

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON MONDAY 6 SEPTEMBER 2010 FROM 6PM TO 7.05PM**

Present:- Barrie Patman (Chairman), Chris Bowring (Vice Chairman), Kay Gilder, Mike Gore, Ken Miall, Sam Rahmouni, Chris Singleton, Malcolm Storry, Pam Stubbs (items 19-24) and Bob Wyatt

Also present:-

*Julia O'Brien – Principal Environmental Health Officer (Licensing)
Steve Richardson – Health and Protection Manager
Madeleine Shopland – Senior Democratic Services Officer*

Dr Halsall – Chair Remenham Parish Council

PART I

13. MINUTES

The Minutes of the meetings of the Committee held on 3 June 2010 as a correct record and signed by the Chairman.

14. APOLOGIES

Apologies for absence were submitted by Councillors Haines, Helliard-Symons, Miller and Tomlin.

15. DECLARATIONS OF INTEREST

Councillor Rahmouni declared a personal non-prejudicial interest in item 23 Advertising on Hackney Carriage Vehicles on the grounds that he was a part time School & Community Services Driver.

16. PUBLIC QUESTION TIME

There were no public questions.

17. MEMBER QUESTION TIME

There were no Member questions.

18. LICENSING ACT 2003 – POLICY REVIEW

The Committee were informed that the Council's current Licensing Policy was due to expire at the end of September and that the Council was required to review its policy at least every three years.

The Chairman gave permission for Dr Halsall to speak in relation to items 19.00 and 20.00 of the agenda 'Licensing Act 2003 – Policy Review' and 'Consultation Response on the Home Office White Paper on Licensing 'Rebalancing the Licensing Act.'

The main points made by Dr Halsall were:

- The Parish Council believed that the draft policy and proposed response to the White Paper were insufficient.
- The parish of Remenham was very rural and populated by approximately 700 people. The roads were single track. The area hosted the popular Henley Regatta and the Rewind Festival which brought large numbers of people into the area at particular

times of the year. Criminal damage, crime and disorder and noise relating to these events and others such as weddings and parties had increased over the years and the Police struggled to keep order. This had had a substantial cumulative impact on residents. The events did not benefit Remenham and its residents.

- Dr Halsall questioned the necessity of night time activities following the Regatta. He commented that a large number of people trying to access the unlit towpath by the river was unsafe, particularly as some of these people were drunk.
- It was not sensible for the community to have to pay for security, policing, monitoring, observation and collateral damage with no payment from the event organisers.
- It was believed that a more proactive approach needed to be taken towards enforcement.
- The proposed policy did not cover cumulative impact and did not reflect the disproportionate impact of a large number of people coming into the parish for various events.
- The Parish Council felt that residents and the Parish Council were not kept sufficiently involved.
- It was suggested that if the draft Licensing policy were agreed, that it be relooked at in six months time.
- Members questioned who organised the various events. Dr Halsall responded that landowners rented out their land and commercial operators ran the events.
- A Member questioned why event organisers were not asked to police the events themselves. Dr Halsall commented that there were numerous premises licences covering the area and that it was difficult for the Police and the authority to determine which premises people had come from.

During the discussion of this item the following main points were made:

- The draft policy had been sent to consultees such as the Police and other Responsible Authorities and the Parish and Town Councils, for comment. The British Board of Film Classification had responded requesting that the mandatory condition relating to film classification be emphasised. The Health and Protection Manager clarified that if premises showed live TV they did not require a licence, however, if recorded television was broadcast, a licence was required. Two specific queries had been received from Town Councils which had been dealt with at the time of receipt. A response had been received from solicitors acting on behalf of Remenham Parish Council and Remenham Farm Residents Association after the Committee agenda had been published. Members had been sent a copy of this response at the solicitors request.
- Whilst the legislation allowed for Cumulative Impact policies there was none in place for the borough. The Health and Protection Manager believed that the statutory guidance on this matter referred to a number of premises in the same place at the same time. He thought that this was aimed at more urban environments and did not comfortably fit with Remenham's situation of being a rural area. The Health and Protection Manager indicated that he could produce a report on Cumulative Impact Policies if required by the Committee.
- The Chairman reminded the Committee that three years was the maximum period of time which could elapse before the policy was reviewed. It was suggested that the policy be reviewed following any changes to the licensing legislation which might arise as the result of the White Paper and that the information provided by the Parish Council be considered further at this time. He expressed concern at the issues raised by Remenham Parish Council. Members noted that a Scrutiny Review would be carried out in future on the Council's policy and response to major live music and entertainment events.

