

Minutes

Licensing Committee

19th May 2010



Present:

| Councillors | Present | Councillors | Present |
|--------------------------|-------------------|---------------|-----------|
| M J Banthorpe (Chairman) | Yes | M Lynch | Yes |
| J C Collar | Yes | T McArdle | Yes |
| J G J Elliott | Yes (from 7.26pm) | A M Meyer | No |
| R Elliston | Apologies | Mrs J A Pell | Yes |
| J H G Finbow | Yes | A F Shelton | Apologies |
| Mrs S A Howell | Apologies | Mrs J A Smith | Yes |
| P J Hughes | Yes | F Swallow | Apologies |
| E R Lynch | Apologies | | |

3 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

4 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 13th January 2010 be approved as a correct record and signed by the Chairman.

5 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made.

6 **STREET TRADING CONSENT – FREEBOURNES ROAD, WITHAM (MR D C NOWAKOWSKI)**

INFORMATION: Consideration was given to an application by Mr Darius Nowakowski for a Street Trading Consent to sell hot and cold food and homemade traditional Polish cuisine. Mr Nowakowski wished to trade from Freebournes Road, Witham from Monday to Friday between the hours of 6.00am and 11.00pm and on Saturday and Sunday from 12 noon to 11.00pm. Mr Nowakowski attended the meeting and spoke in support of his application.

Following consultation on the proposal, two objections had been submitted by local traders on the grounds that there were a number of static and mobile food and drink traders already operating within the same area. Members were advised that two traders had already been given consent to sell hot and cold food and drinks in the general area and that one of these was within a 500 metre radius of the application site. Members were reminded that the Council's Street Trading Policy stated that only one trader should hold a Consent in a specific location unless the second trader wished to trade in a different commodity. It was reported that whilst mobile caterers

did not require a Street Trading Consent, they were only permitted to trade from a particular location for a maximum of 15 minutes and they could not return to the same location within a two hour period. Concern was expressed by Councillors that some food and drink traders may be operating from the area without the proper consent and it was noted that the Council could take enforcement action against them.

Mr Nowakowski answered questions put to him by Members of the Committee, but he left the room whilst the Committee deliberated on the application. Mr Nowakowski was re-admitted to the room to hear the Committee's decision.

DECISION: That the application submitted by Mr Nowakowski for a Street Trading Consent to sell hot and cold food and homemade traditional Polish cuisine from Freebournes Road, Witham be approved, subject to the applicant being required to provide litter bins at the site and ensuring that any litter is cleared from the site at the end of each trading day.

7 KNOWLEDGE TEST FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

INFORMATION: Members were reminded that at the Licensing Committee meeting held on 25th November 2009 discussion had taken place regarding the possible introduction of a knowledge test for Hackney Carriage and Private Hire drivers. The main purpose of such a test would be to confirm that a driver knew how to locate particular places and roads within the District and it could also test the driver's knowledge of legislation and licensing conditions. Passing the test would be a pre-requisite to a person obtaining a driver's licence.

It had been agreed that the introduction of a knowledge test should be investigated and a further report submitted to the Committee setting out details of what might be included within a test, how it would be administered and how much it would cost to implement.

In order to reduce the long-term costs to the Council, it was proposed that the knowledge test procedure should be automated. This would provide greater flexibility by enabling drivers to take the test at different times during the working day; test papers would be marked automatically; and an electronic record of those taking the test would be created. It was anticipated that external funding could be obtained through the Quality Taxi Partnership to finance the introduction of the test and it was proposed that its on-going cost should be recouped through drivers licence application fees. It was proposed that if an applicant failed the knowledge test he/she would be invited to re-sit the test.

Concerns had been raised about the inability of some drivers to converse adequately in English and it was acknowledged that this would become more evident if applicants were required to undertake a knowledge test. It was proposed that the Council's policy with respect to Hackney Carriage and Private Hire drivers should be amended to ensure that all licensed drivers were able to converse in English.

It was suggested that existing holders of Hackney Carriage and/or Private Hire drivers' licences should be given 'Grandfather rights' removing the need for them to undertake a knowledge test.

DECISION:

- (1) That an electronic test for new applicants for Hackney Carriage and Private Hire drivers' licences be introduced to test their knowledge of the District; licensing legislation; and their ability to speak and understand English, and to assist in determining whether they are a 'fit and proper' person to hold such a licence, subject to 'Grandfather rights' being granted to all drivers licensed before 1st June 2010, and to applicants being required to submit a photograph of themselves with their application.
- (2) That the introduction of a knowledge test be subject to consultation, following which a further report shall be submitted to the Licensing Committee for final approval of the proposal.

8 **REGULATION OF LAP DANCING AND OTHER SEXUAL ENTERTAINMENT VENUES**

INFORMATION: Members were reminded that the Council had adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982, Section 2 and Schedule 3, relating to the control of sex establishments which meant that any sex cinemas or sex shops within the District had to apply to the Council for a licence granted under the Licensing Act 2003. However, recent changes to the Policing and Crime Act 2009 had amended Schedule 3 of the 1982 Act and this required that any 'sexual entertainment venue' where 'relevant entertainment' was being provided before a live audience for the financial gain of the organiser, or the entertainer should be licensed by the Council also. 'Relevant entertainment' meant 'any live performance, or any live display of nudity' such as lap dancing, pole dancing, table dancing, strip shows and peep shows.

