

Report to the Council

Committee: Council
Date: 28 July 2022
Subject: Technical Services Portfolio Holder
Portfolio Holder: Councillor Ken Williamson

Recommending:

That the report of the Technical Services Portfolio Holder be noted.

Regulatory & Technical Services:

Licensing

Her Majesty, The Queens Platinum Jubilee Celebrations

As part of Her Majesty, The Queen's Platinum Jubilee celebrations, an expectation was placed on local authorities to encourage street parties and other events by promoting them through their communication channels and by facilitating any necessary road closures etc.

To make the process as simple and accessible for residents, the following changes were implemented.

- Waive the £194 fee for community/charitable events. This is in line with the previous decision on 29th July 2014 and in respect of VE Day celebrations.
- Reduce the 6-week application period to 4.
- The Councils Licensing Team to undertake consultation with Essex Highways. The applicant is responsible for notifying neighbours, businesses, Town Parish Council and anyone who will be affected by the road closure (previously this was the applicant's responsibility).
- Remove the need for risk assessments and substitute with guidance and advice.
- Remove the requirement for public liability insurance. There is no requirement from central government to have public liability insurance and many councils do not insist on this.

Guidance notes specific to Her Majesty, The Queen's Platinum Jubilee celebrations were drafted and sent out to residents along with the relevant application form. Guidance was also published on the Councils website and wider engagement undertaken via Corporate Communications.

In total the Councils Licensing Team processed 47 applications and issued 45 road closure notices (some were withdrawn as no longer required). The team also worked with and provided guidance to many event organisers including schools, resident's associations, and Town/Parish Councils etc. where road closures were not required.

Review/Appeal - Gardeners Arms, 103 York Hill, Loughton, IG10 1RX

The Community Resilience Team applied for the review of the premises licence following a history of noise complaints, issuing of a Community Protection Notice and Noise Abatement

Notice. The review sought to add several conditions to the premises licence including restrictions on the use of the external areas.

Statutory consultation was undertaken by way of public notices being placed at the premises and with the responsible authorities. In addition, and in accordance with Council policy, ward Councillors, Town Council, and residents living within a 150-metre radius were written to and notified directly.

During the consultation period, representations in support of the review were received from Councillor Chris Pond, Loughton Town Council, Loughton Residents Association Plans Group and 15 local residents.

A further 23 representations in support of the premises along with an on-line petition in support of the premises were also received.

The matter was determined by the Councils Licensing Sub-Committee on 19th April and following submissions from the Community Resilience Team, legal representation acting on behalf of the premises and local residents, the Committee determined to impose the conditions requested and to add the following restriction:

- Customers are not permitted to take drinks outside the pub or to consume alcohol in any external area save for a maximum of 30 people seated at tables within the horseshoe area only and tables and chairs shall be removed from other outdoor areas.

The premises licence holder has lodged an appeal against the Councils decision. The appeal will be determined by the Magistrates Court, and we are currently waiting for the matter to be listed.

As an appeal has been lodged, the Councils decision remains on obedience until the appeal has been determined and the Courts have given their decision on whether the Councils decision was appropriate. Those who made a representation have been advised accordingly i.e., there are currently no restrictions on numbers using external areas at this time.

It is our intention to fully defend the appeal. Should the Courts rule in favour of the Council, we will be seeking legal costs incurred in defending the decision. However, should the Courts determine the Councils decision unreasonable, costs may be awarded against us. These costs would be payable in addition to our own.

Hearing - Shish Meze 18 Market Place, Abridge, RM4 1UA

During the consultation period for a new premises licence in respect of the above, the Councils Licensing Team received 19 representations from residents, the parish council, Essex Police and the Councils Community Resilience Team opposing the application.

At a Licensing Sub-Committee hearing on 5th July, Essex Police and the Community Resilience Team confirmed their withdrawal following the agreement of conditions with the applicant. The application was granted subject to the conditions agreed and additional conditions imposed by the Licensing Sub-Committee.

Taxi Tariff

Following concerns expressed by the licensed taxi trade, the Councils Licensing Team will be undertaking a review of taxi fares applied to customers using a Hackney carriage within the district. Under section 65 of the Local Government (Miscellaneous Provisions) Act 1976, any charge made by a Hackney carriage, must not exceed the table of fares published by the licensing authority, irrespective of how that journey was arranged (from a rank or street, being hailed or pre-booking the journey).

