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LICENSING AND APPEALS COMMITTEE

Minutes of a Meeting held on Thursday 10 March 2016 in the Council Chamber, Town Hall, Matlock at 6.00pm

PRESENT

Councillor Jean Monks - In the Chair

Councillors Tom Donnelly, Graham Elliott, Steve Flitter, Helen Froggatt, Alyson Hill, Tony Millward, BEM and Joyce Pawley.

Tim Braund (Head of Regulatory Services), Eileen Tierney (Licensing Manager) and Jackie Cullen (Committee Assistant).

APOLOGIES

Apologies for absence were received from Councillors Jennifer Bower, Richard FitzHerbert, Angus Jenkins and John Tibenham.

340/15 – MINUTES

It was moved by Councillor Tom Donnelly, seconded by Councillor Helen Froggatt, and

RESOLVED
(unanimously)

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 15 July 2015 be approved as a correct record.

The Minutes were signed by the Chairman.

341/15 – REVIEW OF ANIMAL ESTABLISHMENTS LICENSING - CONSULTATION

The Committee considered a report on Government proposals, through the Department for Environment, Food and Rural Affairs (DEFRA), to reform the licensing of animal boarding establishments, dog breeding establishments, pet shops and riding establishments.

The Committee was asked to consider a draft response to the consultation, prepared by officers, to allow submission of comments by 12 March 2016, the consultation closing date.

The District Council was responsible for regulating a number of animal-related businesses, as well as the keeping of specified dangerous wild animals by businesses or individuals. The types of licence, which could be issued under several pieces of legislation, were listed in the report, and the numbers of different licences in force for premises in the Derbyshire Dales at 31 December 2015 were tabled in the report.

The legislation governing all of the listed licence types had been introduced mainly between 1951 and 1981, with various revisions following on, resulting in 10 Acts of Parliament plus numerous pieces of secondary legislation.

In December 2015 the Government informed local authorities of its intention to introduce new secondary legislation under the Animal Welfare Act 2006 which would introduce a single 'Animal Establishment Licence' for animal boarding establishments, pet shops, riding establishments and dog breeding.

A consultation exercise was launched by DEFRA at the end of December 2015 to run until 12 March 2016. A brief explanation of this document was set out in the report, and full details of the proposals as set out in the consultation document could be accessed through the link: <https://consult.defra.gov.uk/animal-health-and-welfare/consultation-on-the-review-of-animal-licensing>. The proposal envisaged that the existing legislation for all of the current licensing activities would be repealed upon the introduction of the new scheme.

Officers had considered the proposals and prepared a draft response to the 15 questions contained in the consultation document. In principle, the proposals were welcomed. The draft response was produced in Appendix 1 to the report, for consideration by the Committee, with a deadline for submission of any response set at 12 March 2016.

It was moved by Councillor Tony Millward, BEM, seconded by Councillor Tom Donnelly and

RESOLVED That the draft response to the consultation from DEFRA on proposals (unanimously) to reform animal establishments licensing, is approved,

342/15 – DEREGULATION ACT 2015 - POWER TO EXEMPT THE SUPPLY OF LATE NIGHT REFRESHMENT FROM REQUIREMENTS OF THE LICENSING ACT 2003

The Committee considered a report informing how the Deregulation Act 2015 amended the Licensing Act 2003, by giving new powers to licensing authorities to allow certain (prescribed) premises an exemption from being regulated to allow the supply of late night refreshment.

The report recommended that the District Council continued to licence late night refreshment venues at the present time, but sought to put in place the appropriate delegation to give the Licensing and Appeals Committee the power to apply an exemption were it at some future date to deem it appropriate.

The sale/supply of hot food and drink to members of the public or members of a registered club between the hours of 11pm and 5am was regulated under the Licensing Act 2003 (the Act), as detailed in the report. However, in March 2015 the Deregulation Act 2015 introduced amendments to the Licensing Act 2003, which included exemptions to the regulation of late night refreshment in specific types of premises, depending on the location and the times of operation.

The types of premises to be affected were specified in The Licensing Act 2003 (Late Night Refreshment) Regulations 2015 which came into effect on 5 November 2015, along with new guidance from the Home Office for licensing authorities and police authorities, intended to assist them with monitoring and enforcement of late night refreshment

licensing activities, and to assist businesses wishing to provide hot food or drink between 11pm and 5am, to know whether or not they would need a licence. This government guidance was included at Appendix 1 to the report, for information.

