

Licensing Committee

MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 1 MARCH 2021 AT ONLINE MEETING.

Present:

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Kevin Daley, Cllr Peter Evans, Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Peter Hutton (Chairman), Cllr George Jeans, and Cllr Pip Ridout

Also Present:

Adrian Hampton (Head of Highway Operations), Linda Holland (Licensing Manager), Tom Ince (Principal Compliance Officer), Sarah Marshall (Senior Solicitor), Lisa Pullin (Democratic Services Officer) and Peter White (Enforcement Manager)

Others present

Mr Martin Thomas – Tisbury Community Benefit Society
Mr Paul Rae – Tisbury Community Benefit Society

20 Apologies/Substitutions/Membership Changes

Apologies were received from Councillors Mike Hewitt and Ian Thorn.

21 Minutes

The minutes of the meeting held on 7 September 2020 were presented to the Committee.

Resolved:

That the minutes of the meetings held on 7 September 2020 be approved and signed as a correct record.

22 Chairman's Announcements

As this was the last meeting of the Committee before the Elections in May, the Chairman wished to thank all Members for their attendance at meetings and Sub Committees and all Officers for their support.

23 Declarations of Interest

There were no declarations of interest.

24 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting.

Mr Martin Thomas was present to make a statement in relation to Agenda item 7 (Proposed Changes to Wiltshire Council's Street Trading Consent Scheme). Mr Thomas spoke in his capacity as chair of the Management Committee of Tisbury Community Benefit Society:

- The Tisbury Community Benefit Society support the proposal to make changes to the Council's Street Trading Consent Scheme;
- There had been positive engagement with Council Officers (Tom Ince and Tracy Morris for which they were very grateful) to enable them to progress their initiative - "Tis the Future" which was a community-owned, community-run, mobile, electric, zero-waste, no plastic, refill shop. Street Trading Consent licences for pitches in Tisbury, Semley and Dinton had already been granted;
- They intended to apply for more consents to allow them to establish a schedule of visits to every community in the Tisbury area over time. They had written to 25 parish councils and village shops, seeking an invitation to visit their communities. The responses received to date had been very positive with the areas confirming that they would wish for them to trade in their areas; and
- The initial problem for them had been that the Council's current Street Trading Consents are based on the primary assumption that they would be trading from one pitch but their business was one that would be moving around – the current scheme was not aimed at their type of operation.

The Chair thanked Mr Thomas for his comments, particularly the praise around the engagement of the Council Officers which he would ensure was passed back to the teams involved.

Mr Paul Rae who as also present at the meeting was invited to add any comments:

- He reported that he was in support of what Mr Thomas has already stated thought that the news that the communities they aspired to trade were interested was very positive. They had had their first trading session in Tisbury at the weekend which was a great success, helped by the good weather and it was a joy to see the reaction of people with what they were doing.

25 **Minutes of the Licensing Sub Committees**

Southern Area

20/01/20 Application by Keystone Entertainment Ltd for a Variation to the Premises Licence at The Bank Cocktail Lounge & Events, 18 High Street, Amesbury (Circulated within Agenda supplement 1)

Western Area Licensing

04/08/20 Application for a Variation of a Premises Licence – The White Hart, Lane End, Corsley, Warminster

19/08/20 Application for a Premises Licence – Wicker Hill Food Stores, 1b Wicker Hill, Trowbridge

Resolved:

That the minutes of the Sub Committee meetings detailed above be approved and signed as correct records by the Chairman.

26 **Proposed Changes to Wiltshire Council's Street Trading Consent Scheme**

Tom Ince (Principal Compliance Officer) referred to his report which sought to provide the Licensing Committee with the relevant information to make a decision on the proposed changes to Wiltshire Councils approved Street Trading Consent Scheme. Tom highlighted the following:

- The current Street Trading Consent Scheme did not currently accommodate those wishing to operate on a round, trading at multiple locations for more than 15 minutes within a single day/week, such as ice cream sellers and village fish and chip rounds;
- Officers had researched how other local authorities operate street trading and they had identified four authorities were operating short term static consents or mobile consents that allowed traders to trade in multiple locations for more than 15 minutes or a single location for a reduced time and rate, allowing traders to apply cost effectively for multiple locations. Advice had also previously been taken from the Council's legal team in 2012 on whether a multiple site consent could be offered;
- The proposed changes to the scheme would enable the Council to formalise the arrangements for these types of sellers who may be currently trading on Council land and not currently paying a fee and create a level playing field for traders. The second proposed change is to introduce a short-term static consent that would allow traders to trade from a set location for up to 2 days per week for up to 4 hours per day for a reduced fee; and

- Every effort was made to help support traders and there was the ability to set up a monthly payment plan to pay for the fees.

