

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE LICENSING AND  
REGULATORY COMMITTEE – 18 NOVEMBER 2010

SUBMITTED TO THE COUNCIL MEETING – 14 DECEMBER 2010

(To be read in conjunction with the Agenda for the Meeting)

- |  |                            |
|--|----------------------------|
| * Cllr Mrs Gillian Beel (Chairman)         | * Cllr Mrs Lucinda Fleming |
| * Cllr Mrs Elizabeth Cable (Vice-Chairman) | * Cllr Bob Frost           |
| * Cllr Maurice Byham                       | Cllr Julian Hubble         |
| Cllr Victor Duckett                        | * Cllr Peter Isherwood     |
| * Cllr Mrs Patricia Ellis                  | Cllr Bryn Morgan           |
| * Cllr Mrs Carole King                     | * Cllr John Sandy          |

\*Present  
Cllr Mrs Pat Frost

16. MINUTES (Agenda Item 1)

The Minutes of the Meeting held on 27 May 2010 were confirmed and signed.

17. APOLOGIES FOR ABSENCE (Agenda Item 2)

Apologies for absence had been received from Cllr Julian Hubble. Cllr Mrs Pat Frost attended as substitute.

18. DISCLOSURE OF INTERESTS (Agenda Item 3)

Cllr Mrs Carole King declared a personal and prejudicial interest in Agenda Item 8 and left the Chamber during discussion of this item.

**PART I – RECOMMENDATIONS TO THE COUNCIL**

19. LICENSING ACT 2003 – PUBLIC CONSULTATION ON REVIEW OF THE  
COUNCIL'S STATEMENT OF LICENSING POLICY (Agenda Item 6;  
Appendix A)

19.1 The existing Statement of Licensing Policy was adopted by the Council in December 2007, following a period of public consultation. However, the legislation obliged licensing authorities to review their licensing policies on a three-year cycle.

19.2 A copy of the existing Statement of Licensing Policy, incorporating the changes proposed (1) by the Responsible Authorities at the initial stage, and (2) amendments from your officers to reflect the revised Government Guidance, latest issued in October 2010, and (3) amendments recommended by your officers, had been attached as an annexe to the agenda papers and the changes were shown in bold type and underlined.

- 19.3 The consultation had been by a written process to all Responsible Authorities, bodies representing existing licence holders, representatives of registered clubs, businesses and residents in the Borough, Town and Parish Councils, others who had expressed interest, and via the Waverley web site.
- 19.4 There had been two written responses to the consultation; one from Surrey Fire & Rescue Service as Responsible Authority and one from a parish council. No representations had been received from the Police regarding the Policy itself and in particular no requests had been received for a review of the cumulative impact policy.

### **Crime and Disorder and Noise Implications**

- 19.5. Alcohol related crime and anti-social behaviour was a significant problem in parts of the Borough before the introduction of the new legislation. As a result, Surrey Police had worked in partnership with Waverley to ensure that the potential for extended licensing hours did not make this situation worse. The Council as Licensing Authority had used its powers under the Licensing Act to pursue two of the key licensing objectives of preventing crime and disorder and preventing public nuisance, working in close conjunction with its partners under those Licensing Objectives, namely Surrey Police and the Environmental Health Section. This close working had been via a two- or three-pronged approach, as needed, which had proved very effective. The Licensing Manager and Enforcement Officer's input had been used as an added tool, in that they were removed from the responsible authorities and could therefore have an independent and added impact where problems arose in licensed premises.
- 19.6 The Council had agreed a Licensing Enforcement Protocol with Surrey Police, Surrey Fire and Rescue Service, Environmental Health and Surrey Trading Standards, whereby enforcement activity was targeted and its results monitored. All agencies, were invited to meet every six weeks, as the Joint Action Group (JAG), in order to review any problems arising during the previous weeks. This meeting was co-ordinated and led by the Police. Reports from the public were shared at meetings of the Group. A "traffic lights" priority system was then agreed to target enforcement resources.
- 19.7 The result had been a very focused partnership-working approach, which had also involved working with licensees through the four Pubwatch schemes in the Borough. The legislation had also enabled the Council to take a co-ordinated view of the impact of all of the licensed activities, such as late night refreshment and this had contributed to reducing crime and nuisance in town centres. This was closely monitored at the JAG.
- 19.8 The Government was currently carrying out a major consultation exercise on reviewing the Licensing Act, and the Chairman and Vice-Chairman had agreed a response. The Council was however still under a duty under current legislation to review its policy in advance of any possible government changes to legislation or guidance.