Before any published fares can be increased the Council must undertake consultation with the trade and public consultation by way of placing a public notice in a local newspaper.

The current fee tariff has not been reviewed for the last 8 years and was scheduled to be reviewed as part of the wider taxi policy review later this year. However, due to the

unprecedented fuel increases, it has been necessary to bring that review forward to support our licensed taxi trade.

We are currently benchmarking our fares with neighbouring Councils. Once the proposal is finalised and we have undertaken the statutory consultation, we will seek formal adoption of the proposed fees. The setting of fees is a function of the Executive and therefore cannot be undertaken by a regulatory committee or full Council.

Legal advice has been taken on this matter to see if an emergency surcharge can be applied as an interim solution. Unfortunately, we have been advised that the legislation provides no mechanism for an emergency fuel surcharge and therefore this is not possible.

Pavement Licensing – proposal to be extended permanently from 2022

The Levelling-up and Regeneration Bill proposes to make the regime for pavement licences issued under the Business and Planning Act permanent.

Pavement licensing was introduced in 2020 through emergency legislation in response to the COVID pandemic. Its intent was a simplified and fast track route for pubs, restaurants, and cafes to obtain a temporary permission to place furniture including outdoor tables and seating on the highway, allowing them to increase their outdoor capacity safely, quickly and at a low cost.

The regime was extended in 2021 and is currently due to expire on 30th September 2022 however, the Levelling-up and Regeneration Bill proposes to make pavement licensing a permanent fixture subject to the following amendments:

- Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a pavement licence, and £500 for new applicants.
- Extend the public consultation period and council determination period from 7 days to 14 days.
- Extend the maximum duration of pavement licences from 1 year to 2 years. The length of a licence is however at the discretion of the local authority.
- Provide that pavement Licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met.
- Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a pavement permit is capable of being granted under this legislation.
- Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premise is not abiding by its pavement licence conditions and hours.

One of the current benefits of the existing procedure is that once a pavement licence is issued, the premises automatically benefits from planning permission for the furniture for the duration of the licence. There is no proposal to change this.

Any licence with a current expiry date of 30th September 2022 (or earlier) will still expire and a renewal application will be required if the premises wishes to continue providing tables and chairs outside. Licences without an expiry date will automatically expire 2 years after the Bill is enacted.

The Bill is currently at Committee stage in the House of Commons having had its 1st and 2nd reading.

Taxi Driver – Licence Revocation

A taxi driver has had his licence revoked due to an ongoing investigation for drink driving offences. The driver was involved in a road traffic collision whilst carrying a fare onboard,

passengers received minor injuries. Police attended the scene and whilst the taxi driver was not at fault, an alcohol roadside sample of 91 which is three times the legal limit of 35.

Essex Police notified the Council and the driver's licence was revoked with immediate effect on the grounds of public safety. The driver has the right of appeal against the Council's decision.

Crooked Billet, Nazeing, EN9 2LD – Application for a new premises licence

Application for a new premises licence has been submitted in respect of the above premises. The public house previously held a premises licence for a number of years however, that licence lapsed following the passing of the licence holder. Under the Licensing Act a premises licence will automatically lapse if the licence holder dies. The Act does allow for the transfer of the licence however, this must be done within 28 days of the licence holder's death.

Unfortunately, we were not informed of the licence holder's passing and it only came to light when our Police Licensing colleagues informed us of a new manager at the premises. The premises were contacted, and it was established that the licence holder was deceased and regrettably the 28-day period in which the licence could be transferred had already passed and the premises was operating without a licence.

We have assisted the premises where possible and provided guidance on how to apply for a new premises licence and the use of Temporary Event Notices as an interim measure. The premises can continue to offer food and soft drinks, but no alcohol. A new application has now been submitted and the consultation is due to end on 14th July.

Under the Act, where no representations are received tacit consent applies and the licence is automatically deemed granted. However, in this instance the new applicant has sought later hours, and this has resulted in several representations from local residents. Where representations are received and not withdrawn the matter must be referred to the Council's Licensing Sub-Committee to be determined. Assuming this is the case, it is likely that the hearing will take place mid-August. In the interim there is no temporary authorisation that can be applied, and the premises cannot sell alcohol.

Community Resilience Team

EFDC Policing Team & ASB Team

Epping Market – Monday patrols are to continue for a further 10-week period beyond June based on the fact that it appears that the high visibility presence is acting as a suitable deterrent. The team have been deploying overt and covert tactics with zero reported thefts during June.