The following questions were asked by the Committee:

Q How would Officers establish which traders from outside of the Wiltshire area that come in to trade within Wiltshire would comply with the new proposed scheme?

A Officers will approach known ice cream van traders to inform them of the proposed changes and they would also contact the neighbouring authorities to inform them of our changes and ask them to notify their known traders. The Council were reliant on the other authorities responding to them, but they would also look to use Council Officers whilst out and about on their business to check with any vendors they see that they have the appropriate consents in place. The Council would also often hear from existing traders if a new trader appeared and did not have the appropriate consent, once in place the scheme becomes self-policing.

Q If the changes to the Street Trading Scheme were to be agreed, how often would a consent be reviewed?

A A consent would roll over (subject to payment of the annual fee) unless any queries or complaints were received about that trader. If any complaints were received Officers would aim to work with the trader and complainant to attempt to find a solution and if the concerns could not be addressed, then the consent could be revoked.

Q My concern is about the knock-on effect on current traders, you are encouraging traders who wish to stay longer than 15 minutes at a location to seek private land to trade from. At the moment they are trading all over the place on private land, so I assume we are not affected by this. Only if traders want to use Council land, I assume this will then apply. Is there any way of bringing in the proposals more slowly as we are hopefully recovering from the Covid crisis so that existing traders could apply over more time as those traders have already got a lot on their plate?

A If the proposals were approved today, Officers would undertake a 30-day consultation which would involve the local Town and Parish Councils and it was hoped that this consultation would hopefully highlight any other traders in each location. Obviously, the Council are not aware of all traders. The possibility of a phased implementation plan could be considered, and Officers could look at a communications plan so that the new options could be put to existing private traders. These traders are usually trading on private land as the cost of an annual street trading consent is quite high and some traders may only need a consent for Friday and Saturday evenings for example and with this reduced fee available for a more flexible consent they may wish to take this up.

Q How many traders could this affect if they now have to be licenced?
What is the size of the potential knock on effect?

A The latest information we have is that there are approximately 20 ice cream sellers and less than 10 fish and chip van village runs which are currently trading on private land.

Q Would businesses, such as the Tisbury business have to predefine their locations?

A Yes, the schedule of locations has to be agreed up front.

Q Where I live at the moment there seems to be a different food trader each week, but they are selling from private land so I assume the benefit for this new consent is that they are able to park in more places for longer amounts of time?

A Yes.

Q I am concerned for the local milk stations etc as they need to be 10 metres off the public highway – we were told previously when this scheme was approved in 2012 that it would not affect those selling “from the farm gate”. I have heard of a farmer in another county being unable to leave out an honesty box to sell his eggs. Are milk and eggs etc still able to trade as long as they are 10 meters from the highway?

A There is a specific exemption for goods sold from farms etc that derive from the premises and so these sellers would not be affected and there would be no change for them.

Q What about those that are selling milk on a third parties land – this is a green issue that the Council should be supporting. Will these proposals impact on them and would they need to apply for a consent?

A Officers had previously sought legal advice in 2012 on this issue and the interpretation from legal was that where traders are trading from private land but within 10 meters of the highway, as long as any customers were not using the highway to park then a consent would not be needed.

Q What about electric vehicle charging points – as this can be a business would they need to apply for a consent?

A Electric vehicle charging points don't come under street trading – they are managed by the Fleet Team.

Q What about the in town and out of town trading. If a business was going to Trowbridge and then on to a village location what would they be charged?

A It depends on the locations that they are trading from. We have stated that you cannot mix the consent and you would need to apply for both an in

town and out of town if those are the locations you wish to cover. The consents allow for multiple locations but not a mix of in and out of town locations.

A Committee member felt that there could be reputational damage to the Council when more traders hear of the proposals. Tom Ince reported that no one was necessarily damaged by the proposals as traders can still trade for 15 minutes at a time without the need for a consent. No one is compelled to pay the consent fees if they chose to carry on as they have been doing. It could possibly affect some ice cream sellers who stay in a location for more than 15 minutes.

Q Would ice cream sellers need to apply for a consent?

A Yes if they would if they wished to utilise trading from Council owned land for more than 15 minutes.

Q Was consultation carried out with the existing traders prior to the submission of these proposals?

A No.

Q What would happen if a trader wanted to trade at more locations?

A Each consent would cover up to 10 locations and if they wanted more, they would have to apply for another consent for up to 10 locations at a time, i.e. up to 20 locations would require two consents.

