

AGENDA



- Committee - **COMMITTEE OF THE LICENSING AUTHORITY**
- Date & Time - Tuesday, 19 April 2016 at 6.35 pm or immediately following the conclusion of the Licensing Committee, whichever is the later.
- Venue - Meeting Room 1, Council Offices, Priory Road, Spalding

Membership of the Committee of the Licensing Authority:

Councillors: F Biggadike, T A Carter, A Casson, M G Chandler, R Clark (Vice-Chairman), G K Dark, A Harrison (Chairman), J L King, C J Lawton, J Tyrrell, M D Booth, H Drury, A M Newton, M J Pullen and S A Sneath

Persons attending the meeting are requested to turn mobile telephones to silent mode

Democratic Services
Council Offices, Priory Road
Spalding, Lincs PE11 2XE

Date: 11 April 2016

Please ask for Shelley French: Telephone 01775 764451
e-mail: sfrench@sholland.gov.uk

AGENDA

1. Apologies for absence.

2. Declaration of interests:

Where a Councillor has a Disclosable Pecuniary Interest the Councillor must declare the interest to the meeting and leave the room without participating in any discussion or making a statement on the item, except where a Councillor is permitted to remain as a result of a grant of dispensation.

3. Minutes:

(Pages
1 - 6)

To sign as a correct record the minutes of the meeting held on 10 February 2016 (copy enclosed).

4. Licensing Authority update:

The Licensing and Business Support Manager to be in attendance to provide an update to the Committee on matters which fall under the remit of the Licensing Authority.

5. Feedback from Cumulative Impact meeting:

(Pages
7 - 10)

Councillor M G Chandler (Portfolio Holder for Strategy, Governance and Public Protection) to be in attendance to provide feedback and an update on agreed actions from the recent Cumulative Impact meeting (briefing note attached).

6. Public Space Protection Order:

The Licensing and Business Support Manager to provide an update on ongoing work regarding Public Space Protection Orders.

7. Professional Licensing Practitioners Qualification:

The Chairman and the Licensing and Business Support Manager to provide feedback from the Professional Licensing Practitioners Qualification course.

8. Panel of the Committee of the Licensing Authority Training:

An opportunity for the Committee to discuss and provide feedback on the training held on 14 April 2016.

9. Any other items which the Chairman decides are urgent:

NOTE: No other business is permitted unless by reason of special circumstances, which shall be specified in the minutes, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

Minutes of a meeting of the **COMMITTEE OF THE LICENSING AUTHORITY** held in the Meeting Room 1, Council Offices, Priory Road, Spalding, on Wednesday, 10 February 2016 at 6.35 pm.

PRESENT

A Harrison (Chairman)

F Biggadike
T A Carter
A Casson
M G Chandler

G K Dark
H Drury
J L King
C J Lawton

A M Newton
M J Pullen
E J Sneath
J Tyrrell

In Attendance: Shelley French (Democratic Services Support Officer) and (Executive Manager Public Protection)

Apologies for absence were received from or on behalf of Councillors M D Booth, R Clark and Donna Hall (Licensing and Business Support Manager)

11. **DECLARATION OF INTERESTS**

There were none.

12. **MINUTES**

The minutes of the meeting held on 26 November 2015 were agreed as a correct record.

13. **LICENSING PROTOCOL**

The Portfolio Holder for Strategy, Governance and Public Protection and member of the Committee of the Licensing Authority, Councillor M Chandler drew members attention to the Licensing Protocol for members and officers, which was attached at agenda item 4.

The Protocol had been agreed by the full Council and adopted as part of the Council's Constitution. Members were reminded that on 20 January 2016 full Council had agreed a new Constitution which the protocol no longer formed part of the Constitution. The Protocol was being further reviewed by the Executive Manager Governance and once completed and agreed would be appended to the Constitution.

The Portfolio Holder stressed to documents importance and asked that members be guided by the Protocol when making decisions.

Action By

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Due to the need for additional Chairmen of Panels, it was confirmed that training for members of the Committee was to be provided in April 2016, which would be in the form of a mock panel hearing, so members had further assurances participating in a Panel.

14. LICENSING AUTHORITY UPDATE

The Executive Manager Public Protection was in attendance to provide an update to the Committee on matters relating to the Licensing Authority.

