

COUNCIL 16 JANUARY 2020 - AGENDA ITEM 10 – QUESTION TIME

Questions and written responses provided below.

QUESTION 1 – Mr A C Roberts will ask Lucy Hodgson:

“Social media users in my division have been very active, voicing their concerns about the unrestricted use of loud fireworks. The general feeling appears to be that the sale of fireworks should be restricted for use at licensed events and not to members of the public.

There have been reports of upset animals and concerns expressed for people who are unwell or (for whatever reason) are distressed by loud bangs, though one person thought this was ‘whining’.

My personal view has been jaundiced by experience and may not be typical. I feel that the sale of chemical incendiary devices for use by untrained people (who have no personal protection gear) is bizarre. It is also odd that, in an era of greater environmental awareness, what was usually a 5 November occurrence can now happen at any time during the year.

Would the Cabinet Member with Responsibility for Communities seek information from Worcestershire Regulatory Services, the Public Health Officer, Chief Fire Officer and whoever else she thinks appropriate, so that the council or council committee can consider what could be done and what should be done to see that the concerns of the public are addressed?”

Answer

This year, Councillors at both district and county level have had a range of issues raised with them in relation to fireworks, prompted to some extent by a draft notice of motion published by the RSPCA for members of the public to lodge with Councils. Having spoken to the Head of Regulatory Services who also manages our Trading Standards team it is clear that local government has limited influence over the use of fireworks.

The member is correct that fireworks are now used for a range of celebrations, prompted possibly by their use at the Millennium celebrations in 2000. Members of the public can legitimately use fireworks at other times of the year as long as they comply with provisions that I will come onto.

The County Council is the Licensing authority for the storage of explosives and each year around 120 premises are licensed to store fireworks and can sell them for limited periods around Bonfire Night and the New Year. A handful of premises have an additional license to sell fireworks all year round. The County Council is also responsible for enforcing the legal provisions requiring that fireworks sold in the county are manufactured to the relevant standard and that they are not sold to minors (under 18s.)

The Trading Standards service does not visit licensed premises without a reason. However, where a premise applies for a license where one has not been held previously, that premise will be visited to ensure that it is suitable and appropriate conditions will be attached to the license. These new premises will also only receive a license for 12 months to ensure that they can manage the products properly. Following the initial year, officers will risk assess

the premises to determine whether the license should last for between one year and five years. Guidance is provided by the service as part of the application process and via the service's website.

Trading Standards has strong intelligence links with both West Mercia Police and Hereford and Worcester Fire and Rescue and the organisations share intelligence from members of the public on issues such as:

- Perceived risk in storage methods,
- Underage sales,
- Firework misuse.

Where the intelligence picture suggests an issue either in a particular area or with a particular outlet, multi-agency joint visits can be organised quickly to tackle any issues around storage and warnings are given regarding sales to minors. Individual complaints about poor storage practices will be responded to directly due to the potential risks to the public and neighbouring properties. Most of these are dealt with through advice and warnings. Officers have the power to remove fireworks from premises if they are being stored incorrectly or are not fit to supply. The authority can also revoke licenses if the premises or person have become suitable. These occurrences are rare.

In relation to firework noise, the law specifies the cut off times for the use of fireworks, which are 11pm for all nights except for bonfire night, when the cut off is midnight and 1am for New Year, Diwali and Chinese New Year celebrations. Enforcement of these curfew times is the responsibility of West Mercia Police, as are offences for letting fireworks off in a public place or other forms of misuse. Because of the transitory nature of noise from a firework display it is almost certainly not going to be statutory nuisance that district colleagues could deal with under the Environmental Protection Act 1990, especially if the terminal hours outlined in law are observed.

The Trading Standards team has not been made aware of significant issues of misuse of fireworks in recent years. Only two incidents have been mentioned to them this firework season. I have asked the Head of Regulatory Services to have their Intelligence Officer raise this with West Mercia Police's intelligence team to see if the Police are aware of significant problems. My concern is that the issues being raised by members of the public actually relate to what is currently the legitimate use of fireworks by other residents in their gardens and also the noise from organised displays.

Public firework displays are not licensed by the local authority. The use of fireworks is not a licensable activity under the Licensing Act 2003 and therefore the district councils have no powers in law to require any public firework display to take any particular steps. People undertaking public displays obviously have to ensure the health and safety of those attending and any civil law duty of care they may have to those in the vicinity.

Currently there is a noise limit for fireworks sold via retail of 120Db. These controls came into force in 2004. Before this date, a proportion of fireworks sold by retail were louder. The 120Db limit does not apply to "display only" fireworks which may be significantly louder, although we are told that many fireworks used in displays are of the categories where the 120Db requirement applies.

