

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 14 June 2018 commencing
at 2:30 pm**

Present:

Chair

Councillor R E Garnham

and Councillors:

K J Berry, G J Bocking, J E Day, A J Evans, R Furolo, R M Hatton, A Hollaway, A S Reece,
H A E Turbyfield and M J Williams

LIC.3 ANNOUNCEMENTS

3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4.1 Apologies for absence were received from Councillors G F Blackwell, J M Greening (Vice-Chair), P A Godwin and P N Workman. There were no substitutions for the meeting.

LIC.5 DECLARATIONS OF INTEREST

5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

5.2 There were no declarations made on this occasion.

LIC.6 MINUTES

6.1 The Chair drew attention to Minute No. LIC.14 of the meeting held on 8 February 2018 in respect of the Licensing Audit Action Plan and he sought an update on progress against that plan. The Environmental Health Manager explained that the majority of issues raised during the audit were administrative and a lot of these had been resolved, for example, Officers had reviewed how they were using the Uniform software system and put in place measures to ensure that data was inputted accurately. In terms of the action to carry out risk assessments of licensed premises, Members were advised that it was intended to train an Officer to do these assessments when carrying out food inspections; unfortunately, not as much progress had been made as anticipated due to resource issues following a Licensing Officer leaving the authority. Notwithstanding this, assurance was provided that there were no high-risk premises within Tewkesbury Borough. He went on to advise that the safeguarding training for hackney carriage and private hire drivers had been well attended; some drivers had already been trained so for them it was a case of obtaining that evidence. For drivers who had not responded to the request to attend the statutory training, it was intended to run "mop-up"

sessions with Cheltenham Borough and Gloucester City Councils which both offered ongoing training courses. It would be necessary to make a judgement on the point at which drivers who did not attend training were in breach of the conditions of their licence. A Member was of the view that drivers should not be granted a licence until they had attended training, as she understood was the case at other authorities. In response, the Environmental Health Manager advised that the training had been held during April and May and licences had been granted throughout that period; the policy stated that training must be completed within a certain number of months following the grant of a licence and this would be strictly adhered to now the bulk of existing drivers had been trained. Members were advised that a report on progress against the action plan would be provided at the next meeting of the Licensing Committee.

- 6.2 The Minutes of the meeting held on 8 February and 15 May 2018, copies of which had been circulated, were approved as correct records and signed by the Chair.

LIC.7 REVIEW OF HACKNEY CARRIAGE TARIFF

- 7.1 Attention was drawn to the report of the Environmental Health Manager, circulated at Pages No. 5-9, which asked Members to approve the renewal of the current hackney carriage tariff until 31 July 2019.
- 7.2 The Chair indicated that there was a typographical error at Page No. 7, Paragraph 5.1 of the report, which stated that all licensed proprietors had been contacted in May 2016 inviting them to make suggestions to amend the current hackney carriage tariff and confirmation was provided that this should read May **2018**. The Environmental Health Manager advised that the hackney carriage tariff was reviewed on an annual basis taking into account the economic climate and any comments received during the consultation with licensed proprietors. Members were informed that economic conditions were similar to when the tariff was last reviewed in June 2017 - although it was recognised there had been a recent spike in oil prices - and licensed proprietors were of the view that there was no need for an increase at this time. As such, it was recommended that the current hackney carriage tariff be approved until 31 July 2019.
- 7.3 With regard to the rising cost of oil, a Member indicated that a similar thing had happened a few years ago and, at that time, Cheltenham Borough Council had introduced an emergency fuel charge which was added to the metre at the start of the journey. This additional charge had remained in place whilst fuel prices stayed high. She was concerned that fuel costs had already started to rise and she suggested it might be beneficial to approve a similar emergency fuel charge which could be introduced to ensure hackney carriage drivers in Tewkesbury Borough were not adversely affected. Another Member was of the view that further research should be undertaken to establish whether rising costs were a problem across the county rather than being isolated to a few individual petrol stations. The Chair considered that it would be appropriate to revisit this if a problem were to arise and the Legal Adviser confirmed that this could be dealt with at a special Licensing Committee meeting if necessary. The Head of Community Services indicated that the situation would be monitored over the coming months and, if fuel costs continued to increase, a report could be brought back to the next Licensing Committee meeting. In the interim, Officers would speak to colleagues at Cheltenham Borough Council about the emergency fuel charge that had previously been introduced.

