

LICENSING COMMITTEE



15 JANUARY 2016 - 10:00AM

PRESENT: Councillor M J Humphrey (Chairman), Councillor M Buckton (Vice-Chairman), Councillor Mrs V M Bucknor, Councillor Mrs K F Mayor, Councillor A Miscandlon, Councillor D C Oliver, Councillor C C Owen, Councillor S Tierney.

APOLOGIES: Councillor S Bligh, Councillor S Clark, Councillor A Pugh

Kim Winterton (Licensing), Dan Horn (Head of Housing and Neighbourhood Services), Philip Evans (Legal), Jane Webb (Member Services & Governance)

L1/15 TO CONFIRM AND SIGN THE MINUTES OF THE MEETING ON 15 MARCH 2015

The minutes of the meeting of 16 March 2016 were confirmed and signed.

L2/15 LICENSING ACT 2003 – REVIEW OF STATEMENT OF LICENSING POLICY

Kim Winterton presented the Licensing Act 2003 - Review of Statement of Licensing Policy and informed Members that:

- The current taxi and private hire licensing policy was approved by Full Council on 15 December 2011.
- Changes under the Deregulation Act 2015 and the Immigration Bill 2015 prompt a review of our current policy.
- The LGA encourages best practice in the adoption of a formal statement of policy for relevant convictions.
- It is best practice to publish a policy which sets out our general approach to regulation and enforcement activities in relation to taxi and private hire services to maintain a consistent approach, build public confidence and assist in supporting business.

Members made comments and asked questions followed:

- Councillor Tierney stated he was concerned about some of the data as the Community Impact Policy had been sold to the Council on figures received from the Police. Anti-social behaviour figures were falling and continuing to fall but violent crime and criminal damage had risen dramatically; the document was riddled with errors as there are no timings included therefore how were the police able to tell that alcohol was the root of the problems; real statistics were needed. Councillor Owen asked if the statistics were slightly array did it make a difference. Councillor Tierney stated that criminal damage and violent crime had dramatically risen from the figures shown.
- Councillor Humphrey stated the Community Impact Policy was a separate policy that needed updating; this policy had given the licensing panels a reason to oppose an application where another licensing outlet was not required as previously the argument was if one premise had a licence then why can't another and this policy demanded evidence that the application did not impact the area.
- Councillor Tierney asked if Members could have a list of those premises that had been turned down due to the Community Impact Policy
- Kim Winterton, Licensing, stated this was very easy to answer as there had only been two

premises that had been turned down recently and this was because the major contributor to objections was the Health Authority and this was tied in with alcohol referrals and street drinking in Wisbech. She understood Councillor Tierney's comments and agreed that the policy needed to be robust because if Members are making decisions based on this policy then there is a need for it to be 'bullet proof'; when the policy it was not just based on the response from the policy as there were also strong feelings from the public. Kim Winterton added that the Council would be challenged at some stage and there needed to be a policy in place stating what is expected within Fenland, how it works and the process that is followed.