**Fees and licences - for background information**

19.9 For information, the fees for licences set by the Government under the Licensing Act 2003 are as follows, together with some facts and figures to date:-

	<u>Fee</u>	<u>Duration</u>
Personal licences	£37	10 years
Premises licence and Club Premises Certificate	£100-635 depending on rateable value	Life of business
Premises annual fee	£70-350 depending on rateable value (with additional fee for very large events)	1 year
Variations/transfers		£23
Temporary event notices	£21 each event	Up to 96 hours for one event

19.10 Certain premises were exempt from premises licence fees. These were generally village, parish, and community halls for providing regulated entertainment only. They were not exempt from temporary event notice fees.

19.11 The legislation went 'live' on 24th November 2005. To date around 985 personal licences had been issued in Waverley, and there were currently 444 premises licences, along with a continuing succession of variations to licences, premises supervisors and transfers of licences (ownership issues). Around 3016 temporary event notices (TENs) had been dealt with since introduction of the legislation in November 2005, with an average now of around 600 TENs a year.

19.12 Since December 2007, one appeal had been lodged at the Magistrates' Court against decisions of the various Licensing Sub-Committees:-

- House of Blues, Godalming – An Appeal against decision to attach certain condition to a premises licence, removal of DPS and some Licensable activities – Appeal withdrawn

9.13 The Government had stated that the licence fees income received should cover all Council costs, including the consultation exercise. This was a general principle for all licensing although it is rarely achieved. The Council's budget book showed that the Council recovered only around 72% of all its licensing costs from the fee structure. The income and expenditure issue was looked at during budget consideration in the autumn of each year.

**Human Rights Implications**

9.14 The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights

(ECHR). The Council must have regard to the human rights of individuals affected by its decisions. Although there were no direct implications in this report, the Council would need to have regard to the following matters in considering applications for licences under the Licensing Act 2003.

- 9.15 Article 1 of the First Protocol of the ECHR provides for the protection of private property and possessions. In addition to Article 1 of the First Protocol, the Council must comply with the principles of Article 6, which provided for the right to a fair hearing in determining civil rights and obligations. This necessitated a fair and public hearing undertaken within a reasonable time by an independent and impartial tribunal established by law. In providing for determination of licensing matters by a local authority the legislation also provided for appeal to the magistrates' court, so that there was access to an independent and impartial tribunal and a public hearing.
- 9.16 Article 8 of the Convention says that everyone has the right to respect for his private and family life, his home and his correspondence. Accordingly, when making decisions on the grant of licences, the Council (the Committee) will consider representations on the effect of businesses on the amenities of residents living in the vicinity of premises which benefit from the licences.
- 9.17 The Committee noted the changes proposed to the current Policy and the responses received to the consultation. The Committee endorsed the updated Policy and

RESOLVED to recommend that the Executive endorse the new Statement of Licensing Policy for Waverley and recommend its approval to the Council to come into effect on 7 January 2011.

#### Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

### **PARTS II AND III - MATTERS OF REPORT**

#### **Background Papers**

The background papers relating to the following items in Parts II and III are as specified in the Agenda for the meeting of the Licensing and Regulatory Committee.

#### **PART II – Matters reported in detail for the information of the Council**

20. HACKNEY CARRIAGE FARE SCALES – REQUEST FOR REVISION  
(Agenda Item 7; Appendix B)
- 20.1 The Committee received a report that asked the Committee to consider a request from a Waverley licensed taxi driver for an increase in the approved hackney carriage tariff fare scale. The Council, in July 2002, agreed that decisions on requests of this nature should be delegated to this Committee for decision (subject to the general conditions of delegation).

