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# PPP Response to West Berkshire Council Fireworks Motion

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<b>Committee considering report:</b>	Licensing Committee
<b>Date of Committee:</b>	8 <sup>th</sup> February 2021
<b>Portfolio Member:</b>	Councillor Hilary Cole
<b>Report Author:</b>	Anna Smy

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## 1 Purpose of the Report

- 1.1 Following a motion to Full Council on 10<sup>th</sup> September 2020 the Public Protection Partnership was requested to inform the Licensing Committee on how West Berkshire Council can support any aspects of the motion.
- 1.2 The report outlines some information for the committee concerning the legal provisions the PPP have with respect to fireworks such as storage, point of sale, intelligence led promotional campaigns and the use of appropriate licensing conditions and noise management plans to minimise the impact.

## 2 Recommendations

- 2.1 For the Licensing Committee to agree the proposed response of the Public Protection Service to the motion submitted at Full Council on 10<sup>th</sup> September 2020 concerning the impact of fireworks
- 2.2 To recommend that the response be submitted to the Council meeting on the 02 March 2021
- 2.3 Bring the final policy approval to the June meeting of Licensing for final consideration and approval.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	There are no financial implications associated with this report
<b>Human Resource:</b>	There are no Human Resource implications with this report

<b>Legal:</b>	There are a number of legal issues regarding this report. The PPP is authorised to enforce a specific set of guidelines. The remit does not necessarily extend to the requirements of the motion and it will need to be established who within the authority is able to enact certain aspects agreed.			
<b>Risk Management:</b>	The main risk is of challenge for the PPP is that it could be seen to be acting Ultra Vires with regards to its powers. There are areas such as requesting advertising which could in certain circumstances be required but in other instances this is not appropriate and cannot be enforced. There needs to be a balanced approach.			
<b>Property:</b>	There are no property implications for this report			
<b>Policy:</b>	<p>The majority of the motion is covered by existing national guidance and legislations. To ensure clarity for officers and members of the public it may be necessary to amend local policies, procedures and guidance to accommodate the requirements of the motion.</p> <p>A draft Fireworks Policy for the PPP on fireworks will cover the storage and sale through to conditioning licenced events.</p>			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		Event organisers may be required to advertise their events but this is neutralised by the benefits which is brought about through advertising.

<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		No impact
<b>Environmental Impact:</b>	✓			The aim is to help with the impact on vulnerable residents and animals. There may be an additional benefit in reduction of pollution which can be an issue around 5 <sup>th</sup> November
<b>Health Impact:</b>	✓			The reduction in firework use and improved controls should reduce the stress and concern of animal owners.
<b>ICT Impact:</b>		✓		None
<b>Digital Services Impact:</b>		✓		None
<b>Council Strategy Priorities:</b>		✓		This work is business as usual within the service.
<b>Core Business:</b>		✓		It is business as usual
<b>Data Impact:</b>		✓		No impact
<b>Consultation and Engagement:</b>	The PPP were consulted prior to the Council meeting on 10 <sup>th</sup> September concerning our views on the proposed wording of the motion. The service will take the PPP Policy document to the Joint Management Board and to a wider audience.			

## 4 Executive Summary

- 4.1 The proposals of the motion are set out in appendix A
- 4.2 The report is being brought to demonstrate to the committee how West Berkshire Council can support the proposed motion.

- 4.3 In order to demonstrate the support for some aspects of the motion the report contains information on the current role of the PPP and Licensing Committee in the regulation of explosives, protection of the environment (through protecting animals) and the imposition of appropriate conditions when granting licences due to firework concerns at licensed events.
- 4.4 The areas we do not have powers are also outlined.

## 5 Supporting Information

### Introduction

- 5.2 On the 10<sup>th</sup> September a request was made to the Full Council meeting which was to support the RSPCA motion (Appendix A). The message behind this was the desire for West Berkshire Council to develop a safer environment for residents, their pets and the numerous livestock and wildlife
- 5.3 The Public Protection Partnership has a role to play in helping the Council deliver on a number of these actions, however it is not appropriate to commit to supporting all areas outlines as these are beyond our remit or already set within the statute we enforce.

