
BRECKLAND COUNCIL

At a Meeting of the

LICENSING COMMITTEE

**Held on Wednesday, 30 July 2014 at 10.00 am in
Norfolk Room, The Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr S.G. Bambridge (Chairman)	Mr T.J. Lamb
Mr J.D. Rogers (Vice-Chairman)	Mrs K. Millbank
Mrs S Armes	Mr T F C Monument
Councillor C Bowes	Mr F.J. Sharpe
Mr P R W Darby	Mrs P.A. Spencer

Also Present

Councillor L Monument

In Attendance

Fiona Inston	- Licensing & Business Support Manager
Tiffany Bentley	- Licensing Officer
Teresa Smith	- Committee Officer

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28/14 MINUTES

The minutes of the meeting held on 7 April 2014 were confirmed as a correct record.

29/14 APOLOGIES

An apology for absence was received from Councillor K Martin.

30/14 URGENT BUSINESS

None.

31/14 DECLARATION OF INTERESTS

None.

32/14 NON-MEMBERS WISHING TO ADDRESS THE MEETING

The Chairman welcomed to the meeting Councillor L Monument, Chairman of Appeals Committee.

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33/14 CASCADE TRAINING SESSION ON "HEARINGS"

The Chairman had attended training on 27 June 2014 which looked at the subject of Licence hearings. He informed the Committee that the training had confirmed the processes and procedures already covered by the Council.

Four main issues had been discussed and the first looked at the licensing activities under the Philosophy and Framework heading of the Licensing Act 2003. It included the café culture that had been inherited and the possible pitfalls of this.

The Chairman reminded the Committee of the four licensing objectives, Prevention of Crime and Disorder; Prevention of Public Nuisance; Public Safety and Protection of Children from harm.

The role of the Police evidence had been discussed and special consideration should be given by a Licensing Hearing Committee. It would be possible for the Committee to go against Police recommendations, however strong evidence would be required by the Committee why this would be.

The second issue looked at ensuring appropriate steps had been taken throughout the Hearing and whether the reasoning was justified.

The third issue looked at ensuring everyone had a fair Hearing. It should also ensure the Hearing would be non-discriminatory, justified, related to public interest, and was proportionate, clear and transparent. It was also suggested a fair balance should be given in the time allocated for the applicant and witnesses to speak.

The fourth issue looked at giving reasons, avoiding appeals and drafting decisions. The Chairman informed Members that the way to avoid appeals would be to ensure the Hearing was carried out right first time. It was best practice to issue the written decision within 5-days of the Hearing and in addition to this it was the Council's standard practice to deliver a verbal decision on the day of the Hearing. The Chairman was pleased to report that that the Councils procedure was universal and he was content with this.

The Chairman went on to say that the decision should be presented with clear findings of fact and should be confident that everyone at the Hearing knew exactly what the decision was and the reason why.

The Licensing Officer asked if recording Hearings had been discussed.

The Chairman said it was not discussed but reminded Members that the Council did record a Hearing recently.

Councillor Sharpe mentioned the possibility of meetings being filmed in the near future.

The Chairman said he thought that meetings such as Full Council and

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Planning should be filmed, but some Hearings would not be included as they were excluded from the press and public.

34/14 TAXI & PRIVATE HIRE LICENSING UPDATE

The Licensing Officer provided Members with a detailed overview of the report that outlined information on the proposed legislative changes.

At the request of the Department for Transport, the Law Commission carried out a project on reforming Taxi and Private Hire Law. A consultation paper was produced in 2012 to which there were over 3000 responses. The Law Commission produced their final report, recommendations and a draft bill (Taxis & Private Hire Vehicles Bill) in May 2014. The aim of the consultation was to examine how the complex, fragmented and aged pieces of legislation could be made fit for modern purposes.

The following provided a summary of the proposals contained in the draft Taxis and Private Hire Vehicles Bill:

- Taxi and Private Hire licensing would remain a licensing authority function. There would be an internal appeal process against decisions to refuse or suspend a licence which would then be followed by an appeal to the magistrates' court. There would also be a mechanism to challenge policy in the County Court (as opposed to the existing judicial review system in the High Court). There would be new powers for licensing authorities to create and modify taxi zones.
- The two tier system would be retained (to be called Taxis and Private Hire vehicles) with taxis able to take 'there and then' hiring's in their own districts but Private Hire Vehicles prohibited from doing the same.
- Private hire dispatchers would require licensing to send the vehicle and driver but those who advertise and accept bookings would not be required to be licensed.
- Private hire drivers and vehicles licensed anywhere would be able to work for any private hire dispatcher permitting a mix and match of licensing authorities.
- A national minimum standard was proposed for private hire vehicles and taxi. There would be the possibility of higher and/or additional standards for taxis which could be set locally. There would be basic national standards for drivers and dispatchers and all application forms would be prescribed by regulations.
- Quantity restrictions would remain possible but based on the test of public interest, as opposed to the current test of unmet demand.

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- There would be a duty for drivers to stop when hailed, if applied by the licensing authority.
- Licensing officers would have powers to stop and inspect vehicles and issue fixed penalty notices irrespective of where the vehicle was licensed.
- It was proposed that standard drivers' licences would last for 3 years, vehicle licences for 1 year and dispatchers' licences to run for 5 years with shorter periods possible if deemed appropriate.

It was worth noting if there was a change of government after the next general election there could be further delays to the passage of the Taxis & Private Hire Vehicles Bill.

The Deregulation Bill was with the House of Lords for consideration having completed all stages of readings and committees in the House of Commons. A commencement date was not yet known.