- Councillor Tierney commented that if the public were consulted again then the same answers would be received. Kim Winterton explained that was the risk when asking for a response.
- Councillor Buckton asked if the Community Impact Zone created and sustained the Community Impact Area Policy or was it a separate document that supported the policy. Kim Winterton stated the Licensing Policy was last reviewed in 2011 and the Community Impact Policy was an addition to that as an appendix; now was the chance to include it within the main policy if Members wished. Councillor Buckton stated he understood this but how was the community impact zone created and kept in; Kim Winterton stated it was a request from the Policy for an Order to be made by the Council and it would be the Licensing Policy document that dictates how Members decide what happens to the licensing trade within that Act. Councillor Buckton asked if there could be numerous zones; Kim Winterton explained that there could be numerous zones and they do not all have to operate in the same way, Cambridge City have five that were all different instead of one over a blanket area. There would need to be a separate appendix for each area containing separate conditions and details for each area.
- Kim Winterton stated that 47% of Fenland licences were in the Wisbech area.
- Councillor Oliver stated the Community Impact Policy needed reviewing as it was not used in the correct way; it was added to be used as a tool but has been used incorrectly by other agencies.
- Councillor Humphrey stated when the policy comes back before the Licensing Committee for approval then these comments can be reflected to the appropriate authorities and it may be better to keep the documents as separate appendices.
- Councillor Miscandlon agreed that other agencies did not understand the policy in the same way and therefore it was not used correctly; this has been evidenced with the presentation received from other agencies therefore it is hoped this would regulate the agencies.
- Councillor Mrs Bucknor stated she was pleased that planning and licensing would now be more joined up but that she found the licensing part of the website regarding applications and notices difficult to find. With regard to 1.49, she found the wording rather "wooly" where it stated "It will achieve a separation of responsibilities" this was not clear as the future tense was used and therefore was it something that was being planned as it read that it had not yet been set up. Kim Winterton explained that the overall idea of that particular paragraph was that legislations does change so that clients could make a representation on any application or call a review as this had not happened in the past. There is a need for this to be impartial in order for fairness to be implied to all but she did think that the wording of the paragraph could be looked at.
- Dan Horn stated that this wording had been taken from the Guidance Section 182 of the policy but could easily be amended.
- Councillor Mrs Bucknor strongly supported 1.79 where it stated that this Authority will not consider any application that fails to provide the name and address applicable to the Other Persons.
- Councillor Mrs Bucknor asked because of the way the CIZ was interpreted by third parties was it feasible for all parties to meet and discuss in order that it would make it more successful. Kim Winterton explained that mediation was offered and she did ensure that there was discussion between the parties but more often both parties do not wish to take part in discussions and therefore the application then has to come before a licensing

hearing panel. Councillor Mrs Bucknor stated that it was often not the licence holder that misunderstood the CIZ but instead it was new police officers therefore was it not possible for Fenland District Council to work with a senior police officer for them to understand the CIZ. Dan Horn stated this could be taken to the Responsible Authorities Group who met monthly. Kim Winterton explained that she chaired the Responsible Authorities Group and at this meeting applications that were being objected to were looked at to ensure that all parties have all the information; new applicants are also invited in for discussions in order that they then have an understanding of why there might be an objection. Kim Winterton stated it may be a better way forward if Fenland District Council produced a clearer information document for new applicants.

- Councillor Tierney commented that the statement within the policy regarding the DPPO was misleading and gave the public a false perception; he suggested that a better description is used such as the one included in the Selective Licensing Policy report that was before Cabinet. He stated that regular and robust policing of the DPPO did not happen. Kim Winterton explained that the statement used was legislation rather than someone's interpretation and the DPPO was requested by the Police, is an Order from the Council with the wording was based on what the police stated they would do. She was happy to add the guidance from the government as part of the consultation documents but the Council would write back to all those who respond. Councillor Tierney stated this should not be lifted from the government document as this was where the problem had begun; it needed lifting from the Cabinet report. Philip Evans, legal, stated that from a legal point of view, if Councillor Tierney was asking for an accurate description then it be best to cut and paste appropriate sections straight from the relevant legislation.
- Councillor Humphrey explained these points would be reflected on during the consultation and Members were able to make comments; today's meeting was not to agree a final document.
- Councillor Owen commented that with regard to the DPPO it has to be remembered when incorporating it into the Policy that there are only two and half PCSOs in each town and therefore the DPPO would no longer work as there were less DPPOs to police it. Councillor Humphrey stated that the policy allowed its inclusion if there is a need for it to be implemented. Kim Winterton stated this was the time to review the DPPO and the police would be written to; there is a requirement that updated statements are received and a police officer will come before licensing committee Members to answer any questions; the DPPOs in March and Whittlesey are not being operated presently. Councillor Oliver stated with respect to DPPOs, the Council let them continue for a three year period; did Members really want to lose that?

