authorities in the UK are now known to have balloon/lantern release policies. This is a 65% increase in the number of local authorities adopting such measures since establishment of the Council's Policy Statement. This now includes a third of all Scottish local authorities.
6.5.
In December 2016, National Farmers Union Scotland applauded all councils in Scotland who had banned sky lanterns and called on the remaining Scottish authorities to follow suit.

6.6.
It should be noted that the Council is a current member of KIMO which calls for a prohibition on all intentional balloon releases.

6.7.
It should also be noted that the Marine Conservation Society has reported a 53% increase in balloon-related litter on beaches in 2016 compared to 2015, stressing the importance of maintaining the Council's Policy Statement on Intentional Balloon and Sky Lantern Releases.

6.8.
Should the recommendation of this report be approved, the updated Policy Statement, attached as Appendix 1 to this report, will remain in force.

7. Environmental Implications

7.1.
The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.

7.2.
The recommendation has been considered under the Act and no further action is required as it does not qualify as a relevant plan, programme or strategy as defined by the Act and is therefore exempt.

8. Financial Implications
There are no financial implications directly arising from the report.

9. Legal Aspects

9.1.
Under Section 87 of the Environmental Protection Act 1990 it is an offence ‘if any person throws down, drops or otherwise deposits in, into or from any place to which this Section applies, and leaves, anything whatsoever in such circumstances as to cause, or contribute to, or tend to lead to, the defacement by litter of any place to which this section applies’. It is considered unlikely that the intentional release of balloons and sky lanterns would be deemed to be littering under this Act.
9.2.

The Council could elect to create a byelaw under section 201 of the Local Government (Scotland) Act 1973 for the prevention and suppression of nuisances. However at present the evidence does not suggest that this is required.

10. Contact Officers

Gavin Barr, Executive Director of Development and Infrastructure, extension 2301, Email: gavin.barr@orkney.gov.uk

Roddy Mackay, Head of Planning, Development and Regulatory Services, extension 2530, Email: roddy.mackay@orkney.gov.uk

David Brown, Environmental Health Manager, extension 2817, Email: david.brown@orkney.gov.uk

Nick Blowfield, Environmental Technical Officer, extension 2803, Email: nick.blowfield@orkney.gov.uk

11. Appendix