Fireworks for retail sale must be manufactured to a specific European standard (EN 15947,) and it is a criminal offence to supply fireworks that do not comply. Having the noise levels reduced would require changes to the international standard for the product which clearly is not something at Worcestershire County Council can require. Whilst appreciating the sentiments expressed by Cllr Roberts in relation to whether such products are inherently unsafe in the hands of members of the public, the assumption in law is that fireworks manufactured to the relevant standard if used in the way indicated in their instructions

should be reasonably safe. Removing fireworks from public sale would need changes to national legislation which again the County Council cannot deliver.

It seems clear from the level of interest created in this issue by the RSPCA's notice of motion campaign that they and similar organisations are more than capable of continuing to lobby for changes to the law as outlined by both members. Given that there is a clear divide within the public as to the appropriateness of the use of fireworks, it does not seem appropriate for this local authority to use its limited resources to further promote change.

Members should be aware that the publicity around this question has led to one local licensed retailer writing to Trading Standards to express his concerns regarding the debate around this subject. He said he understood the concerns of pet owners but points out that the majority of retailers are responsible and he provides instructions and safety advice to his customers. He also points out that most small-scale organised displays use only retail level fireworks and that a ban on the public sale of fireworks would mean the end of displays for 1000's of clubs and charities across the country. This would include bodies like school PTA's, Roundtables, sports clubs, pubs and community events many of which have been safely run for many years. He stated that whilst there may be a perception that fireworks are in constant use, his business still makes the majority of its sales at the traditional period and New Year, with very limited sales at other times.

This is a matter that goes well beyond the remit of local government and sits fairly and squarely with Parliament as it is something that impacts across the nation. The Petitions Committee in Parliament looked at the issue of fireworks last year with input from a range of experts from the Health and Safety Executive, Trading Standards, Environmental Health, the National Police Chiefs Council and the National Fire Chiefs Council, as well as those calling for change. The Committee felt that an outright ban on sales of fireworks to the public risked unintended consequences including a black market in the products, however it did recommend that:

- The Government and agencies must collate and publish data on problems associated with fireworks in a consistent way, to facilitate local responses.
- Legislation must be introduced to empower local authorities to tackle this issue head on, so permits can be introduced in communities where the irresponsible use of fireworks is a particular problem for residents.
- Many consumer fireworks are packaged in a way that will appeal to children, creating a risk that children could be tempted to play or tamper with fireworks stored in the home. The Government should act swiftly to remove this risk through new packaging regulations.
- The Government needs to review the decibel level limit of consumer fireworks, with animal welfare in mind, with a view to setting a workable reduced decibel limit that would diminish the risks to animals' health.
- The Government should act quickly to close a loophole around the storage by retailers of up to 5kg of fireworks without a licence. It should also conduct review of online sales of fireworks, particularly over social media, establishing a strategy to tackle illegal online sales.
- The Government must fund and coordinate major, national awareness campaigns, from October 2020 and annually thereafter, on responsible use of fireworks to raise awareness of the dangers of fireworks for those with health conditions such as PTSD or Autism Spectrum Disorder.

Given that these matters have been raised on the Parliamentary agenda, it is clear that residents should really direct their concerns about such matters to our local MPs if they have strong feelings about these issues as they are matters for them and their colleagues in the two Houses of Parliament to resolve.

Supplementary question

Could the Cabinet Member help Council to form a view based on professional and public opinion and use this to help the Government build a full picture to bring an end to the indiscriminate use of powerful loud fireworks in residential areas? Lucy Hodgson responded that she would liaise with the Head of Regulatory Services to consider what could be done to address public concerns about the use of fireworks.

QUESTION 2 – Mr R M Udall will ask Lucy Hodgson:

"Will the Cabinet Member with Responsibility agree the period between October and the New Year is frequently disturbed by the indiscriminate misuse of fireworks, which not only harm pets, farm animals and children, but also significantly disturb and upset military veterans and others who are suffering from PTSD.

Would she be able to use her powers as the Cabinet Member responsible for Trading Standards, to actively promote a public awareness campaign about the impact of fireworks on animal welfare and vulnerable people – including the precautions that can be taken to mitigate risks, to write to the UK Government urging them to introduce legislation to limit the maximum noise level of fireworks to 90dB for those sold to both the public and for private displays and to encourage local suppliers of fireworks to stock 'quieter' fireworks for public display.

In addition, would she agree to investigate and support a possible ban on the use of Fireworks which have a noise level in excess of 90db on all Worcestershire County Council owned property?"

Answer

I will give you the same answer as I have given Cllr Roberts but not repeat it again.

