

LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 11 MARCH 2019 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Trevor Carbin, Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Mike Hewitt, Cllr Peter Hutton (Chairman), Cllr George Jeans, Cllr Leo Randall, Cllr Pip Ridout, Cllr John Smale, Cllr Ian Thorn and Cllr Peter Evans (Substitute)

Also Present:

Carla Adkins (Public Protection Officer – Licensing), Julie Anderson-Hill (Head of Service – Culture and Operational Change), John Carter (Head of Service – Public Protection), Michael Dooley (Litigation Team Leader), Linda Holland (Licensing Manager), Sarah Marshall (Senior Solicitor), and Lisa Pullin (Democratic Services Officer)

1 Apologies

Apologies were received from Cllrs Allison Bucknell, Graham Payne and Jerry Wickham and from Tracy Daszkiewicz (Director – Public Health and Protection).

Cllr Peter Evans was substituting for Cllr Allison Bucknell.

2 Minutes

The minutes of the meetings held on 3 and 26 September 2018 were presented to the Committee.

Resolved:

That the minutes of the meetings held on 3 and 26 September 2018 be approved and signed as a correct record.

3 Chairman's Announcements

The Chairman, Councillor Peter Hutton made the following announcement:

In January 2019, a meeting was held with the lead Licensing Officers and forthcoming items for consideration by Committee were discussed. It was agreed that if a planned Committee meeting was expected to be light or there

was no decision making business, the meeting slot would be used to provide a training session for Members. It was planned that there would be a training session in place of/following (as appropriate) the next meeting on 3 June 2019.

4 **Declarations of Interest**

There were no declarations of interest.

5 **Public Participation**

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

Amanda Newbery (Chair of the Salisbury Purple Flag) was present and reported that she was interested to hear the discussions on Agenda items 7 (Statement of Licensing Policy) and 8 (Consideration of the report of the Late-Night Taxi Fares Task Group).

Amanda felt that the revised Statement of Licensing Policy was very good, and she would look forward to participating in the consultation when this was available.

Amanda reported that she is part of the Economic and Regeneration Team in Salisbury working on the High Street bid to get young people using the night time economy in Salisbury and that taxis are the life blood for young people due to the rural areas. She was present today to try to understand the rationale behind decisions being made.

Robert Logue was also present at the meeting to observe. He is a member of Salisbury PubWatch and was interested in the discussions on the review of taxi tariffs.

Julia Hiystek (Local Democracy reporter) was present from the Wiltshire Times/Gazette & Herald.

6 **Minutes of the Licensing Sub Committees**

Northern Area

05/10/18 Application for a Variation of a Premises Licence – Whitehall Garden Centre, Corsham Road, Lacock

22/10/18 Review of a Premises Licence, Royal Sports Bar and Cue Club, Ivy Road Industrial Estate, Ivy Road, Chippenham

Eastern Area

12/12/18 Application for a Premises Licence, The George Narrowboat, Devizes Wharf

Southern Area

14/05/18 Application for a Premises Licence – Chalke Valley History Festival, Church Bottom, Broad Chalke, Salisbury

10/09/18 Application for a Variation of a Premises Licence - The Bank Cocktail Lounge & Events, 18 High Street, Amesbury

Appeal against a Refusal of a Street Trading Consent

23/01/19 Appeal against a refusal for a Street Trading Consent for a Kebab Van in George Lane Car Park, Marlborough

Resolved:

That the Minutes of the meeting detailed above be approved and signed as correct records by the Chairman.

7 Statement of Licensing Policy - Update

Linda Holland (Licensing Manager) referred to the report circulated with the Agenda which gave the Committee background information concerning the new proposed Statement of Licensing Policy and requested approval for Officers to commence a full consultation on the proposed Policy. Linda highlighted the following:

- In order for the Licensing Authority to discharge its licensing functions it is required to draw up a Statement of Licensing Policy under the Licensing Act. This Policy is to be reviewed every five years and be the subject of a full consultation process. The last Policy was approved in 2014 and if approved today, an extensive 12-week public consultation would commence on the amended Policy;
- There had been a number of legislative changes since the publication of the last Policy which included:
 - i) April 2017 – The Immigration Act 2016 made substantial changes to the Licensing Act 2003. In summary these were to introduce a “Right to Work” test for applications; provide enforcement powers to the Home Office Immigration Team and to include them as a Responsible Authority. This has been added to the Crime and Disorder Licensing objective.