The Deregulation Bill contained three clauses relating to Taxis and Private Hire vehicles, which were:

- Clause 10 relating to private hire vehicles and the circumstances in which a driver's licence was required. Under the current legislation, it was an offence under the Local Government (Miscellaneous Provisions) Act 1976 for an unlicensed driver to drive a licensed private hire vehicle. The Deregulation Bill proposed to alter this by permitting leisure use of private hire vehicles by an unlicensed driver. However, the Bill stated that if a vehicle was being used as a private hire vehicle, being used on the road and for carrying passengers an offence was still committed by an unlicensed driver. The usual burden of proof is reversed so the driver has to prove that the vehicle was not being used as a private hire vehicle. It is worth noting that this situation already applied in London.
- Clause 11 of the Bill again amended the current Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences. A standard duration of 3 years for taxi and private hire driver licences was proposed. The Council already issued these licences for this duration. Clause 11 also established a standard duration of 5 years for a private hire vehicle operator licence. Shorter periods may be granted for all licences but only in individual circumstances not as a blanket policy. Breckland's current standard duration stands at 3 years.
- Clause 12 relates to sub-contracting of private hire vehicles. Currently the Local Government (Miscellaneous Provisions) Act 1976 only permitted sub-contracting of private hire vehicle bookings to another operator licensed by the same Council. The proposal would allow sub-contracts to operators licensed by other local authorities.

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Councillor Sharpe commented that he was concerned about the Licensing Officers having the powers to stop and inspect vehicles.

The Licensing Officer said that it would be an adoptive power, and there were requirements that would need to be followed.

The Licensing and Business Support Officer stated that there would be Health and Safety issues which would need to be assessed appropriately.

RESOLVED that the report be noted by the Committee, however Members raised concern about the Health and Safety of a Licensing Officer should it be required to stop and inspect vehicles. The appropriate risk assessments should be carried out if this was required.

35/14 AMENDMENTS TO THE LICENSING ACT 2003

The Licensing Officer provided Members with a detailed overview of the report that advised Members on the proposed changes to the Licensing Act 2003 made by the Deregulation Bill.

The Deregulation Bill was with the House of Lords for consideration having completed all stages of readings and committees in the House of Commons. A commencement date was not yet known.

Clause 52 introduced CANs (Community & Ancillary Sellers Notices) which were 36 month permissions for alcohol sales only, for consumption on the premises only provided the sales were ancillary to a community event or business. This would only be for up to 300 people between 7am and 11pm and a fee would be payable.

Councillor Lamb asked for the definition of premises, for example did this include people consuming alcohol outside. The Licensing Officer confirmed that any premises applying for a licence was clear on what the premises outline was and that it was a requirement for the applicant to provide a detailed plan during the application process.

Clause 53 of the Deregulation Bill proposed an increase on the annual limit of Temporary Event Notices (TENs) per premises from 12 to 15.

Clause 54 of the Bill abolished the requirement to renew personal licences issued under the Licensing Act 2003. Currently personal licences were issued for a period of 10 years with the first Breckland licences due for renewal in March 2015. However there had been hints that the regulations for this abolishment would not be available until April 2015.

The Chairman asked if the Council would have a problem with renewals as he did not want a situation whereby the licensee could be operating illegally due to failings in the workload of the Licensing Team being unable to renew the licence in time.

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The Licensing and Business Support Manager stressed she was aware of this and would keep Members up to date with changes of the Bill in order to meet requirements.

Clause 55 proposed to allow the sale of liqueur confectionary to under 16's which was currently an offence.

Clause 56 proposed introducing a local discretion to exempt areas or types of business from requiring a licence for late night refreshment (the provision of hot food or drink between the hours of 11pm and 5am).

The Chairman said he considered a requirement for a late night refreshment licence should still apply.

The Licensing and Business Support Manager said it would be local areas where the exemptions applied, however this would be considered on a case by case basis.

Councillor Spencer agreed with Councillor Bambridge and said that the Licensing Committee had worked hard to regulate the late night refreshment across the District.

Clause 57 removed the requirement to report lost or stolen licences to the police.

Clause 58 proposed to remove community film shows from within the current definition of regulated entertainment. This would mean that not for profit film shows to fewer than 500 people between the hours of 8am and 11pm would not require a licence.

The Licensing Officer informed Members that further regulations would be made to provide more detail on these proposals.

RESOLVED that the Committee noted the proposed legislative changes to the Licensing Act 2003 made by the Deregulation Bill.

36/14 LICENSING ACT 2003 - NEW MANDATORY CONDITIONS

The Licensing Officer provided to Members a detailed summary of the report.

A draft amendment order, the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014, had been published that would bring into effect amendments to the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. The 2010 order introduced a number of mandatory licence conditions, applicable to premises licences and club certificates, that banned certain drinks games and promotions, required premises to make free tap water available to customers, made age verification policies mandatory and introduced the requirement to make alcohol available in smaller measures.

The new Mandatory Conditions were scheduled to come into force on

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1 October 2014.

These new Mandatory Conditions were in addition to the original conditions still in force from the Licensing Act 2003 and the Mandatory Condition relating to “permitted price” (the level of alcohol duty plus VAT below which alcohol cannot be sold or supplied) which came into force on 28 May 2014.

The Licensing Officer said that the changes made had strengthened the wording to make clearer definitions.

RESOLVED that the Committee notes the proposed legislative changes to the Mandatory Conditions under the Licensing Act 2003.

37/14 NEXT MEETING

The arrangements for the next meeting scheduled for Wednesday 8 October at 10:00am in the Norfolk Room were noted.

The meeting closed at 11.45 am

CHAIRMAN