The Licensing Team had been working hard undertaking Premises Licence compliance checks on premises throughout the District. Where non-compliance was found the Team were working with premises to address the issue to ensure all conditions of their licences were met. This was in the form of intervention work, which had been used successfully within South Holland's Food Safety Team, to assist premises to be compliant.

Several Panel's of the Committee of the Licensing Authority had met to consider objections to Temporary Event Notices and applications to review premises licences. The Police had been working throughout Lincolnshire and undertaken various test purchases for illicit tobacco merchandise, where illicit tobacco merchandise had been bought in a premises this then had led to a 'raid' of the premises by multi-agencies. With the assistance of a tobacco detection dog, the Police had also worked alongside Lincolnshire Trading Standards. In premises where quantities of illicit tobacco had been found the Police and Trading Standards had applied to the Licensing Authority to review the Premises Licence under the Licensing Objectives of 'Prevention of Crime and Disorder' and 'Public Safety'.

Members were updated members with the current number of inspections that had taken place over the last few months:

- November 16 inspection carried out.
- December 39 inspections carried out.
- January 25 inspections carried out.

The Executive Manager Public Protection asked members of the Committee if they wished to receive a written report at future meetings on matters determined by the Panel of the Committee of the Licensing Authority and the work of the Licensing Team.

Members agreed that this information would be very useful and would keep them informed of what work was being undertaken.

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Those members who had recently sat on Panels agreed that they would welcome any updates on the outcomes of decisions that had been taken.

AGREED:

- 1) That the Licensing and Business Support Manager provide a written report to the Committee at future meetings updating members on matters considered by Panels and work of the Licensing Team.
- 2) The report would take the form of:
 - Number of Panels of the Committee of the Licensing Authority in last period and their outcome;
 - Any further action relating to Panels and their outcomes; and.
 - Number of inspections carried out by the Licensing Team, and any subsequent interventions.

15. REVISED STATEMENT OF PRINCIPLES (GAMBLING ACT 2005)

Members gave consideration to the report of the Executive Manager Public Protection on the Revised Statement of Principles (Gambling Act 2005).

The Gambling Act 2005 came into effect on 1 September 2007 which created a new system of licensing and regulation for commercial gambling. Local Authorities had regulatory responsibilities for licensing certain gambling activities. The Act also created an independent non-departmental public body; the Gambling Commission, which was sponsored by the Department for Culture, Media and Sport.

Under Section 349 of the Gambling Act 2005 a Licensing Authority was required to publish a 'Statement of Principles' that it proposed to apply in exercising its functions under the Act, before each successive period of three years. South Holland's current Statement of Principles was published and effective from April 2013.

To assist local authorities the Act required the Gambling Commission to issue statutory guidance to Licensing Authorities on the manner in which they were to exercise their functions under the Act and the principles which were to be applied by them in exercising those functions. The statutory guidance was designed to ensure the spread of best practice and consistent

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approach in decision making by local authorities, whilst not preventing them from properly exercising the discretion they had to take account of appropriate and relevant local issues.

A review of the current Statement of Principles had been completed and a revised draft had been prepared. The draft prepared had been based on the 5th edition guidance issued to licensing authorities, published by the Gambling Commission. A copy of the revised principles was attached at Appendix 2 to the report and it highlighted changes made.

The draft revised Statement of Principles was under consultation from 21 December 2015 to 17 January 2016, which was carried out in accordance with the guidance issued by the Gambling Commission.

Under Section 349(3) Gambling Act 2005 the licensing authority was required to consult with; The Chief Police Officer, person(s) who appeared to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and , person(s) who appeared to the authority to represent the interests of persons likely to be affected by the exercise of the authority's functions under the Act.

When determining the Statement of Principles the Licensing Authority was required to give appropriate weight to the views of those who had been consulted. When deciding what weight to be given to the factors to be taken in to account included:

- who was making the representations, the nature of their interest and their expertise;
- relevance of the factors to the licensing objectives;
- how many other people have expressed the same or similar views; and
- how far the representations relate to matters that the licensing authority should be including in its policy statement.

Two responses were received, a copy of the responses were attached at Appendix 4 to the report.