The aim of the amended legislation was to bring the licensing of venues such as lap-dancing premises in line with sex cinemas and sex shops and to recognise that local people had legitimate concerns about where such premises were located.

If adopted, the amended legislation would enable the Council to attach terms, conditions and restrictions to any licences issued, either in the form of specific conditions for a particular venue, or standard conditions applicable to all sex establishments. Conditions could be attached relating to matters such as the opening and closing times of the premises; displays or advertisements on, or in such establishments; and the visibility of sex establishments to passers-by. Any proposals to introduce standard conditions would be the subject of a report to the Licensing Committee.

It was proposed that the application fee should be £4,000 for a new 'sexual entertainment venue' licence and £2,000 for the renewal of an existing licence. Licences would be renewable on an annual basis. Applications for the grant, transfer, or renewal of a licence would be subject to requirements regarding public notice and, in the event of an objection being submitted, the application would be referred to the Licensing Committee for determination.

In considering this report, Members had regard to the document 'Sexual Entertainment Venues – Guidance for England and Wales' which had been issued by the Home Office in March 2010.

DECISION: That it be **Recommended to Council** that the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 be adopted.

9 **STATEMENT OF LICENSING POLICY**

INFORMATION: Consideration was given to a report on the proposed review of the Council's Statement of Licensing Policy.

Members were advised that, in accordance with the Licensing Act 2003, the Council, as the Licensing Authority was required to carry out a formal review, consult on and re-publish its Statement of Licensing Policy every three years. The last Statement of Licensing Policy had been published in January 2008 and it was due for re-publication in January 2011. The Policy would be updated to take account of amendments contained in Home Office Guidance which had been published in March 2010 and it would be subject to consultation.

DECISION: That the Statement of Licensing Policy be reviewed and re-published for the purpose of consultation.

10 **LICENSING ACT 2003 – INTERESTED PARTIES**

INFORMATION: Consideration was given to a report regarding an amendment made under the Policing and Crime Act 2009. This had extended the meaning of an 'interested party' in relation to the Licensing Act 2003 to include a Member of the relevant licensing authority and the amendment related to all matters licensed under the Act. Members were reminded that an interested party could submit a representation on an application. Any such representation would be deemed relevant if it was submitted during the consultation period and was in accordance with one or more of the four licensing objectives.

In considering this item, Members had regard to an extract from Guidance issued by the Department for Media, Culture and Sport in January 2010. Brief guidance notes would be provided to all Members setting out details of the new provision.

DECISION: That the report be noted.

Urgent Items

The Chairman agreed to consider the following matters as items of urgent business in the interest of the efficiency of the Council's business.

11 **TAXI ASSOCIATION LIAISON PANEL - APPOINTMENT OF MEMBERS**

DECISION: That Councillors M J Banthorpe, R Elliston, J H G Finbow, Mrs S A Howell, E R Lynch, M Lynch, Mrs J A Pell, A F Shelton and Mrs J A Smith be appointed to the Braintree and District Taxi Association Liaison Panel for the 2010/11 Civic Year.

The dates of the Panel's meetings for the forthcoming year would be notified to Members.

12 **DRIVERS' PANEL - APPOINTMENT OF MEMBERS**

DECISION: That all Members of the Licensing Committee be appointed to the Drivers' Panel.

13 **STREET TRADING CONSENT – CHANGE OF POLICY FOR SPECIAL EVENTS**

INFORMATION: Members' attention was drawn to the Council's Street Trading policy and the circumstances under which a Street Trading Consent was required. In particular, reference was made to paragraph 11 of the policy. This stated that for special events the Council would issue one Street Trading Consent to the person organising the event rather than individual Consents being required for each trader. However, paragraph 11(3) of the policy stated that traders wishing to sell hot and/or cold food were not included within this exception and that they were each required to obtain an individual consent. This requirement was in the interest of public safety and to enable the Council's Environmental Health Department to carry out an inspection prior to a Consent being issued. Furthermore, paragraph 10 of the policy stated that where a new applicant wished to trade in a location where an existing trader already held a Consent to trade in the same commodity the application had to be submitted to the Licensing Committee for determination.

In order to encourage people to organise special events and to simplify the administrative process, it was proposed that the Council's policy should be amended to omit the requirement for food and drink traders to obtain a separate Street Trading Consent. It was reported that all traders selling food and drink to the public were required to obtain a food hygiene certificate from their local authority and that the Council's Environmental Health Department was able to check with other authorities if a particular trader had been registered by them.

Members supported this change to the Council's policy, subject to clarification that the Council's Licensing Enforcement Officer when checking whether a trader had a Street Trading Consent would also check the trader's food hygiene certificate.

DECISION: That the Street Trading policy be amended by the deletion of paragraph 11 (3) from Part 1 as follows:-

'11 (3) Traders wishing to sell hot or cold food are not covered by a consent issued for a special event. Each trader wishing to sell food is required to apply for an individual consent. The reason that traders for food are not included is due to the potential risk to public safety. Each trader will need to be visited by an Environmental Health Officer, who will inspect before consent is issued.'

The meeting closed at 8.32pm.

M J BANTHORPE

(Chairman)