- ii) April 2015 – The Legislative Reform (Entertainment Licensing) Order 2014 made substantial changes to the Licensing Act 2003 which removed the requirement for many forms of entertainment to be licensed under the Licensing Act 2003.
- The new sections and updates to the Policy were detailed in the summary of changes on page 133 of the Agenda;
- A number of processes had also been updated, including the inclusion of Public Health as a Responsible Authority;
- Wiltshire seems to attract lots of festivals and events and the proposed Policy seeks to set the scene of what is expected of existing and new licence holders in Wiltshire; and
- Members were asked to approve the draft Policy, give agreement to start the consultation process with a view to a finalised Policy being brought back to the Committee in September 2019 which would then go to Council in October for final ratification.

The Chairman thanked Officers for the preparation of the Policy and reported that he felt it was a proactive and engaging document.

The following questions were asked by the Licensing Committee Members:

Q Are the military, PubWatch and the Chippenham and Salisbury BID included as part of the consultation?

A This is a public consultation open to all and the Licensing Team will look to engage with all. The draft Policy will go to PubWatch meetings and on the Council's website.

Q Some constituents feel that the Licensing Policy and the Council's Obesity Strategy conflict each other – are Public Health consulted on applications?

A We must judge applications on how they meet the Licensing Objectives, although Linda Holland had recently met with Public Health colleagues to discuss the issue as under the Licensing Act 2003 and current guidance we cannot refuse a licence because someone is selling unhealthy food such as 'burgers'. We cannot differentiate between a café or a public house – we can only consider whether or not it meets the four licensing objectives. It may be possible to put something into the Policy as an advisory in relation to fast food outlets but detailed legal advice could be taken on this as it does not fit in with the licensing objectives and aims. Once legal advice is taken this could be reported back to Members.

Q Are the drinking establishments (Officer's mess etc) "behind the wire" at military bases monitored?

A Anything "behind the wire" is not licensable by the Licensing Authority. The Authority is looking at the possible impacts of the Army Rebasing in the area.

Q Is there any help from the military to help with the impact of the Army Rebasing on the night time economy in the area.

A We are aware that resourcing is an issue for many agencies. This would be a discussion needed by those higher up in the chain.

Resolved:

That the Licensing Committee:

- 1. Requests Officers to carry out a 12-week consultation process on the proposed Statement of Licensing Policy 2019-2024.**
- 2. Note that at its meeting in September 2019, the Committee will be required to consider commending for approval the finalised statement of Licensing Policy to Full Council.**

8 Consideration of the Report of the Late Night Taxi Fares Task Group

The Chairman referred to the final report of the late-night Taxi Fares Task Group (set up by Environment Select Committee) which had been circulated with the Agenda.

Cllr Jerry Wickham, the Cabinet Member for Adult Social Care, Public Health and Public Protection was not able to be present at the meeting as intended, but wished for a statement to be read out on his behalf and this is below:

"The issue before you this morning is that in 2014 this authority introduced a new policy and practices associated with the licensing of taxis. This included the harmonisation of tariffs. Since being the Cabinet Member having responsibility for this area, I have fairly routinely been contacted by representatives from Salisbury's night time economy seeking a review of these policies. I had consistently refused to entertain any review stating that the circumstances had not radically changed. However, after the Salisbury incident and especially the recovery phase, I was asked to reconsider my decision which I agreed to do. Accordingly, I then invited the Environment Select Committee to instigate a review and this they subsequently undertook by way of a Task Group under the chairmanship of Cllr Graham Payne.

The findings of this task group are summarised in the report before you all and you will note that there are five recommendations. Essentially, the first two

relate to the issues of the tariffs and the remainder linked to driver qualifications, CCTV in vehicles and the number of vehicles with disabled facilities vehicles. I very much welcome these findings and wish to again offer my thanks to Cllr Payne and his Councillor colleagues as well as all the witnesses that provided evidence to the task group.

In terms of moving forward, in the last few weeks central Government has indicated that it has a number of new proposals coming down the line leading to legislative changes. To therefore instigate too much work, especially over driver qualifications and suitability as well as CCTV, would be premature and at this time, I do not know the full extent of the proposed changes and what further impact they might make.