The Council's Constitution stated that the Statement of Principles under the Gambling Act 2005 was to be agreed and adopted by full Council. Members of the Committee were asked to consider the recommendations to the report and refer to full Council for adoption. Should full Council give approval the Statement of

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Principles would be published and then come into affect after a period of 31 days.

Members were supportive of the Statement of Principles and agreed that it should be recommended to full Council for adoption.

AGREED:

- 1) The Committee noted the responses received following consultation.
- 2) That the Committee gave approval to the revised Statement of Principles
- 3) That the Committee recommend to full Council for adoption the revised Statement of Principles in order for South Holland District Council to act as the licensing authority and discharge its statutory duties under the Gambling Act 2005.

16. PANEL ARRANGEMENTS

The Chairman asked members of the Committee to consider how they wished future Panel's of the Committee of the Licensing Authority to be planned.

The Democratic Services Support Officers explained the options available to members; dates could be pre-planned and form part of the annual schedule of meetings or they could be booked and planned on an as and when required basis.

There were legal timescales that the Licensing Team had to adhere to when preparing for a Panel and this dictated as to when a Panel could be held.

Previously during the period between July 2013 and May 2015 there were 28 pre-planned dates that Panel's could have taken place, but due to timescales involved only 6 of those were used.

Recently a number of Panels had taken place, often on consecutive days. This had meant a large amount of work having to be completed by the Licensing Team and Democratic Services in order for the Panels to take place in line with legal timescales.

The Chairman asked for members to discuss the options and make proposals for the new municipal year 2016/2017.

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Some members of the Committee raised concerns about allocating time within their diaries when it may be possible that the time not be used. In addition to this, as this had been trialled previously only 21% of pre-planned dates had been used, which it was felt was not encouraging. It was also noted that the Committee had increased from 10 to 15 as from 20 January 2016 full Council and this was with the intention to help provide more options for composition of Panels.

Councillors Chandler and Newton agreed that having pre-planned dates would be very useful, as it enabled committee members to plan their dairies more efficiently and be mindful that they may be called upon. It was noted that responsible authorities could be made aware of the dates and they could take the dates into account when planning their work.

The Democratic Services Support Officer raised concerns on the impact corporately pre booking meetings may have on the availability of meeting room space. Currently two meeting rooms were booked; the Council Chamber where the business was considered and any other meeting room where the Panel held its deliberations when determining their decision.

Members suggested that only the Council Chamber be booked, and that pre-planned dates be scheduled on a Thursday, every 21 days.

The Chairman asked members wished to take a vote; putting forward the recommendations of; pre-planned dates every 21 days and on Thursdays or that dates be planned on an as and when required basis.

The Chairman noted that she did not wish to take part in the vote and asked that the decision be made by the members of the committee.

AGREED:

That the Council Chamber be booked, and that pre-planned dates be scheduled on a Thursday, every 21 days from Annual Council 2016.

17. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT.

There were none.

(The meeting ended at 7.49 pm) (End of minutes)

Cumulative Impact – Briefing Note

March 2016

This briefing note is to provide an update on the current work that is on-going regarding the number of licensed premises in Spalding and the possibility of introducing a cumulative impact policy.

Background

The Licensing Act 2003 regulates activities including the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

Licensing legislation can be complicated and unfortunately there are understandably many public misconceptions regarding what the licensing authority can do. Under the Licensing Act 2003, South Holland District Council as the licensing authority is required to grant an alcohol licence unless representations are received from interested parties or responsible authorities, namely the police, planning authority, licensing authority, fire authority, trading standards, public health, children's safeguarding board and environmental health (health and safety and pollution control). Where no relevant objections are received, the Council has to grant the licence. The Council ensures that all new premises licence applications are correctly advertised for 28 days in accordance with legal requirements, allowing the public the opportunity to submit a representation within the required timescales if they wish to do so. In order for a representation to be valid and relevant it must demonstrate the impact that granting the licence would have in relation to the licensing objectives which are defined under the 2003 Act:

- the protection of children from harm (e.g. under age sales)
- public safety (e.g. fire safety)
- prevention of crime and disorder (e.g. illegal activities such as selling illegal tobacco products)
- prevention of public nuisance (e.g. noise nuisance)

Where relevant representations are received, a hearing is held to consider the representations and decide what steps may be taken to promote the licensing objectives. The panel has discretion to decide whether to grant the licence with conditions or refuse it.

