

# EPHING FOREST DISTRICT COUNCIL

## COMMITTEE MINUTES

**Committee:** Licensing Committee **Date:** Wednesday, 13 October 2021

**Place:** Council Chamber - Civic Offices **Time:** 2.30 - 4.07 pm

**Members Present:** Councillors R Morgan (Chairman), J Jennings (Vice-Chairman), P Keska, A Lion, L Mead, S Neville, C P Pond, B Rolfe, M Sartin, D Stocker, J M Whitehouse and K Williamson

**Other Councillors:** Councillors

**Apologies:** I Hadley, S Heather and P Stalker

**Officers Present:** S Devine (Service Manager (Regulatory)), D King (Licensing Manager), A Hendry (Democratic Services Officer) and S Mitchell (PR Website Editor)

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### 1. **Webcasting Introduction**

The Chairman made a short address to remind everyone present that the meeting would be broadcast live to the internet and would be capable of repeated viewing.

### 2. **Declarations of Interest**

There were no declarations of interest pursuant to the Members Code of Conduct.

### 3. **Any Other Business**

The recently appointed Licensing Team Manager, David King, introduced himself to the Licensing Committee.

### 4. **Minutes of the Licensing Committee**

#### **RESOLVED:**

That the minutes of the meeting held on 30 November 2020 be taken as read and signed by the Chairman as a correct record.

### 5. **Minutes of the Licensing Sub-Committees**

The minutes of the following meetings of the Licensing Sub-Committee be taken as read and signed by their Chairmen as a correct record:

03 March 2020;	01 December 2020 (pm);
07 July 2020 (am);	05 January 2021 (am);
07 July 2020 (pm);	05 January 2021 (pm);
04 August 2020;	02 February 2021;
01 September 2020 (am);	06 April 2021;
01 September 2020 (pm);	14 April 2021;
22 September 2020;	13 May 2021 (am);
06 October 2020;	13 May 2021 (pm);
20 October 2020;	15 June 2021 (am);

03 November 2020;  
12 November 2020;  
01 December (am);

15 June 2021 (pm);  
06 July 2021;  
17 August 2021.

## 6. Licensing Statistics

The Committee noted the number of applications received and determinations of those applications from 1st October 2020 to 30th September 2021. Included separately, for information and comparison, were the figures for the previous 12 month period between 1 October 2019 and 30 September for 2020.

Councillor Sartin asked if the figures for taxi driver applications could be supplied. She was told that this could be done. It had been a difficult period for the drivers, a lot had surrendered their licences and would not return. Officers would provide a comparison at the next meeting.

Councillor Lion added the we needed to look carefully at what was happening to taxis. Also we need to look at electric vehicles registered in Epping Forest and charging points for taxis. S Devine said that officers had the figures, but not with them today.

### **RESOLVED:**

The Committee noted the statistics.

## 7. Direct Resident Consultation within 150m Radius

D King introduced the report. He noted that the Licensing Committee had requested a report detailing the cost and implications of the Councils current process of writing to all residents within a 150 metre radius to notify them of applications for the grant or variation of a premises licence or club premises certificate.

The Licensing Act 2003 places a legal obligation on applicants for the grant or variation of a premises licence or club premises certificate to advertise the application in a prescribed manner and it was a legal requirement that the responsible authorities were consulted directly. There was no legal obligation to consult with others not set out in the legislation. However, the Council also directly consults with residents within a 150-metre radius, Ward Councillors, Town/Parish Councils, Residents Associations (Loughton only) and details are included in the Council Bulletin.

The fee payable for the grant or variation of a premises licence or club premise certificate was determined by the non-domestic rateable value of the premises and the Act did not allow for Local Authorities to levy addition fees to recoup additional costs incurred.

Cost analysis showed:

- Application fees generated = £6,760 (28 applications)
- Printing and postage cost associated with writing to residents = £12,397
- Additional cost to the Council (excluding income) = £5,637
- Cost associated with 86% of applications (24) exceeded the application fee

It was noted that the true cost to the Council would be much higher than £5,637 quoted, as this figure did not include officer time processing applications or the cost to the Council in holding Licensing Committee hearings etc.