- 7.4 A Member drew attention to the current tariff, attached at Appendix 1 to the report, and pointed out that Rate 1 should be amended to read: 'Rate 1 – for hiring between 7am and 11pm (not **including** Sundays **and Public Holidays**)'. In addition, Rate 2 should be amended to read: 'Rate 2 – for hiring between 11pm and 7am (**not** including Sundays and Public Holidays)'. As it stood, the two rates were inconsistent, and Rate 2 could be interpreted as being applicable at any time. The Environmental Health Manager undertook to consider the rationale behind the different rates and to make any minor changes to the wording in consultation with the Chair. It was subsequently

RESOLVED That the renewal of the current hackney carriage tariff until 31 July 2019 be **APPROVED**, subject to minor amendments to the wording in respect of the rates in consultation with the Chair, if appropriate.

LIC.8 LICENSING GENERAL UPDATE

- 8.1 Attention was drawn to the report of the Environmental Health Manager, circulated at Pages No. 10-13, which provided an update on current licensing work being carried out by Community Services. Members were asked to consider the progress that had been made regarding the reviews of existing licensing policies and recent changes to licensing legislation that was likely to have a significant impact on Council resources.
- 8.2 The Head of Community Services explained that there had been a number of temporary officers within the Licensing department since the Licensing and Systems Team Leader had left the authority in 2017 and he was pleased to report that a Senior Licensing Officer post was included in the new structure for Community Services which would be taken to the Executive Committee in July. From his point of view, it was important to have a permanent dedicated post for licensing as this was key to ensuring that policies remained relevant and consistent.
- 8.3 The Environmental Health Manager advised that it had been intended to bring a draft review of the Hackney Carriage and Private Hire Policy to this Committee for approval, prior to public consultation. The various policies in place at local authorities across the county had been considered and Cheltenham Borough and Gloucester City Councils had subsequently raised concerns about the disparities between their policies and Tewkesbury Borough Council's policy. He indicated that a lot of taxis licensed in Tewkesbury Borough were operating in Cheltenham and worked to slightly different standards which resulted in complaints to Cheltenham Borough Council. Given these concerns, a meeting had been arranged with Cheltenham Borough and Gloucester City Councils on 20 June to consider the issues and how they might be addressed; a report would subsequently be brought to the Licensing Committee meeting on 18 October 2018. The Chair welcomed this review and felt that it may help to overcome the perception that it was easier to obtain a licence from Tewkesbury Borough Council than Cheltenham Borough and Gloucester City Councils. He was of the view that it was important to consider fairness to other districts if drivers were operating in their areas under different conditions. A Member indicated that the major complaint he was aware of was in relation to the age of vehicles as Tewkesbury Borough Council allowed licensed private hire vehicles to be slightly older than other local authorities. The Environmental Health Manager agreed that this was one of the concerns; if Tewkesbury Borough Council did amend its policy it would be important to consider the impact on particular groups, for example, a lot of private hire vehicles within Tewkesbury Borough were adapted for disabled use. Another aspect to consider was air quality. The Member also raised concern that the area codes for telephone numbers could make it appear that a private hire driver was located within Cheltenham Borough when they were actually in Tewkesbury Borough, for example,

in Bishop's Cleeve - people may think they were contacting a local taxi when that was not strictly true. The Environmental Health Manager was not aware of this being a particular problem but he would raise this at the meeting later in the month. In response to a query as to why drivers might prefer to be licensed by Tewkesbury Borough Council, Members were advised that it was a combination of factors, including the cost of the actual licence and MOT requirements, rather than one overarching reason. The Chair stressed that uniformity did not mean that the policies had to be identical but it was important to ensure that they were aligned. Another Member highlighted the benefits of the Licensing Sub-Committee meetings which provided an opportunity to consider the particular circumstances of individual applicants and to divert from the normal policy if appropriate; she was keen not to lose this human element.

8.4 Members were reminded that a draft revised Mobile Homes and Caravan Sites Policy had been presented to the Licensing Committee on 13 October 2016 where it had been approved for a 12 week public consultation. Shortly afterwards, the government had announced it would be carrying out a review of the law in respect of park homes in 2017 and, given the potential impacts on the Council's policy, the consultation had been put on hold. The park homes review had been carried out in 2017/18 and was split into two parts; the second call for evidence had run until February 2018 with a summary of responses published in May 2018, although the final conclusions and recommendations would not be published until later in the year. Members were advised that, if there were recommendations within the final conclusions which impacted on the previously presented revised policy, the amendments would be brought back to the Committee prior to public consultation. If no amendments were necessary, the draft as previously agreed would be sent out for public consultation.

