



EAST
CAMBRIDGESHIRE
DISTRICT COUNCIL

Minutes of a meeting of the Licensing (Statutory) Sub-Committee held at 4:46pm on Thursday 1st June 2023 in the Council Chamber at The Grange, Nutholt Lane, Ely, CB7 4EE.

PRESENT

Cllr Charlotte Cane
Cllr Lavinia Edwards
Cllr Keith Horgan (Chairman)

OFFICERS

Stewart Broome – Senior Licensing Officer
Maggie Camp – Director Legal Services & Monitoring Officer
(Legal Adviser)
Angela Tyrrell – Senior Legal Assistant
Hannah Walker – Trainee Democratic Services Officer

IN ATTENDANCE

Cllr Chika Akinwale (left at 5:01pm)
Cllr Christine Ambrose Smith
Cllr Martin Goodearl
Cllr Bill Hunt
Cllr John Trapp

0 members of the public.

1. ELECTION OF CHAIRMAN

Cllr Keith Horgan was nominated as the Sub-Committee Chairman by Cllr Lavinia Edwards and seconded by Cllr Keith Horgan.

There being no other nominations, it was resolved:

That Cllr Keith Horgan be elected as the Chairman of the Licensing (Statutory) Sub-Committee for the 2023-24 municipal year.

2. APOLOGIES AND SUBSTITUTIONS

There were no apologies nor substitutions for this meeting.

3. DECLARATIONS OF INTEREST

No declarations of interest were made.

**4. APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE – LICENSING ACT 2003
INDIAN EDGE, 9A BROAD STREET, ELY, CAMBRIDGESHIRE, CB7 4AJ**

The Sub-Committee considered report Y6 (previously circulated) regarding an application for the granting of a premises licence in respect of Indian Edge, 9A Broad Street, Ely, CB7 4AJ.

The Senior Licensing Officer provided a summary of the premises history and highlighted that the new permission would restrict the use to internal dining and takeaway facilities between the hours of 12:00 to 22:00 Monday to Sunday, under Condition 7 of the change of use planning consent granted under LPA ref 22/00512/FUL.

The new application submitted by Indian Edge on 19th January 2023 was attached to his report: the applicant proposed to operate as an Indian restaurant providing food and drink for internal and takeaway purposes. Table 1 within the report detailed the proposed hours with set days for licensable activities such as sale by retail of alcohol for consumption on and off the premises, late night refreshment (indoors), recorded music (indoors) – limited to background music only, and opening hours. The plans and steps the applicant would take to promote the licensing objectives were also included as an appendix to the report.

The Senior Licensing Officer explained that during the consultation period the Licensing Authority received no representations from any responsible authorities, and a total of four valid representations were received from other persons permitted by the Licensing Act 2003. All four of the representations raised concerns regarding the proposed extended trading hours resulting in additional noise and disturbance, and were included as an appendix to the report. The applicant agreed during the consultation period to amend the application to match the hours permitted by their planning permission. The Senior Licensing Officer noted that the late-night refreshment (indoors) would no longer require any proposed hours, as this activity only required permission beyond 23:00. An agreement was reached with the persons who submitted their representations to dispense with the need to hold a full hearing, providing that any licence granted did not exceed the hours shown in Table 2 of the report.

Members were reminded that the application should be determined with a view to promoting the four licensing objectives: the prevention of crime and disorder; the prevention of public nuisance; public safety; and the protection of children from harm. Members were required to have regard to the Council's Statement of Licensing Policy and the Statutory Guidance issued under section 182 of the Licensing Act 2003 when making their decision. Members were provided with the options available to them in determining the premises licence application together with a summary of the key matters that had been presented to them. The Sub-Committee were asked to ensure that they provided reasons for their decisions, and considered their responsibilities under the Human Rights Act 1998 to balance the rights of the applicant and the rights of those who may be affected.

Members were informed that if they considered that the agreement reached would uphold the licensing objectives then they could dispense with the need to hold a hearing. However, if they considered that the application would have a detrimental impact on one of the licensing objectives then they could adjourn the determination and invite all parties to attend a hearing in future to answer questions.

The Senior Licensing Officer ended his report by stating that the applicant or any party who had made relevant representations in relation to the application could appeal the Sub-Committee's decision at the Magistrate's Court. The right of appeal was 21 days from the date of notification of the decision and there would be costs associated with the process.

The Chairman invited questions to be asked of the Senior Licensing Officer as neither the applicant nor any parties who had submitted relevant representations were present at the meeting.

