

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Thursday, 21 March 2019 commencing  
at 2:30 pm**

## **Present:**

Chair  
Vice Chair

Councillor R E Garnham  
Councillor J Greening

## **and Councillors:**

K J Berry, G F Blackwell, J E Day, A J Evans, P A Godwin, R M Hatton, A Hollaway  
and H A E Turbyfield

## **LIC.17 ANNOUNCEMENTS**

- 17.1 The evacuation procedure, as noted on the Agenda, was taken as read.
- 17.2 The Chair welcomed the new Senior Licensing Officer to the meeting and extended his thanks, on behalf of the Committee, to the temporary Licensing Officer who would be leaving at the end of the month.

## **LIC.18 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 18.1 Apologies for absence were received from Councillors G J Bocking, R Furolo, A S Reece, M J Williams and P N Workman. There were no substitutions for the meeting.

## **LIC.19 DECLARATIONS OF INTEREST**

- 19.1 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.
- 19.2 There were no declarations made on this occasion.

## **LIC.20 MINUTES**

- 20.1 The Minutes of the meeting held on 18 October 2018, copies of which had been circulated, were approved as a correct record and signed by the Chair.

**LIC.21 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY**

- 21.1 The report of the Head of Community Services, circulated at Pages No. 8-80, asked Members to approve the draft revised Hackney Carriage and Private Hire Policy for public consultation following the Working Group's review.
- 21.2 The Chair indicated that he had also chaired the Working Group which had met on three occasions since it had been established by the Licensing Committee at its meeting on 18 October 2018. A lot of good work had been done to address some of the discrepancies between Tewkesbury Borough Council's Hackney Carriage and Private Hire Policy and the policies of Cheltenham Borough and Gloucester City Councils whilst also ensuring that Tewkesbury Borough Council retained its own identity. Representatives from the hackney carriage and private hire industry had been invited to attend the second meeting and one of the attendees had commented that he had never been asked to attend a Working Group meeting before which the Chair felt demonstrated that the Council's principles of public engagement worked well. The Environmental Health Manager went on to explain that, in order to make the policy clearer and more user-friendly - for Officers, Members and the taxi industry itself - the revised policy had been split into four separate documents, attached at Appendices 1-4. Members were informed that any references to the Head of Service/Head of Place would be amended to the Senior Licensing Officer who was the decision-maker. The main proposed changes were set out within the Officer report and he welcomed any questions.
- 21.3 A Member drew attention to Page No. 68, Paragraphs 5.11 and 5.13 of the policy which made reference to a premises licence and temporary event notice respectively and she indicated that these seemed to be taken from the wrong policy. In response, the Senior Licensing Officer explained that taxi and private hire drivers were able to provide alcohol in their vehicles, for instance, in a limousine catering for hen or stag parties, and, in order to do so would require either a premises licence or a temporary event notice at the premises where the alcohol was actually sold e.g. the driver's home. The Member thanked the Officer for the explanation and indicated that this needed to be clarified in the policy. A Member queried whether the policy allowed use of classic cars for a taxi service and confirmation was provided that this was covered under novelty vehicles; whilst the policy did give examples, a decision on what constituted a novelty vehicle was ultimately left to the discretion of the Senior Licensing Officer.
- 21.4 A Member drew attention to Page No. 20, which set out guidelines on the relevance of convictions, and noted that incidents had to be reported within a 24 hour period. She expressed the view that it should specify who this had to be reported to e.g. the Police or the local authority. The Environmental Health Manager undertook to look at the wording around this to ensure there was clarity. With regard to the requirement for operators to retain records for six months, as referenced at Page No. 78, Paragraph 2.13 of the policy, a Member questioned whether this was likely to be reviewed in light of the child sex abuse cases associated with taxi drivers which had been reported nationally. The Environmental Health Manager felt this was a very valid point and indicated that he would take legal advice on this following the meeting.
- 21.5 In response to a Member query as to how long an applicant needed to reside in the area before being granted a private hire driver's licence, the Senior Licensing Officer explained that applicants could be from anywhere in the country, they did not have to be a resident of Tewkesbury Borough and it would be unlawful to refuse an application for that reason; however, private hire operators must have a base within the borough. On that basis, the Member questioned whether it would be prudent to introduce a knowledge test given that applicants may not be familiar with the area they were working in. The Environmental Health Manager confirmed that this had been discussed by the Working Group and hackney carriage drivers were required