Accordingly, I am proposing that for the present time, we should pause on undertaking too much further work albeit in your capacity Mr Chairman you might wish to continue looking at the tariff issue. On that basis, I understand that you might wish to consider, through the Licensing Committee, a further detailed examination of the tariffs by instigating your own Working Group to enable a county wide appreciation to be factored into this discussion. Should you wish to do so, I know that officers and myself would be only too pleased to assist this group through its work. You will also appreciate that I will look very carefully at your findings moving forward and would welcome any such approach.”

Julie Anderson-Hill (Head of Service, Culture and Operational Change) reported that the Department for Transport were currently carrying out consultation to seek views on proposed statutory guidance to Hackney Carriage and Private Hire Vehicles (PHV) licensing authorities on how to use their licensing powers to protect children and vulnerable adults. This consultation closes on 22 April 2019 and the authority would be submitting a response by that date. As indicated by Cllr Wickham this was likely to lead to legislative changes, so it was proposed that the Council’s identified work on this area be put on hold which would enable time to carry out a holistic view of all the policies surrounding fit and proper persons, Hackney Carriage and Private Hire Licensing, accessible taxis, training and use of CCTV.

The Chairman proposed that a working group be set up by the Licensing Committee to sit under the Licensing Committee in order to carry on looking at the tariff rates across all of Wiltshire in the meantime as it would ultimately be the Licensing Committee that would need to make a recommendation on any proposed changes.

The Licensing Committee Members asked the following questions:

Q How long would it take for this Working Group to reach its conclusion?

A We would hope that this would be as soon as possible. We don't want it to drift on. Recommendations need to be thorough. It may be possible to hold fewer long meetings than more and shorter meetings.

Q How will we do a better job than the Late-Night Taxi Fares Task Group?

A The Licensing Committee need to take ownership of this work now and will be committing to finding a way forward as soon as possible.

A Councillor present at the meeting who was also a member of the Task Group reported that they found conflicting evidence between what changes those in Salisbury and other areas in the county wanted.

The Chairman accepted that this was a complex issue but wished to thank the members of the Environment Select Committee and the Task Group, but felt it was now time for the Licensing Committee to take this on and move it forward.

The importance of balancing what the public users want, and the commerciality of the trade needed to be considered and it was agreed that the Terms of Reference would need to clearly state the objectives of the Working Group.

Another Member suggested that consideration should be given to all areas in Wiltshire as there are also other military areas.

The Democratic Services Officer reported that she would investigate how many Members would be required to form the Working Group and would contact Members following the meeting to make arrangements for the Working Group to be set up.

Resolved:

That the Licensing Committee agree to set up a Working Group of up to 6 Councillors to consider the Taxi Tariffs across Wiltshire.

9 **Briefing Note - The Animal Welfare (Licensing Of Animals) (England) Regulations 2018**

Linda Holland (Licensing Manager) referred to the Briefing Note on the Animal Welfare (Licensing of Animals) (England) Regulations 2018 that was circulated with the Agenda. Linda highlighted the following:

- The changes in legislation had had a significant impact on the Council's animal licencing regime and the smooth implementation of the new regulations could not have taken place without the hard work and flexibility of the whole Licensing Team who were strongly supported by the dog wardens who assisted with inspections;

- The DEFRA guidance introduced to assist with the interpretation of the legislation had already been changed significantly and it had even been the case that during inspections, those being inspected had produced documentation from DEFRA referring to changes that had been made that had not been communicated to the Local Authority;
- Four licensing seminars took place in October 2018 with over 200 members of the animal licensed trade using the opportunity to learn about the implementation and potential impact of the new regulations;
- Under the old licensing legislations (prior to December 2018) there were 269 licences. Over 190 have been re-licensed (some of these are now combined licences). It is pleasing to note that many these establishments received a 5 star – 3-year licence. There were only a few who received a 1/2-star rating and a 1-year licence. Those establishments will receive unannounced inspections going forward;
- To date, five establishments have had their applications refused, with two of these now having been re-inspected and licences granted. There had been no legal challenge to the new processes and no appeals against the decisions made. The Authority now have more powers under the legislation and can suspend or downgrade a rating if standards are not continuing to be met;

The Licensing Committee members asked the following questions:

Q Have you considered putting on a review style seminar to the trade to gauge opinion on how things are going?

A I am not sure what that would offer to the trade, but we may consider it if there are further changes introduced.

Q Do you receive intelligence/tip offs on establishments/breeders that may be unlicensed?

