

Licensing Committee

Wednesday, 24 March 2021

Attendees: Councillor Lyn Barton, Councillor Roger Buston, Councillor Helen Chuah, Councillor Simon Crow, Councillor John Elliott, Councillor Dave Harris, Councillor Mike Hogg, Councillor Patricia Moore, Councillor Beverley Oxford, Councillor Barbara Wood, Councillor Tim Young

Substitutes: No substitutes were recorded at the meeting

Also Present:

123 Declarations of Interest

Councillor John Elliott declared a non-pecuniary interest in agenda item 7, as he was the owner of a caravan which was sited on a park owned by Parkdean Resorts in Norfolk.

124 Minutes of Previous Meeting

RESOLVED that the minutes of the meeting held on 11 November 2020 were confirmed as a correct record.

125 Have Your Say! (Virtual Meetings)

Alan Mogridge, a member of the public, attended the meeting and addressed the Committee. He explained that he was the Chairman of The Packing Shed Trust (The Trust), a charity which had been formed to preserve the Victorian oyster shed on Mersea Island and which was run on a not-for-profit basis. The Committee heard that The Trust supported itself by charging members of the public a donation to take a boat trip on one of its launches, or by hiring out the shed itself to larger groups. Mr Mogridge advised the Committee that Colchester Borough Council now required each of the volunteers to hold a boatman's licence, and to obtain such a licence required a medical to be carried out. Mr Mogridge thanked Jon Ruder, Licensing and Food Safety Manager, for his assistance in directing The Trust to a company which provided the necessary medical, but he noted that the cost of this document was £115.00 for each driver which he felt was prohibitive, and was not a cost that The Trust could meet. The Committee heard that The Trust took health and safety seriously, and at present each driver self-certificated informally to him as the Chairman, prior to driving any launch. Mr Mogridge noted that other Local Authorities did not issue boatman's licenses at all, and Tendring District Council waived for fee for their boatman's licence to charities, and did not require a medical certificate to be obtained – allowing drivers to self-certificate. Mr Mogridge appreciated that Colchester Borough Council had already reduced the licence fee, but urged that a

similar stance to Tendring be taken in allowing medical self-certification, as meeting the current costs of obtaining the required medical certificates would force the charity to close. Mr Mogridge considered that part of Colchester's cultural heritage was being placed at risk and that it would be tragic to lose a legacy of an important local industry.

Jon Ruder, Licensing and Food Safety Manager, responded to the points made and stated that he had been in consultation with a number of other Local Authorities, who all charged for boatman's licences. He was unable to comment on the cost of obtaining a medical certificate as this was outside the Council's control, but he had suggested a further medical company who charged £60 for the Group Two medical certificate which was required. With regard to the fees charged by Colchester Borough Council, these had been set for the year and it would not be possible to revisit these until September 2021.

Councillor Buston responded to Mr Mogridge's comments and explained that although he had sympathy for position that The Trust found itself in, the Licensing Committee had to be governed by safety requirements. Councillor Buston acknowledged the inherent difficulties in requiring volunteers to undergo expenses during the course of their volunteer duties, but did consider that public safety had to be paramount at all times, and for this reason he could not agree to medical selfcertification when passengers were being transported for hire and reward, cost, or otherwise. The work of Officers to date to assist The Trust to find cost effective solutions was praised, but Councillor Buston queried why there was a discrepancy between the fees charged by different Licensing Authorities.

Councillor Young addressed the Committee, and also expressed sympathy for the views of both Councillor Buston and Mr Mogridge, and expressed his hope that a compromise could be found to support The Trust in what he considered to be their excellent work preserving the history and traditions of the borough.

Councillor Moore explained that she was in full support of The Trust and expressed her view that the medical certificate that were required were little better than someone honestly self-certifying, pointing out that if a question in a medical examination was answered dishonestly, the medical certificate was not worth the money that had been paid for it. She stated that the waters that the drivers operated in were very safe, and she would be minded to trust the drivers of the boats to honestly asses their own medical fitness, and thought that if Tendring District Council allowed self-certification, then Colchester Borough Council should also allow this. She voiced her support for the hard work of the Trust, and felt that Colchester Borough Council should be assisting this work as fully as possible.

