

Minutes of a meeting of the Licensing Committee held in the Council Chamber, Nutholt Lane, Ely on Wednesday, 18th November 2015 at 9.35am.

P R E S E N T

Councillor Elaine Griffin-Singh (Chairman)
Councillor Christine Ambrose Smith
Councillor Mike Bradley
Councillor Paul Cox
Councillor Neil Hitchin
Councillor Julia Huffer
Councillor Chris Morris
Councillor Carol Sennitt

OFFICERS

Stewart Broome – Senior Licensing Officer
Maggie Camp – Solicitor
Liz Knox – Environmental Services Manager
Adrian Scaites-Stokes –Democratic Services Officer

OTHERS PRESENT

1 member of the public

32. **APOLOGIES**

Apologies were received from Councillors Vince Campbell and Mike Rouse.

33. **DECLARATIONS OF INTEREST**

Councillor Carol Sennitt declared a personal interest in agenda item 6, as her sister worked as a trader in the lay-by near Soham and she occasionally helped, unpaid.

Councillor Chris Morris declared a personal interest as a member of the South East Cambridgeshire Conservatives Association.

34. **MINUTES**

It was resolved:

That the Minutes of the Licensing Committee meeting held on 9th September 2015 be confirmed as a correct record and be signed by the Chairman.

35. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman noted that the Licensing Act and Gambling Act policies had been published following the last meeting.

36. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 –
DRAFT STREET TRADING POLICY AND DRAFT RESOLUTION**

The Committee considered a report, Q108 previously circulated, that detailed the draft revised version of the Council's Street Trading Policy and the wording of a resolution to designate and re-designate streets within the district.

The Senior Licensing Officer advised the Committee that the proposed draft would go out to public consultation. Street Trading was controlled under the 1982 Act and this Council took up its relevant powers in 1984. Various streets were designated, using those powers, with three different categories – those requiring consent for street trading, those that required licenses and those where street trading was prohibited. Paragraph 3.3 of the report set out the current situation over which streets were covered under which category. The Council adopted a Policy in 2008, shown in Appendix 3, to enable a consistent approach to be taken.

Councillor Christine Ambrose Smith joined the meeting at this point, 9:40am.

The district only had three current street traders and only one consent street, Jubilee Gardens in Ely. Only one trader was allowed per street. The markets running in the district were exempt from this Policy. The Policy had been in place for 20 years, but was now considered to be burdensome and required changing. There was no legislative reason to have this Policy, but it was considered good practice to do so. The new draft Policy was intended to go out to consultation. The Council could charge a reasonable fee to cover the costs of providing a service for this, though profit was not allowed. A cost analysis had been completed that demonstrated that the current level of fees did not cover costs, so there was a deficit as the service was not cost neutral.

A re-designation of the streets could encourage more street traders, which would reduce the fees for individual traders. Setting a new schedule of fees could help push some street traders into more rural areas, as fees would be lower there. The current Policy was Ely-centric and would not control any 'rogue' traders. Having 'consent' streets would give this control.

A twelve-week consultation period on the proposed new Policy, starting in November 2015, would allow the Committee to consider adopting the Policy in March next year, with an implementation date of 1st April 2016. The Committee would consider objections to the proposed Resolution to re-designate the streets in January 2016 with a view to implementing it at the same time as the new Policy.

Charging the full amount for street trading would make things expensive and other people and events, such as markets, not currently covered by the existing Policy, could become covered under the new Policy. With more people covered, this could lead to a reduction in individual fees.

Councillor Elaine Griffin-Singh hoped the change of the Policy would help promote more business for the district. A better idea would be available once the results of the consultation were known.

The Senior Licensing Officer explained that the consultation would involve all parish councils, the Chamber of Commerce, the fire service and the police service amongst others. Once the responses had been received then the status quo could be changed.

Councillor Christine Ambrose Smith wondered whether small community groups would be affected by the proposed Policy changes. The Committee was informed that the Policy would be concerned with people selling goods on the streets and not to capture small non-trading groups. Events held on non-Council green spaces or on private land would not be covered. However, village greens that were owned by the District Council would be covered and the Council's Town Centres team would be consulted. In reply to Councillor Mike Bradley's query, it was explained that the Town Centres Team had been met to go over the possible implications for the markets. Fairs covered by a Royal Charter were exempt from street trading rules, but other fairs may need permission. The existing Markets and any new ones set up under the Food Act 1984 would be exempt.

The Chairman went through the recommendations, noting that under 2.2 the recommendation should have read "February 2016" not "February 2015", and when put to the vote all were agreed.