### Background

- 5.4 The breadth of the legislation the PPP covers means that we are already involved in the regulations associated with fireworks. Some aspects such as the sale of fireworks is carefully regulated from manufacturing through to point of sale. The predominant position of the legislation enforced involves protection of residents and businesses with only a limited area covering the protection of animals
- (a) The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – Licensing team covering, Selling animals as pets, Providing or arranging for the provision of boarding for cats or dogs, Hiring out horses, Breeding dogs and Keeping or training animals for exhibition.
  - (b) Trading Standards – Animal Health (Farm animals), transportation and disease controls and feed stuffs.
  - (c) Animal Wardens – Stray Dogs, animal nuisance investigations and promotion of responsible dog ownership and other animals.
- 5.5 The service received the following requests and complaints regarding fireworks, it ranges from PTA's asking for help with Risk Assessments, debris from fireworks, concerns about storage as well as noise.

Year	PPP Requests for service
2019/20	20
2020/21	33

- 5.6 Many officers within the service have significant empathy regarding the impact fireworks can have on animals and there is a frustration when dealing with complaints concerning noise that we cannot do more to support our residents. However the proposals listed

are not necessarily the answer to deal with sporadic and localised issues of anti-social behaviour from fireworks.

## Proposals

- 5.7 The PPP have pulled together information concerning how our current roles fits with the proposed motion. In order to support wider concerns about the impact of fireworks we have drafted a Policy for the PPP to outline the statutory responsibilities of the service and our enforcement and informal approach to this. This will need to be approved by the Joint Public Protection Committee as it is a PPP wide policy.
- 5.8 We will look to cover the information provided above as well as promotional work (set out below) on our website or provide appropriate links
- 5.9 We will look at promotional/advice leaflets which can be provided by sellers of fireworks at point of sale to provide information to the purchaser on the legal position around sales and holding events.
- 5.10 We will continue to take a pragmatic approach to fireworks and any impacts they may have on our residents.

## 6 Other options considered

- 6.1 One option with respect to part 3 of the motion “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 the public for private displays” was considered. This was adding noise descriptors and appropriate time reference periods (as detailed in appendix B). This level of technical detail is not the place of the PPP to determine as we do not benefit from any technical pyrotechnic requirements or detailed knowledge of animal noise responses. This has already been pointed out within a petitions committee concerning the RSPCA proposal in 2019:

<https://publications.parliament.uk/pa/cm201919/cmselect/cmpetitions/103/10306.htm>

- 6.2 The only other option was to not support the motion and keep current practices as they are.

## 7 Conclusion

- 7.1 The main concern and reasoning behind this motion was protecting animals, residents and wildlife of West Berkshire. There is support for the sentiment behind the RSPCA campaign and our Animal Warden Service and communications plan aligns well with the proposals.
- 7.2 As a service we have a draft policy on fireworks setting out the PPP’s approach to fireworks and will look at other communications to explain our powers to manage the sale of fireworks; as well as advising on public displays and considerations when considering licence applications as to appropriate conditions.
- 7.3 The Council need to take steps to minimise the impact of fireworks and the PPP proposes to support them, in the work outlined above, to achieve this.

7.4 Whilst the aims of the motion are laudable the PPP are of the opinion that the authority can only support the following motion:

- to require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people
- 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 encourage local suppliers of fireworks to stock ‘quieter’ fireworks for public display.”

