

LICENSING COMMITTEE AGENDA



Wednesday 7th June 2006

at 9.15 am

in Committee Room "A"

MEMBERS: LICENSING COMMITTEE:

Councillors SA lison, Brash, R Cook, S Cook, Griffin, Hall, Jackson, Johnson, Kaiser, Lilley, Morris, Rayner, Tumilty and Worthy.

1. **APOLOGIES FOR ABSENCE**
2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
3. **MINUTES**
 - 3.1 To confirm the Licensing Committee minutes of the meetings held on 12th April and 19th April 2006.
4. **ITEMS REQUIRING DECISION**
 - 4.1 Report on the Sub-Committee memberships – *Assistant Chief Executive*
5. **ITEMS FOR INFORMATION**

None.
6. **ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

12 April 2006

Present:

Councillor Stan Kaiser (In the Chair)

Councillors: John Cambridge, Rob Cook, Sheila Griffin, Gerard Hall, Dr George Morris, Carl Richardson, Trevor Rogan, Vic Tumilty and Gladys Worthy.

Officers: Ralph Harrison, Head of Public Protection and Housing
Tony MacNab, Solicitor
PC Mick Beard, Cleveland Police
David Cosgrove, Principal Democratic Services Officer

Also present Mr and Mrs G Masterman (Applicant) and Mr S Catterall (Applicant's Solicitor).

64. Apologies for Absence

Councillors Bob Flintoff, Peter Jackson, Geoff Liley and Pat Rayner

65. Declarations of interest by members

None.

66. Confirmation of the minutes of the meeting held on 15th March 2006

Confirmed.

The Chairman referred to the previous meeting when the application from Mr Masterman had first been placed on the Committee's agenda. Unfortunately, the meeting on 15 March 2006 had not proceeded due to the lack of a quorum of members. The meeting was reconvened the following day but the applicant and his representative had been unable to attend that day.

The Head of Public Protection and Housing commented that he considered that the record of apologies for absence at the meeting on 15 March 2005 did not reflect those actually given at the meeting.

67. Application for Street Trading Consent – Red Gap Farm Lay-by, A19 *(Head of Public Protection and Housing)*

Purpose of report

To consider an application for a Street Trading Consent for the A19 northbound lay-by near to Red Gap farm.

Issue(s) for consideration by the Committee

The Head of Public Protection and Housing reported that on 2nd March 2005 it was resolved that parts of the Local Government (Miscellaneous Provisions) Act 1982 be adopted to have the effect of requiring permissions to be obtained for street trading in Hartlepool. Anyone wishing to trade from any street in Hartlepool, except a prohibited street, is required to obtain from the Council a Street Trading Licence or a Street Trading Consent.

An application for a Street Trading Consent has been received from Mr Gary Masterman concerning a proposed trading site at the A19 northbound lay-by near to Red Gap farm. Mr Masterman claims to have traded from this site since 1982 but, until the adoption of street trading controls in Hartlepool last year, no trading permit has previously been required.

Following a consultation period, objections have been received to the application from the Highways Agency (Appendix I) and Cleveland Police (Appendix II). Both objections relate to the proposal by the Highways Agency to introduce a Traffic Regulation Order (TRO) to restrict waiting in this lay-by. The effect of this would be to alter the layout of the area, narrowing the road and effectively meaning that the lay-by would become an access road to the farm and neighbouring properties only. The Police have indicated that if the TRO were to go ahead, and the road be narrowed, any parked vehicle would effectively be obstructing the highway.

Mr Catterall (Mr Masterman's legal representative) addressed the committee on behalf of Mr Masterman. Mr Catterall indicated that Mr Masterman had been trading in the lay-by since 1982 and produced for the Committee's information a copy of a "Hawker of Food Registration Certificate" issued by the Council in August 1984.

Mr Catterall referred to the prosecution brought by the Police against Mr Masterman as set out in the report. In 2002 action was taken against Mr Masterman by the Highways Agency for a breach of a 'clearway order' concerning his trading in the lay-by. Mr Catterall stated that the action was subsequently dropped by the Crown Prosecution Service as it was not in the public interest.

In relation to the comments from the Highways Agency and the Police in relation to the possible implementation of restrictions in the lay-by, Mr Catterall indicated that he had made attempts to ascertain what restrictions may be implemented and when. The Highways Agency had replied (letter circulated

for Members information) indicating “that details were yet to be finalised”. Mr Catterall considered that without any specific details and a definitive timetable this was a diversion that should be ignored and should only be an issue affecting Mr Masterman’s business should any formal proposals actually arise from the Highways Agency.

