

LICENSING COMMITTEE

16 DECEMBER 2014

A.4 REQUEST FROM THE CABINET REGARDING PROHIBITING THE USE OR RELEASE OF CHINESE SKY LANTERNS FROM LICENSED PREMISES OR EVENTS

(Report prepared by Simon Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To inform the Licensing Committee of a resolution made by the Cabinet, at its meeting of 1 August 2014, which seeks the Licensing Committee's assistance to prevent the use, or release of Chinese Sky Lanterns in the District.

EXECUTIVE SUMMARY

At its meeting of 1 August 2014, Tendring District Council's Cabinet considered a report from the Rural Project Panel about the negative impact that the use and release that Chinese Sky Lanterns is having on rural communities and, in particular, to farmers' crops.

As part of a number of measures to try and prevent the use or release of Chinese Sky Lanterns in the District, the Cabinet made the following resolution:

(d) (that) the Licensing Committee be requested to identify and take any opportunities to use the licensing legislation in pursuance of the Licensing Objectives for the Prevention of Public Nuisance and the Promotion of Public Safety to extend the prohibition of the use or release of Chinese Sky Lanterns.

RECOMMENDATION(S)

The Licensing Committee is recommended to:

- (a) **Note the Cabinet's request and to support this by extending the prohibition of the use or release of Chinese Sky Lanterns at, or from, licensed premises or events, where it is possible, reasonable and proportionate to do so.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The following Corporate priority may link into the content of this report:

Our Place

Protect and enhance our environment, countryside and coast.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are no direct financial or resource implications attached to this report.

Risk

As already identified in Rural Projects Panel report and Cabinet report of the 1 August 2014.

LEGAL
There is a right of appeal to a higher Court against any decision made by the Licensing Committee in respect to the grant, variation, suspension or revocation of a licence and to the adoption of policy and/or the attachment of licence conditions.
OTHER IMPLICATIONS
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below. Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.
CRIME AND DISORDER
As already identified in Rural Projects Panel report and Cabinet report of the 1 August 2014.
EQUALITY AND DIVERSITY
Not directly applicable to this report
AREA/WARDS AFFECTED
All
CONSULTATION
Not applicable

PART 3 – SUPPORTING INFORMATION

BACKGROUND
The Rural Projects Team has reported to Cabinet on the negative effects of the use and release of Chinese Sky Lanterns on rural communities and in particular farmers' crops.
The Cabinet recognised the potential threats to crops and property caused posed by falling debris from Chinese Sky Lanterns and committed to reducing those threats and risks wherever it reasonably could.
As part of this commitment, the Cabinet has resolved to promote a number of measures including for example banning the use or release of Chinese Sky Lanterns from Council land and has also requested that the Licensing Committee identifies and takes any opportunities to use the licensing legislation in pursuance of the Licensing Objectives for the Prevention of Public Nuisance and Public Safety to extend the prohibition of the use or release of Chinese Sky Lanterns in the Tendring District. See attached to this report as APPENDIX 1.

CURRENT POSITION
In respect of the Licensing Act 2003, the use or release of Chinese Sky Lanterns is not a licensable entertainment or activity that falls within the direct control and jurisdiction of the Act in the way that the sale of alcohol or the performance of live music would for example.

It is therefore very unlikely that applicants for a premises licence, club premises certificate or Temporary Event Notice would ever inform the Licensing Authority of any planned use of Chinese Sky Lanterns as part of any other licensable activity or entertainment taking place (such as the performance of live music) because they are not specifically required to under the Act.

If an applicant did include details of the use or release of these lanterns within their operating schedule, for example as part of an application for a new premises licence, or a variation of licence, or there is knowledge that this is likely to take place, then it would be open to Responsible Authorities such as the Fire and Rescue Service or residents to comment on this use.

However such scrutiny is more likely to fall within the remit of the Public Safety licensing objective than it is to come under the Public Nuisance objective which mainly concerns noise nuisance, light pollution, noxious smells and litter emanating from, or sourced from, licensed premises.