## 8 Appendices

- 8.1 Appendix A – Motion proposed and passed at Council Meeting dated 10<sup>th</sup> September 2020
- 8.2 Appendix B – Details of the current PPP role and supporting information around the 4 proposals in the Motion.
- 8.3 Appendix C - Example of promotional information sent out on social media in 2020 by the PPP
- 8.4 Appendix D – Bang Out of Order – Fireworks Frighten Animals (RSPCA proposals)
- 8.5 Appendix E – Environmental Protection UK – Fireworks Guidance Leaflet
- 8.6 Appendix F – Draft Fireworks Policy for the Public Protection Partnership

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### Background Papers: None

#### Subject to Call-In:

Yes: ☐ No: ☒

The item is due to be referred to Council for final approval	<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>
Delays in implementation could compromise the Council’s position	<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input type="checkbox"/>

**Wards affected:** All

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## Appendix A

### Motion proposed submitted to Full Council Meeting on 10<sup>th</sup> September 2020

The following Motion has been submitted in the name of Councillor Richard Somner:

“In consideration of the rural nature of the area we share, and communications received by both residents and animal welfare organisations such as the RSPCA, this council recognises the need to take action on the increasing concern of firework use across our District.

As a Council we have historically acted on the need to set appropriate licensing fees for fireworks and the need to restrict the areas in which sky lanterns can be used, this motion sets to add to those actions and to develop a safer environment for residents, their pets and the numerous livestock and wildlife in West Berkshire.

Whilst we recognise that fireworks are used throughout the year, and when used sensibly can be enjoyed by many, we approach a time of year when their use will see a dramatic increase.

The very nature of Fireworks as explosives are that they make loud and high intensity noises that are unpredictable and can affect a wide area.

As with sky lanterns, once reaching the ground the resultant debris can also pose a hazard to animals, such as horses and farm livestock.

We recognise that some people may not be aware of the anxiety or danger that may be created, and so there is a need to raise awareness generally including amongst owners of animals.

The short lived nature of firework noise can make it difficult for the police or local authority officers to pinpoint locations and take action.

This Council resolves:

- to require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people
- 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 the public for private displays
- to encourage local suppliers of fireworks to stock ‘quieter’ fireworks for public display.”



## Appendix B

### Details of the current PPP role and supporting information around the 4 proposals in the Motion

#### **1 To require all public firework displays within the local authority boundaries to be advertised in advance of the event, allowing residents to take precautions for their animals and vulnerable people**

- 1.1 The proposal would require all public firework displays to advertise events to help awareness of specific events which could impact on vulnerable residents or animals. It is unclear who would be expected to enforce this or how the event would be known about.
- 1.2 Holding a firework display is **not** a licensable activity under the Licensing Act 2003, therefore we do not technically licence these events. If the sale of alcohol is part of the event this will require a licence but conditions cannot be imposed regarding the fireworks event itself, purely the sale of alcohol. This proposal cannot be supported through the licensing route, however in the spirit of supporting the motion we can provide an advisory on advertising events as part of the licensing process (Temporary Event Notices or Premise licences).
- 1.3 Some licenced premises and events however do include a pyrotechnic display as part of events, in particular weddings and festivals. These are a mix of public and private events. In an application the Environmental Quality team may consider fireworks as part of the noise management plan in order for the premise to meet the licensing objective of the Prevention of Public Nuisance.
- 1.4 Should complaints be made concerning fireworks from a premise we can consider the noise as a statutory nuisance. If we are able to establish the noise is a statutory nuisance a notice may be served and this could limit the number of times in a year fireworks are used, time of day and length of display are also controllable. We would expect a premise holding a display to consider location of any display, this is most likely to have an impact on wildlife as well as ensuring health and safety of those watching; the tendency is to be nearer the boundary of a site which may be closer to residents.
- 1.5 Fireworks displays are by their nature going to cause some degree of nuisance. Public events are generally advertised in order to attract a crowd and are often charitable events the local communities want to support. They are usually held earlier in the evening than the 23.00hrs cut off to encourage families with younger children.

