

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 4 SEPTEMBER 2018 FROM 7.05 PM TO 9.10 PM**

Committee Members Present

Councillors: Barrie Patman (Chairman), Bill Soane (Vice-Chairman), Chris Bowring, Rachel Burgess, Lindsay Ferris, Mike Haines, John Halsall, Emma Hobbs, Malcolm Richards, Rachelle Shepherd-DuBey, Chris Smith and Sean Murphy

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Neil Allen, Legal Advisor to the Committee
Julia O'Brien, Licensing Team Manager
Charlie Fletcher, Acting Lead Officer, Policy and Governance
Sean Murphy, Public Protection Partnership Manager

13. APOLOGIES

Apologies for absence were submitted from Councillors Abdul Loyes and Oliver Whittle.

14. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 27 June 2018 were confirmed as a correct record and signed by the Chairman.

15. DECLARATION OF INTEREST

A declaration of interest was submitted from Councillor Chris Smith in relation to item 22 of the agenda on the basis that he worked for a national lottery draw operator on behalf of his firm. Councillor Smith did not vote on that item.

16. PUBLIC QUESTION TIME

There were no public questions.

17. MEMBER QUESTION TIME

There were no Member questions.

18. CRITERIA POLICY FOR LICENSED VEHICLES

The Committee received the Criteria Policy for Licensed Vehicles report which was set out in agenda pages 15-24.

Julia O'Brien, Licensing Team Manager referred to the report contained in the agenda and stated that the report reflected the recommendations that had been made at the last meeting and by the Task and Finish Group which had been set up to look at the policy. She informed that the Task and Finish Group had included Licensing Officers, Licensing Committee Members and a representative from the trade.

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

- Councillor Burgess asked if there was more information available about introducing specific requirements for ramps. Julia O'Brien informed that Laura Driscoll, former Principal Officer, Public Protection Partnership had contacted other Local Authorities and she had found that Slough Borough Council had in its policy a 20% gradient requirement for ramps, other Local Authorities did not have ramp specifications. Julia O'Brien pointed out that the level of ramps also depended on the ground level;

- Councillor Bowring asked what exactly was meant by 'green cars' on page 20 of the agenda. Charlie Fletcher, Acting Lead Officer Policy and Governance stated that 'green cars' referred to cars that were generally accepted as being environmentally friendly. He stated that the wording had been intentionally non-specific so that cases could be accessed individually. Councillor Bowring felt that this terminology was too vague and should be more specific;
- Councillor Bowring asked if broken windows could be replaced with non-tinted windows. Charlie Fletcher stated that a licence was granted to the vehicle and not to the window, the expectation was that if a window was broken, that this would be replaced 'like for like';
- Councillor Bowring asked if where the policy mentioned 'disabled' in paragraph 2.9.1, it actually meant wheelchair bound. Julia O'Brien stated that the proposal was to take out that wording in paragraph 2.9.1 and add the new wording in bold and italics at the bottom of page 23;
- Councillor Burgess stated that that the Task and Finish Group had recommended to extend the period of time to implement changes to existing vehicles to five years. She pointed out that, currently, only a third of vehicles in the fleet met the wheelchair accessibility criteria, and also some drivers had made a considerable investment when purchasing their vehicles. When questioned, most Members were in favour of a five year time period;
- Councillor Richards stated that it would be useful to include a few examples of cars that would fit the criteria, in an effort to avoid vagueness;
- Councillor Shepherd-Dubey stated that green vehicles should be measured in relation to their carbon emissions, she stated that hybrid cars for example, were not necessary low emission when they run on petrol;
- Julia O'Brien agreed to include this in the policy and asked for direction from the Committee;
- Councillor Hobbs was concerned with issues that she had recently been made aware of in relation to passengers with guide/assistance dogs being refused by drivers. Julia O'Brien stated that this was already a legal requirement, set out by central government, and she felt that it was not necessary to include it in the local policy;
- In response to a question Julia O'Brien stated that there had not been many complaints in the Wokingham Borough recently, however, action would be taken if an incident was reported;
- Councillor Soane stated that the Task and Finish Group had concluded that in order to promote a greater take up of 'green cars', firstly it was necessary to ensure that there were sufficient charging points in the Borough;
- Councillor Burgess stated that the Task and Finish Group's recommendation to remove the mileage requirement and require the driver to have an independent advanced vehicle inspection had been proposed by the trade's representative. She felt that this option should be considered;
- Councillor Patman was concerned that such tests would have to be carried out by a trustworthy source. Julia O'Brien stated that a company such as the RAC would be acceptable. Members were in favour to introduce the checks as per suggestion on page 23 of the agenda.

Upon being put to the vote most Members agreed to the proposals and amendments contained in the report.