Councillor Mike Lilley, Portfolio Holder for Communities, Wellbeing and Public Safety, addressed the Committee. He also sympathised with the volunteers of The Trust, and said that a good compromise had been reached with regard to the fees charged for a boatman's licence. He did, however, agree with the views of Councillor Buston and

thought that public safety was of utmost importance in this instance. He believed that if the Council issued licenses to volunteers who had not been medically examined and a tragedy occurred whilst they were driving members of the public, the Council would have failed in its duty to offer suitable protection to the public. He further stated that as Portfolio Holder he would sign off on any policy that compromised public safety, and he drew a parallel between the necessity of a taxi driver having a medical to transport the public and the holder of a boatman's licence, explaining that the liability and responsibility for safety were the same. Councillor Lilley expressed his hope that a doctor could be found who would assist The Trust with obtaining the necessary medical certificate, but reiterated his belief that a certificate was necessary as public safety had to come first.

Councillor Young requested that Officers approach Tendring District Council to determine how they had approached allowing self-certification, in the hope that the same method could be adopted by Colchester Borough Council. Councillor Harris echoed these sentiments, and hoped that Officers would work with The Trust to find a solution that met the Council's policies.

Mr Mogridge addressed the Committee again to confirm that The Trust's boats did not go more than one hundred metres from shore, and never went into the sea. He further confirmed that The Trust did have public liability insurance, and that each passenger on a boat was insured for up to £1m of medical costs. Mr Mogridge thanked the Committee for the response that he had received.

126 Caravan and Park Homes update

Councillor David Sunnucks, a representative of East Mersea Parish Council, attended the meeting and addressed the Committee. He advised the Committee that the issue of permanent residence of caravan parks was frequently raised at Parish Council meetings. Councillor Sunnucks explained that his remarks would focus on the Coopers Beach site, as this was the only site on Mersea which operated under a licence, and had done so since 2013, on the condition that it was used as a holiday site with no permanent residences allowed. Local residents had become concerned about the site and it was Councillor Sunnuck's belief that caravans were being marketed to people on the basis that they could live in them for twelve months of the year. As a result of these concerns, residents had conducted a survey of traffic movements from the site in 2014 which demonstrated that up to forty or fifty vehicles were seen leaving the site in the morning, including many vans. The Survey was conducted in January at a time when it would not be considered likely that many people were on holiday and Councillor Sunnucks did not believe that the level of activity witnessed could be seen to be normal holiday traffic. Similar surveys had been carried out every year since, and the results of these had been passed to Colchester Borough Council (The Council), together with other evidence of residency on the site. It was felt that not enough had been done with this information by The Council, and the perception was that more assistance could be offered to residents

through more active Council investigation.

Councillor John Akker, a representative of West Mersea Town Council, attended the meeting and addressed the Committee. He welcomed the renewed attention that was being given to this matter, and offered his support to the remarks of Councillor Sunnucks. Councillor Akker did not feel that licensing standards were being enforced on the sites on Mersea Island, and he welcomed the Officers report. He felt that local concern about the use of the sites was growing, and said that residents of the sites had spoken locally to say that they had given up their other homes to relatives and could be seen leaving the sites regularly in the morning, before returning in the evening. Councillor Akker said that in November 2019 there were seventy patients registered at local doctor's surgeries in West Mersea alone, who had stated that their residential address was on a caravan site. He requested that Officers provide regular updates on enforcement action that was being taken, and that a new and in depth investigation was undertaken as soon as possible and that information received as part of this was shared with the Parish Councils.

Jon Ruder, Licensing and Food Safety Manager, responded to the comments that had been made, and explained that the caravan sites on Mersea were governed by the Caravan Sites Act 1968 which was very limited in its scope requiring only that caravans must not be a place of permanent residence. He confirmed that the site licence that was issued would generally follow the planning permission that had been granted, and where a site was allowed to open for twelve months of the year, provided that documentary evidence was provided by site users that they had a fixed main residence elsewhere, then they were allowed to stay onsite while it was open. He explained that most of the sites, including Coopers Beach did shut down for a month each year, usually in February or March. Mr Ruder assured the Committee that he did take any information passed to him seriously and would investigate wherever possible which included the recently reported parking around Coopers Beach, which he had followed up. The Committee were advised that although sites did close, Covid regulations had allowed people to remain on site, and there were ten exceptions to the residency rules that would have allowed this.

Jon explained that he had taken the opportunity recently to carry out investigations and had visited each of the sites on Mersea, picking in excess of one hundred and fifty caravans to investigate further. He then examined the paperwork associated with the caravans that he believed were housing full time residents, and where he was not satisfied that this evidence was good enough he asked the sites to investigate further. As a result of this, where residents had not provided evidence of another property they had been removed from site or asked to leave. Jon reminded the Committee that he was bound by the legislation as to what action he could undertake, but he did feel that a policy document was needed which would outline the steps that The Council could take and which would provide clarity for all parties. The Committee heard that two further Officers had now been trained and would be implementing a programme of inspection of

the sites throughout the coming year.