**2 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**

- 2.1 The PPP and West Berkshire Council have always provided advice and guidance on a range of concerns around fireworks and in particular the 5<sup>th</sup> November. An example of information shared on social media this year is shown in Appendix C.
- 2.2 The PPP will promote any guidance produced across the authority and work with community groups and charities to ensure the messages associated with the motion is promoted.
- 2.3 As indicated below (proposal 3) shops can sell up to F3 fireworks, it may be appropriate for the service to give shops a leaflet or similar to pass on to purchasers of F3 display fireworks. It could be something that encourages them to let their neighbours know as well a running media campaigns, display notices in shops etc.
- 2.4 Nuisance legislation does not specifically cover the impact on animals, officers will be sympathetic to any complaints, however there is little that the PPP is able to do in these situations. We can promote and encourage and share good advice as outlined within the EPUK leaflet (purchased by the PPP and available to send out to residents).

**3 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 the public for private displays.**

- 3.1 It is not proposed that the Council supports this part of the motion. The main reasons being the lack of clear acoustic parameters and ability to measure or establish any breaches of this.
- 3.2 Fireworks are categorised within The Pyrotechnic Articles (Safety) Regulations 2015 from F1 to F4 and also additional technical descriptors.
  - (a) Category F1 fireworks are fireworks which present a very low hazard and negligible noise level and which are intended for use in confined areas, including fireworks which are intended for use inside domestic buildings.
  - (b) Category F2 fireworks are fireworks which present a low hazard and low noise level and which are intended for outdoor use in confined areas.
  - (c) Category F3 fireworks are fireworks which present a medium hazard, which are intended for outdoor use in large open areas and whose noise level is not harmful to human health.
  - (d) Category F4 fireworks are fireworks which present a high hazard, which are intended for use only by persons with specialist knowledge and whose noise level is not harmful to human health.
- 3.3 The noise associated with the fireworks themselves is covered within manufacturing legislation. Commercial displays often use fireworks (F4) in the range of 150-170dB. Shops can sell F2 and F3. F3 are limited to 120db at 15 metres

- 3.4 It is hard to deal with fireworks under nuisance legislation due to the nature of events and ability to witness. If there is a particularly problematic site (frequent use throughout the year etc.) we may have the ability to serve a notice for “likely occurrence” of a nuisance unless certain steps are taken and specify what they may be. This could include restricting timings, firework type etc., however they could still go ahead and unless we have the resource to attend and make an assessment of it we would be unlikely to be able to take action. The often short lived nature makes these activities hard to manage.
- 3.5 The motion talks about setting noise limits on the sale of fireworks. As detailed above these already exist with category F3 fireworks set to 120dB at 15m. The motion itself only states 90dB. There are no parameters set for this such as setting a distance or measurement location. If it was agreed that we would write to the Government in line with the proposal it would need to specify the measurement parameter clearly so for example 90dB L<sub>Amax</sub> and depending on the parameter it may be appropriate to set a time period over which to measure.
- 3.6 One firework on its own isn’t necessarily the problem it is the sequence of loud bangs within say a 15minute display which causes the distress to residents and animals. We have some example conditions from licences for festivals where they have tried to restrict the impact of displays late at night. The abatement notice for Alton Towers stated the following “Forthwith from the date of this order, the use of fireworks shall be restricted to a single period of not more than 30 minutes on one day only during any calendar year. The use of fireworks shall not take place between 20:00 and 24:00 on that date. No firework use shall cause noise to exceed 95dB L<sub>Amax</sub>(f)”
- 3.7 There are references in various noise guidelines and the World Health Organisation “Guidelines on Community Noise” states the following:
- 3.8 *“Toys, Fireworks and Firearms.* To avoid acute mechanical damage to the inner ear from impulsive sounds from toys, fireworks and firearms, adults should never be exposed to more than 140 dB(lin) peak sound pressure level. To account for the vulnerability in children when playing, the peak sound pressure produced by toys should not exceed 120 dB(lin), measured close to the ears (100 mm). To avoid acute hearing impairment L<sub>Amax</sub> should always be below 110 dB(A).”
- 3.9 The above is all designed with regards to the human response to noise. There was discussion at a parliamentary committee <https://publications.parliament.uk/pa/cm201919/cmselect/cmpetitions/103/10306.htm> and this pointed out the need to understand the animal response and appropriate noise levels. That is why it is not deemed appropriate to support this part of the motion.