It was resolved:

- (i) That the draft version of the Street Trading Policy at Appendix 1 be approved;
- (ii) That a public consultation takes place on the draft Street Trading Policy from 23 November 2015 to 15 February 2016 be agreed;
- (iii) That the notice of intention to pass the resolution at the Licensing Committee meeting scheduled for 20th January 2016 (Appendix 2) be approved and officers be authorised to publish it in accordance with the 1982 Act.

37. REVIEW OF LICENSING FEES

The Committee considered a report, Q109 previously circulated, which detailed the statutory fees required to be charged for specific licences and the proposed fees in respect of those licences and licensing related activities where the authority had discretion to determine.

The Senior Licensing Officer advised the Committee that the extensive report covered the statutory and discretionary fees charges by this Council. Every year the Council should review its fees, in time for the Council's annual budget, but these had not been increased in the past 5 years. The fees charged should

mean that the licensing service was cost-neutral, although a 100% cost-neutral service would never be achieved and cross-subsidisation was not permitted. Statutory fees were set by central Government, so could not be changed. Discretionary fees were set by the Council, some of which had no requirement to consult whereas other fees set locally had to be consulted upon.

The current shortfall was around £93,000, which was covered by the Council's general fund. An analysis model had been created to see where time was spent on related activities. This would show the costs of those activities and who should be paying for them in fees. The current level of fees was not close to the level required to recoup the costs. A large increase in fee levels was needed to recoup those costs but imposing this increase would be unfair and unreasonable to the fee payers, particularly as the Council was partly at fault. Therefore officers favoured an incremental approach, which would be reviewed after 12 months when better data would be available. This would also ensure that the trades would not be overcharged.

Consultation would take place on taxi vehicle, operator and drivers' licence fees, although the drivers' fees would be increased immediately. Full Council could overturn this decision, in which case refunds would be given.

Appendix 1, part 1 related to statutory fees, which could not be affected.

Appendix 1, part 2 related to discretionary fees, some of which were at their maximum level allowed and should not be decreased, as they just about covered costs.

Appendix 1, part 3 related to taxi fees.

Appendix 2 set out the rights to charge fees, as set out in legislation.

Appendix 3, part 2 related to the possible staged increases.

Councillor Elaine Griffin-Singh stated that the service was not charging the proper level of fees. The proposed staged increases would allow a review of the situation as it developed. The implementation of the new drivers' fees should be straightaway with the possibility of refunds later if needed.

Councillor Mike Bradley was concerned about the fees for dangerous wild animals, which were only around £150 whereas they should be over £800, so the full amount should be charged. The fees for home boarding seemed out of proportion. The Senior Licensing Officer stated that the situation was difficult to judge. Currently there was no data on keeping wild animals as there were no licence holders within the district. Such a licence would run for two years and require inspections. Anyone applying for such a licence could challenge the fee level and might have a case. With reference to home boarding, inspections took longer at kennels and catteries so the fees for that were higher. It was felt that the proposed fees were at a fair level, based on the work required to deal with them.

Councillor Julia Huffer thought the Council did not want to discourage people from having licences because the fees were too high. The Senior Licensing Officer accepted that it was difficult for a minority of licences, as applications

would affect the work done by the service, and agreed that charging the full fee for those could put people off.

The Environmental Services Manager thought the suggested stage process was appropriate, as the Committee would look at it again next year. The proposals were based on data which was not that robust, but more data would be available next year.

Councillor Christine Ambrose Smith wanted to ensure that animal establishments were inspected and were not driven 'underground' due to the level of fees. Some people who wished to set up kennels could be driven out of our area if our fees were too high. How could the Council justify those levels?

The Senior Licensing Officer stated this was a historic problem, as neighbouring Councils tended to undercharge fees. A High Court case had ruled that the level of fees had to be cost neutral for Councils. Fees in other Councils would be different, as their costs were different. Other Councils were also looking at their fee levels with a view to changing them. This Council should not be too concerned about the fee levels they set.

The Environmental Services Manager explained that this report had been generated following the recent review of the Licensing Service, as the aim was to make the Service more cost-neutral. This meant it had to become more commercially minded. The Service could continue to operate at its current level, provided the new set of fees were agreed, and also it wanted to help make the district more vibrant. This report set out the methodical approach intended to achieve both those aims.