Unfortunately under current legislation the licensing authority is not able to take into account whether there is a need or demand for such premises when granting a licence. "Need" concerns the commercial demand for another premises and is a matter for the planning authority and for market forces.

Cumulative Impact

It is possible for the Council to introduce a special policy on the "cumulative impact" of a significant number of licensed premises concentrated within a specific area (sometimes known as a cumulative impact zone). There would need to be sufficient evidence that the licensed premises within that area were having a detrimental impact on the licensing objectives (the protection of children from harm, public safety, prevention of crime and disorder, prevention of public nuisance).

The effect of such a policy if introduced would be to create a rebuttable presumption to refuse a new premises licence application within the cumulative impact zone if relevant representations were received. This would however apply to all applications including supermarkets and restaurants. The presumption is rebuttable in that the applicant can put forward arguments which may demonstrate how their application will not add to local problems. If the panel are satisfied that this has been adequately addressed they could decide to grant the licence.

It should be noted that even where a cumulative impact policy exists, it does not prevent new applications and a licensing authority cannot refuse to grant the licence unless it has received a representation from a responsible authority or an interested party. The special policy therefore does not outlaw all new licensed premises within that area, and each should be considered on a case by case basis.

Adoption of a Cumulative Impact Policy

Whilst there is no provision for such a policy under the Licensing Act 2003, statutory guidance does suggest that this can be considered within its licensing policy statement.

In order for the special policy to be adopted there must be an evidential basis of the effect of the number of licensed premises within that area in relation to the licensing objectives. This may include: local crime statistics including type of crime and hotspots; anti-social behaviour incidents; health related statistics such as alcohol related hospital admissions; environmental health complaints; complaints and evidence from residents and councillors.

If the Licensing authority determines that there is sufficient evidence to introduce such a policy, this will be introduced into the authority's Statement of Licensing Policy (last updated March 2016). There is a formal consultation process that must be followed before the new policy could be adopted.

Serious consideration must be given to the nature of the problem, the geographical area to be covered and types of premises as well as any other schemes that could be used as an alternative to the policy that may help to tackle the issues.

Current Position

A review was undertaken in 2013 to decide whether a cumulative impact policy was needed to tackle perceived problems with the off licence trade in Spalding. Evidence was analysed by the police relating to the number of off licences in the area and alcohol related antisocial behaviour incidents from 2008 to 2012. An independent analysis of the evidence was also undertaken by a national licensing law firm. At that time it was concluded that there was insufficient evidence to show a clear link between alcohol related antisocial behaviour and the number of off-licensed premises.

Following on from this a number of other initiatives were introduced with partners to tackle the root cause of problems in the area. These included the Safer Spalding Scheme, Operation Trunk and Street Pastors. A Designated Public Place Order (DPPO) was also introduced in the town centre to tackle the problem of street drinking.

In addition to this work, the team are now working with the Communities team and the police to introduce a Public Space Protection Order (PSPO) within the town centre as an additional means to control anti-social behaviour. The following areas are being considered within the order and will be presented to members for consideration following the consultation process: street begging; assertive or aggressive (commercial or charity) collection or soliciting for money on the street; cycling on the pavement; on street alcohol consumption; driving/using a motor vehicle in an anti-social manner; unsupervised juveniles in the area after 11pm and before 6am; other matters affecting the town centre that are identified during consultation.

In respect of a Cumulative Impact Policy, It was a Conservative manifesto pledge to carry out a fresh review of the situation to determine whether there is a need for a policy in Spalding. As part of that process we have encouraged the public to report incidents to the Police to assist with securing suitable evidence. This is in addition to the ongoing media campaign to encourage the public to report any alcohol related crime to the police and to prevent the sale of illegal tobacco and alcohol in businesses in the area.

The team are now working closely with the local Police Inspector to assist with supplying information relating to alcohol related crime over the last 12 months. This will be analysed in conjunction with other evidence that is being gathered from interested parties including environmental health and public health as well as complaints from members of the public and businesses.

It is proposed that a report will be taken to the Licensing Committee in October to consider whether there is sufficient evidence for the introduction of a cumulative impact policy.

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