Cllr Cane referred to Operation Schedule Condition 7 and queried what the definition was for recorded music to be limited to internal background noise. The Senior Licensing Officer explained that there was no statutory definition, however the recorded music would be the same noise level as a normal conversation, and incidental to people in the premises.

Cllr Edwards referenced Table 2 within the Senior Licensing Officer's report raising concern over the proposed hours of the business within a residential area. It was clarified to the Sub-Committee that the proposed hours were consistent with other businesses in the residential area, with their closing time at 22:00.

Cllr Horgan asked whether Indian Edge was already open as a business, whether any incidents had been reported, and whether the sale of alcohol would also stop at 22:00 closing time if a premises licence was granted. The Senior Licensing Officer confirmed that the business could not currently sell alcohol; the premises licence would enable them to sell alcohol for consumption on the property until 22:00 and it could be consumed off-site after 22:00.

Cllr Cane referred to Operation Schedule Condition 9 and suggested a potential change to remove the word 'empty' from the sentence. The Senior Licensing Officer said the condition could be amended but it would be an insignificant change, and he would advise Members against this. Members agreed that the change was not necessary but asked the Senior Licensing Officer to remove the word 'empty' from Condition 9 for future applications.

The Senior Licensing Officer explained that the Sub-Committee could go into closed session to discuss the application further, or could announce their decision in the meeting since all concerns had been addressed before the sub-committee meeting and agreement reached between the applicant and those who had submitted representations. The Director Legal Services also reminded Members of the need to consider the matters within paragraph 4.3 of the Officer's report when making their decision.

It was unanimously agreed:

That the Senior Licensing Officer be instructed to grant the premises licence in accordance with the agreement reached between all parties with regard to the reduced hours set out in table 2 in the report, the conditions offered by the applicant contained in appendix 3 to the report, and any necessary mandatory conditions as set out in the Licensing Act 2003.

The meeting closed at 5:08pm



East Cambridgeshire District Council

Minutes of a Meeting of the Licensing Committee

Held at The Grange, Nutholt Lane, Ely, CB7 4EE at 10:00am
on Wednesday 8 November 2023

Present:

Cllr Christine Ambrose Smith
Cllr Lorna Dupré (substitute for Cllr Cane)
Cllr Lavinia Edwards
Cllr Martin Goodearl
Cllr Keith Horgan
Cllr Julia Huffer
Cllr Kelli Pettitt
Cllr Caroline Shepherd (substitute for Cllr Inskip)
Cllr John Trapp
Cllr Gareth Wilson

Officers:

Stewart Broome – Senior Licensing Officer
Liz Knox – Environmental Services Manager
Angela Tyrrell – Senior Legal Assistant
Hannah Walker – Trainee Democratic Services Officer
Jane Webb – Senior Democratic Services Officer

In attendance:

Jess Tobin – ICT Support Officer

13. Apologies and substitutions

Apologies for absence were received from Cllrs Cane and Inskip.

Cllrs Dupré and Shepherd were attending as substitutes.

14. Declarations of interest

No declarations of interest were made.

15. Minutes

The Committee received the Minutes of the meeting held on 4 September 2023.

It was resolved unanimously:

That the Minutes of the Licensing Committee meeting held on 4 September 2023 be confirmed as a correct record and be signed by the Chairman.

16. Chairman's announcements

There were no Chairman's announcements.

17. Review of Licensing Fees

The Committee considered a report, Y79 previously circulated, that detailed the statutory and discretionary fees that East Cambridgeshire District Council was required to charge for specific licences.

The Senior Licensing Officer provided a background to the review of licensing fees. Statutory fees were set by central government, and the Council was responsible for setting fees and charges for the licensing regulations it was responsible for administering and enforcing. There was no statutory duty for the Council to consult when setting or revising licensing fees, except for those fees relating to hackney carriage and private hire vehicles and operators' licences under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976. He explained that the extracts from the relevant legislation were provided in Appendix 8.

The Council's fees and charges may be challenged through several routes e.g., service complaints to the Local Government Ombudsman or via judicial review. Local authorities may become liable for substantial costs if it was found that procedures for setting fees had not been correctly followed, and if the fees were not reasonable and proportionate to the costs of the licensing procedures.

The Senior Licensing Officer advised Members that fees were reviewed yearly and they should consider each regulatory power separately. He added that it was also necessary to consider that not all costs to the Licensing Authority were recoverable, such as the processing of "Charity House to House Collections", where a fee was not permitted to be charged, or deficits in statutory income against expenditure. Therefore, it would not be legally possible to recover 100% of the cost of running the Licensing Authority from the fees charged, and the deficit must be covered by the Council's general fund.