I have spoken with officers and they have said any permission granted to use County owned land for the use of a public firework display would need to be subject to a licence agreement permitting the temporary use, we don't generally get requests for this type of activity. The countryside service does have a policy for Chinese lantern which states that they are not permitted on countryside service land. At present there are no plans to include use and type of fireworks particularly for public displays of fireworks which are often held in the grounds of local schools and these are always well advertised in the local communities.

Supplementary question

Would the Cabinet Member consider the establishment of a Member Advisory Group to investigate the matter further and report back to Cabinet regarding what action could be undertaken to promote public protection and how to campaign for legislative change? Lucy Hodgson responded that she would be willing to speak to partner organisations and would encourage everyone to lobby their MPs because this was a national issue.

QUESTION 3 – Mr P Denham will ask Alan Amos:

"First Bus have changed the routes of services 36 and 38 so that they no longer stop close to the main entrance to Worcestershire Royal Hospital. First Bus says that County Council officers were consulted and supported this decision, despite the obvious impact on passengers with limited mobility and other disabilities.

Does the Cabinet Member support this decision, especially given the fact that service 36 is subsidised, and why was the county equalities officer not consulted, since we have a duty to take into account the needs of disabled residents?

Why were members not consulted prior to this decision?"

Answer

I thank Councillor Denham for his question.

The 38 service is a commercial service and I fully acknowledge that this is a vital service linking the hospital and surrounding areas with the City Centre. The primary reason for the commercial change was that First Buses were unable to maintain a reliable service due to congestion issues on the hospital site.

As part of the recently adopted Worcestershire Passenger Transport Strategy, provision of routes to our hospitals is a top priority for us so I was determined to maintain a bus service to the hospital. Indeed, I can now confirm to Council that, but for my intervention (working closely with officers) last year when First Buses threatened to remove the no. 38 service altogether, this service would no longer be running. On this particular issue of changing the bus stops, we again worked closely with First Buses to avoid a total withdrawal of the no. 38 and minimise any impact on passengers. The outcome is that the no. 38 will be maintained at its current frequency of every 15 minutes (every 20 minutes in the evening), albeit with the detriment of an additional 30m distance to the main hospital entrance. I recognise that this is not a perfect solution, but it does mean that there is a service, which is more reliable and commercially stable for all our residents.

The same issues have affected the reliability and timing of the no.36 service.

The relevant Cabinet Members and Local Members directly affected by the changes made by First Buses were informed, together with the reasons for them. I do appreciate that other Local Members may be interested in the changes and officers will ensure that they are updated.

We did not carry out an assessment of Equality impact because this change was instigated by First Buses who did not require County Council approval for the changes to these services. We were 'supportive' only insofar as we were concerned to ensure that a full service is maintained. I am aware that there has been an increase in the walking distance from the hospital to the bus stop, but we had to balance this with the need to keep a service at all given that the current on-going congestion on the hospital site – which shows no sign whatsoever of any improvement - has completely undermined the provision of a punctual and reliable service for all buses serving the hospital. The Council's Equality Adviser was not approached because the value of the service is recognised and there has, in any case, been limited opportunity to influence the way in which it is delivered.

Furthermore, in discussions with First Buses, when they were asked if additional funding and/or a subsidy would resolve the situation, the company confirmed that even if this were provided, it would still not solve the punctuality/reliability issues because they will still be prone to the endemic and inherent congestion on the hospital site over which neither they nor the County Council has any control, despite the County Council's very proactive role in this matter over recent years when we have convened meetings with the hospital management and bus company to try and find a solution to the congestion there which, unfortunately, have not been successful.

And, at this point, I think we should acknowledge the work done by First Buses to find the best solution possible in the light of the almost impossible congestion on the hospital site. By working to find a better location for the stop, First Buses have tried to ensure the maintenance of a reliable service by cutting out avoidable delays from cars and ambulances. I understand that buses also stop at the bus shelter by the A & E entrance and by the new oncology suite.

I hope Members will agree that we have considered the impact both on passengers and traffic management and have come up with a workable solution.

Supplementary question

Given the impact of this change on disabled passengers, would it have been appropriate to refer the matter to the Council's Equality Adviser? Alan Amos responded that the Council had been made aware of all the circumstances behind the changes made by First Bus and had no option but to accept their decision. In these circumstances, consultation with the Council's Equality Adviser would have had no bearing on the eventual outcome.

QUESTION 4 – Mrs F M Oborski will ask Alan Amos:

“The 291 and 292 Bus Services which link Kidderminster to Cleobury Mortimer and Ludlow and are jointly subsidised by Worcestershire County Council and Shropshire Council have recently been retendered with Yarrantons being awarded the one service and Diamond the other. Shropshire Council has now said that, due to traffic congestion regularly causing delays to the services within Kidderminster and Bewdley, the timings of the services need to be revisited. Currently both services travel up Bewdley Hill on their way out of Kidderminster.