It was AGREED that:

- **The draft version of the Statement of Licensing Policy which includes the special policy for Wisbech Cumulative Impact area be APPROVED;**
- **The statutory public consultation takes place on the draft Statement of Licensing Policy for a period of not less than four weeks.**

L3/15 REVIEW OF THE GAMBLING STATEMENT OF POLICY DOCUMENT

Kim presented the Review of the Gambling Statement of Policy Document Report and informed Members that:

- The existing Gambling Policy was written at a time of the transition of the Act when enforcement functions were given to Councils acting as the Licensing Authority.
- Transitional arrangements were in place to support the vast amount of changes that took place under the Gambling Act 2005 and have since been deleted.
- The Social Responsibility Code comes into effect on the 6 April 2016 and requires licensees

to assess the local risks to the licensing objectives posed by their gambling operations at each of their premises and the need to have policies, procedures and control measures in place to mitigate those risks. Applicants wishing to make a variation to their existing licence will also be expected to undertake a local assessment when applying to vary the licence. Our policy document will be an integral part of the applicant's policies, procedures and control measures.

- Members will need to consider the merits of local area profiling for the Fenland District.
- In determining its statement policy, the licensing authority must give appropriate weight to the views of those it has consulted. Therefore, members' approval of the draft policy for consultation is sought.

Members made comments and asked questions as follows:

- Councillor Owen asked if Fenland needed a Gambling Policy. Kim Winterton stated that a paragraph would be added explained that Fenland was not aware of any premises however if different information came forward in the consultation then a decision could then be made; there were other organisations who deal with vulnerable people that would have further information.
- Councillor Oliver asked if this was just for new premises. Kim Winterton explained it would cover existing premises that would want to vary their licence or be taken over. Councillor Humphrey commented that these concerns should be raised in the consultation process.
- Councillor Tierney commented that he wished Fenland would state clearly as to what it is trying to achieve. Kim Winterton stated that there were now no gaming machines in takeaways and that the consultation will give the opportunity to look at any other issues; the government has given strict advice on how the Gambling Commission Policy will be enforced but the Council does have freedom by identifying its vulnerable places.
- Councillor Miscandlon stated he hoped this process would inform the Council of any problem areas and then the appropriate action can be taken.
- Councillor Buckton stated he supported having the policy and guidance separately as this would mean that the guidance could be amended.
- Kim Winterton explained this gives the Council an opportunity to deal with this by asking organisations that deal with gambling as to how they can be supported.

It was AGREED that:

- **The draft policy document under the Gambling Act 2005 as detailed within the report be APPROVED for a consultation period of no less than four weeks.**
- **Members consider the merits of local area profiling for the Fenland district.**

L4/15 REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

Kim Winterton presented the Review of Hackney Carriage and Private Hire Licensing Policy report and informed Members that:

- The current taxi and private hire licensing policy was approved by Full Council on 15 December 2011.
- Changes under the Deregulation Act 2015 and the Immigration Bill 2015 prompt a review of our current policy.
- The LGA encourages best practice in the adoption of a formal statement of policy for relevant convictions.
- It is best practice to publish a policy which sets out our general approach to regulation and enforcement activities in relation to taxi and private hire services to maintain a consistent approach, build public confidence and assist in supporting business.

Members made comments and asked questions as follows:

- Councillor Mrs Bucknor asked as to why plates 286 onwards would be subject to changes, this allowed for 30 plates; how many did the Council have at the moment. Kim Winterton explained that at present there were 198; the figures did not add up as some of the plates are not used. This figure was given to allow a leeway or there would be a need to use an end date; thirty plates would be the equivalent of about three months, giving time to consult with the taxi trade.
- Councillor Tierney stated he was concerned that the entire cab trade would change and the Council needs to be aware of imposing burdens that may make the trade extinct. Kim Winterton agreed with Councillor Tierney stating that the trade was diminishing; legislation is from 1847 and drivers were very loyal to it, she appreciated that they were a unique service bridging the gap with public transport but there were also issues of the District changing too with Hackney Carriages not operating after 10pm as they did not feel safe and this needs to be looked into. Private Hire is a bookable service but Fenland is predominately hackney carriage operated and they need to be brought "up to speed" but in a gentle fashion.
- Councillor Miscandlon stated the trade should move towards this as it could be a selling point. Kim Winterton explained the issue was that the district has a lot of independent drivers who were now becoming reliant on operators; hackney carriage drivers should be a "one man band". Operators charge radio rent of approximately £120 per week and this enables them to receive jobs, the independent drivers will worry about this; the wheelchair issue is great for companies.
- Councillor Buckton asked if the Council were defining what wheelchair accessibility meant. Kim Winterton explained there was a description as what will be expected with regard to minimum sizes, hand levers, lifts and ramps etc.

Kim Winterton went through the changes within the report, the following comments and concerns were raised:

- A garage cannot prevent a dangerous vehicle from leaving;
- Supported six monthly vehicle checks;
- Did not think that speed awareness courses should be declared;
- This was about keeping people safe and therefore commended the policy;
- Proposed that the online training regarding safeguarding was enough as drivers could see this as too much. Kim explained that the guidance made it clear that drivers cannot be issued with just text; this required face to face training. Members would be able to comment in the consultation about this issue.

It was AGREED that the draft Taxi and Private Hire Licensing Policy be approved for a four week period of public consultation to obtain the views of persons whom the Council could affect be exercising its function in relation to taxi and private hire services and to use those views to formulate policy.

L5/15 UPDATE - TAXI RANK AT THE CASE, WISBECH

Dan Horn informed Members that:

Fenland District Council had been approached by the taxi trade to hold a meeting due to concerns being raised regarding the operation of The Horsefair taxi rank and the layover at The Case. Councillors Oliver, King, Dan Horn and County Councillors Lay and Gillick met with Mr Patrick to discuss these issues.

Actions resulting from that meeting:

- Councillors Lay and Gillick to liaise with Cambridgeshire County Council to access the bus

- bays - no update yet received;
- Fenland District Council to explore with the Horsefair Management Team the potential for drop bays in the Horsefair car park. A solution to this is to having a working arrangement developed within the Horsefair car park of a "kiss and drop" bay (which could be any available bay). All drivers and proprietors are aware of this solution and are in agreement.
 - Drop off and pick for wheelchair users to be at Blackfriars Road, which is the nearest point to the Horsefair Shopping Centre.
 - Print signage and markings of existing layover.
 - Undertaken considerable work including resurfacing completed prior to the Christmas holidays; more signage to go up.
 - There are still some members of the public parking and therefore further monitoring has taken place; Fenland have not seen evidence of this.
 - Proposing to consult on putting in a Section 63 Notice to deal with this issue of public parking incorrectly and the trade not using this correctly; paperwork has gone out today and there will be a notice published in the local paper and on the website with regard to the feeder rank.
 - To continue with the Planning Enforcement linked to unauthorised parking near The Empire with regular visits taking place and working with the Police to see what can be done; the majority of offenders are blue badge holders.
 - A web based form has been drafted and in process of being produced to make it easier for the public to supply intelligence of misuse

Members made comments and asked questions as follows:

- Councillor Mrs Bucknor asked if the Blackfriars disabled space was the nearest one to the Horsefair Shopping Centre. Kim Winterton explained that drivers are responsible for picking up and dropping off safely and they are unable to enter the bus station; they can enter the multi-storey but if elsewhere then the nearest rank is in Canal street as it has dropped kerbs; there are no other alternatives.
- Councillor Tierney asked that next time a meeting is held then could the ward councillors responsible for that area be invited. Dan Horn apologised and stated this would happen in future.
- Councillor Oliver added that any taxi can drop off and pick up a disabled person in the Market Place, Wisbech.

1:00pm

Chairman