RESOLVED:- That

- 1) the draft Licensing Act 2003 policy be agreed and;
- 2) that Council be recommended to adopt the policy

19. CONSULTATION RESPONSE ON THE HOME OFFICE WHITE PAPER ON LICENSING 'REBALANCING THE LICENSING ACT'

A White Paper 'Rebalancing the Licensing Act' had been issued on 28 July. Consultees had been asked to respond to the twenty nine questions by 8 September. The Health and Protection Manager had drafted a response and sent it Committee members for their comments. Copies had also been sent to the parish clerks for information. Comments on the borough council's response had not been requested. Parish councils were also able to respond to the consultation should they wish to.

During the discussion of this item the following points were made:

- It was noted that Remenham Parish Council had drafted a response to the consultation. This also commented on Wokingham Borough Council's draft response. The Health and Protection Manager commented that he had a lot of sympathy with many of the Parish Council's concerns. However, the current legislation did not always allow the licensing authority to do exactly what the Parish council and residents wanted them to do. However, any changes as a result of the White Paper consultation might potentially give the licensing authority a freer hand. The Chairman encouraged Remenham Parish Council to submit their consultation response within the timeframe so that their concerns could be taken into consideration.
- Some Members expressed concern in relation to Question 7 'Are there any unintended consequences of designating health bodies as a responsible authority?' They felt that health bodies would be able to provide a general picture regarding health in the area but not regarding people using specific premises. A Member commented that it was often difficult to ascertain which premises a drunken person had come from.
- The Health and Protection Manager suggested that Question 7 was reliant on the outcome of Question 8 'What are the implications in including the prevention of health harm as a licensing objective?' Should health harm be accepted as a licensing objective he felt that it would be necessary to identify health bodies as responsible authorities. However, specific guidelines to clarify roles and to target responses would be required.
- A Member commented on Questions 15 and 16 'Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?' and 'Do you think it would be advantageous to offer such reductions for the late night levy?' The Member believed that it might be difficult to apportion levies on specific properties as it was not always clear which premises experienced problems. The Health and Protection Manager commented that a late night levy would help reduce the burden on the public purse of licensed activity. Nevertheless, the borough did at times experience alcohol induced crime and disorder earlier than midnight, most notably at Henley Regatta where alcohol related crime and disorder often began in the early evening. The Committee were informed that the amount of business rates paid was not affected by the premise's closing times. If there was not a fixed physical premises, for example the licensable activity took place in a marquee, business rates did not apply and the licensee was only required to pay the appropriate licensing fees.

RESOLVED:- That consultation response attached to the report as an appendix be agreed.

20. LICENSING ACT 2003 – EXAMPLE CONDITIONS

A Member had requested that a schedule of conditions be adopted for use by Hearings Sub-Committees. A number of other local authorities follow this practice. Members were provided with example conditions used by Bracknell Forest Council. Officers would produce a Wokingham Schedule, drawing on examples from other authorities and licences granted by Wokingham Sub-Committees if Members agreed that they would like Wokingham specific Licensing Act 2003 – Example Conditions. Members were reminded that they must always retain discretion over the conditions to apply as each case must be considered on its own merits and that any scheme would purely be guide.

During the discussion of this item the following points were made:

- Some Members felt that a Wokingham Schedule was unnecessary and expressed concern that it would be a 'pick list.' It was noted that the Hearings Sub-Committees received advice from a Legal Officer when determining applications.
- Several Members felt that it would help Sub-Committees select appropriate conditions. It was thought that it could potentially assist applicants in the completion of application forms.
- Members voted on the proposal to develop a Wokingham Schedule of Licensing Act 2003 – Example Conditions. Four Members voted against, three in favour and two abstained. It was therefore agreed that a Wokingham Schedule of Licensing Act 2003 – Example Conditions would not be produced.

RESOLVED:- That a Wokingham Schedule of Licensing Act 2003 – Example Conditions not be produced.

21. POLICING AND CRIME ACT 2009

The Committee noted that the Council was recommended to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues. The new legislation provided for Councils to control sexual entertainment venues by licence. Members were reminded that if the Council did not make a resolution to adopt the provisions prior to 6 April 2011 (one year after commencement) it would be required to consult local people about whether it should make such a resolution.

RESOLVED:- That Council be recommended to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues.

22. ADVERTISING ON HACKNEY CARRIAGE VEHICLES

The Principal Environmental Health Officer (Licensing) informed Members that an application had been received from a vehicle advertising company asking that the Council's existing policy on advertising on the outside of a Hackney Carriage licensed vehicle be altered so as to allow it.

