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MINUTES OF A MEETING OF THE LICENSING AND APPEALS COMMITTEE HELD ON 21 NOVEMBER 2017 FROM 7.00 PM TO 8.13 PM

Committee Members Present

Councillors: Barrie Patman (Chairman), John Halsall (Vice-Chairman), Chris Bowring, Lindsay Ferris, Mike Haines, John Jarvis, Abdul Loyes, Philip Mirfin, Malcolm Richards, Beth Rowland, Chris Smith and Wayne Smith

Other Councillors Present

Imogen Shepherd-DuBey

Officers Present

Luciane Bowker, Democratic and Election Services Specialist
Laura Driscoll, Principal Officer, Public Protection Partnership
Julia O'Brien, Team Manager, Licensing

23. APOLOGIES

An apology for absence was submitted from Bill Soane.

24. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 3 July 2017 were confirmed as a correct record and signed by the Chairman.

25. DECLARATION OF INTEREST

There were no declarations of interest.

26. PUBLIC QUESTION TIME

There were no public questions.

27. MEMBER QUESTION TIME

There were no Member questions.

28. DERMAL TREATMENT

The Committee considered the Dermal Treatment report which was set out in agenda pages 9-24.

Laura Driscoll, Principal Officer, Public Protection Partnership explained that this report contained the two different options which had been requested by the Committee during the discussion of the item at its previous meeting.

Laura stated that the report set out two options in relation to the adoption of a set of byelaws to regulate acupuncture, tattooing, electrolysis, cosmetic and ear piercing and semi-permanent skin colouring. The Committee was asked to consider both options and recommend the adoption of one of them.

During the discussion of the item the following comments were made:

- In response to a question Laura explained that it had been a request of the Committee to consider having a separate byelaw for Acupuncture. She explained that medical practitioners were exempt from this licence but other practitioners were not;

- Councillor Ferris reminded the Committee that at the previous meeting Members had felt that Acupuncture was different from the other treatments such as Tattooing; Acupuncture was practiced for medical reasons and therefore it should be separated;
- The Chairman stated that the NHS was no longer funding Acupuncture except for headaches as there was no evidence that could not be explained by the placebo effect;
- Councillor Rowland stated that at the last meeting Members had believed that Acupuncture was more medical than it is, and in comparing the two sets of papers she now believed that there was little reason to separate it;
- Councillor Halsall pointed out that the two sets of bylaws were identical, with only a small difference in paragraph four and he saw little advantage in separating it;
- Councillor Chris Smith pointed out that the procedures were of different nature, in that Acupuncture was applied for reasons of wellbeing and the other treatments were applied for cosmetic reasons;
- Members felt that it was important to know the cost implications in order to make an informed decision;
- Julia O'Brien, Team Leader, Licensing informed that it cost:
 - £129 for a personal registration
 - £256 for a premises registration
 - £351 for a combined registration
- Julia explained that should the Committee opt for two sets of bylaws, people would have to apply for two separate registrations, incurring in a higher cost for the registrations.

Upon being put to the vote the majority of Members decided to opt for the adoption of one set of bylaws as set out in the Annex A of the report.

RESOLVED That: The Committee recommends that Council pass a resolution to adopt one set of bylaws for dermal treatments.

29. PET SHOP LICENCE CONDITIONS

The Committee considered the Pet Shop Licence Conditions report which was set out in agenda pages 25-70.

Laura stated that the report contained information in relation to a consultation exercise in respect of the adoption of the Chartered Institute of Environmental Health (CIEH) model licence conditions for pet shops. She pointed out that this model was considered the best model in the field.

Members were informed that it was proposed that a consultation exercise be carried out with holders of pet shop licences in respect of the adoption of a new set of licence conditions, and for any responses to be reported on for consideration at a future meeting of the Committee.