Q Is it possible for traders to purchase the more expensive "in town" trading consent and use that trade in and out of town and not have to pay both consent fees?

A I agree this is a sensible compromise and is something that could be considered.

The possibility of being able to purchase an "in town" trading consent which could be used both in and "out of town" was checked with the legal representative who confirmed that it would need to be clearly and carefully worded but this could be accepted as an amendment to the proposal. Tom Ince agreed that Officers would be happy to include the amendment to the proposal.

A Committee member commended officers for the report and how they had approached the issue following the request received from the public. She felt that the Council were looking to support traders and that competition was there to ensure that the public get a good service. .

The Chair highlighted the need to ensure that there was a strong and clear communications plan about these proposals to enable clarity about what traders could/could not do.

Resolved:

That the Licensing Committee agree to revise the Wiltshire Council Street Trading Consent Scheme from 1 April 2021 as below:

- 1. Introduce a Mobile Consent that would allow traders to trade from up to 10 (pre-arranged) locations, up to 3 hours per week (per location).**

The cost of the annual consent is proposed at £ 2,066 for 'in town' trading and £1,103 for 'out of Town' trading. These fees represent a 50% reduction on the annual static street trading fee due to the reduced number of working hours available to traders. For those wishing to trade at up to 10 'in town' and 'out of town' locations they would only need to purchase an 'in town' trading consent and not both consents.

- 2. Introduce a Short-Term Static Consent that would allow traders to trade from a set location for up to 2 days per week for up to 4 hours per day for a reduced fee.**

The cost of annual consent per location is proposed at £1,500 in town and £800 for out of town.

- 3. That a strong and clear communications plan is shared to ensure that all traders/prospective traders understand the changes to the Trading Consent Scheme.**

27 **Taxi Licensing Update**

Tom Ince (Principal Compliance Officer) referred to the Taxi Licensing update that was circulated with the Agenda and highlighted the following:

- The taxi industry had been severely affected by Covid with driver and vehicle numbers continuing to fall. Following the announcement of the third lockdown on 4 January 2021 all face to face appointments for new drivers were suspended until 22 February. The team devised Covid secure processes for both driver and vehicle licensing renewals to continue unchanged, so as to minimise the impact on drivers and vehicle owners but firms were being doubly hit as Officers were not able to licence new drivers at the present time. Officers would ensure that those new drivers currently waiting to be processed would be given priority appointments once the restrictions were eased, hopefully from 12 April 2021;
- As at the end of January 2021 there were 793 hackney carriage drivers and 165 private hire drivers. These numbers dropped again in February by a further 10. It would seem that it is hackney carriage drivers that are leaving the industry (as these would sit at the rank to wait for customers). Private hire vehicles are pre-booked. Private hire numbers were relatively stable;

- The drop in driver numbers had impacted the Council's Passenger Transport Unit who co-ordinate the 700 school transport contracts. When vehicle numbers are down to 800 potentially that will have an impact on availability of drivers/vehicles to fulfil the journeys. However, Officers from both teams meet regularly to ensure those contracts are not negatively impacted.
- Officers were still carrying out enforcement work but encountering some resistance from drivers. Following the increased enforcement since October 2019 a greater number of penalty points and formal notices had been issued. During January 2021, the team issued penalty points on 23 occasions – the highest monthly total, as well as undertaking drive by inspections within Wiltshire towns to identify potential issues. 11 vehicles were found not to have an MOT, although it was accepted that some of these vehicles were not being used and drivers had forgotten to get the required 6 monthly MOT;
- In the South of the County there were issues reported of there being too many taxis in the centre of Salisbury as a result of the lack of passing trade and there being little or no need for airport/hotel journeys. Some drivers had been parking inappropriately on double yellow lines or in loading bays and this was being challenged by those in the area and Officers were carrying out enforcement to rectify this;

A Committee member asked about the drivers having vehicles without an MOT and asked if it was because they were not using the vehicle or that they were unable to have a test carried out in the lockdowns? Tom Ince explained that there had been a leeway to extend MOT's during the first lockdown in 2020, but this had since changed, and MOTS were able to be carried out. It was a requirement for taxis to have an MOT every 6 months and if they were not using the vehicle or the vehicle had not had an MOT for the plates to be surrendered.

A Committee member thanked Officers carrying out proactive enforcement work to maintain a good taxi provision for Wiltshire. She expressed concern in the decline of vehicles/drivers as taxis are an important public transport service for the county and that this might have a critical impact on the school transport provision when schools reopen. She asked at what point do Officers consider that the situation is seriously critical with the declining numbers and was there scope for the Council to employ their own taxi drivers to ensure that the service could be relied on?

