

Draft Hampstead Heath Drone Guidance 2017

Introduction

The City of London Corporation (“the Corporation”) owns and manages Hampstead Heath for the recreation and enjoyment of the public. This guidance has been written in response to privacy, noise and safety concerns from Heath users arising from the use of drones on the Heath. The aim of this document is to provide clarity about the current law and to ensure a consistent approach to drone usage on the Heath.

The use of drones is governed by the Air Navigation Order 2016 (“ANO”) which can be found in full at <http://www.legislation.gov.uk/uksi/2016/765/contents/made>. In simple terms, a camera drone may not be flown on or even close to the Heath without a permission from the Civil Aviation Authority (“CAA”). A drone that does not have any surveillance equipment may be flown on the Heath for personal use, without a permission from the CAA, subject to certain restrictions. A more detailed explanation is set out below.

Definitions

A small unmanned aircraft (or “**drone**”) means any unmanned aircraft, other than a balloon or a kite, having a mass of not more than 20kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight.

A small unmanned surveillance aircraft (or “**camera drone**”) means a small unmanned aircraft which is equipped to undertake any form of surveillance or data acquisition.

A “**congested area**” in relation to a city, town or settlement, means any area which is substantially used for residential, industrial, commercial or recreational purposes – having consulted with the CAA and the Metropolitan Police Service (“MPS”), the Corporation’s view is that this includes the whole of Hampstead Heath.

Restrictions on the use of drones

Under article 94 of the ANO, a person in charge of a drone:-

- may only fly the aircraft if reasonably satisfied that the flight can safely be made;
- must maintain direct, unaided visual contact with the aircraft;
- must not fly the aircraft (if it weighs more than 7kg) within certain types of controlled airspace, without the permission of air traffic control, or otherwise at a height of more than 400 feet;
- must not fly the aircraft for the purposes of aerial work, except in accordance with a permission granted by the CAA.

Additional restrictions on the use of camera drones

Under article 95 of the ANO, a person in charge of a camera drone requires a permission from the CAA to fly the aircraft:-

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- within 50 metres of any vehicle, structure or person, or within 30 metres of any person on take-off or landing (excluding the controller, etc.);
- over or within 150 metres of an organised open-air assembly of more than 1,000 persons;
- over or within 150 metres of any congested area.

Enforcement

A contravention of any of the applicable provisions of the ANO is a criminal offence. The CAA and the MPS are the relevant enforcement authorities. The role of the Hampstead Heath Constabulary is to advise and educate Heath users as to the relevant rules, and to provide evidence of any breaches to the enforcement authorities in appropriate cases.

Commercial filming

Where it is proposed to carry out commercial filming on the Heath using a drone then, in addition to holding a permission from the CAA, consent for commercial filming must be obtained from the Corporation. Further information can be found at <https://www.cityoflondon.gov.uk/things-to-do/green-spaces/hampstead-heath/visitor-information/Pages/Filming-on-Hampstead-Heath.aspx>.

Data protection

The Information Commissioner's Office advises that the use of camera drones has the potential to be covered by the Data Protection Act 1998 and recommends that users of camera drones should operate them in a responsible way to respect the privacy of others. For more information, visit the ICO's website at <https://ico.org.uk/for-the-public/drones/>.

Disclaimer

Where this guidance offers advice on legal issues, this is given to the best of our understanding. It is not offered as a definitive legal interpretation and is not a substitute for formal legal advice. If formal advice is required you should consult your own legal adviser.