During the discussion of this item the following points were made:

- The Council's current policy prevented advertising on Hackney Carriage Vehicles. Vehicles were only permitted to bear the telephone number and name of the operator.

- The Council's Hackney Carriage fleet was made up of a mixture of purpose built wheelchair accessible vehicles, multi purpose vehicles and one black cab. It was noted that advertising was most appropriate for black cab style vehicles.
- Members examined Reading Borough Council's criteria for static and scrolling advert applications inside Hackney Carriages. It was noted that Reading's had a primarily black cab style fleet and that advertising was allowed on their vehicles.
- The Principal Environmental Health Officer (Licensing) commented that drivers could receive up to £1000 a year for having advertisements in their vehicles. Local authorities such Reading and Bracknell Forest Councils charged for checking the advertising. However, this was a small charge.
- A Member suggested that advertising might make Hackney Carriages more identifiable. It was clarified that Private Hire vehicles were not permitted to carry advertising.
- The Principal Environmental Health Officer explained that 'wrap' meant advertising around the whole of the vehicle, 'supaside' meant advertising on the sides of the vehicle and 'seats' meant that advertising was placed on the base of the flip up seats.
- The Committee agreed that advertising should be permitted on Hackney Carriage Vehicles and that Wokingham appropriate guidelines and a schedule of fees be drafted.

RESOLVED:- That Hackney Carriage Vehicles be permitted to carry advertising and that Officers draw up guidelines for such applications to be brought back to the Committee's November meeting, together with a schedule of fees.

23. TIME ALLOWED FOR PARTIES AT LICENSING ACT 2003 APPEAL HEARINGS

The Licensing and Appeals Committee agreed at their meeting on 1 February 2005 that all parties at Hearing Sub-Committees would be allowed up to seven minutes to speak to their representation or application. It was suggested that some flexibility be introduced to the Hearings process to allow parties to speak for longer at the Sub-Committee's discretion should it be considered necessary. All parties would continue to receive equal time to put their case.

RESOLVED:- That the proposed addition to the Hearing Procedures for the various Hearing Sub Committees that can be held under the Licensing Act 2003 be agreed.

24. HEARINGS UPDATE

The Committee received a verbal update on the School Transport Appeals, taxi hearings and hearings held under the Licensing Act 2003 which had been held since the last meeting of the Committee.

RESOLVED:- That the hearings update be noted.

These are the Minutes of a meeting of the Licensing and Appeals Committee

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TITLE	Tourism and Employment update
FOR CONSIDERATION BY	Licensing and Appeals Committee on 1 November 2010
WARD	None Specific
GENERAL MANAGER	Mark Moon – Place and Neighbourhood Services

OUTCOME

This report is required by the Guidance issued under the Licensing Act 2003 and its need is acknowledged in the adopted Licensing Policy.

RECOMMENDATION

The Committee is recommended to note the report.

SUMMARY OF REPORT

This report outlines the details

Background and Analysis of Issues

There is a requirement under the statutory guidance for arrangements to be made for the Licensing Committee to receive reports on the needs of the local tourist economy and to keep the Committee apprised of the employment situation in the area. A statement undertaking to fulfil this requirement was included in the Council's Licensing Policy when it was adopted.

Wokingham Borough does not have a substantial tourist economy. Occasional visitors do come to the Borough, but primarily to visit attractions in nearby areas, often combined with business trips. Licensing decisions would have little or no effect on the level of tourist activity.

The Borough is characterised by low unemployment, currently this runs at 2.0%, less than the national average. In essence everyone who is available for work has the opportunity to get a job. The leisure industry, and hence licensed premises, makes a major contribution to the local employment situation, and the main issue for licensees is the difficulty recruiting staff.

Overall the licensing process is not affected by, nor does it affect, either the position with tourists, or employment.

Reasons for considering the report in Part 2	
Not Applicable	
List of Background Papers	
Guidance issued under section 182 of the Licensing Act 2003	
Contact Mrs Julia O'Brien	Service Place and Neighbourhoods
Telephone No 0118 9746359	Email Julia.o'brien@wokingham.gov.uk
Date 15 October 2010	Version No. One

TITLE	Advertising on Hackney Carriage Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee on 1 November 2010
WARD	None Specific
GENERAL MANAGER	Mark Moon – Place and Neighbourhood Services

OUTCOME

Guidelines for a Hackney Carriage vehicle to be allowed to carry advertising together with a schedule of fees.