Table 1 within the report summarised the percentage of time on different types of licences for 2020/21, 2021/22 and 2022/23. LA03 referred to the Licensing Act 2003 which were the statutory fees, he noted that the amount of Taxi licences had increased, and the vetting requirements had also increased per transaction, which had steadily increased the time to process.

Table 2 within the report detailed the number of issued licences at a given date, he added that they work within a live licensing database whereby the number of issued permissions were constantly changing. There had been a drop in Taxi driver licences; however, as of the end of September 2023 252 taxi licences had been issued which resulted in more time spent on Taxi licensing processing. The

Senior Licensing Officer had checked the live database before the meeting and found that 268 taxi driver's licences had now been issued.

Table 3 within the report included the cost of running the Licensing Authority, and the income received over the last three-year period. The table reflected a slight increase in recovered expenditure, from 66% in 2020/21, to 67% in 2021/22 and 68% in 2022/23. He explained that although expenditure had increased, the Licensing Authority had grown as a service. The proposed budget for running the service for the 2023/24 period was £317,463, with allocated income for the first 6 months at £160,000, which reflected the increased work entering the service. A cost recovery figure of approximately £253,970 was required for the current period and was likely to be achieved. The proposed budget for the 2024/25 period had not been set but was expected to be approximately £336,768 due to the additional staffing costs, therefore the estimated cost recovery income figure of £269,424 was required.

The Senior Licensing Officer explained that licences could be issued for periods of between one and six years which made budgeting over these years difficult. For example, the new taxi driver company had a pre-payment account in order to pay for the number of 3-year drivers' licences they had applied for, this meant that money would be allocated to a holding account over this time and not sat within the licensing accounts.

Table 4 within the report detailed the income received in each area of licensing in the last accounting year of 2022/23 against the budget for the same period. Taxi income was down, but the Senior Licensing Officer believed that would not be the case in a year's time. There was a shortfall in Breeding, as last year the committee had agreed to implement a small increase in animal welfare fees, the impact of this would not be seen until 2025.

A Member raised a point of order and asked the Senior Licensing Officer to present his report to all committee members.

The Senior Licensing Officer concluded his presentation by reminding Members that whilst 2023 had seen levels of inflation in the UK fall marginally, costs of fuel and energy remained high, and the "cost of living" crisis impacted on licence holders and the Licensing Authority itself.

The impact of growth in taxi licensing numbers on the Licensing Authority had been profound, the additional member of staff, resource distribution, and corporate costs incurred by the Licensing Authority for support services such as Legal, Democratic Services, and IT support had impacted the licensing budget. The full costs would be recovered in the financial year, and Members were recommended to keep fees as they were, an increase would risk the Licensing Authority making a profit.

The Senior Licensing Officer had advised that some drivers were choosing to upgrade their private hire only drivers' licence into a joint hackney carriage and private hire part way through their licence period, the new fee would cover the direct costs of completing the work and re-issuing the new licence.

Members were asked to note that the temporary Pavement Licensing scheme was made permanent by the Levelling Up and Regeneration Bill recently passed, and that the change of the permanent statutory fee of £100 would be replaced. New applications would cost £500 and renewal applications would cost £350, the new legislation can be issued for up to 2 years rather than just for 1 year, therefore this would create a small statutory difference in income for pavement licence.

In response to various questions from Members, the Senior Licensing Officer gave the following additional information:

- The 80% cost recovery would ensure the Licensing Authority would not make a profit; every component must be cost recovery.
- The last column of table 1 within the report should read Percentage of time 22/23
- The additional member of staff was permanent and worked full time, the difference in the budget for 23/24 and 24/25 reflected the new member of staff's salary, which replaced the temporary part time worker who had left.
- Animal licence numbers were volatile, the 3-year extended period resulted in a small surplus, then the following year a deficit. The licensing budget was more difficult to budget for as money could be received 1-6 years in advance.
- Table 4 riding set actual income arrow should point upwards to reflect an increase in actual income received 22/23.
- In response to a question regarding the budget, the Senior Licensing Officer advised that they budgeted to achieve 80% cost recovery, being 80% of the joint LI budget (reported separately) and the corporate costs incurred from support services. Table 1 detailed the 80% figure to be recovered and this could change drastically. Table 3 showed the difference in percentage recovered from 66% in 20/21 to 68% in 22/23 resulting in a 13% shortfall in the budget. The Environmental Services Manager advised the licensing budget was a set budget, to offset as much income in that financial year, she was happy to confirm to Members whether there was an expected income. The Member will submit further questions in writing to the Chair.
- The indicative cost recovery income figure based on 22/23 budget of £302,414 was set, 68% had been recovered but 81.1% was needed to balance the figure.
- A Member thanked the Senior Licensing Officer for their report, he reassured Members that a rise in fees would put the Council's budget at