During the discussion of the item the following comments were made:

- Councillor Halsall asked that the annexes contained in the agenda pack be labelled more clearly in future reports;
- Councillor Ferris stated that he had sent a number of questions to Josie Wragg, Interim Director of Environment and Clare Lawrence, Assistant Director, Place in relation to this item for which he had received no answers. Firstly, he was interested

to know why this proposal was limited to pet shops only as he felt that vets should have been included;

- Laura stated that there was a list of groups that had been consulted by the CIEH on page 44 of the agenda;
- In response to a question Laura confirmed that it was possible to widen the consultation;
- Councillor Mirfin believed that the consultation should be extended to groups such as vets and animal rescue centres;
- Councillor Ferris felt that by using the word 'minimum' in the report the Council was not aspiring to high enough standards;
- Members suggested using the word 'benchmarking' instead of 'minimum' in the report;
- The Chairman stated that using the word 'minimum' did not mean that the Council had low expectations or that more conditions could not be adopted;
- Laura informed that the CIEH was used by most local authorities and she was not aware of any other document with higher standards;
- Councillor Smith noticed that some requirements listed in the Council's licence conditions were higher than the ones listed in CIEH and other were not. He asked that the differences be highlighted in future reports;
- Councillor Richards believed that the reference to minimum standards should be viewed as a point into which people could go above;
- Councillor Ferris stated that there used to be a set of additional conditions and asked why these were not being used. Julia explained that the additional conditions used to be in relation to the sale of puppies in pet shops. She stated that the work that was undertaken found that the sale of puppies conditions were included in the new document;
- Councillor Ferris asked the Committee to consider the option of excluding puppy and kittens sales from pet shops;
- Councillor Mirfin stated that many places sold puppies and it was important to have regulations in place to cover all sources of puppy sales;
- Councillor Halsall pointed out that these proposed licence conditions were for pet shops and not breeders;
- Laura informed that a change of law in respect to all animal licences was expected to come into force next year in October, this would be brought for discussion at this Committee;
- In response to a question Laura stated that the Local Authority would need a very good reason to be able to ban pet shops from selling puppies;
- Councillor Ferris point out that the Pet Animals Act allowed for additional conditions to be applied and stated that Southampton had such conditions in place;
- Laura agreed to investigate this option;
- Councillor Mirfin expressed concern over removing the sale of puppies and kittens from pet shops without there being a reciprocal arrangement with breeders, he believed this would expose a hole in the management and protection of animals of a young age;
- Councillor Wayne Smith pointed out that it was necessary to have all conditions in the document in order to carry out the consultation; and
- In response to a question Laura stated that it was best practice to consult on any proposed new conditions.

After a robust debate the Committee agreed to include information in the consultation about the current conditions, the model conditions and the possibility of the adoption of new conditions.

RESOLVED That:

- 1) The consultation exercise would be widened to include groups such as veterinary practices and animal rescue centres; and
- 2) The consultation would include information in respect of the current standard conditions, the model conditions and proposed new conditions.

30. CRIMINAL CONVICTIONS POLICY FOR LICENSED DRIVERS AND OPERATORS

The Committee considered the Criminal Conditions Policy for Licensed Drivers and Operators report which was set out in agenda pages 71-76.

The Committee received a copy of the new proposed Hackney Carriage and Private Hire Licensing Criminal Convictions Policy which was unfortunately missed from the main agenda pack. Members considered whether to defer this item but were informed that this consultation was time critical and that the results of the consultation would come to the Committee for final approval of the policy, so there would be an opportunity to make changes if this was deemed necessary.

The following comments were made during the discussion of the item:

- Councillor Bowring asked if a new policy could be applied retrospectively and used to remove existing licences. Laura responded that this would have to be considered on a case by case scenario;
- Laura informed that the new document was based on the guidance that had been issued by the LGA earlier in the year, which had been circulated to Members of the Licensing Committee
- In response to a comment Laura stated that she was not aware that a licence had been issued to a former murder convict in Bracknell; and
- Councillor Chris Smith asked that a summary of the differences between the current licence policy and the proposed new policy be included in future reporting of the item.

Members were in agreement that the Local Authority should carry out the consultation with a view to review the responses and the proposed new policy at a future meeting.

RESOLVED That: The Committee endorses the proposal to carry out a consultation exercise in respect of the adoption of a new criminal conviction policy for licensed drivers and operators.

31. CUMULATIVE IMPACT POLICY

The Committee considered the Cumulative Impact Policy (CIP) report which was set out in agenda pages 77-82.