RECOMMENDATION

Members are asked to:

Agree the proposed guidelines and fee structure to allow advertising on Hackney Carriage Vehicles as detailed in Appendix 1.

Agree the rewording of the Hackney Carriage and Private Hire Licensing Policy, paragraphs S2.6 .1 and S6.1 Advertising to add :
 'External and Internal advertising will be permitted on Hackney Carriage vehicles subject to the prior written approval of Wokingham Borough Council and in line with the specified advertising criteria'.

SUMMARY OF REPORT

This report proposes guidelines to allow advertising on Hackney Carriage vehicles for members of the committee to consider along with a schedule of fees.

Background

At a previous meeting of the Licensing and Appeals Committee Members were asked to consider whether they wished to alter the existing Policy in relation to Hackney Carriage vehicles in relation to the allowing of advertising other than just that of the name and telephone number of the owner of the vehicle or operator.

At this meeting the Committee agreed that advertising should be permitted on Hackney Carriage vehicles and that Wokingham appropriate guidelines and a schedule of fees be drafted by officers.

The proposed Advertising Conditions for Hackney Carriage Vehicles and fee structure are attached as Appendix 1. The fees are chargeable under s70(1) of the Local Government (Miscellaneous Provisions) Act 1976 as they relate to the reasonable administrative costs in connection with the control and supervision of Hackney Carriages.

Analysis of Issues

Amendments to existing policy in the light of representations.

Reasons for considering the report in Part 2

Not Applicable

List of Background Papers

Hackney Carriage and Private Hire Licensing Policy Guidelines for advertising on Licensed London Taxis Reading/South Devon/Southampton Councils criteria for advertising on Hackney Carriages Advertising on Hackney Carriage Vehicles Report to Licensing and Appeals Committee 1 September 2010

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HACKNEY CARRIAGE VEHICLE ADVERTISING

ADVERTISING CRITERIA

General:-

External and Internal advertising will be permitted on Hackney Carriage vehicles subject to the prior written approval of Wokingham Borough Council.

Applications must be submitted in writing to the Licensing Authority for approval, clearly indicating the size, design and location on or in the vehicle.

All advertisements must comply with the British Code of Advertising Practice and it is the responsibility of the agency or individual seeking the Licensing Authorities approval to ensure that they do so.

Each proposal will be considered on its merits, but the following advertisements WILL NOT BE APPROVED, subject to the provisions of the Human Rights Act 1998 and any other law:

- those with political, ethnic, religious, sexual or controversial texts or imagery
- those for escort agencies, gaming establishments or massage parlours
- those displaying nude or semi-nude figures
- those which seek to involve the driver as an agent of the advertisers
- those likely to offend public taste (including material depicting bodily functions, genitalia and the use of obscene or distasteful language)
- those which seek to advertise more than one company, service or product
- those which promote the sale or consumption of tobacco products, cigarettes or alcohol

Artwork must be of a suitable standard to ensure its durability to the rigours of display on a vehicle in constant use.

Artwork must be of suitable dimensions and conform to any policy agreed by Licensing and Appeals Committee.

Exterior:-

Exterior advertising may include that of full and supaside wrap types.

If advertising impinges onto windows it must be of transparent material and must not obstruct a drivers all round vision.

Any advertisement must not obscure or detract from Wokingham Borough Council's vehicle identification materials required to be fitted to the vehicle as per the conditions of the Hackney Carriage Vehicle Licence.

It is the proprietor's responsibility, as part of the contract entered into when commissioning any exterior advert to ensure, that at the completion of the contract or upon the vehicle ceasing to be a licensed Hackney Carriage, a re-spray to the vehicles original manufactured colour is included.

No advertising in the form of an illuminated roof sign shall be permitted except in the form currently required for a Hackney Carriage vehicle.

Interior:-

Interior advertising is permitted on the underside of drop seats, on the top of the interior partition bulkhead where fitted, on the back of receipts handed to the customer and leaflets contained in an approved leaflet dispenser. It will not be permitted on any other surfaces including seats (other than underside of drop seats), roof lining, partition (apart from authorised signs and approved logos), interior door panels (apart from leaflet dispenser) and floor covering (other than logo of vehicle manufacturer or supplier only).

A screen displaying scrolling or moving advertisements may be securely fitted within the vehicle provided that the screen shall not be within the vision of the driver of the vehicle and must indicate that the advertisements will be switched off at the request of the passenger.

Audio systems for the sole purpose for advertising are not permitted (this does not include audible advertisements received as part of a scheduled public radio station broadcast).

Fees

Initial Application: £50

Yearly renewal application: £35