The new powers of exemption allowed a licensing authority to exempt the supply of late night refreshment under the following criteria:

- a) on or from premises which were wholly situated in a designated area;
- b) on or from premises which were of a designated description; or
- c) during a designated period (beginning no earlier than 11.00 pm and ending no later than 5.00 am).

The guidance was clear that it was not mandatory for a Licensing Authority to exercise this new power; it was legal to continue as before, and to require all premises supplying late night refreshment to be licensed. However, if choosing to designate particular categories of premises as exempt, a licensing authority could only exempt types of premises set out in the regulations, which were:

- Motorway service areas;
- petrol stations;
- local authority premises (except domestic premises) unless there was an event taking place at which more than 500 people were present;
- schools (except domestic premises) unless there was an event taking place at which more than 500 people were present
- hospitals (except domestic premises);
- community premises (church, chapel, village, parish or community hall or other similar building) unless there was an event taking place at which more than 500 people were present;
- licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.

Further criteria to be used when choosing to exempt the provision of late night refreshment were set out in the report.

As detailed in paragraph 1.3 of the report, there were only a few premises in the Derbyshire Dales licensed solely for the supply/sale of late night refreshment, but at the time of writing the report there had not been any requests to exempt premises from the requirement to have a licence to provide late night refreshment. Because of the town centre locations of the 7 premises currently licensed for this activity Officers considered that these late night refreshment premises should continue to be licensed under the provisions of the Licensing Act 2003, at this time.

It was moved by Councillor Steve Flitter, seconded by Councillor Graham Elliott and

RESOLVED
(unanimously)

- 1) That late night refreshment premises in the Derbyshire Dales should continue to be licensed under the provisions of the Licensing Act 2003, at this time.
- 2) That the District Council's Scheme of Delegations is revised to authorise the Licensing and Appeals Committee to apply an exemption to the regulation of late night refreshment, if deemed

to be appropriate in the future.

343/15 – ANIMAL WELFARE LICENSING – ADOPTION OF LICENCE CONDITIONS FOR DOG BOARDING/DAY CARE & HOME BOARDING; AND BOARDING OF CATS

The Committee considered a report that sought approval of the following:

Home Boarding for Dogs: 2 sets of Standard Licence Conditions developed by Officers in the Council's Environmental Health and Licensing Teams in respect of Home Boarding and Day Care for Dogs, both inside the home and in a purpose-built environment;

Cat Boarding Establishments: adoption of the revised Model Conditions developed by the Chartered Institute of Environmental Health Officers (CIEH) in respect of Cat Boarding Establishments.

In July 2014 a report was considered by the Committee where approval was sought to adopt several sets of Model Licence Conditions for various Animal Welfare Establishments, such as Pet Shops, Dog Breeders and Catteries, as developed by the Chartered Institute of Environmental Health (CIEH). Model Licence Conditions in respect of Dog Boarding Establishments were not available other than as a draft produced by the CIEH in 1995.

In recent years there had been an increase in the number of enquiries received regarding the provision of a home boarding service for dogs, which could include day crèche facilities as well as overnight stays. Licence Conditions for Home Boarding had not been agreed by this Committee previously, but inspecting officers across the country had been working towards standards recommended by LAC^{ORS} several years ago, and it was now considered prudent to formally adopt a set of Model Conditions for Home Boarding and Day Care for Dogs and a separate set of conditions for Dog Boarding and Day Care in purpose-built facilities. Based on the standards already in force, sets of draft standard conditions had been prepared and were produced in Appendices 1 and 2 to the report for the Committee's consideration.

It was suggested that the Standard Conditions were not to be treated as blanket conditions to be attached to every Home Boarding/Day Care licence granted. Each application for a licence should be treated on its own merits and where there was a need to relax any of the conditions which may be considered too onerous or disproportionate for the type of premises, the applicant should be able to apply for those conditions to be waived. In those cases it was recommended that the decision to amend, relax or waive any licence condition was delegated to the Head of Regulatory Services.

The procedure for dealing with applications for licences for Home Boarding/Dog Day Care Licences was set out in the report, as a means of guidance for applicants.