to take a knowledge test but this was largely because fares were calculated on a meter and charges were based on mileage; private hire drivers did not generally have meters and agreed a price prior to the journey. As the majority of drivers now used satellite navigation they did not need to rely on their own knowledge to reach a destination. An informal assessment was carried out when speaking to potential drivers to ensure their English was of an appropriate standard, and this aspect had been strengthened in the revised policy, but it was not intended to introduce a requirement for private hire drivers to undergo a specific knowledge test. A Member pointed out that, due to the rural nature of the borough, it was possible that drivers would know one area particularly well, e.g. Bishop's Cleeve or Tewkesbury Town, but not necessarily other places within the borough. A Member questioned if anything could be done to prevent operators from using their drivers' addresses as their own registered address in order to obtain a licence to operate within the borough. In response, the Senior Licensing Officer recognised that this was an issue for the licensing trade as a whole but, unfortunately, there was very little that could be done. Operators were required to provide an address which was used by the licensing authority for correspondence and to inspect records etc. however, in terms of the latter, as records tended to be electronic, it was not always necessary to attend the property to physically view them. A Member questioned whether operators were required to register their addresses for business use and was informed that the licensing authority would always advise applicants to seek consent from the planning department to register as a business address but there was no mechanism to ensure that happened and failing to do so did not necessarily mean that a licence would be refused. The Environmental Health Manager indicated that, in his experience, if the business was being run from what was essentially an office in a property then planning permission was not required. Notwithstanding this, if ancillary activities impacted upon the community – for instance noise at unsociable hours, mini-buses parked on the road and taxis parked on the public highway – this was something which could be discussed with operators and it was noted that Officers had a good relationship with the existing operators in the borough.

21.6 The Environmental Health Manager advised that, subject to approval by the Committee, it was intended to carry out a full public consultation and any comments received during that period would be brought back to the Committee for consideration. Having considered the information provided and views expressed, it was

**RESOLVED**

That the draft revised Hackney Carriage and Private Hire Policy be **APPROVED** for public consultation subject to the following:

- Page No. 20 – Relevance of Convictions – clarification to be provided as to who incidents should be reported to;
- Page No. 68 – Paragraphs 5.11 and 5.13 to be amended to clarify how a premises licence and temporary event notice were relevant to the Hackney Carriage and Private Hire Policy; and,
- Page No. 78 – Consideration to be given as to whether to extend the length of time operators were required to keep records in light of child sex abuse cases associated with taxi drivers which had been reported nationally.

**LIC.22 REVIEW OF STREET TRADING POLICY**

- 22.1 Attention was drawn to the report of the Head of Community Services, circulated at Pages No. 81-112, which asked Members to approve the revised Street Trading Policy following public consultation.
- 22.2 The Environmental Health Manager explained that, at the Licensing Committee meeting on 18 October 2018, it had been agreed that a wider public consultation be carried out on the revised draft Street Trading Policy to seek views regarding the inclusion of a requirement for an enhanced Disclosure and Barring Service check as a pre-requisite to being licensed as a street trader. Given that no comments had been received as a result of the public consultation, it was proposed that the revised Street Trading Policy be approved.
- 22.3 A Member queried how the consultation had been carried out and was advised that the first stage had involved writing directly to the existing street traders; the revised draft policy had subsequently been published on the Council's website alongside the existing policy. It was