Councillor Buston addressed the Committee and gave his thanks to Councillor Sunnucks and Councillor Akker for their contribution. He affirmed that it was important to understand that Members of the Licensing Committee and Officers had sympathy with the concerns of the residents of Mersea, but he emphasised that any Council was limited in the action that it could take by what statute allowed. He recognised that there may be a perception among residents that their concerns were not taken seriously, or that action was not being taken, but he assured the Committee that this was not the case. Councillor Buston reminded the Committee that there was a legal separation between the planning and licensing functions of any Local Authority, which were two completely separate things and it was imperative that the two were not confused. Reference was made to the long standing issues which had been reported over the preceding years, and it was acknowledged that there had been compelling circumstantial evidence supporting the grievances of local residents, however, this evidence needed to be taken in the context of the legal powers possessed by The Council, and it may be that certain areas of complaint could only be properly dealt with by Essex Police or other agencies. Notwithstanding this, Councillor Buston suggested that the Committee consider that it may be helpful to form a community engagement group consisting of stakeholders from all interested including residents, Parish Councils, Essex Police, Officers and site owners to allow issues to be discussed and hopefully resolved, reducing the possibility of conflict in the future. The Committee were also requested to consider the construction of a formal policy that The Council could adopt towards static caravan sites, although Councillor Buston was mindful that the amount of work that would be required from Officers to set this up may mean that this would take some time.

Councillor Harris drew the Committees attention to the information contained within the Officers report, and in particular the number of inspections that had been carried out, which he considered was an excellent indicator of the hard work that had been undertaken. He also noted that two Licensing Officers had now received training that would enable them to participate in enforcement work in the future, which he welcomed.

Councillor Moore addressed the Committee and noted that of the number of residents on the caravan sites who had been suspected of living on site, fifty seven had been unable to provide satisfactory evidence of a fixed address elsewhere, however, the number of people who had been asked to leave the sites was much smaller than this, leading to a concern that action could not be taken to address this issue, and she offered her support for a policy document which would provide greater clarity. She spoke of her shock at some of the bad reviews that had been left on the website Trip Advisor in respect of the sites, and she wondered whether or not it was appropriate to require standards of behaviour as part of the proposed policy so that poor behaviour was discouraged. She cited an example of vandalism against cars parked in the Coopers Beach site which had been experienced by guests at her daughter's wedding, and felt that as far as possible behavioural standards should be set and enforced. Councillor Moore also commented on the number of residents of the sites who were registered with local doctors surgeries

and was disappointed that the strain on the local community had not been acknowledged when a recent planning application had been considered for the change of a touring site into a fixed site. She was also disappointed that Part Two of the Local Plan seemed to encourage the expansion of sites, to the horror of the communities of East and West Mersea. She thanked Officers for the work that they had undertaken, but commented that the general impression among residents was that action taken had been too little, too late and more positive action was needed.

Jon Ruder responded to Councillor Moore, and advised that it was his intention to follow up on a number of the concerns that he had identified where he remained unsatisfied with the evidence that had been presented to him. In relation to applying standards to site licences, he advised that this would not be possible as statutory standards were already set which purely related to site layout, amenities and utilities and did not include behaviour. He believed that it was the responsibility of the site owner to manage the behaviour of its residents, but said that where any breaches of the Licensing Act had 2003 occurred then The Council could take action. Any conditions that were added to a licence would be referred to the Magistrates Court, and the licence holder would have the right to appeal against these. Mr Ruder confirmed to the Committee that if a site was granted planning permission, then he had no choice but to grant the site a licence.

Councillor Mike Lilley, Portfolio Holder for Communities, Wellbeing and Public Safety, addressed the Committee. He reminded those present that this Committee and Licensing Officers were empowered to deal with licensing matters, and not matters of planning or the Local Plan. He explained that Officers required evidence that would stand up in Court, and not the circumstantial evidence that had been provided. He praised the hard work and diligence of Officers who were working as a small team and had been extremely busy dealing with issues associated with the Coronavirus pandemic. Councillor Lilley advised the Committee that if residents were experiencing anti-social behaviour or other criminal activity, this should be properly reported to Essex Police, with any licensing issues dealt with by Officers. Although the frustrations of local residents were understood, Councillor Lilley urged all parties to work together, and he voiced his support for the proposal of setting up a community forum to discuss ongoing issues.