Councillor Elaine Griffin-Singh questioned whether having the Licensing Service in-house and the serious increase in fees would be of benefit to licence holders and the community. The Environmental Services Manager reminded the Committee that everybody needing a licence was working commercially. If the Service did not cover its costs through the fee levels then that meant other taxpayers were subsidising those businesses. Keeping the Service in-house meant that issues could be resolved locally and would not be skewed by a different authority's approach. The Service had the licensees and the district at heart. If the Service had gone elsewhere then the fees might have been more expensive to cover the extra costs.

Councillor Carol Sennitt asked whether all new applications should be charged the full fee. The Senior Licensing Officer confirmed that the Committee could decide that but warned that the suggested fee levels were based on the best data available, but this was not as comprehensive as had been hoped. If the current fee levels were kept then the deficit would get bigger. Charging the full suggested fee levels could open the Council up to challenge, if those fees were wrong, so the staged approach was preferred. This would reduce the risk of people asking for refunds and next year the fees could be assessed. The proposed levels would be affordable to the trades. The Environmental Services Manager thought that the equitability on the implementation of the fees across the board would be fair to businesses.

It was resolved:

- (i) That the statutory fees that East Cambridgeshire District Council is required to charge in respect of the specified licences under the Licensing Act 2003 and the Gambling Act 2005 as set out in Part 1 of Appendix 1 be noted and agree to implement these fees (or if subject to statutory amendment, the relevant amended fees) on the 1 April 2016;
- (ii) That officers be instructed to implement, as appropriate, any other statutory fees that may be brought into force during the 2015/16 financial year;
- (iii) That officers be instructed to include the agreed fees in the 2016/17 annual fees and charges report that is presented to full Council;
- (iv) That, with any necessary modification, the proposed fees relevant to those licences and licensing related activities where the authority has the discretion to determine the fees on 1 April 2016 be implemented;
- (v) That officers be instructed to publish on the Council's website, the intention of the Committee to revise the fees as set out in Part 2 of Appendix 1;
- (vi) That officers be instructed to include the fees in the 2016/17 annual fees and charges report that is presented to full Council;
- (vii) That, with any necessary modification, the proposed fees relevant to driver licences, as set out in Part 3 of Appendix 1, be implemented immediately, with an understanding that if Council do not approve the measure, refunds will be given;
- (viii) That, with any necessary modification, the proposed fees relevant to hackney carriage vehicle, private hire vehicle and operator licences, as set out in Part 3 of Appendix 1, be implemented;
- (ix) That officers be instructed in accordance with the provisions of Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, to publish a notice in a local newspaper setting out those fees that it is proposed will be varied to be advertised for a period not less than 28 days;
- (x) That officers be instructed to include the proposed fees, as set out in Part 3 of Appendix 1, in the 2016/17 annual fees and charges report that is presented to full Council, and that in respect of those fees that are to be advertised in accordance with Section 70 mentioned above

these are recorded in the said annual report as 'provisional fees under consultation to be confirmed by 31 March 2016'.

38. **LICENSING OFFICERS UPDATE**

The Committee considered a report, Q110 previously circulated, which updated the Licensing Committee on the work of officers.

The Senior Licensing Officer advised the Committee that the report showed the work that had been done in consequence of the Committee's decisions. The new taxi driver computerised test was up and running and the implementation of the new compliance test for garages was being worked on. 174 licence applications had been dealt with through September and October. 52 inspections had been completed. Suspensions relating to annual fees referred to late payments. Overall the Service was busy but was going well.

Councillor Elaine Griffin-Singh asked how many staff were in the Licensing Department and commented that a lot of work was being done. The Senior Licensing Officer confirmed there were only three members of staff.

The Environmental Services Manager reminded the Committee that the Service issued licences to ensure the health and wellbeing of people and animals in the district. It was also very pro-active, which meant more visits were being undertaken. Fortunately the three officers were fit and healthy, otherwise the Service would suffer. If this became a major issue then steps would have to be taken, which could include prioritising the work or buying in services. In response to Councillor Christine Ambrose Smith's question, it was revealed that there were no other officers within the Council who could step in to help.

Councillor Mike Bradley asked whether the level of activity was affecting the timing of the work produced. The Senior Licensing Officer stated that generally the statutory times were being met, though not for everything. Annual inspections were on schedule to finish well within the time required. There was a lot of work to do, but everything was expected to meet its deadlines.

The Senior Licensing Officer tabled the Committee's forward agenda plan. It was noted that the scheduled meeting for December 2015 was not shown on it. The Committee was informed that there would be no business to conduct at that meeting and was asked to cancel that meeting, which was agreed.

The report was noted.

The meeting closed at 10.50am.