risk. The Licensing Authority in November 2023 had issued 268 taxi drivers' licences, compared to 252 in September 2023 as previously mentioned. The sixteen additional drivers would result in approximately £3,500 in income, as well as renewal application income. The growth was at an exponential rate, and it was not expected to slow down. If the trend were to continue, at the end of the year there would not be a shortfall and the 80% cost recovery figure would be met.

- The income difference in Table 4 between Animal Boarding and Breeding income could be due to when the fees were paid in, or they may have been paid to the wrong budget or income code. The fees should remain as they were to see the impact of increases implemented in April 2023.
- The increase in the number of taxi drivers was a result of increased work for a special educational needs contract through Suffolk and Cambridgeshire County Council. There had also been a change to have smaller vehicles as taxis, which resulted in an increase in driver numbers across operators. As previously mentioned, a company had migrated a number of drivers from another authority to East Cambs because of the quick turnaround time for applications and the deregulation rules, as long as they had a base in our area, those drivers could operate in other areas, such as Ipswich. It would be expected that one hundred drivers would migrate over a 3-year period, plus approximately 25 new drivers a year.

The Senior Licensing Officer summarised that the Licensing Authority aimed to set reasonable prices to ensure compliance.

The Chairman opened the debate and emphasised that she had been a part of the Licensing Committee for 9 years and setting the budget was not easy, she was very aware that there were constant changes with more taxi drivers coming to the District.

The Officer's recommendations were proposed by Cllr Huffer and seconded by Cllr Ambrose Smith.

It was further resolved (unanimously):

1. That the statutory fees that East Cambridgeshire District Council is required to charge in respect of the specified licences under the Licensing Act 2003, Gambling Act 2005, and the Business and Planning Act 2020, as set out in Appendix 1, Appendix 2, and Appendix 3 of the report, and agree to implement these fees (or if subject to statutory amendment, the relevant amended fees), be implemented on the 1 April 2024.
2. That Officers be instructed to implement, as appropriate, any other statutory fees that may be brought into force during the 2023/2024 financial year.

3. That Officers be instructed to include the agreed fees in the 2024/2025 annual fees and charges report that is presented to full Council.
4. That the proposed fees relevant to those licences and licensing related activities where the authority has the discretion to determine the fees, as set out in Appendix 4 and Appendix 5 of the report, be implemented on the 1 April 2024.
5. That the proposed fees relevant to Animal Welfare licensing, as set out in Appendix 6 of the report be implemented on the 1 April 2024.
6. That Officers be instructed to include the fees in the 2024/2025 annual fees and charges report that is presented to full Council.

It was further resolved (unanimously):

1. That the proposed fees relevant to hackney carriage, private hire, and operator licensing, as set out in Appendix 7 of the report be implemented with immediate effect.
2. That Officers be instructed to include the proposed fees, as set out in Appendix 7 of the report, in the 2024/2025 annual fees and charges report that is presented to full Council.

The Senior Licensing Officer clarified in response to a question raised that the Animal Welfare Act 2006, Section 9 was the duty of a person responsible for an animal to ensure its welfare. If a licensable activity were on Council land, they would have to complete a booking form.

18. Senior Licensing Officer's update

The Committee considered a verbal report that updated Members on current and emerging issues relating to Licensing both locally and nationally.

As previously mentioned, the Levelling Up and Regeneration Bill had been passed which affected pavement licences, the Bill would extend the consultation period from 7 days to 14 days. The fees were set at maximum but there was scope within pavement licences to charge a smaller fee for a smaller duration. There would be an additional item to come to committee to set up the fee structure.

The King's speech had taken place the day before the committee meeting and Martyn's Law had been mentioned, this was to ensure stronger protections against terrorism in public places and would continue to progress through Parliament.

19. Forward agenda plan

The Committee received its Forward Agenda Plan. The Chairman noted that the next Licensing Committee meeting was scheduled for the 13th December 2023.

It was resolved:

That the Forward Agenda Plan be noted.

The meeting concluded at 11:00am.

Chairman.....

Date.....