Laura explained that the report contained a summary of the progress made so far in relation to the proposal to carry out a formal consultation in relation to the adoption of a CIP either in the whole of Wokingham, or only in the Remenham area.

Laura stated that no further significant responses had been received since the production of the report.

Councillor Chris Smith was in favour of the proposal to carry out a consultation as he believed that the Remenham area was significantly affected by the large number of events during the summer months.

In response to a question Julia stated that the Local Authority had received two new applications recently and there were a total of roughly 10 licences in the Remenham area.

Julia clarified that existing licences would not be affected by the adoption of a CIP.

Laura explained that the mechanism for reviewing existing licences was through review hearings which were triggered by complaints. A group review power was not in place currently and it could be difficult to identify which premises were causing issues.

Councillor Bowring felt that if the adoption of a CIP was not going to improve the current situation in Remenham it was not worth carrying out a costly consultation exercise.

The Committee agreed that the issue of cumulative impact did not affect any other areas of the Borough, Remenham was the only area affected.

In order to illustrate the issue, Councillor Halsall informed the Committee that last year there had been an application for a new licence in relation to Henley Swim. This application was for an event which was planned to take place during the same weekend as the Henley Regatta and Henley Festival. The lawyer who was advising the Hearing Panel at the time stated that the Panel was unable to take into account the cumulative impact because the Council did not have a CIP. This legislation would enable licensing panel to take into account the cumulative impact when making its decisions. He suggested that other areas in the Borough may benefit from this policy in the future. He emphasised that this was not an attack into the current licences, it was intended to enable licensing hearing panels to consider the cumulative impact if relevant.

The Chairman stated that this legislation had been created to deal with issues in specific areas. He urged the Committee to consider the implications this could have in terms of discouraging businesses in the Borough, he strongly believed that, should the Committee decide to carry out the consultation, this CIP should be considered for the Remenham area only.

Councillor Rowland pointed out that the residents of Remenham felt very strongly and had been very vocal at previous appeal hearings in relation to the inability of the panel to consider the cumulative impact in the area. She believed that it was right to consider the adoption of a CIP for Remenham and that this was the residents' wish.

Laura informed that should the Council decide to adopt a CIP, this would be subject to a review every three years.

Councillor Haines expressed sympathy towards the residents of Remenham but asked the Committee to act with caution as this was a very strong measure which should not be used wrongly.

Members believed that it had been previously agreed that this issue required legal advice, and asked that the process should start with the formal consultation and engagement of legal expertise at the same time.

Laura agreed that legal advice was needed and had already mentioned it to Officers in Wokingham. She stated that she had met a barrister at a conference who specialised in CIP issues and recommended he be contacted. Members asked for his details and Laura agreed to pass this on to Members.

Councillor Wayne Smith expressed dissatisfaction with the delay in considering this proposal.

After much discussion and upon being put to the vote, most Members were in agreement that the consultation should be carried out for the Remenham area and that legal advice should be sought for the process.

RESOLVED That:

- 1) A formal consultation would be carried out in respect of the adoption of a cumulative impact policy for the parish of Remenham; and
- 2) Legal advice would be employed to guide the process.

32. BRIEFING IN RELATION TO THE GOVERNMENT'S RESPONSE TO THE HOUSE OF LORDS SELECT COMMITTEE REPORT ON THE LICENSING ACT 2003

The Committee considered the briefing paper in relation to the Government's response to the house of Lords Select Committee report on the Licensing Act 2003 which was set out in agenda pages 83-86.

Laura highlighted the following points from the report:

- The government does not intend to take the approach recommended by the Select Committee to transfer the functions of the Licensing Committees and Sub-Committees to the Planning Committees;
- Group Review Intervention Powers (GRIP) – the government intends to proceed with a consultation on the introduction of GRIPs, but will explore beforehand whether similar measures can be achieved within the existing system;
- No intention to implement a national personal licence database;
- No new licensing objectives were going to be introduced;
- Newspaper adverts to stay; and
- There would be new guidance in relation to Member training

Laura stated that no major changes were expected.

RESOLVED That: The report be noted.