**RESOLVED** That the revised Street Trading Policy be **APPROVED** following public consultation.

**LIC.23 GAMBLING ACT 2005 STATEMENT OF PRINCIPLES**

- 23.1 The report of the Head of Community Services, circulated at Pages No. 113-134, set out the Tewkesbury Borough Council Gambling Act 2005 Statement of Principles 2019-22. Members were asked to approve the Statement for publishing.
- 23.2 Members were advised that it was a requirement of the Gambling Act 2005 that the Council publish its Statement of Principles every three years. It was noted that Gloucestershire County Council had been undertaking local area profiling which would feed into the Statement of Principles and the Senior Licensing Officer had been working with the County Council to establish what changes needed to be made. As such, it was proposed that the current Statement of Principles be re-published for 2019-22 pending a more detailed review later in the year taking account of the revised local area profiles. Assurance was provided that any changes would be brought back to the Committee for consideration. Accordingly, it was

**RESOLVED** That the Tewkesbury Borough Council Gambling Act 2005 Statement of Principles 2019-22 be **APPROVED** for publishing as set out at Appendix 1 to the report.

**LIC.24 LICENSING GENERAL UPDATE**

- 24.1 Attention was drawn to the report of the Head of Community Services, circulated at Pages No. 135-138, which provided an update in respect of the significant changes to Houses in Multiple Occupation licensing and implementation of the Animal Welfare Regulations 2018. Members were asked to consider the report.
- 24.2 The Chair felt it was important to note that the inspection and processing of applications arising from the Animal Welfare Regulations had been significantly more time-consuming than the previous regime with the issuing of a licence proving to take six to seven hours of Officer time compared to two to three hours previously. The Environmental Health Manager explained that all existing licences were required to be converted under the regime - as well as licensing new animal activity - and this was a significant piece of work which needed to be done in a timely fashion alongside other licensing work, such as the inspection of food premises. Since the publication of the Committee report, the number of

applications for licensable animal activities had risen to 44, of which 36 had been inspected and two re-visited with 23 licences having been issued to date. The Council was the first in the county to refuse an application, which it had done the previous day, and a second refusal was anticipated once the report had been written up. The impact assessment of the regulations suggested that there would be an increase in the amount of regulated activities and it was intended to formulate a plan to publicise the changes in the community.

- 24.3 A Member questioned whether the Council had a provision for licensing exotic animals, such as pythons, which might be taken to school fetes etc. and she queried whether the licence was granted by the local authority from where the animal was based or in the area where the event was taking place - she was concerned as to who monitored their welfare particularly following the reports of pythons being abandoned in another part of the country. In response, the Environmental Health Manager advised that these animals were covered by the Dangerous Wild Animals Act 1976 which was very stringent in terms of the specialist conditions that were needed. They were also covered in part by the Animal Welfare Regulations in terms of the display of animals, for instance, mice should not be kept next to cats as this could induce stress. The legislation was unclear in places, because it was new, and had generated a lot of discussion among the countywide licensing group. It was recognised that animals may be housed within Gloucestershire but performing in another area, or vice versa, and generally the regulations were intended to prevent unnecessary suffering to animals so action could be taken provided the owner was known to the licensing authority.
- 24.4 A Member sought confirmation as to the number of registered dog breeders in the borough and the Environmental Health Manager undertook to circulate this following the meeting. Another Member queried why two licences had been turned down and was advised that the new regulations came with statutory guidance from Defra which required an inspection to be undertaken and a series of questions to be answered in order to give an overall score; in both cases the inspection had resulted in a very high score therefore it would have been neglectful to grant a licence. In response to a query as to what had happened to the animals, Members were advised that there was a 28 day window for an appeal and operations could continue during that time. The Environmental Health Manager explained that inspections were currently being undertaken by two Officers but eventually would be carried out by individual Officers, once everyone was accustomed to the new legislation. The Officers' report was signed-off by the Senior Licensing Officer and Environmental Health Manager and, once a decision had been made, Officers went back to explain the decision to the operator; in the case of the refusal, the operator had not taken up this offer and had instead chosen to end the business so they had missed the opportunity to discuss what action would have been needed to bring it up to standard, although this information was contained within the inspector's report which was given to them with the decision notice. A Member questioned whether pet shops were included under the Animal Welfare Regulations and confirmation was provided that this was the case and they were given a star rating. There was a register which could be inspected by the public in order for them to make an informed judgement – for fairness, this would not be available on the website until all of the relevant premises had been inspected, however, the information could be requested from Officers in the interim.
- 24.5 With regard to Houses in Multiple Occupation, Members were advised that, since the introduction of the changes on 1 October 2018, 11 applications had been received with four licences currently being processed and a further two properties being investigated. It had previously been anticipated that there could be up to 100 new Houses in Multiple Occupation across the borough but only a fraction of landlords had come forward to date and discussions with neighbouring authorities had suggested that they were experiencing a similar pattern. Whilst it may be that

