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LICENSING AND APPEALS COMMITTEE

Minutes of a Meeting held on Tuesday 29 July 2014 in the Council Chamber, Town Hall, Matlock at 6.00pm

PRESENT

Councillor Jacque Bevan - In the Chair

Councillors Tom Donnelly, Richard FitzHerbert, Steve Flitter, Cate Hunt, Jean Monks, Mike Ratcliffe, Judith Twigg, Carol Walker.

Eileen Tierney (Licensing Manager) and Jackie Cullen (Committee Assistant).

APOLOGIES

Apologies for absence were received from Councillor Angus Jenkins.

81/14 – MINUTES

It was moved by Councillor Carol Walker, seconded by Councillor Jean Monks and

RESOLVED
(unanimously)

That the Minutes of the meeting of the Licensing and Appeals Committee meeting held on 26 March 2014 be approved as a correct record.

The Minutes were signed by the Chairman.

82/14 – ANIMAL WELFARE LICENSING – ADOPTION OF MODEL LICENCE CONDITIONS

The Committee considered a report regarding revised Model Licence Conditions that have been developed by the Chartered Institute of Environmental Health (CIEH), in respect of Cat Boarding Establishments, Dog Breeding Establishments and Pet Shops (and other vendors) and which sought approval for adoption after consultation with the Trade.

The introduction of the Animal Welfare Act 2006 had provided a timely opportunity for the existing licence conditions introduced in the early-mid 1990s to be reviewed in line with more modern legal and social animal welfare considerations highlighted in the Animal Welfare Act 2006.

The CIEH consulted widely with a number of local authorities, national groups/organisations representing animal welfare and the trade before the final documents were produced. However, Officers recommended that the District Council should consult with proprietors of locally licensed premises with a view to adopting the revised conditions, to ensure that compliance would not place any disproportionate or unnecessary burden on business.

Details regarding current licensing arrangements were set out in the report, together with a list of licensed animal welfare establishments in the Derbyshire Dales.

The model licence conditions to be reviewed and revised were:

- Revised Model Licence Conditions for Cat Boarding Establishments – November 2013
- Revised Model Conditions for Dog Breeding Establishments – January 2014
- Model Conditions for Pet Vending Licensing 2013

It was moved by Councillor Judith Twigg, seconded by Councillor Steve Flitter and

RESOLVED
(Unanimously)

- 1) That a short consultation exercise (4 weeks) be undertaken with proprietors of animal boarding establishments, dog breeding establishments and pet shops licensed by the District Council, (and any new or prospective applicants), in respect of adopting the Model Licence Conditions and Guidance for these 3 types of establishments.
- 2) That any objections received during the consultation period will be considered by the Head of Regulatory Services and a further report will be submitted to the November meeting of this Committee for consideration.
- 3) That subject to no objections being received during the consultation period, the revised Model Licence Conditions for Cat Boarding Establishments, Dog Breeding Establishments and Pet Vendors, are adopted and attached to all 3 types of licences granted or renewed with effect from 1st January 2015.

83/14 – 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 which sought to extend the consultation on the District Council's draft Taxi Licensing Policy, taking account of the Law Commission's proposed recommendations for changes to the current legislation.

Details of the Law Commission's most recent recommendations to Government for a national reform of taxi licensing law were also provided.

At the November 2013 meeting of this Committee a report recommending a review of the District Council's Taxi and Private Hire Licensing Policy was considered. Approval was granted to carry out a consultation exercise with the Trade on the draft policy provided.

At the March 2014 meeting of this Committee it was reported that as part of the review of the District Council's Taxi Licensing Policy, the Local Trade had raised some issues with the policy and administration processes, which could be national issues and subject to change as a result of the Law Commission's recommendations. It was reported that proposals in the Deregulation Bill currently on its passage through Parliament had introduced a further complication to the local consultation exercise, with the following proposals needing to be taken into account.

- 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 is "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 can be justified. The aim being to reduce the financial and administrative burden of having to make more frequent renewals.

The Deregulation Bill had its second reading in the House of Lords on 7 July 2014 – where reference was made to the concerns expressed recently by campaigners, industry bodies and unions regarding the second of these 3 proposed changes in particular. It was felt that this deregulation would have severe safety implications, as effectively, anyone without a minicab licence (driver's badge) would be able to drive a private hire vehicle when it is "off duty."

Law Commission's Recommendations on Taxi Law Reform - Summary

On 10 May 2012, the Law Commission published a consultation paper with its provisional proposals for reform for taxi and private hire licensing law.

On 23 May 2014 a 290 page report was published which explained and set out the Law Commission's recommendations to Government, together with a draft Bill. The 84 recommendations to Government were summarised in the report and reproduced in **Appendix 1** to the report.

