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LICENSING AND APPEALS COMMITTEE

Minutes of a Meeting held on Thursday, 13 January 2022 in the Council Chamber at the Town Hall, Matlock at 6.00pm

PRESENT

Councillor Tony Morley - In the Chair

Councillors Jacqueline Allison, Graham Elliott, Clare Gamble, Dawn Greatorex Alyson Hill, Stuart Lees, Michelle Morley, Andrew Statham, Colin Swindell, Steve Wain and Mark Wakeman.

Tim Braund (Director of Regulatory Services), Lee Gardner (Legal Services Manager), Eileen Tierney (Licensing Manager), Jason Spencer (Electoral and Democratic Services Manager) and Tommy Shaw (Business Support Assistant).

APOLOGIES

An apology for absence was received from Councillor Paul Cruise.

233/21 – MINUTES

It was moved by Councillor Colin Swindell seconded by Councillor Michelle Morley and

RESOLVED

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 21 October 2021 be approved as a correct record.

Voting

For	11
Against	0
Abstained	1

The Chairman declared the motion CARRIED

234/21 INTERESTS

No Interests were declared.

235/21 – REVIEW OF GAMBLING STATEMENT OF PRINCIPLES (LICENSING POLICY)

The Committee considered a report provide the Committee with an update on the 3-yearly formal review of the Council’s Licensing Policy relating to gambling activities. Under the Gambling Act 2005, the Council was made responsible for issuing premises licences for casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres, the three licensing objectives under the legislation were:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

In accordance with the Act the Council had met the statutory requirement to prepare a Statement of Principles (Gambling Licensing Policy) which was used to regulate gambling in the District by setting out the Council’s expectation of operators and make sure that the general public and the Responsible Authorities, specified in the legislation, were aware of the Council’s regulatory approach to gambling activities.

The Policy was fully reviewed in 2018/19 to make sure that it remained consistent with the statutory guidance at that time and, to promote consistency and transparency, shared a common format to other licensing authorities in Derbyshire and was published on 31 January 2019. Since then the Policy had been kept under review and a draft Policy document with the administrative changes identified at the time was reported to the Committee in April 2019. These changes were not a modification to the content of the policy, simply an update to references within the document.

The Act also required the Council to republish its policy every three years following consultation on proposed changes. An internal review of the Policy took place in August 2021 and only administrative changes were required. In December 2021 a simple consultation was carried out with the main stakeholders (Gambling Commission, Responsible Authorities named in the legislation and current licence-holders). It was noted that no comments had been received following publication of the agenda that required an amendment to the draft Policy.

A draft of the revised policy was circulated with the Agenda.

It was moved by Councillor Graham Elliot, seconded by Councillor Mark Wakeman

RESOLVED That the revised Gambling Statement of Principles be referred to the
(Unanimously) January meeting of the full Council for consideration for adoption and re-publishing, from 31 January 2022 for a period of 3 years.

The Chairman declared the motion CARRIED.

236/21 – LICENSING & APPEALS SUB-COMMITTEE PROCEDURES

The Committee considered a report seeking approval for written procedures on the Sub-Committee Hearings which aimed to provide a better customer service by giving applicants and parties involved clear guidance on how a hearing will be conducted as well as assist in the making of more robust decisions.

The procedures had been considered at the meeting of the Committee held on 21 October 2021 where consideration had been deferred to allow the Legal Services Manager the opportunity to look at issues raised by Members about the complexity of some of the procedures and the time allocated to speakers.

The following procedures were attached at appendix 1:

- a) New Application for a Licence under the Licensing Act 2003
- b) Application to vary an existing Licence under the Licensing Act 2003
- c) Review of existing Licence under the Licensing Act 2003
- d) Objection to a Temporary Event Notice (TEN)

To address concerns raised by Members the Legal Services Manager circulated revised wording of the final three paragraphs of procedures a) to c) as follows:

“3. The Council’s constitution allows speakers 3 minutes in order to make their representations at Committee hearings. The Chair may allow more time if they consider it would help the Sub-Committee to hear all the evidence. Officers will endeavour to notify parties before the Committee

4 The Chair must allow equal times, in total, to both those for and against the application. For example if there are 10 speakers that have given notice to speak against the application, each of whom are given 3 minutes, the applicant will be allowed 30 minutes to respond.

5. If a Ward Councillor wishes to speak at the Sub-Committee on behalf of any person who made representation they must inform the Democratic Services Officer within any required deadline which residents they will be representing.”

It was noted that to facilitate this approach the meeting to brief Sub-Committee Members before the hearing would be held slightly earlier in the process allowing participants to have advance notice of how long they would have to speak.

It was moved by Councillor Stuart Lees, seconded by Councillor Michele Morley and resolved.

RESOLVED That the procedures set out in Appendix 1 be approved subject to the
(Unanimously) amendments to paragraphs 3,4,5 in procedures a), b) and c) as set out above.

The Chairman declared the motion CARRIED.

