

LICENSING AND ENFORCEMENT COMMITTEE

MEETING : Tuesday, 14th June 2011

PRESENT : Cllrs. Noakes (Chair), Porter (Vice-Chair), Tracey, Durrant, C. Witts, Ravenhill, Wilson, Dallimore, Hansdot, Mozol, Patel and Toleman

Officers in Attendance

Gill Ragon, Group Manager, Environmental Health and Regulatory Services

Lisa Wilkes, Food Safety and Licensing Service Manager

Steve Isaac, Solicitor

Sonia Tucker (Secretary)

APOLOGIES : Cllrs. Field

1. APPOINTMENT OF CHAIR AND VICE CHAIR

Members noted that Councillors Noakes and Porter had been appointed Chair and Vice-Chair respectively at the Annual Meeting of the Council.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

The minutes of the meeting held on 15th March 2011 were confirmed as a correct record and signed by the Chair.

4. MINUTES OF LICENSING SUB-COMMITTEES

There were no minutes to be considered.

5. PUBLIC QUESTION TIME (15 MINUTES)

There were no questions from the public.

6. PETITIONS AND DEPUTATIONS (15 MINUTES)

The Chair welcomed Zeyeh Ahmed, the Chair of the Gloucester Hackney Carriage Association (referred to hereafter as the 'Association').

The Association had specific comments relating to agenda item 8, 'Review of the Functions and Structure of the Licensing and Enforcement Committee':-

- Recommendation 2.1 – The Association agreed that smaller committees would be easier and faster to organise.
- Recommendation 2.3 – The Association welcomed the recommendation. They were keen for hearings to be held in a public session and felt that

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announcing decisions publicly and on the internet would inhibit rumours and speculation

- Recommendation 2.5 – The Association was willing to be flexible if day time meetings were required.
- Paragraph 7.2 – In general, the Association welcomed the proposals. It was their view that the use of fixed penalties in Worcester and Bristol should be adopted in Gloucester. The Association asked to see proposed fees before they were set and would bring any objections back to this Committee.

7. REVIEW OF THE FUNCTIONS AND STRUCTURE OF THE LICENSING AND ENFORCEMENT COMMITTEE

The Group Manager, Environmental Health and Regulatory Services introduced the report and advised the Committee that Recommendation 2.1 should refer to paragraph 4.4 and not paragraph 4.5 as listed. It was noted that at paragraph 4.1 the first bullet point should include '*Regeneration Services, Facilities and Support*' after the words '*Environmental Health and Regulatory Services*'.

Further context was given relating to paragraph 7.2. Licensing enforcement decisions were currently non-executive, made by Licensing and Enforcement Committee or by full Council. A further option was for matters to be dealt with by a Group Manager in consultation with the Chair, Vice-Chair and Spokespersons.

The following issues and points were discussed:-

- How street trading applications would be dealt with under the proposed arrangements.
- Any breaches of the Data Protection Act and whether the Council had been acting discriminately. There was no evidence of this in either case.
- Urgent matters would continue to be acted upon, provided this was in line with the Council's constitution.
- It was noted that concerns over the level of fees set could be referred back to the Committee.
- It was sensible to have the Solicitor and Committee Clerk present during the decision making process of disciplinary hearings. The Committee Clerk would not minute the decision making process, only the decision.
- Concern was expressed that day-time meetings might result in some members being unable to attend meetings. However, it was also felt that occasional day-time meetings should be permitted to allow flexibility.
- The Committee considered that it was appropriate that disciplinary matters should continue to be held in private session as this was the most suitable way for a meeting of this nature to be conducted.

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- There was a need for member involvement in Delegated Powers so the option to consult with the Chair, Vice-Chair and Spokesperson was supported.
- The Committee discussed the benefits of smaller and larger sub-committee memberships. It was noted that both had strengths and perhaps the best solution would be a hybrid approach.

RESOLVED

Recommended:-

- 1 That Council agrees that the Licensing and Enforcement Committee is restructured as outlined in paragraph 4.5 to include additional sub-committees made up of a minimum of 3 and maximum of 7 members for enforcement matters.
2. That Council agrees that where deliberations of sub-committees are held in private that the Committee Clerk and Solicitor remain with Members to record the proceedings and advise on the law and legality of decisions.
- 3 That Council agrees that all future Licensing and Enforcement meetings considering sensitive matters such as hackney carriage and private hire enforcement matters should be held in private i.e. with the exclusion of press and public but that the decisions will be announced in public and published on the Council's website.
- 4 That Council agrees that the powers delegated to officers in respect of licensing functions are revised in accordance with the table in paragraph 7.2, in consultation with the Chair, Vice-Chair and Spokesperson.
5. That the timings of meetings should, at times, be flexible to ensure that no group is disadvantaged by all meetings being held at 6.30pm.

8. CONSIDERATION FOR GRANTING A DESIGNATED PUBLIC PLACES ORDER (AREA 2) GREENWAYS PUBLIC OPEN SPACE AND CHERSTON COURT, BARNWOOD

The Vice-Chair took the Chair for this item. The Vice-Chair welcomed PC Andy Plant on behalf of the Barnwood Community Partnership.