RESOLVED That:

- 1) The Licensing and Appeals Committee agrees to the proposed amendments to the Criteria Policy for Licensing of Vehicles as outlined at Annex A of the agenda;
- 2) The new requirements would come into effect immediately for any new vehicles, and within a period of five years for existing vehicle licences;
- 3) The mileage requirement be replaced with a requirement to the driver to have an independent advanced vehicle inspection (such as that carried out by the RAC) with the cost to come borne by the vehicle proprietor.

19. CUMULATIVE IMPACT ASSESSMENT

(Councillor Halsall declared a prejudicial interest in this item and did not take part in the discussion and vote of the matter)

The Committee received the Cumulative Impact Assessment (CIA) report which was set out in agenda pages 25-28.

Julia O'Brien stated that there had been a change in the legislation in relation to cumulative impact since the issue was first raised by the Committee. She stated that a consultation had been carried out under the old legislation and that this item had since then been deferred. The Committee was now required to take one of three possible courses of action, as listed in the report.

The Chairman invited the legal representatives from The Copas Partnership and the Henley Royal Regatta to address the Committee only if they had any new points to raise that had not been covered at the last meeting of the Committee.

Roy Light representing The Coppas Partnership addressed the Committee and stated that their position remained the same as discussed in the previous meeting. He pointed out that the new law imposed a higher bar for the implementation of a CIA.

Sue Dowling representing the Henley Royal Regatta confirmed that their position also remained the same and she agreed with the points made by Roy Light. She stated that due to the changes in legislation, in her opinion, the only legal options to the Committee were recommendations two and three.

Councillor Halsall addressed the Committee and stated that it had now come to light that cumulative impact could be considered, even in the absence of the formal adoption of a CIA policy. He stated that Blandy and Blandy lawyers had pointed out at the last meeting that cumulative impact had been in the policy since 2013. He stated that the issue had started with advice that had been given to a Licensing Sub-Committee for the Henley Open Swim (that cumulative impact could not be taken into account because the Council did not have a CIA Policy); that advice had been erroneous.

Councillor Halsall referred to a letter that Neil Allen, Legal Advisor to the Committee had written to the Remenham Residents Association, in which he confirmed that cumulative impact could be considered in future Sub-Committee hearings (Councillor Halsall circulated this letter). Based on this, he believed that there was no reason to continue pursuing the adoption of a CIA.

Neil Allen advised Councillor Halsall to declare a prejudicial interest in relation to this item. Councillor Halsall felt that there was no longer a need to declare an interest in view of the

fact that he was no longer pursuing the implementation of a CIA, however he agreed to accept the legal advice, leave the room for the Part 2 session and not take part in the discussions and vote.

Councillor Smith noted that paragraph 10 of the policy referred to premises and not events. He was advised that this covered any type of licence.

Neil Allen confirmed that cumulative impact could be taken into account in the absence of a formal CIA policy. The main difference was that in the absence of a CIA policy, the onus was on the objectors to produce evidence to prove cumulative impact. If a CIA policy was in place, the onus was on the licence holder to prove that there was no cumulative impact and adverse effects on the licence objectives.

Councillor Halsall left the room and the Committee went into a Part 2 session in order to receive legal advice in respect of the implications of the recommendations. The Chairman advised that the Committee would return to an open session to discuss and decide the item.

The Committee carefully considered the options listed in the report and concluded that the controls that were currently in place were sufficient and were working well. Upon being put to the vote Members opted for recommendation number three as listed in the report.

RESOLVED That the Committee agreed to stop the current consultation process altogether, whilst acknowledging that the process could be commenced in the future for any part of the Borough, should circumstances arise that suggest a cumulative impact assessment should be considered.

20. REVIEW OF STATEMENT OF LICENSING POLICY

The Committee received the Review of Statement of Licensing Policy report which was set out in agenda pages 29-54.

Julia O'Brien stated that Wokingham Borough Council was required to prepare and publish a Statement of Licensing Policy (SLP) every five years in accordance with section 5 of the Licensing Act 2003. The SLP outlined the general approach of the Licensing Authority when making licensing decisions under the Act and could be reviewed and revised by the authority at any time. The Wokingham Borough Council SLP must undergo a review and be re-published by the end of September 2018.

Julia O'Brien stated that the proposed new policy had been re-written to reflect the comments made during the consultation, as well as re-formatting, updating and the addition of minor areas of clarification.