#### **4 To encourage local suppliers of fireworks to stock ‘quieter’ fireworks for public display.”**

- 4.1 To run wholesale or retail premises that store or sell fireworks of up to 2,000kg (net explosives content) within the PPP area, you must be licensed by Trading Standards. To store or sell more than 2,000kg (net explosives content), you need a [licence from the Health and Safety Executive](#). There are currently 18 licences in the West Berks area and despite the issues which Covid has brought 4 formal inspections were carried out ahead of 5<sup>th</sup> November this year (2020).

- 4.2 The Pyrotechnic Articles (Safety) Regulations 2015 was introduced primarily to improve the safety of a range of pyrotechnic articles including Fireworks. It sets out the requirements on age of sales (Fireworks are restricted by age to 18, there are additional restrictions on sales of category F4 fireworks).
- 4.3 In addition it is also an offence to sell to anyone under the age of 18 and again the Trading Standards Officers can and do carry out test purchases to check up on premises and ensure their procedures are in place.
- 4.4 We can proactively approach all retailers within the PPP area to stock quieter fireworks. However the majority of these suppliers are selling for private events.
- 4.5 There is already a move towards more environmentally friendly products as well as alternative “displays” such as the use of small drones as demonstrated at New Year 2021 in London.

## Appendix C

### Examples of promotion already undertaken by the PPP

**PPP Public Protection Partnership**  
4 November at 12:20 · 🌐

With new restrictions in place from tomorrow many might be planning their own firework display at home.

Please consider how you can make it less frightening for animals.

Many animals find fireworks scary. It's estimated that 45 percent of dogs in the UK show signs of fear when they hear fireworks. It doesn't have to be that way though, so don't ignore the problem.

See link for guidance:  
<https://www.rspca.org.uk/adviceandwelfare/pets/general/fireworks/safety>



RSPCA.ORG.UK  
**Make Your Fireworks Display Less Frightening For Animals | RSPCA**  
Our top tips to avoid harming or scaring animals with your fireworks display. Share our infographic to spre...

2 Likes · 1 comment · 1 share

🔗 Share

**PPP Public Protection Partnership**  
3 November at 16:35 · 🌐

It is important fireworks are stored safely: when storing fireworks, keep them in their original packaging, dry and away from sources of heat and ignition, and lock them away from children and animals #fireworksafety



1 Like

**PPP Public Protection Partnership**  
3 November at 15:20 · 🌐

#### Bonfire Night Celebrations during Covid

PPP are asking residents if they are holding their own bonfire night celebrations during the period around bonfire night then please:

- ➡ Be observant of Covid restrictions - remember the rule of 6 and Hands – Face - Space
- ➡ Remember that bonfires and fireworks may cause a nuisance to your neighbours and we encourage you, out of courtesy, to discuss your plans
- ➡ Bonfires burning damp materials will cause excess smoke
- ➡ Make sure you are not burning pollutants such as plastics
- ➡ There is a risk that bonfires may get out of control and put excess pressure on emergency services - follow guidance from Royal Berkshire Fire & Rescue service regarding taking precautions
- ➡ Multiple fireworks, going off over a longer period of time, may frighten and stress local pets and animals. Look out for fireworks labelled 'low noise/silent'. Please talk to neighbours with pets to let them know your plans.
- ➡ If you've a pet who gets distressed during the firework 'season' see link here from PPP Animal Warden team

<https://publicprotectionpartnership.org.uk/.../top-ten-tips-.../>

- ➡ Fireworks should not be let off in public places such as a park or your street
- ➡ If you are setting off fireworks in your garden make sure your garden is big enough for the type of firework and that you follow the safety instructions and firework code

<https://www.rospace.com/home-safety/Advice/Fireworks-Safety>

See article below for full details and links:

<https://publicprotectionpartnership.org.uk/news-articles/bonfire-night-celebrations-during-covid/>