Tom Ince reported that his team meets with the Passenger Transport Unit every month and that they were guided by them to be able to manage and fulfil contracts that they have. They worked together to see where the gaps were and Tom's team had been working with the trade to support them and signpost them to grants available to them and give them assistance to be able to submit claims and support to keep them going. Tom was not sure whether the Council would want to licence their own taxi drivers and that would need some consideration.

The Committee member felt that when jobs are sparse as they currently are, some will consider being a taxi driver as it is a way of earning money in these difficult times. She asked if there was anything that Councillors could do to get the message out that more drivers were needed as they are the links to the local communities.

The Chair highlighted the need for strong communications around this to keep the trade/public and that the Council do what they can to facilitate as many vehicles/drivers to become licensed to meet demand.

The Chair asked if there was clear guidance on the Council's website of the expectations of a taxi driver so that it is clear for all applicants and the training required etc. Tom Ince confirmed that there was guidance on the website and that it clearly explained the process. They were in the process of starting to review and update the safeguarding training to incorporate recent County Lines issues.

A Committee member who had just viewed the taxi pages on the Council's website said that the first thing you saw was a taxi complaint form and suggested that perhaps this could be reviewed so viewers see a positive message on their first click onto that page.

Resolved:

That the Licensing Committee note the update on Taxi Licensing.

28 **Licensing Update**

Linda Holland (Licensing Manager) gave a verbal update to the Committee on behalf of the Licensing team and highlighted the following:

- 2020 had posed significant challenges to the Licensing Team and businesses and this had continued into 2021. Workloads were unsustainably high during many months and this trend would continue on the re-opening of the economy;
- The stop start nature of last year and having to be directed by restrictions, numerous regulations and guidance documents had impacted all of the businesses that the Council licence;
- From July 2020 when the hospitality industry reopened, businesses had to adapt to the new ways of working and comply with restrictions that they did not understand and Officers had the task of understanding all of the changes to be able to relay the information to the trade on what they could and could not do. It had been very difficult with the constant changes to the guidance – It had been a challenge for all, and the industry did an amazing job to get back on their feet;

- Officers had also carried out visits to premises, particularly ones that had raised concerns with non-compliance of the regulations; these visits would continue when restrictions have lifted to ensure compliance for the safety of the all;
- There had been good partnership working with Public Protection managers attending meetings 3 times a week with Police colleagues to ensure that there was collaborative working to address Covid concerns and complaints relating to businesses in Wiltshire. The partnership working had been a learning curve but had proved to be a huge success with Officers being able to spread the workload so that not all were having to go out to the same premises – so that the licencees get good service from us to ensure that the public are safe;
- During the first 2 weekend re-openings in July 2020, the Licensing Team was supported by colleagues from Public Protection in conjunction with the Police to carry out visits to over 300 premises to engage with and address any issues. Only a handful were found to be struggling with compliance. This would be a challenge again in April this year as businesses re-opened as they desperately try to build up their businesses again. However, sometimes the public don't always want to do what they should with their behaviour being challenging for the premises to manage;
- Once the reopening's were confirmed, Officers would be able to plan their response working in conjunction with the Police. Initially venues were only able to open to patrons outside and noise disturbance to residents may be one of the issues to address;
- Wiltshire Police, and the local authorities had been operating the 4 E's – Engage, Explain, Encourage, Enforce, but as the pandemic has continued, the Licensing Team had moved into the 4th E for serious breaches or where previous engagement has taken place. New tools then became available and Officers were able to issue Improvement Notices and Covid Restriction Notices. Following a Police visit; the first fixed penalty notice was issued for a private party taking place on New Year's Eve contrary to the business restrictions regulations. The £1,000 FPN had been paid;
- To support local business, colleagues from the Food and Health and Safety Teams had sent out over 600 letters sent out to give more guidance on what they need to do to safely reopen and given them links to signage and posters to ensure that they have all the tools that they need;
- In relation to animal licensing, in 2020 over 300 premises received an extension to their licence. Virtual inspections were completed where possible. Officers were still able to carry out outdoor visits to commercial premises but were not entering private houses unless it was safe to do

so. Inspections would pick up again when the lockdown was ended but obviously many premises were not currently trading. Officers were doing what they could to support this industry as it would be needed again when lockdown eased;