The Committee considered a report to make a Designated Public Places Order (DPPO) in respect of Cherston Court and the Greenways public open space in Barnwood Gloucester in order to reduce anti-social behaviour and violent crime. This initiative was supported by the Barnwood Community Partnership and the Anti-Social Behaviour Group.

The Committee considered the background to the request and the steps which had been taken in advance of this matter being referred to the Committee. Clarification was given on appendix D. The representations had been sent by a

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member on behalf of residents. Confirmation was also given that the proposed DPPO would only apply to persons over 18 years of age.

The Committee noted that the following options were available:-

- (a) If members found that there was sufficient evidence of anti-social alcohol drinking in the area, they should approve the making of the order.
- (b) If members found that they consider that by implementing the order that would act as a preventative measure to reduce anti-social behaviour and violent crime then they should approve the making of the order.
- (c) If members found that neither (a) or (b) above apply they should not approve the making of the order.

The following matters were discussed:-

- The reason why Cherston Court needed to be included in the DPPO.
- That residents would continue to be able to hold fetes and parties if a DPPO was granted.
- Powers that the Police had in non DPPO areas in the event of drunk/disorderly activity.
- Evidence of the removal of alcohol in DPPO areas in Barnwood, arrests and criminal damage to the DPPO sign itself.
- Problems in the Barton and Tredworth area of the City where a DPPO had not overcome adults congregating outside off-licences. There was concern that the DPPO was not as effective as it could be.
- The DPPO was agreed to be effective in Barnwood and it was felt that if it was extended to the area being requested that it would be equally effective.
- There was a query on whether there would be adequate manpower to enforce the DPPO. PC Andy Plant outlined the policing arrangements for the area and advised that there was adequate manpower to enforce the DPPO.

RESOLVED

That the DPPO be granted in the area as outlined in the plan at Appendix C to the report.

9. EXCLUSION OF PRESS AND PUBLIC

RESOLVED -

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That the press and public be excluded during the following items of business on the grounds that it was likely, in view of the nature of business to be transacted or the nature of the proceedings, that if members of the press and public were present during consideration of these items there would be disclosure to them of exempt information as defined in paragraph 1 of section 1001 of the Local Government Act, 1972 as amended.

10. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - DISCIPLINARY MATTER - HACKNEY CARRIAGE DRIVER - LICENCE NO.038 MR W.W (REF ES21112)

The Chair welcomed the licence holder and his representatives and outlined the procedure for the hearing.

The Licensing Officer presented the report to the Committee and advised of the circumstances of the offence. The Committee was advised that the purpose of the hearing was to determine whether, in view of the offence, the licence holder was a fit and proper person to continue to hold a Hackney Carriage Drivers Licence. The Committee was referred to the paragraphs of the adopted guidelines relating to the relevance of convictions and outlined the courses of the action available to the Committee:

- To take no action
- To issue a written warning
- To suspend the Hackney Carriage Licence for a period of time to be determined by the Committee but not for a period exceeding the expiry date of the current licence.
- To revoke the licence and if the committee so determine to consider whether to give an indication of a suitable time period to elapse before a fresh application would be considered.

The licence holder indicated that he had no questions to ask of the Officer.

The licence holder presented his case. Supportive statements were made by his representatives.

The Chair invited the Committee members to ask questions of the appellant:-

- In response to a query on the number of hours worked by the appellant, the Committee was advised that he was required to be available for 50-70 hours a week, although this did not mean that he would be driving for this number of hours.
- The appellant was questioned on the use of his mobile phone in his vehicle. It was explained that he did not have the use of his blue tooth equipment on the occasion in question.
- The appellant was asked why he had not brought any legal representative to the meeting. The appellant confirmed that his legal representative was not available and that he had not wanted to delay the hearing until a date when his legal representative could attend because of the anxiety he was suffering as a result of the hearing.

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- The appellant was questioned as to whether the City Council had been notified of the charges made against him in 2008 and the subsequent outcome of these charges in 2010. The appellant explained that his solicitors had sent this information to the City Council but that the Council had not acted upon it and the matter had only come to light because of a lapse in his application for a Hackney Driver's Licence.

The Licensing Officer then summed up the case and confirmed receipt of a solicitor's letter which had been misinterpreted when originally submitted.

All parties then withdrew from the room whilst the Committee made its decision.

On re-entering the room, all parties were advised of the decision. In reaching this decision the Chair had comments to make on behalf of the Committee. Public safety was paramount and any offences involving substance abuse and driving convictions were viewed in a very serious light.

RESOLVED -

That Mr WW. holder of Hackney Carriage Drivers Licence (HCD 038) be issued with a final written warning to remain on the Licence Holder's record for a period 12 months.

11. DATE OF NEXT MEETING

The Committee considered the forthcoming meeting dates in July.

RESOLVED

That the next Licensing and Enforcement Committee would be held on the 19th July 2011 at 6.30 pm and that the 12th July 2011 would be retained as an option for a potential Licensing Sub-Committee.

Time of commencement: 18:00 hours

Time of conclusion: 20:45 hours

Chair