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

- Councillor Halsall suggested that residents and local ward Members be included in paragraph 3.5 to take part in the Safety Advisory Group (SAG);
- Councillor Hobbs was concerned about including local residents;
- Councillor Halsall pointed out that Members had been elected to represent the residents in their wards. He stated that large scale events had an impact on residents and that local ward Members should have a representation in SAGs;
- Councillor Shepherd-Dubey stated that local ward Members should be informed of large scale events in advance;

- Julia O'Brien stated that SAG's were not set up on a routine basis. She stated that Members were advised of events in their wards;
- Councillor Halsall reiterated that large scale events affected residents and had an implication on roads, noise and litter;
- Councillor Richards asked what would happen if the Council required SAG's advice, and SAG gave advice and something went tragically wrong, he was interested to know who would be responsible. Neil Allen responded that it depended on how specific the advice was; SAGs were non-statutory entities and ultimately the organisers of the event were responsible for it;
- Julia O'Brien offered to inform Members of the dates of SAG meetings;
- Councillor Smith stated that he was informed of all licence applications within his ward;
- The Chairman suggested discussing this point at a future meeting;
- Councillor Ferris agreed that local ward Members should be advised and involved in the planning of large scale events.

Councillor Halsall proposed to amend the wording in paragraph 3.5 of the policy, to include an invitation to local ward Members to take part in SAG's in relation to large scale events. He was seconded by Councillor Ferris and the proposal was agreed by the majority of Members.

Upon being put to the vote the majority of Members agreed to the recommendation with the amendment proposed by Councillor Halsall.

RESOLVED That: The Committee approves the revised Statement of Licensing Policy, including the amendment to paragraph 3.5 as listed above.

21. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES

(Councillor Chris Smith declared a prejudicial interest in this item and did not vote on the matter)

The Committee received the Review of the Statement of Gambling Principles which was set out in agenda pages 55-80.

Julia O'Brien stated that section 349 of the Gambling Act 2005 ('the Act') required all licensing authorities to prepare and publish a statement of the principles that they proposed to apply in exercising their functions under the Act ('Statement'). The Statement would last for a maximum of three years and could be reviewed and revised by the authority at any time.

Julia O'Brien informed that the present Statement was published to take effect from the end of January 2016 and therefore must undergo a review and be re-published by the end of January 2019.

In response to a question Julia O'Brien stated that there were too many changes to the document to present it with track changes, however there was a summary of the changes in the report.

In response to a question Julia O'Brien stated that there were approximately eight betting shops in Wokingham, she informed that betting in Wokingham occurred mainly in machines in pubs.

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

- Councillor Burgess stated that one of the points raised in the consultation by the gambling charity was about training for staff, especially in relation to vulnerable adults; she believed this was a good idea;
- In response to a question, Luciane Bowker stated that due to technical issues agendas and minutes on the Council's website only went back to 2008. However, should anyone request to see agendas or minutes prior to that, this was available through Democratic Services. There was concern that the resolution in relation to 'no casinos in Wokingham', which was passed by Council on 30 November 2006, was not available on the website, Members asked that this information be made available on the website. Officers agreed to look into this issue and include the resolution on the website.

Councillor Burgess proposed to include a requirement for training for staff in relation to vulnerable adults, she was seconded by Councillor Ferris and Members agreed to the proposal.

Upon being put to the vote most Members agreed to revised policy.

RESOLVED That: The Committee approves the revised Statement of Gambling Principles to be referred to Council for approval, including the inclusion of a request for training for staff as mentioned above.

22. ANNUAL REPORT

The Committee considered the Annual Report which was set out in agenda pages 81-83. The report contained a summary of the work undertaken by the Licensing Service during the past year.

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

- Members felt that it would be useful to include in the report the number of applications for licences, including the ones that failed, not just the number of licences that were granted, as this impacted on the service's workload;
- Councillor Smith noted that in certain lines there were peaks, probably when licences came to an end and needed renewing, this seemed to be cyclical. He asked if there was enough resources to deal with peaks;
- Julia O'Brien stated a report on fees and charges would be brought to the Committee meeting in November, and this would include information about resources;
- Councillor Halsall asked who Sean Murphy was as his name appeared in all the reports, he believed he should be present at the meeting. Julia O'Brien informed that he was the Public Protection Partnership Manager and that he had just left the meeting;
- Councillor Halsall would like to include in the plan regular review of licensing and trading standards;
- Councillor Halsall noted that licences were no longer listed on the website, he believed that they should be re-published and be available on the website;
- Councillor Haines asked that future reports include information about Wokingham specifically, and more clarity as to how the work was distributed across the local authorities involved in the shared services.

RESOLVED That:

- 1) Future reports will include the number of applications received;
- 2) Future reports will include information specific to Wokingham;
- 3) The report be noted.

23. LICENSING COMMITTEE FORWARD PLAN

The Committee considered the Forward Plan report which was set out in agenda pages 87-88. The report contained a list of items which would be considered at its next meeting in November 2018.

Members asked when tariffs for vehicles would next be reviewed. Julia O'Brien stated that this would happen on request by the drivers, and the service had not yet put forward a request.

RESOLVED That the report be noted.

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