the original amount had been overestimated, it was also possible that landlords were failing to come forward, as such, it was intended to run a targeted campaign over the coming months in order to try to identify licensable Houses in Multiple Occupation across the borough. It was noted that a successful prosecution had been brought against a landlord for four charges which included poor housing conditions – this was a concern as a landlord failing to come forward to register a House in Multiple Occupation may also be less likely to ensure that housing conditions were of an appropriate standard.

- 24.6 A Member questioned how Houses in Multiple Occupation could be identified and was advised that press releases had been issued at the end of 2018 to raise awareness locally and the changes had also received some coverage in the national press; landlord associations were another way of publicising the legislation although it was recognised that not all landlords would be members of an association. The Environmental Health Manager explained that it was important to strike a balance between encouraging people to report suspected Houses In Multiple Occupation and managing Officer workloads in terms of the time spent investigating those reports; however, assurance was provided that there would be regular reminders on social media to reinforce the message once the initial bulk had been investigated. The Chair indicated that a Member Update had been circulated asking Councillors to report any suspected Houses In Multiple Occupation to the Licensing Team.

- 24.7 It was

**RESOLVED** That the updates in respect of changes to the Houses In Multiple Occupation regulatory regime and implementation of the Animal Welfare Regulations 2018 be **NOTED**.

## **LIC.25 LICENSING AUDIT ACTION PLAN**

- 25.1 The report of the Environmental Health Manager, circulated at Pages No. 139-150, provided an update on progress made against the actions arising from the internal audit of the licensing function. Members were asked to consider the report.
- 25.2 Members were advised that the majority of actions contained within the plan had now been completed with the exception of two, as set out at Page No. 140, Paragraph 2.2. of the report. The first related to the cost recovery of fees associated with animal boarding establishments and it was noted that a new charging scheme was being developed following the introduction of the Animal Welfare Regulations. The second was the requirement to carry out inspections of licensed premises and introduce risk ratings and the Environmental Health Manager explained that it had been intended to incorporate the risk rating visits into the food inspection programme; however, two of the Officers who were qualified to carry out those inspections had left the authority meaning that an external contractor had been used to ensure that the food inspection programme was achieved and it would not have been appropriate for them to carry out licensing inspections. Members were advised that the Senior Licensing Officer had been tasked with working with the Principal Environmental Health Officer to incorporate the licensing risk rating inspections into the 2019/20 food inspection programme. The Environmental Health Manager reassured Members that, whilst there was no formal inspection programme, premises were inspected as and when necessary and Officers worked very closely with the Police so any incidents which did arise in the interim would be quickly dealt with.

25.3 A Member drew attention to Page No. 145, Action 3.2 which required the safeguarding policy requirements to be implemented. She noted that the report referred to safeguarding training courses for taxi drivers being run in March/April and November/December 2019 and she sought clarification as to whether these had already been run or were scheduled for the forthcoming year. The Environmental Health Manager confirmed that the training courses had taken place with eight sessions held in March/April and November/December 2018, rather than 2019 as stated in the report. He advised that any drivers who were still required to undertake the training would receive a letter giving them a month to attend a training course; it was noted that Gloucester City and Cheltenham Borough Councils both ran regular courses which they could attend. It was subsequently

**RESOLVED** That the progress made against the Licensing Audit Action Plan be **NOTED**.

The meeting closed at 3:23 pm