

MINUTES of a meeting of the LICENSING COMMITTEE held in the Council Chamber, Council Offices, Coalville on WEDNESDAY, 4 OCTOBER 2017

Present: Councillor N Smith (Chairman)

Councillors G A Allman, R Ashman, J Clarke, N Clarke, J Cotterill, D Everitt, T Eynon, G Hoult, J Hoult, G Jones, P Purver, V Richichi, A C Saffell, S Sheahan, M Specht and M B Wyatt

In Attendance: Councillors J Legrys (Observer) and A V Smith (Portfolio Holder)

Officers: Mr A Cooper, Mr D Gill, Mr L Mansfield and Mrs M Meredith

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors N Clarke, J Hoult and G Jones

**2. DECLARATIONS OF INTEREST**

There were no interests declared.

**3. MINUTES OF PREVIOUS MEETING**

Consideration was given to the minutes of meeting held on 22 February 2017.

Councillor G A Allman requested that his apologies for the previous meeting be included in the minutes.

It was moved by Councillor M Specht, seconded by Councillor J Cotterill and

RESOLVED THAT:

Subject to the above amendment, the minutes of the meeting held on 22 February 2017 be approved and signed by the Chairman as a correct record.

**4. REVIEW OF STREET TRADING POLICY**

The Environmental Health Team Manager presented the report to members. He highlighted that the current policy was reviewed in 2014 and approved by Council in 2015. He explained that the purpose of the review was to remove processes where they added little or no value and to simplify the policy for applicants, licence holders and the administration. He advised that following the comments made by members, the final draft of the policy would be circulated for consultation before being brought back to the Licensing Committee. He outlined the proposed changes to the policy. He explained that the new policy was much shorter than the existing policy as a lot of the process had been removed and the information had been split into two documents; the policy itself and some supporting guidance, which was provided for information. He sought comments from members on the proposed policy changes.

Councillor N Smith sought clarification in respect of consideration of further applications following a revocation. He asked whether the 3 year period was proportionate, whether there should be a sliding scale and how the three year period had been arrived at.

The Environmental Health Team Manager explained that there was currently no guidance and the aim of this was to prevent someone who had had their licence revoked from submitting a further application immediately.

Chairman's initials

The Legal Advisor explained that currently the grant of a trading consent was in the absolute gift of the authority and there was no right of appeal. He advised that the purpose of including a time limit was to provide an indication to someone who had had their licence revoked when they could apply again.

The Chairman had asked the Legal Advisor whether such matters could be put to a Licensing Sub Committee. The Legal Advisor's strong view was that this was not appropriate as this would enable an appeal process where there was no such process in law and any decision of the Licensing Sub Committee would also become subject to a judicial review.

The Chairman asked whether other local authorities included a time limit and what their experience was of this.

The Legal Advisor explained that strictly speaking, there was no requirement in law to have a policy whatsoever. He stated that lots of authorities had a policy and its purpose was to be a strategic high level document to provide an indication of the sort of tests that the authority would apply when considering a street trading consent. He advised that some local authorities did include a time limit, however there was no requirement to include one and it was entirely a matter for members to take a view on whether this would be in the interests of openness, transparency and consistency in determining applications.

Councillor R Ashman stated that he was not comfortable with setting an arbitrary time limit as this was likely to be challenged on whether or not it was proportionate. He added that he would prefer to remove the time limit from the policy and include this in the guidance only.

Councillor S Sheahan expressed concerns in respect of ensuring any time limit was appropriate and ensuring a consistent approach.

It was agreed that reference to time limits be retained in the guidance only, with the addition of suggested timescales relative to certain types of offences. This would be circulated to members before the next meeting.

A discussion took place on the consultation process and concerns were raised that ward members would not be consulted under the revised policy. Some members expressed a clear preference to receive a direct personal communication relating to street trading consent applications.

The Environmental Health Team Manager advised that ward members would continue to be notified when a licence was issued.

The Legal Advisor suggested that street trading consent applications could be included on the weekly list of applications to provide members an opportunity to make representations.

It was suggested that street trading consent applications be included in the weekly list. It was also agreed that the ward member would receive a direct communication, however this may need to be reassessed in future if resources became a concern.

Councillor M B Wyatt stated that he was very unhappy about the 3 year exclusion period as he felt this was far too harsh. He expressed concerns about the lack of member involvement in these decisions and that this could be questioned. He also sought clarification on the application on revocations in respect of companies.

The Legal Advisor explained that for the purposes of the law, a limited company was treated as a person and the disqualification period would apply to the company as the

consent holder was ultimately responsible. It was agreed that this would be further clarified in the policy.

Councillor M Specht sought clarification on what would happen if a trader had their permit revoked and there was a subsequent application from another person relating to the same site.

The Environmental Health Team Manager advised that a consent to trade from a location did not give the trader any rights to that pitch. If a piece of land was currently not being utilised and an application was received relating to that land, it would be determined on its own merits.

In respect of the human rights issues raised, the Legal Advisor explained that article 1 of the Act did not give traders an absolute right to continue indefinitely with a licence. He added that licences were terminable and the courts were satisfied that terminating a licence was not a breach of human rights.

In response to a question from Councillor V Richichi, the Legal Advisor explained that certain convictions were never spent and there were certain occupations where spent convictions could still be considered. He advised that in respect of a street trading consent, the authority was not in a position to consider spent convictions, or require a DBS check; however any convictions that came to the attention of officers would be taken into consideration.

It was moved by Councillor M Specht, seconded by Councillor J Cotterill and

RESOLVED THAT:

The comments of the Licensing Committee on the Draft Street Trading Policy be taken into consideration prior to wider consultation.

The Chairman advised that the meeting in November had been cancelled due to lack of business.

The meeting commenced at 6.30 pm

The Chairman closed the meeting at 7.31 pm