The report to Members in July 2014 also sought approval to adopt Model Conditions and Guidance produced by the Chartered Institute of Environmental Health (CIEH) in respect of Cat Boarding Establishments. However, in June 2015 the CIEH released a revised document to take account of an error in the risk rating scores contained in the template for the inspection sheet in Annexe A of the document; this amendment is available on request or can be viewed via the following link: <http://www.cieh.org/policy/model-licence-conditions-and-guidance-for-cat-boarding-establishments.html>.

It was moved by Councillor Steve Flitter, seconded by Councillor Joyce Pawley and

RESOLVED
(unanimously)

- 1) That the Model Licence Conditions for Home Boarding/Day Care of Dogs (in the home only), and Dog Boarding/Dog Day Care (in purpose-built facilities) are adopted and attached to all licences granted or renewed with effect from 1st April 2016.
- 2) That the Head of Regulatory Services be delegated authority to amend, relax or waive any of the District Council's Model Licence Conditions for Home Boarding/Day Care of Dogs as considered appropriate for the type of premises.
- 3) That the Model Licence Conditions for Cat Boarding Establishments revised in June 2015 are adopted and attached to all licences granted/renewed with effect from 1st April 2016.

344/15 – REVIEW OF TAXI AND PRIVATE HIRE LICENSING POLICY – UPDATE REPORT

The Committee considered a report that provided an update on the review of the District Council's Taxi and Private Hire Licensing Policy, and that sought approval to carry out a new consultation exercise on proposed revisions to the Policy, which had been in force since February 2009 and had been subject to interim changes, which had been reported to Committee for approval on a case-by-case basis, as outlined in the report.

The Committee had been informed that the Law Commission was intending to report to Government on its proposals for a national reform of the laws governing taxi and private hire services. The Commission had produced an interim report to Government at the end of 2012, and a final report had been expected by April 2014. The proposed consultation on the local policy was commenced, with meetings being held with the trade, but on the understanding that major changes to the local policy would not be undertaken while confirmation of the national proposals was still awaited.

Members were informed that as part of the local consultation, the Trade had raised some issues with our existing policy and administration processes, and early indications had shown these could also be national issues and subject to change as a result of the Law Commission's recommendations. Particular concerns raised by the trade had included the Council's renewal period for taxi driver licences (badges), along with the need for all new drivers to undertake a knowledge test, even if they were only going to drive private hire vehicles.

One year later, in March 2015 a report was considered by this Committee which provided an update on the proposed national changes to taxi licensing laws, and which highlighted measures that had been added to the Deregulation Bill:

- Allowing private hire operators to sub-contract bookings to operators licensed in a different district.
- Allowing anyone with a DVLA driver's licence to drive a private hire vehicle when it was "off duty" and
- Making the duration of all taxi and private hire vehicle driver's licences renewable every 3 years and private hire vehicle operator licences renewable every 5 years, and only allowing licences to be issued for a shorter period where it could be

justified, the aim being to reduce the financial and administrative burden of having to make more frequent renewals.

The second of these proposals was later deleted from the Bill, but the other 2 were introduced with the implementation of the Deregulation Act 2015, and took effect from October 2015. In September 2015 a report was submitted to the Governance and Resources Committee to set new application fees to take account of the longer renewal periods for Driver and Operator Licences with effect from 1st October 2015. Previously in Derbyshire Dales, Driver licences were renewable annually and Operator licences every 3 years.

It was put to Members that the draft policy document presented at the November 2013 meeting was now considerably out of date, and was in need of further review before an informed consultation could be completed. The comments received to date from the Trade had been taken into consideration and a new draft policy was produced in Appendix 1 to the report for the Committee's consideration. The proposed changes were highlighted in grey.

An initial Impact Assessment was carried out in 2013 and would require updating. It was recommended that a final draft Policy was presented to the next appropriate meeting of this Committee for consideration.

It was moved by Councillor Tony Millward, BEM, seconded by Councillor Tom Donnelly and

RESOLVED
(unanimously)

- 1) That a consultation exercise is carried out with the Taxi and Private Hire Trade and other stakeholders on the draft Taxi Licensing Policy produced in Appendix 1 of the report.
- 2) That any comments received during the consultation exercise will be taken into account and a final draft of the District Council's Taxi and Private Hire Licensing Policy be prepared for submission to a future committee meeting for consideration.

MEETING CLOSED 7.35PM

CHAIRMAN