8.5 The Environmental Health Manager went on explain the changes to legislation around Houses in Multiple Occupation (HMO). He advised that the Licensing of Housing in Multiple Occupation (Prescribed Description) (England) Order 2018 revoked and replaced the 2006 Order and tightened the definition of a mandatory licensable HMO to include properties that were two storeys. The new definition would apply from 1 October 2018 and was expected to have a significant impact on the number of HMOs that required licensing within Tewkesbury Borough – under the current regime there were four licensed HMOs and this could potentially rise to more than 100. A countywide group was meeting on a monthly basis to discuss the issues, in particular how to identify which properties would be affected, and to come up with a charging scheme that adequately reflected the costs of licensing HMOs. It was noted that it was intended to run a widespread publicity campaign in the run up to the introduction of the new legislation in October. The Chair indicated that this was important in terms of protecting landlords but was also about safety and the Council's reputation. If there was a need to act quickly over the coming months, he would be happy to convene a special meeting of the Licensing Committee. A Member welcomed the legislative changes as she had concerns about the safety of certain properties which would not have previously required a licence. She pointed out that Members would have local knowledge about properties in their Wards so they should be kept informed of the changes. The Environmental Health Manager indicated that any information would be helpful in terms of building a database and it would be preferable for investigations to start sooner rather than later. In response to a query, Members were advised that HMOs were difficult to define but broadly speaking they were properties occupied by five or more persons from two or more households. Another Member indicated that HMOs were a minefield as it was difficult to establish how long some people had been residents, for example, there was a lot of 'sofa-surfing' and a significant student population – landlords might let a property to a student and later find five or six people were living there. The Chair

felt it would be useful to circulate a Member Update on the changes to the HMO legislation and suggested that publicity should also be discussed with the Lead Member for Clean and Green Environment.

- 8.6 Members were advised that the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 also came into force on 1 October 2018. The regulations reviewed and reformed the pet licensing controls and updated the licensing system for dog breeding, pet sales, riding establishments and animal boarding establishments. In addition, it modernised the system for animal exhibits which were currently regulated under the Performing Animals Act 1925 and came under the responsibility of Gloucestershire County Council. The Environmental Health Manager explained that one of the main changes was in relation to dog breeding establishments where the number of breeding bitches had been reduced from five to three. The government's impact assessment based on the new regulations predicted each local authority could see a 700% increase in licensable dog breeding establishments. Furthermore, there were other activities, such as doggy day care, which may be included in the definition so there could be an even greater impact. This was being considered by the countywide animal welfare group and statutory guidance was due to be released in September 2018 which would help to clarify the new licensing regime. A Member noted that dog walking businesses were growing in popularity which could lead to problems with dogs being left in vehicles and she questioned whether this would be covered by the legislation. The Environmental Health Manager indicated that this type of activity may come under the definition of doggy day care; however, he pointed out that leaving a dog in a hot car was already an offence covered by the existing animal welfare regulations.
- 8.7 At the Licensing Committee on 8 February 2018, Members had asked officers to consider including Disclosure and Barring Service (DBS) checks for street traders within the Council's Street Trading Policy. The Head of Community Services advised that, following the meeting, officers had considered several street trading policies from different authorities and found a mix of approaches. In terms of safeguarding, it may be appropriate to introduce a similar requirement at Tewkesbury Borough Council; however, this needed to be balanced against being overly burdensome in terms of the likelihood of street traders coming into contact with children and vulnerable adults. A Member expressed the view that both children and vulnerable adults could be in contact with street traders selling ice creams or burgers from vans and he felt that all street traders should be required to undergo a DBS check. The Legal Adviser explained that it was a human right to work and earn a living; applicants would have to pay for the check themselves and it was possible that they may have cautions or convictions that would be spent, or would not be relevant to them working with children/vulnerable adults, so there needed to be clear parameters in terms of what the check was for and why it was required. It was noted that introducing a check would be a significant change to the Council's Street Trading Policy and a document had been prepared for public consultation should Members consider that to be an appropriate way forward. Members felt that this would be the best approach, subject to the document being agreed with the Chair and the Lead Member prior to consultation, and the Environmental Health Manager undertook to present the results to the Committee at the meeting in October.

8.8

It was

RESOLVED

1. That the revised draft Hackney Carriage and Private Hire Policy be taken to the Licensing Committee on 18 October 2018 following the meeting with Cheltenham Borough and Gloucester City Councils to identify the discrepancies between the policies and how they could be aligned.
2. That the Review of Mobile Homes and Caravan Sites Licensing Policy be taken to a future Licensing Committee meeting to approve amendments following the publication of the government's final conclusions and recommendations in respect of the park homes review, or, if no amendments are required, following public consultation.
3. That the consultation document on the inclusion of a requirement for Disclosure and Barring Service (DBS) checks for street traders within the Council's Street Trading Policy be agreed with the Chair and Lead Member for Clean and Green Environment prior to public consultation and that the results be presented to the Licensing Committee meeting on 18 October 2018.

The meeting closed at 3:30 pm