- 20.2 A regular liaison meeting was held twice a year with hackney carriage/private hire licensees, and approximately 300 invitations went out to them this year for a meeting on the 30th September. This meeting was chaired by the Chairman and Vice Chairman of this Committee and other members of the committee were invited to attend. No proposals for a fare increase had been put forward at this meeting, however a letter dated 14th October 2010 from a licensed Waverley driver requesting an increase had now been received. The proposal contained in the request was for an increase in the region of 15%. Waverley currently licenses approximately 300 Hackney Carriage and Private Hire drivers. The proposal had been circulated to all proprietors and drivers and of the responses received the consensus had been that fare scales should not be increased.
- 20.3 Members noted that a league table of fares for over 380 local authorities, based on a two-mile journey, had been published by the trade's own journal in October 2010. The chart of 380 authorities places Waverley's current charge as 56<sup>th</sup> most expensive in the list, and it compared favourably to adjacent local authorities.
- 20.4 Members were also concerned that any increase would have an adverse impact on those residents living in rural areas with less access to public transport and elderly people.
- 20.5 The Committee noted the licensees' suggestion to restrict the number of new licences issued in the borough, but it was explained that this was a very expensive and complex process and government guidance opposed any new introduction of quantity control of licences.
- 20.6 The Committee considered the request and noted that the majority of responses received from licensees had indicated that they considered it would be inappropriate to introduce an increase in fees at the present time as trade was already affected as people cut back expenditure in the present economic climate.
- 20.7 It was then proposed, duly seconded and

RESOLVED that the request for an increase in Waverley's Hackney Carriage Fare Scales be refused.

21. APPLICATION FOR A STREET TRADING CONSENT – LION LANE, HASLEMERE (Agenda Item 8; Appendix C)

- 21.1 Members received a report that provided details of an application for reviewing a Street Trading Consent on Lion Lane, Haslemere. The Council is under no duty to grant Consent to trade on a street that has been designated as a Consent Street.
- 21.2 Members received a copy of the street trading controls within Waverley and noted that street trading controls apply to Lion Lane, from its junction with Lion Green to the junction with Underwood Road, making it a Consent Street.

- 21.3 An application had been received from Mr Mehmet Akif Dengiz to review his consent to trade in Lion Lane from Sunday to Thursday 17.00hrs until Midnight and Friday to Saturday 17.00hours until 01.00hrs(Sunday am), selling Kebabs, burgers and so on.
- 21.4 Members' attention was drawn to the fact that this application was a renewal request and it did not seek any changes to the Consent issued by the Committee the previous year. Officers further clarified that the applicant did not have a licence for Late Night Refreshment for this site, which was a requirement under the Licensing Act 2003, and therefore could not sell hot food or drink after 11pm. The applicant did however usually trade from another pitch in the vicinity, but this area was outside the Council's current street trading controls where a Consent was not required.
- 21.5 A notice had been sent to relevant authorities seeking written representations relating to the application for the Consent to trade in Lion Lane, and details of the application had been posted on the Waverley website for public comment.
- 21.6 The Committee considered the 7 representations and the applicant's written response. Members could see no evidence that the nuisance referred to by the objectors applied to the consent site at which the applicant wished to trade. The Committee noted that the application was a renewal of the licence granted last year and that the applicant had not asked for any changes to be made.

RESOLVED that the Committee approve the application of Mr Mehmet Akif Dengiz for a Consent to trade in Lion Lane, from its junction with Lion Green to the junction with Underwood Road, Haslemere.

**PART III – Brief summaries of other matters dealt with**

22. MINUTES OF THE MEETINGS OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE (Agenda Item 9; Appendix D)

RESOLVED that the Minutes of the Meeting held on 21 July 2010 be noted.

23. MINUTES OF THE MEETINGS OF THE LICENSING ACT 2003 SUB-COMMITTEES (Agenda Item 10; Appendices E, F,G and H)

RESOLVED that the Minutes of the Meetings of Sub-Committee A held on 5 July and 27 September 2010 and Sub-Committee B held on 19 July and 11 October 2010 be noted.

**The meeting commenced at 10.00 a.m. and concluded at 10.35 a.m.**

Chairman