When the timings are revisited please could the Cabinet Member explore, with Shropshire colleagues and the Bus Operators, the possibility of diverting one of the two Services via the Habberley estate to restore a regular service to residents in that area? Such a diversion would add a maximum of 10 minutes to the journey time but would enable several hundred residents to be able to travel to work and college in Kidderminster by public transport and would also facilitate their access to the rebuilt Kidderminster Railway Station.”

Answer

I thank Councillor Oborski for her question.

The 291 service is wholly subsidised by the County Council and the 292 is subsidised in conjunction with Shropshire County Council.

We have explored the issues raised previously following the withdrawal of the Diamond service no. 2 from the Habberley Estate and at that time alternative services were available in addition to a Community Transport Bus.

We are now reviewing the 292 timetable to improve its reliability. The aspiration for the 292 is to maintain a regular two-hourly service between Kidderminster and Ludlow and, for the 291, a one-and-a-half-hour service between Kidderminster and Tenbury Wells. Both services require one vehicle to provide the service. If we were to add the Habberley Estate to the route now, this would increase the time by approximately 10-15 minutes, which would impact on the full timetable and require additional resource and thus cost implications. We are, however, working with Community Transport operators to improve service provision and provide additional journeys where appropriate.

Whilst local bus providers are not interested in increasing provision to serve the Habberley Estate, our new Passenger Transport Strategy is designed to provide as wide a network as possible, serving as many locations as possible, and with as few geographical gaps as possible, by using Community Transport instead where bus services cannot be available. Therefore, I can confirm to Cllr Oborski that with some further detailed investigation, it may well be possible to increase the provision of Community Transport to serve the Habberley Estate with an additional service. Therefore, if she would like to present me with a more detailed case, I will look sympathetically to see how we can enhance the existing provision.

I do hope she will be happy with this very good offer to resolve this matter.

Supplementary question

How was the Cabinet Member going to achieve the Council's green objective of getting people out of their vehicles if the Council was unable to provide a bus service in an urban area? Alan Amos responded that there could be more money available to provide additional bus services through the Habberley Estate.

QUESTION 5 – Mr R C Lunn will ask Alan Amos:

“Following on from previous questions on this matter, would the Cabinet Member with Responsibility be prepared to allow a trial of 20mph speed limits in Batchley Road and adjoining roads and also the roads of Smallwood in central Redditch? If so, how quickly could this be implemented?”

Answer

I thank Councillor Lunn for his Question and his subsequent e-mail to me about it.

The context of this issue is that a two-year pilot scheme was carried out in Rubery in 2018 and the results from that, and lessons learned from other Authorities, informed our current Policy. Inter alia, the Pilot confirmed that a 20mph limit did not result in a significant reduction in vehicle speeds and made very little difference to accident levels, thereby suggesting that there were no real benefits. Indeed, in some cases, speeds actually increased.

Our policy states that we will fully consider all key factors when making decisions on local speed limits, including the history of collisions; road geometry and engineering; road function i.e. 20mph limits should not apply to through or feeder routes; the composition of road users (including existing and potential levels of vulnerable road users); existing traffic speeds; the road environment and the view of West Mercia Police.

A key element to consider is that a signed 20mph zone should have 85th percentile speeds of no higher than 24mph. The Police are very clear that they would not expect an appropriate 20mph speed limit to require enforcement in order to achieve compliance. (the 85th percentile speed is a speed which 85% of the vehicles are not exceeding). To ensure that a 20mph is self-enforcing, speed reducing engineering and other features are normally required, which are usually costly since they will involve investigative works, survey works, public consultation and engagement, statutory legal process, design and construction

The County Council will consider 20mph speed limits

- outside schools through advisory limits (subject to an appraisal process);
- at collision cluster sites with appropriate engineering to ensure enforcement by design;
- in connection with major projects as appropriate; and
- for all new residential development through appropriate design.

Highways are unaware of any specific speeding issues in Batchley Road - and adjoining roads - and in Smallwood, but I will be pleased to undertake speed surveys to fully understand the situation at this location and any potential problems. I am also happy to examine any personal injury accident data. I would suggest that Cllr Lunn and I then meet with officers to analyse the results of the data and look at the options at that point. If he is happy with that, I will get on and organize the collection of the data.

Supplementary question

The Cabinet Member was encouraged to look at the 20 mph scheme that operated in similar neighbourhoods in Portsmouth.