In response to Members questions Mr Masterman indicated that should any formal proposal come forward from the Highways Agency he would object. He had been operating in the lay-by for over twenty years and his business had not caused any problems. If it had the Police, who were regular customers, would have done something about it.

Members expressed concern that the Highways Agency had referred to the potential granting of a licence for Mr Masterman as an “unnecessary complication”. Members were concerned that the Highways Agency was in effect asking the Council to do its job despite the fact they had been asked if they had any firm proposals and indicated that they did not. Members also queried if there had been any accidents in the access road and were informed that there had not been.

PC Mick Beard addressed the Committee as an objector to the application. PC Beard stated that following the reporting of various activities in the access road he had contacted the Highways Agency with a view to a restriction being implemented that would limit parking. The Highways Agency indicated that they spent four days each year cleaning the area of the access road and collected significant amounts of drug paraphernalia including syringes. Residents of the nearby bungalow had complained of the problems of people in the woods connected with the various illegal activities in the access road.

PC Beard indicated that discussion had been held on closing the lay-by altogether but it provided access to the farm and the bungalow and therefore needed to remain open. An alternative had been agreed in principle with the Highways Agency which would introduce bollards in the access road reducing it to a single lane thus preventing parking. PC Beard stated, in response to Members questions, that he was not saying that Mr Masterman’s business contributed to the problems in the access road. The proposals would, however, have a knock on effect to his business.

Members expressed their concern that the Highways Agency had chosen not to attend the meeting despite indicating their objection to the application. Members were also concerned that if there were illegal activities taking place in the access road, they should be addressed by the Police. Also the Police had not taken any steps to move Mr Masterman on from the access road.

In response to further Members questions PC Beard commented that there had been no prosecutions from any activities in the access road. The Police had, however, issued warnings to a number of motorists. The Police monitored the area when they could but this was not the only location where these activities occurred.

Following Members questions both parties were given the opportunity to briefly sum-up prior to the Committee going into private session to discuss their decision on the application.

Decision

That the application from Mr Gary Masterman for a Street Trading Consent to operate in the A19 Northbound Lay-by, near to Red Gap Farm, be approved for the sale of hot sandwiches and drink Monday to Friday 0730 to 1400 and Saturday 0730 to 1200, subject to Mr Masterman being advised that such consent may be withdrawn following the implementation of a Traffic Regulation Order for the site.

S KAISER

CHAIRMAN

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

19th April 2006

Present:

Councillor Stan Kaiser (In the Chair)

Councillors: John Cambridge, Rob Cook, Bob Flintoff, Sheila Griffin, Gerard Hall, Geoff Lilley, Carl Richardson and Victor Tumilty

Officers: Ralph Harrison, Head of Public Protection & Housing
Sylvia Pinkney, Consumer Services Manager
Tony Macnab, Solicitor
Joan Wilkins, Principal Democratic Services Officer
Jo Wilson, Democratic Services Officer

68. Apologies for Absence

Apologies for absence were submitted on behalf of Councillors Dr George Morris and Gladys Worthy.

69. Declarations of Interest by Members

None.

70. Confirmation of the minutes of the meeting held on 12th April 2006 and matters arising

Members agreed to defer consideration of the minutes to the next meeting.

71. Gambling Act 2005 (*Head of Public Protection and Housing*)

Purpose of report

1. To advise Members of the forthcoming implementation of the Gambling Act 2005 and to provide a brief summary of the Council's roles and responsibilities for its implementation and administration.

2. To provide Members with an opportunity to respond to a consultation exercise being conducted by the Gambling Commission.

Issue(s) considered by the Committee

The Head of Public Protection and Housing submitted a report on the Gambling Act 2005 outlining proposals to update and consolidate outdated legislation controlling gambling activities such as bingo, lotteries, slot machines, sports betting, casinos and internet betting.

The Act was expected to take effect on 31st January 2007 and would introduce a licensing framework for gambling activities. Local authorities were to issue premises licences while the newly established Gambling Commission would take responsibility for personal licences and operators.

Members were advised that as with the Licensing Act 2003 there were a number of licensing objectives against which applications would be considered. These were: -

- I. Preventing gambling being a source of, associated with, or supporting crime and disorder
- II. Ensuring gambling is conducted in a fair and open manner
- III. Protecting children and other vulnerable persons from being harmed or exploited by gambling

The report outlined information relating to the proposed format for applications and the granting of premise licences. Details were also given of responsible authorities.