Operation Photon – this is the partnership aspect of an investigation into an organised crime group. This is ongoing and involves regular contact with EFDC and other police partners to build intelligence. During June this consisted of a licensing check at a venue in Epping linked to the OCG as well as intelligence-led stop checks. There is collaborative working across Environmental Health, Licensing and Planning teams for this tasking.

Limes Farm, Chigwell – tasking in relation to rise in perception of ASB and crime in the area. Great Eastern Path – following concerns raised by Cllr, additional patrols and other problem-solving measures have been put in place to combat crime and ASB including use of CCTV equipment.

Epping Fire Station Open Day, the team provided support to fire colleagues which involved engaging with local adults and children in attendance.

Officers attended the annual PFCC hub conference gave a presentation on the Epping Forest hub. The group, Youth Unity visited Limes Primary school following concerns around exploitation and grooming.

ASB Awareness Week commences w/c 18th July. Areas to be visited are Shelly Ongar, Hill House Waltham Abbey, Limes Farm Chigwell, Debden Broadway.

Enviro Enforcement

Prosecution for 5 x breach of CPN fine and costs £3900

Gardeners Arms, further to the Licensing update above, the team are continuing to investigate where required.

Orchard Gardens, Waltham Abbey, the esident pleaded guilty to breaches of a Community Protection Notice on 1st June. He was fined £130 and for costs of £3,900. We are now applying for forfeiture of the seized animals, the application for forfeiture has been listed at Basildon Magistrate Court on 22/07/2022

Sheesh, Chigwell, there is a Court hearing on 4th August for breach of a noise abatement notice section 80. Formal action for non-compliance of Community Protection Notice.

In a joint initiative the team are working with Police and other Council teams to carry out vehicle Stop & Check Waste Licence enforcement for unlicensed waste carriers, business premises waste compliance visits and further taxi licencing compliance.

The graffiti project for Centre Drive path with the Community Payback Team is delayed due to uncertainties on land ownership between TFL and private ownership.

Safeguarding

Safeguarding work remains busy with 22 new cases, The senior officer is now monitoring Qualis referrals (agreed after discussion at last Corporate Safeguarding Group) and this is having a positive impact as referrals have increased.

CCTV

Requests for CCTV have increased by 28% this past month a total of 35 for June. The team are working with Kent/Essex Police regarding the introduction of DAMS (Digital Asset Management System). At present a mapping process is being conducted to see where possible time and money savings could be achieved with the use of DAMS. This is in part with the Essex Region CCTV Group of which EFDC play a lead role.

Upgrade projects in line with the CCTV forecast strategy have seen the successful implementation of systems in High Road Loughton, Ongar car parks, Townhead depot and Springfields Waltham Abbey. All were completed on time.

Procurement for North Weald Airfield CCTV improvement works are being prepared and expected to be tendered for in the Autumn.

Environmental Protection and Drainage Team

In the warm sunny climate, the team have responded to reduced flooding calls but have seen an increase in pollution and odour complaints. Environmental pollution of watercourses may occur from misconnections or private sewage systems and with less rain and dilution, odour nuisance can occur. The team continues to respond to planning applications across flood risk and contaminated land as well as giving input into flood mitigation schemes.

The private water supply charging scheme is approaching the end of the first year in recovering 50% of sampling costs and in October will recover full costs from site owners. A new charging scheme for Environmental Information Regulation requests for property and contaminated land searches was implemented at the start of June and has been used successfully.

Highway Rangers

The rangers continue to work on reported issues from both Essex County Council and those reported by Members and residents. Recent jobs completed include installing several new

finger posts, hedge cutting and pavement clearances, offensive graffiti clearances and the installation of a new bollard scheme at Langley Green in Nazeing. Many reports that are made to the team are rejected as they are works that the rangers cannot work on such as defective streetlights, potholes or private hedges which remain the responsibility of Essex Highways

Fleet Operations

The driver training programme is ongoing, internal driving test and licence checks are being carried out for Council staff. A new apprentice is in place, one day a week with potential to increase to full time placement subject to examination results in July.

A new ramp and tyre replacement equipment are to be installed imminently that will increase capacity for external servicing and repairs. The team are now increasing in repairs to MOT failures and servicing and repairs offered to members of the public.

The team attained accreditation in June for the Motor Ombudsman Accreditation of compliance/audit, RAC accreditation in process for "approved repairer" status. OR codes now used to promote the business and assist customers in online MOT bookings.