Mel Rundle, Safety and Protection Manager, addressed the Committee and offered her support to the creation of a Caravan and Park Homes Policy which would set out the approach that would be taken by The Council when dealing with caravans and caravan owners. She reiterated that it was not possible to require behavioural standards to be implemented on the sites, but did say that noise issues could be reported to the Environmental Protection Team at The Council and issues that could be traced back to the sale of alcohol on the sites would also be investigated. With regard to the information that had been presented to the Committee around the number of people on the sites registered with local doctors surgeries, the Committee were advised that people on holiday would have access to these local services. Addressing the comments made on the reviews left on Trip Advisor website, Mel advised the Committee that she had looked at the website and felt that there was a need for balance when considering the bad

reviews left followed on from five pages of good reviews.

Councillor Harris added his support to the suggestion of setting up a community forum to allow interested parties to meet and discuss issues, and he also supported the development of a policy, although he noted that due to pressures of work that Officers would not be able to come up with this in the next couple of months.

Councillor Moore queried whether the provision of facilities on the sites was the subject of ongoing inspection and assessment to determine if they were suitable, given the general expansion of the sites and the large number of people who stay there. Jon Ruder explained that references to facilities being inadequate for the number of people on site which had been made on Trip Advisor were likely to refer to the clubhouse on site, as all accommodation was in caravans which had their own toilet and washing facilities.

Councillor Sunnucks voiced his appreciation of the hard work that had been undertaken, he welcomed the introduction of a policy and requested that Officers offered feedback to the Parish Councils on their activities which could then be passed to residents. He advised the Committee that he fully supported the implementation of a forum including the park owners themselves.

Councillor Akker added his support to the creation of a policy, and considered that Colchester Borough Council should issue a statement on the activities at the site, supported by the excellent Officers report. He confirmed that the data that had been shared with the Committee on surgery registrations had been obtained from the Doctor/Patient Liaison Committee.

Councillor Harris invited the Committee to note the content of the report, and requested that Councillor Moore and Councillor Sunnucks return to the Committee in the future to provide an update on the progress of the proposed community forum.

RESOLVED that the contents of the report be noted, and that Officers be requested to take steps to set up a community engagement forum and draft a caravan and park home policy.

127 Review of the Face to Face Collections Policy

Sarah White, Senior Licensing Officer, attended to present the report and assist the Committee with their enquiries. She explained that the Council's collections policy had been reviewed, but little had changed since its last adoption in 2014. The changes that had been made were minor and related to largely to working practice changes. The wording around house to house collections, and the times that these could take place had been strengthened, however, the Committee were reminded that if a national exemption had been issued to a charity then no permission from Colchester Borough Council was needed for them to be able to collect. The requirement for a Police National Computer (PNC) check had been removed for each applicant, to focus efforts where

there was a genuine cause of concern.

RESOLVED that the Policy, attached as Appendix 1 to the report, be approved.

128 Statutory Taxi & Private Hire Vehicle Standards

Councillor Harris introduced this item by complimenting Officers on the large volume of work that had gone into the report, and the suggested amendments that had been made to the Policy as a result.

Sarah White, Senior Licensing Officer, attended to present the report and assist the Committee with their enquiries. The Committee were advised that it had considered a report at its November 2020 meeting which sought to outline where the Taxi and Private Hire Licensing Policy of Colchester Borough Council diverged from the new statutory guidance issued by central government, and the Policy had now been amended to bring it into line with the required standards. In addition to the changes to reflect the new guidance, the opportunity had been taken to amend areas of the Policy to make it clearer. The Committee heard that although an eight week public consultation period was proposed for the new Policy, as the standards were supported by statute there would need to be a compelling reason for the proposed changes not to be adopted.

Councillor Wood requested clarification on an areas of the policy relating to trailers, noting that at one point in the policy there were three points listed in relation to trailers, while at another section of the document there were six points. Jon Ruder, Licensing and Food Safety Manager explained that it appeared that there had been a typographical area when preparing the document, and that this would be addressed and corrected prior to the document being submitted for consultation.

Councillor Hogg noted that drivers now needed to submit an enhanced Disclosure and Barring Service (DBS) check every six months, and enquired whether this was now normal across the country. Jon Ruder, confirmed that this requirement was the largest change that had been proposed under the new standards meaning that all drivers and proprietors would now have to supply DBS certificates, with drivers having to supply these every six months, and proprietors having to provide this every year. He confirmed that this would be a national standard requirement.

RESOLVED that the draft Hackney Carriage and Private Hire Licensing Policy be submitted to a period of consultation of eight weeks.

129 Licensing Committee Work Programme 2020-2021

Matthew Evans, Democratic Services Officer, introduced the work programme 2020-2021. The Committees attention was drawn to the proposed review of the Council's Sex Establishment Policy which had been due to be presented at this meeting, but which would now form part of the work programme for the coming municipal year.

RESOLVED that the contents of the work programme be noted.