237/21 - NATIONAL TAXI AND PRIVATE HIRE VEHICLE STANDARDS LICENSING – PROGRESS REPORT

The Committee considered a report providing an update on progress made since the discussion at the last meeting on the implementation of the national standards for Taxi and

Private Hire Licensing, issued by the Department for Transport (DfT) in 2020 under section 177(1) of the Policing and Crime Act 2017.

The Committee were asked to review and update the Council's current Taxi and PHV Licensing Policy taking account of recommendations/comments received from a short survey/consultation exercise carried out since the last meeting. Seeking views on the following proposals:

- To gather and share information with other Licensing Authorities – using the national register of taxi licence refusals and revocations.
- Requiring Taxi & PHV licensed drivers to self-report within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.
- Reviewing the Council's Taxi Licensing Policy every 5 years, with interim reviews if changes necessary as a result of local needs, legislative change etc.
- Details of the Licensing Authority's whistle-blowing policy for Officers and Councillors.
- The Licensing Authority working closely with/being part of Multi Agency Safeguarding Teams.
- Having an improved system for recording complaints against drivers, and a mechanism for making sure passengers know how to make a complaint to the Licensing Authority.
- Changing the current policy to require licensed drivers to have 6-monthly Disclosure and Barring Service (DBS) criminal record checks; and making it mandatory for licensed drivers to subscribe to the DBS On-line Update Service.
- To introduce a more robust fit and proper test including relevance of criminal convictions – to revisit and update the current Penalty Points Scheme for offences and breach of conditions.
- To introduce criminality checks for vehicle licence holders who are not licensed drivers or operators and not subject to DBS checks at present. For example anyone who owns/part owns a licensed vehicle but is not licensed.
- Introduce improvements to Private Hire Operator record keeping requirements.

It was proposed that a 6-week public consultation exercise be carried out to obtain views on the proposed changes, and to invite any other revisions to the 3 year old Policy that would improve public and driver safety.

The Licensing Manager updated the Committee on plans to meet with the trade to discuss issues around setting maximum fares and suggested that this would provide a good opportunity to go through the standards in person and obtain feedback.

The Director of Regulatory Services provided an update on discussions relating to making the provision of CCTV mandatory in vehicles. It was noted that since the last meeting only the Health and Safety Executive had responded to the request for feedback from statutory consultees and that Derbyshire police had not responded. It was therefore suggested that there should be an ongoing discussion with the trade, members of the public and statutory bodies on this subject recognising that at some point in the future it was likely that CCTV would become a mandatory requirement.

It was moved by Councillor Colin Swindell and seconded by Councillor Mark Wakeman:

RESOLVED 1) That responses received to the survey/consultation exercise

- (Unanimously) with the local taxi and private hire trade and on the proposed policy changes be noted.
- 2) That the proposed changes be approved and included in a revised draft document of the Council's current Taxi and Private Hire Licensing Policy; following a further 6-week, wider, consultation exercise is carried out with all stakeholders, including the general public.
 - 3) That comments received in respect of the draft Taxi and Private Hire Licensing Policy be reported to the April 2022 meeting of this Committee for consideration for referral to the next available meeting of full Council, to seek approval to revise, republish and implement the updated Policy document as soon as is practicable.
 - 4) That Officers continue to consult with statutory agencies, including the police, on the local need for mandatory CCTV in all licensed taxis and private hire vehicles and report back to the next relevant meeting of the Committee.

The Chairman declared the motion CARRIED.

238/21 – THE MOBILE HOMES (REQUIREMENT FOR MANAGER OF SITE TO BE A FIT AND PROPER PERSON) (ENGLAND) REGULATIONS 2020 - INTRODUCTION OF FEES POLICY

The Committee considered a report setting out proposals for a Fees Policy required under The Mobile Homes (Requirement for Manager to be Fit and Proper Person) (England) Regulations 2020.

At a meeting held on 21 October 2021 the Committee considered a report setting out the Council's responsibilities under the provisions of The Mobile Homes (Requirement for Manager of Site to be a Fit and Proper Person) (England) Regulations 2020 which came into effect on the 1st July 2021. The Committee supported the action taken by Officers in setting up an interim application procedure for registering managers of residential caravan sites in the Derbyshire Dales; and agreed a recommendation to prepare a Fit and Proper Person Determination Policy and a Fit and Proper Persons Fees Policy to be approved by the Governance and Resources Committee. It was noted that there was currently 1 site in the District.

It was noted that the proposed charges of £240 for a new application and £115 for a renewal had been circulated separately as more time was needed to calculate the true cost to the Council of providing the service. It was confirmed that while there was some divergence with the fees charged by neighbouring authorities the fees set could only reflect the cost of delivery and could not legally include an element of profit.

It was moved by Councillor Graham Elliot, seconded by Councillor Clare Gamble and

RESOLVED That the draft Licensing Fees Policy in respect of Residential Mobile Home Parks is approved for referral to a meeting of the full Council for consideration.
(Unanimously)

The Chairman declared the motions CARRIED.

MEETING CLOSED 7.00PM

CHAIRMAN