At the March 2014 meeting it was considered prudent to take account of as many as possible of the national issues whilst reviewing the District Council's own policy, to ensure that it would not be compromised by legislative changes in 12 months' time. Further consultation with the local trade was recommended. Since the March 2014 meeting discussions had taken place with some of the Trade who were made aware of the Law Commission's recommendations through representatives from their national trade organisations.

It was suggested that the draft policy document presented to Members at the November 2013 meeting was further reviewed with the Trade and now with other stakeholders who were not previously consulted, while more information on possible changes to the law were awaited. It was also suggested that those comments already received from the Trade should be reconsidered in light of any possible changes that may be necessary to avoid conflict with the Law Commission's recommendations outlined in this report.

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 Steve Flitter, seconded by Councillor Judith Twigg and

RESOLVED
(unanimously)

- 1) That the consultation exercise in respect of the proposed draft Taxi Licensing Policy, submitted to the November 2013 meeting of this Committee, be extended to the Trade and other stakeholders to allow comment on the recently published proposals of the Law Commission, and the Deregulation Bill in respect of taxi licensing law.
- 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 will be submitted to a future meeting for consideration.

84/14 – LICENSING ACT 2003 AND GAMBLING ACT 2005 – ANNUAL PROGRESS REPORT

The Committee considered a report which provided a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Section during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

Details of Licenses processed and granted throughout the Derbyshire Dales were set out in the report, and a table showing the number of applications made under the Licensing Act 2003 covering the periods 2011-12, 2012-13 and 2013-14 was set out in para.1.10. (Due to a transition period to using new software, a few of the details were not available for the year 2013-14.)

An amendment was brought to Members' attention under item 1.11 regarding appeals: 2 decisions had been appealed at the Magistrates' Court, where the District Council's decision to grant the licences was upheld in both cases.

In October 2009, the Minor Variations application process was introduced. This allowed proprietors/operators to make small changes to their premises licences, as long as the proposed changes would not undermine the licensing objectives. Examples of permitted changes were listed in the report, together with the procedure for the determination and administration of minor variations, which Members had resolved should be delegated to the then Director of Community Services and to the Licensing Manager (formerly Licensing and Administration Manager). Details of the 7 minor variation applications which had been

determined by Officers under delegated powers during 2013-14 were tabled under 1.17 of the report.

The Committee was provided with a summary of changes to Alcohol and Entertainment Licensing from April 2014. These included:

Below Cost Selling Orders, which introduced a new mandatory condition for premises licences and club premises certificates.

Plans to Abolish Personal Licences, which would not be progressed, but 10 yearly renewals were still under discussion by the Government.

The Licensing Manager would keep the Committee informed of any progress which needed to be made before next April as a large percentage of the 1,000 Personal Licences issued by the Licensing Authority had been issued in 2005 for a 10 year period.

Community and Ancillary Sellers Notices (CAN), aimed at allowing small-scale low-risk alcohol sales over 36 months by Ancillary Sellers and Community Groups without the need for a premises licence or TEN, providing there is no objection from the Police or Environmental Health, or the Licensing Authority. Secondary legislation would set out the details and how this would work in practice. The Government intended to consult before introducing such a system and further details would be presented at a future meeting.

The Gambling Act 2005

A list of premises currently licensed under the 2005 Act was set out in the report. It was reported that a new action detailed in last year's Licensing Service Plan provided for inspections of all gambling establishments in the district to be carried out by the end of March 2014. Visits to 8 out of the 10 premises had been carried out; and 2 visits still outstanding would be given priority during the next 3 months before the end of the tourism season.

Local Fee Setting for Licensing Act 2003 Applications

Members were reminded that earlier this year the Government consulted licensing authorities on whether or not licence fees for applications made under the Licensing Act 2003 should be set locally. The fees, set centrally, had not been increased since introduction in 2005. Local authorities already set their own fees in respect of the Gambling Act applications, which is done on a cost-recovery basis. The locally set fees consultation finished in April 2014 and the Government was currently analysing the responses. Members were advised that by the November meeting of this Committee, the Local Authority should be able to set its own fees.

It was moved by Councillor Steve Flitter, seconded by Councillor Carol Walker and

RESOLVED
(Unanimously)

1. That the report be noted.
2. That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, in particular in on-going partnership working with the Police to reinvigorate an active PubWatch Scheme in the Central area of the Dales.

3. That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out the following number of planned compliance/enforcement visits in the District by 31 March 2015:

- 10 visits to licensed gambling establishments (and ones with Permits);
- 10 visits to alcohol and/or entertainment-licensed problem premises;

MEETING CLOSED 6.55PM

CHAIRMAN