A We do follow up on any intelligence received; we proactively seek them and make them aware of the legislation. We have contacted about a dozen establishments that we were aware of and these have come forward and are now in the licensing process.

Q I assume there are a limited number of establishments/breeders that are outside of the licensing scope that DEFRA wanted to pick up within this legislation?

A We educate the public on puppy buying and encourage those wishing to buy a puppy to look at the list of registered dog breeders on the public register on our website. Vets may also make us aware of breeders that we can check.

A dog can have up to 3 litters before they come into the regime as a dog breeder.

Q Do we share information with our neighbouring authorities and highlight any known problem establishments?

A Yes, we liaise regularly with other Local Authorities to share information. Linda would be attending the regional dog warden / animal licensing meeting next week to share best practice and work with neighbouring authorities to address concerns and queries.

Q Have you received any feedback on the fees increase?

A We feel that the fees are considered to be comparable to the work require as those who now have a 3-year licence will be paying less than they were each time for their 1-year licences.

Q Why have the riding schools not yet been rated?

A There was not the deadline for riding schools to be inspected by 31 December 2018 as it was with the other establishments. These will be going through the new requirements as their current licences expire.

Q We you able to get vets on board to help with inspections?

A We wrote to 30 vets and received no offers to assist us. We do now have one vet to help with inspections. Visits have taken more time than anticipated.

Q Are animal breeders expected to “vet” the prospective owners?

A There is no legislative requirement on them, although they are deemed to be suitable if they are purchasing from a reputable breeder and it’s for the breeder to decide who to sell to.

The Licensing Committee wished to congratulate and thank Linda Holland and her Team for their excellent work in the implementation of this legislation.

Resolved:

That the Licensing Committee note the update and support the work of the Licensing Team in implementing and enforcing the new regulations.

10 Update on the Licensing Service

Linda Holland (Licensing Manager) referred to the update on the Licensing Service which had been circulated with the Agenda. Linda highlighted the following:

- It was intended that a training session for Members would be held in place of/following the next meeting on 3 June 2019 on TENS and large event applications;
- Wiltshire is a popular venue for festivals and other large-scale events – the prevention of harm is a key element when planning an event and Licensing Officers are involve in considerable pre-event work to guide organisers to manage their own event to lessen the impact on the local community and emergency services;
- Some events are supported through the Event Safety Advisory Group (ESAG) which is a forum where the organisers of events meet with the responsible authorities including the emergency services to discuss details of the event and any potential issues. More ESAG meetings are planned to date than were held for the whole of last year;
- We have been working together with Swindon Licensing and Wiltshire Police to promote the “Ask for Angela” campaign which was launched in October 2018;
- In April 2017 the Home Office Immigration department became a Responsibility Authority under the Licensing Act and we have carried out two joint visits to premises where it was suspected that illegal workers were present; and
- A large number of applications for licences continue to be received with over 2000 TEN applications. To date in 2019, no Licensing Sub Committee hearings had been required.

John Carter (Head of Service – Public Protection) reported that the Public Protection Service had a restructure at the end of 2018 and seven Heads of Service were reduced to three. Linda and her team now come under John.

The Chairman thanked Officers for their work, noting their increased workload in recent months with the Animal Licensing legislation changes. He was pleased to note that the Licensing and Public Health Teams are now an integrated service.

The Licensing Committee Members asked the following questions:

Q Are you responsible for licensing of Swindon premises?

A No.

Q Have there been any appeals to the Magistrates Court to challenge any of the decisions made by the Licensing Sub Committee in the last year?

A No.

Q The ESAG is a great tool, how many are usually held per year?

A Last year there were 15 ESAG meetings held but while a high profile and useful group, they can only advise on events (i.e. they cannot stop events being held) as they are considered to be a guidance tool.

Linda Holland asked if Members still found the weekly list of applications that she circulated to be useful? Members confirmed that they did. Linda advised Members would be notified of any applications in their Ward and if they had any queries about applications in their ward or other areas they should contact the relevant Licensing Officer.

Linda Holland agreed to send out details to Members about the "Ask for Angela" Scheme.

Resolved:

That the Licensing Committee note the update and that Members continue their support of the "Ask for Angela" initiative to assist a person at a time of vulnerability.

11 **Dates of Future Committee Meetings**

Members noted the date of future meetings of the Licensing Committee as detailed below, all to start at 10.30am:

3 June 2019
2 September 2019
2 December 2019
2 March 2020.

12 **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 11.40 am)

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

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