- Annual fees for premises licences were not collected during the first lockdown, but the collection recommenced in October 2020 and only a few payments were still being chased. The numbers of applications in 2020/the impact on the industry was not quite so marked but this may be seen in 6 to 9 months from now. In 2020 20 premises surrendered their licences compared to 7 in 2019 and 9 in 2018. In 2020 67 premises applications were received compared to 53 in 2019. A number of new applications have included those wishing to operate their businesses from their homes, e.g. takeaways and hampers selling alcohol for home delivery. 40 licences were suspended in 2020 compared to 19 in 2019. Two thirds of those in 2020 asked for their licences to be suspended so that they did not have to pay their annual fee which ranges from £70 to £250 depending on the rateable value of the property;
- The extension by the Council to animal licences was exceedingly well received by the licence holders with 212 replying and utilising the opportunity to extend their licence. During the lockdowns nationally there had been an increase in dog owning with puppies in high demand. There were currently 25 licenced breeders which was an increase of 6 on the previous year;
- As part of the regulations, all inspectors must be suitably qualified by October 2021 to carry out animal activity inspections. All Wiltshire's licensing officers had now attended the course for the professional programme in inspecting licensable activities involving animals;
- The pandemic had had a significant impact on festivals and events taking place in Wiltshire. Since the Governments roadmap to ease back to "normal" had been announced Officers had been extremely busy with information requests about whether events could now go ahead. However, at the present time the announced dates were only proposed and there was a lack of detail provided as to what would be expected of event organisers going forward; and
- Officers were unable to give any clarity on what maximum numbers and restrictions may be required for large scale events and had to advise that events going ahead would be at the organisers own risk as the dates of the releasing of restrictions were not fixed and could be subject to change. This obviously brought uncertainty for many and there would be a reluctance to commit to spending money if it was not guaranteed that it could go ahead – it was all still unknown and it would be wrong for officers to give false hope as to the possibly of planned events being able to go ahead.

The Chair wished to pass on thanks to all Officers on behalf of the Licensing Committee for all of their work in these very challenging times. The Chair agreed that the challenge to Officers would be to assist businesses with reopening and managing larger scale events. He asked that there be clear communications published in line with current guidance to ensure that all were aware of their obligations and asked if information could be prepared for new Councillors following the elections in May to assist them with the queries that they were likely to receive.

Linda Holland confirmed that a Licensing overview would be provided for all Councillors with specific training for those who would be serving on the Licensing Committee.

A Committee member reported that he had been talking to licensees in his area and they had previously experienced difficulties with customers entering their premises without a mask and trying to get served from the bar. He noted that there was no information from the Government yet as to what the restrictions would include once pubs, etc were able to reopen and asked if it was expected that marquees would be used from April and would they have to have sides on them and how did this relate with smoking laws?

Linda Holland reported that all marquees had to comply with smoking regulations and be no more than 50% enclosed (so have at least 2 sides uncovered). A number of marquees were used before Christmas and Officers had had to give some advice about their use and some had had to be removed for safety concerns. They were aware of most premises that were using gazebos but also received information from communities if they were concerned around them, most of the sensible licence holders ask for guidance about what they can/cannot do and some premises had had to be advised.

The Chair commented that the Council have a strong and robust licensing policy and event organisers should be advised to contact their local communities before their planned events to reduce any problems and complaints. There should be engagement with the Council and their local residents by event organisers.

A Committee member asked about the possibility of flexibility for extending the dates for festivals, etc. Linda Holland responded that this would depend on the licence held – she would be as flexible as the law allowed. A minor variation to a licence could be applied for at a cost of £89.

A Committee member suggested that Councillors could consider how they could informally police events and direct them to support to ensure that events were Covid secure so that all those attending events in Wiltshire were safe. Councillors had a vested interest to keep their eyes and ears open to ask their communities to tread carefully and not create any risks with their events. Councillors were concerned with a potential risk arising from people from outside the county attending events which are not Covid secure.

Linda Holland agreed that the public are looking forward to having fun this year out in the fresh air and that there would be others coming in from other areas to our events. All event dates are still “proposed” and there were no guarantees that they would be able to go ahead as they can only happen when it was safe to do so.

The Chair asked for an update on festivals and large-scale events to be provided at the next meeting.

Resolved:

- 1. That the Licensing Committee note the update on behalf of the Licensing Team.**
- 2. That an update on festivals and large-scale events be provided at the next meeting on 7 June 2021.**

29 **Dates of Future Committee Meetings**

The next meeting of the Committee would be held on 7 June 2021 at 10.30am. Depending on what training was to be provided as part of the corporate induction, the next meeting may also include some specific Committee training.

30 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 am - 12.08 pm)

The Officer who has produced these minutes is Lisa Pullin of Democratic Services, direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115