Grounds Maintenance

teams have been busy over the spring and early summer months with mowing operations to ensure our public spaces and highway verges are maintained in good order. Obstacles in the grass areas are sprayed around to reduce mechanical cutting and the spring flowering bulb areas around the district have now been cut in line with good horticultural practice. Hand mowing and general grounds maintenance of communal back gardens and sheltered housing sites continues as does the monitoring and upkeep of the Council owned play areas.

The longer days and warm weather have encouraged the growth of shrubs and hedgerows, and these will be targeted to minimise their encroachment onto public footways and the highway. The green waste generated from this work is taken for recycling at a local Biogen centre where green waste is turned into an environmentally friendly soil improver.

The spring flowering bedding schemes provided by our nursery team have now been replaced with a variety of summer flowering plants including geraniums, nicotiana and impatiens. This year they have been designed with a red, white, and blue theme to coincide with the Queen's Jubilee and provide eye-catching displays in our towns and villages right through to the autumn. The summer bedding designs have been well received by residents along with much praise for the efforts of the team.

The planned replacement of the Grounds fleet of trucks is now completed. These modern and more fuel-efficient vehicles are being brought into service and include 4 electric vans that support the Council's initiative to reduce its carbon footprint.

Countrycare

The woodlands have all been visited with multiple visits to Chigwell Row Wood, Linder's Field and Roughtally's Wood. New interpretation signs were erected on some of the sites to make them welcoming, footpath signs and bridges have been repaired after vandalism, two chestnut-palling fences were erected at Linder's Field to make safe the ponds, toad hotels and bee hotels were dug, and bat boxes hung. After a private donation four ash trees were planted at Tree Top Meadow.

At Bobbingworth a new hard-standing path to create a circular walk was finished and the edges planted up where the ground had been disturbed. This was funded by a grant from Essex County Council.

On one of the Nature Reserves Barn Owls bred and the chicks were ringed to monitor their future locations, on another a Tawny Owl chick was spotted in a tree. Butterfly surveys started in April and will continue over the summer. The team now has volunteers taking over this role which is welcome and since March the volunteer numbers have continued to be strong. The Special Roadside Verges are in the process of having their annual surveys.

Development Management

Appeal Decision: Land North of Dowding Way, Waltham Abbey

The Planning Inspector, after holding a 5-day public inquiry in May 2022, dismissed an appeal by Next PLC against the Council's refusal of planning permission for a large scale warehouse and distribution centre with an ancillary photo studio submitted on Land North of Dowding Way, Waltham Abbey.

The Inspector concluded that despite its high-quality detailed finish, the proposed building was too large in scale, particularly in height and therefore was visually harmful to the area's character and appearance, particularly as viewed from the adjacent M25 motorway. He specifically commented that this would be the case whether the site was in the Green Belt as it currently is, or not, as it is proposed to be on the adoption of the emerging Local Plan. He accepted everything else about the proposed development, including the infrastructure benefits associated with it, but these did not outweigh this harm. There was no unresolved objection to the allocation of the site for employment in the emerging Local Plan.

The potential award of costs against the Council, where planning permission was refused for eight reasons, were avoided not only by soundly defending the Green Belt environs reason for refusal at the Inquiry but crucially, by not pursuing six of the other seven reasons for refusal. In terms of the seventh, Next PLC offered a much-improved funding and term assurance for the proposed Demand Responsive Transport, which was agreed and accepted just before the public inquiry started.

SAC Backlog

The Service continues to make good progress in releasing planning decisions held back by the Epping Forest Special Area of Conservation (SAC). As of 12 July 2022 177 permissions have been issued equating to 268 dwellings, 21 applications have been withdrawn and 22 applications have been refused. A number of applications are awaiting the completion of S106 agreements and issuing of these decisions are imminent.

Judicial review proceeding relating to 48 Russell Road

The Local Authority's decision to issue planning permission at 48 Russell Road in Buckhurst Hill for a new building containing three flats was recently subject to preliminary Judicial Review proceedings. Permission for a Judicial Review was refused.

Planning Enforcement

The Heritage, Enforcement and Landscaping Team Manager retired in June 2022, and we are expecting the newly appointed Team Manager (James Stubbs, currently working for Chelmsford City Council) to join the service at the beginning of October 2022. Until his arrival Clare Munday, Senior Enforcement Officer, is acting as team manager.