An application will only be heard and determined by a Licensing Sub Committee however, if representations in the form of objections are submitted against it that are relevant representations under the Licensing Act 2003. It is not open to a Licensing Authority to attach conditions to an application to control, restrict, or curtail times or activities if no relevant representation has been submitted to justify the attachment of such conditions.

If no representations are made then an application must be granted as applied for, unless it is clear to the Licensing Authority that by granting the application it would undermine the licensing objectives.

In respect to Temporary Event Notices it is only the Police and the Environmental Health Authority that can submit a representation against the notice.

On 4 November 2014 Essex County Council issued a press release stating that they had banned the release of sky lanterns from any buildings or land owned by Essex County Council. The press release stated that anyone found releasing lanterns would be asked to leave.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

APPENDIX 1 - Relevant extract of minutes from Cabinet meeting 1 August 2014.
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A.4 APPENDIX 1

Relevant Extract from Cabinet Minutes 1 August 2014

Reference Report from the Rural Projects Panel

A.2 Chinese Sky Lanterns and their effect on the Rural Community

There was submitted a reference report by the Rural Projects Panel following its meeting held on 16 July 2014, at which, in the light of a press statement made by the Leader of the Council, the issue of 'Chinese Sky Lanterns' and their impact on rural communities, especially farmers' crops had been discussed. The Panel had decided to make the following recommendations to Cabinet:

- (i) As a matter of urgency, the Council takes all necessary steps, including the making of by-laws, to ban the use or release of lighted Chinese sky lanterns (or similar) on all land owned by Tendring District Council and promotes the responsible use of such lanterns in general across the District;*
- (ii) Parish and Town Councils in the District be requested to follow the example of Great Bentley Parish Council and prohibit the use or release of lighted Chinese sky lanterns on land in their respective ownerships; and*
- (iii) The Licensing Committee be requested to consider the prohibition of the use or release of lighted Chinese sky lanterns at events licensed under the Licensing Act 2003, in pursuance of the Licensing Objectives for the Prevention of Public Nuisance and the Promotion of Public Safety.*

In addition, at the behest of the Panel, the Chairman of the Corporate Management Committee (Councillor Steady), had been consulted and requested, as a matter of urgency and on behalf of that Committee, to endorse the Panel's recommendations to Cabinet. Councillor Steady had given that endorsement.

It was reported that The National Farmers' Union was supporting this initiative and had provided the following quote:

"We are pleased to see Tendring District Council taking this stance on Chinese Lanterns. People who release them don't realise just how dangerous they can be - they can cause fires on an industrial scale and kill or injure farm animals. There is now a huge groundswell for something to be done. We are calling for them to be banned and we will continue to lobby Government until action is taken."

Essex County Fire and Rescue Service was also providing its support.

The Leader of the Council (Councillor Page) thanked the Rural Projects Panel for its work on this issue.

It was considered that this initiative was worthy of this Council's support.

Accordingly, it was moved by Councillor Page seconded by Councillor McWilliams and **RESOLVED** that

- (1) the Cabinet as a whole recognises the potential threats to crops and property posed by falling debris from Chinese Sky Lanterns; and
- (2) the Cabinet was committed to reducing those risks wherever it reasonably could and therefore determined that:
 - (a) the use or release of Chinese Sky Lanterns from Council land be prohibited with immediate effect;
 - (b) a condition be included in all future leases, licences and consents regarding events on Council land which prohibits the use or release of Chinese Sky Lanterns;
 - (c) all Town and Parish Councils be encouraged to take similar steps on their land to prohibit the use or release of Chinese Sky Lanterns to reduce the risk of damage to crops and property;
 - (d) the Licensing Committee be requested to identify and take any opportunities to use the licensing legislation in pursuance of the Licensing Objectives for the Prevention of Public Nuisance and the Promotion of Public Safety to extend the prohibition of the use or release of Chinese Sky Lanterns.
 - (e) Officers investigate the potential for implementing an appropriate by-law (or by-laws) to embed the Council's approach; and
 - (f) The Council publicises its approach and promotes the responsible use of such lanterns across all parts of the Tendring District.