A consultation document relating to licence conditions and codes of practice had been issued by the Gambling Commission. This had been distributed to members of the Licensing Committee. A number of issues for consideration were highlighted by the Head of Public Protection and Housing although it was also acknowledged that the information available was far from definitive. During the course of detailed discussions Members raised the following points:

- What was the definition of vulnerable persons? The Head of Public Protection and Housing advised that this related to the elderly, those with mental health problems and other people who could more easily be taken advantage of. Members suggested that gambling addicts could also be included in this list

- What type of vessel was being referred to in the list of Responsible Authorities? This would be a floating casino or other premises, similar to the boat moored on the Riverside.
- If Responsible Authorities objected to the granting of a licence could the Licensing hearing be cancelled if they failed to attend? This occurred a number of times during implementation of the Licensing Act and had led to a lot of wasted time. The Head of Public Protection and Housing acknowledged this had been an issue but these objections still had to be considered even with the objector absent.
- “Ensuring gambling is conducted in a fair and open manner” – what was the definition of fair and open? Members were informed that this definition would be the responsibility of the Gambling Commission and Members need not concern themselves with it.
- Would Responsible Authorities have the power to overturn the Committee’s decisions? Members were advised that Responsible Authorities would have the right of appeal through the Magistrates Court but would not be able to overturn a decision independently.
- Would Members of the Licensing Committee be able to object to the granting of licences? The Head of Public Protection and Housing informed Members that they could speak to Council Departments about their concerns or alternatively raise a personal objection then declare an interest. However he stressed that this was all supposition at the moment.
- Would the Gambling Commission take the results of any planning applications into account when decided whether to grant a gambling licence? The Consumer Services Manager advised that the Gambling Commission would be looking at the person receiving the licence not the location they wished to use.
- Would existing premises be allowed to keep trading? Members were told that the new Gambling Act would only cover new premises. It was designed to limit the number of new establishments, however existing premises would be allowed to continue as previously.

Following a full discussion of the issues Members acknowledged that they would need much more detail before they could discuss the full implications of the Gambling Act.

Decision

1. Members noted the report
2. Members noted the Gambling Commission's consultation document

STAN KAISER

CHAIRMAN

Report of: Assistant Chief Executive

Subject LICENSING COMMITTEE SUB COMMITTEE
MEMBERSHIPS

1. PURPOSE OF REPORT

1.1 To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

2. BACKGROUND

2.1 Following the recent elections and changes to the membership of the Licensing Committee some amendments to the sub committee memberships are required.

2.2 There are five Licensing Act Sub Committees each consisting of three members and three Hackney Carriage and Private Hire Sub Committees each of five members.

2.3 Following the elections and the annual meeting the current sub committee memberships are as follows:

Licensing Act Sub Committee 1 – Councillors Lilley (Ch.), Worthy and Vacancy❶

Licensing Act Sub Committee 2 – Councillors R. Cook (Ch.), Rayner and Vacancy❷

Licensing Act Sub Committee 3 – Councillors Griffin (Ch.), Jackson and Vacancy❸

Licensing Act Sub Committee 4 – Councillors Tumilty (Ch.), Hall and Kaiser

Licensing Act Sub Committee 5 – Councillors Morris Vacancy❹, and Vacancy❺

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee.

Hackney Carriage and Private Hire Licensing Sub Committee 1 –
Councillors Kaiser (Ch.), Hall, Jackson, VacancyⓅ, VacancyⓅ

Hackney Carriage and Private Hire Licensing Sub Committee 2 –
Councillors Morris (Ch.), Griffin, Tumilty, VacancyⓅ, VacancyⓅ

Hackney Carriage and Private Hire Licensing Sub Committee 3 –
Councillors R. Cook (Ch.), Lilley, Rayner, Worthy, VacancyⓅ

2.4 There are four newly appointed members to the Licensing Committee, Councillors Brash, Johnson, S. Cook and S. Allison. There is also one vacancy on the committee membership which reflects the fact that there are two vacancies on the Council as a whole.

3. LEGAL CONSIDERATIONS

3.1 As new members to the Licensing Committee, Councillors Brash, Johnson, S. Cook and S. Allison will be required to undergo appropriate training before they can be involved in the Licensing Act Sub Committees. This training will be arranged as soon as practicable.

4. RECOMMENDATION

The Committee is requested to nominate Councillors from the overall Committee membership to fill the existing vacancies in the sub committee memberships.

5. REASONS FOR RECOMMENDATIONS

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as three members need to be present for a Licensing Act hearing to proceed. The situation is similar for Hackney Carriage Sub Committees where a quorum of three is required.

6. BACKGROUND PAPERS

Licensing Act Committee Minutes 7 January 2005
Licensing Act Committee Minutes 27 July 2005
Licensing Committee Minutes 15 March 2006

7. CONTACT OFFICER

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