Councillor Caroline Pond commented that she was on the task and finish panel that had recommended this, and she still held the same view. People did not read the local newspapers or notices any more. The cost was not that much and if we withdrew it, how would we explain that.

Councillor Lion said that the costs were not really the important thing, we needed to consult the residents. There was also a perceived confusion between Planning and Licensing regulations. He asked what sort of response we got back compared to what we sent out. S Devine advised that for the Club 195 application we had to send out over 300 letters and received only one reply. In the Loughton area we generally get about 95% objections to all consultations, so they almost all go to a sub-committee, which adds to officer time and costs. Planning did not have a 150 metre consultation range; members will also be aware that the Council as a whole needs to make significant savings over the next three years. In addition, sending out hundreds of letters goes against our climate agenda and aim to reduce as much paper usage as possible. D King noted that the number of letters sent out ranged from 60 to 350; and statistics show that of the 35 applications received, 28 were considered by a sub-committee.

Councillor Williamson was inclined to keep the public consultation but was concerned about the possibility of having a legal challenge. It was balance of risks.

Councillor Jon Whitehouse remarked that the report implied that it would be easier to run if not for members of the public. We do get additional conditions added at a sub-committee. This was a win for the applicant and for the residents. We have a good process in place so did not get legal appeals. Money was a consideration and he was happy to look at other areas where savings could be found to enable us to continue doing this. He was happy to look in detail on the radius and on how we sent out letters, maybe using methods as using post codes etc. with a good mapping software linked to a good database and using basic mail merge, it should not be an onerous job to do. S Devine said that this could take a lot of time even with the new mail merge system. She suggested that we could explore the possibility of using mailchimp, where residents can individually be notified electronically and directed to the website, every time an application was submitted. This would get away from using paper. Councillor Whitehouse accepted that there was a time issue involved and he was happy to look at ways of improving the consultation but didn't think we should just remove the consultation process.

Councillor Keska agreed with Councillor Whitehouse. As for responses, often residents would ask their ward councillors to speak on their behalf, but not respond directly. There were also the elderly residents without a computer, what would happen to them. Also, the notices were too small to read and maybe they should be on A3, so it could be more easily read. As for costs, we do get a lot of our income from business rates to pay for our services. It could be argued that 150 metre was too much and it could come down to 100m. The report also suggests that we offload some of this responsibility to Town and Parish Councils who were less able to deal with this. D King noted that all the notices were prescribed by law by size and font size. As for business rates, yes, the Council gets that, but the Licensing Service does not, so must be self-financing going forward. As for Town and Parish Councils the suggestion was in order to suggest more creative ways to engage with residents, rather than create extra responsibilities.

Councillor Keska appreciated the legal side of size and font as a minimum, but the law also says we do not need to consult within 150m, but we decided to do

something better, a better standard. D King agreed that A3 would be better, but the legal onus was with the applicant to put up a notice on A4 in size 10 font.

Councillor Sartin asked about the self-financing point, were we losing money at present? She was told that this did cost more than the fees collected, so the money had to come from elsewhere. The money could not be taken from Taxi licensing, that was a different budget. As a service as a whole, if you take Covid out of it, we did recover our costs. But this part of the service did lose money.

Councillor Sartin noted that one of the problems was that once you put something in place it was very difficult to remove it. She had concerns about the budget for next year and asked if we could compromise, like planning, by just notifying the immediate neighbours or making a judgement call on where the venue sits rather than the blanket 150m radius. There was something mentioned that residents could sign up (online) to get notifications but we tend to make assumptions that all residents had access to the internet, which just was not the case.

S Devine noted that we did not have a statutory obligation to do anything; we have not been challenged yet but may be in the future. The 150m radius was an arbitrary figure, she did not know how that figure was arrived at, why not a 100 or 50? Where would you draw that line and what did you mean by immediate neighbours. You were always going to run that risk of upsetting the neighbour next door, who wasn't consulted by virtue of being outside the defined radius. Councillor Sartin replied that we ran that risk anyway on the 150m, so whatever we did we would be running a risk. Have you asked the Planning Department what their criteria was? The officers did not know what their criteria was and could ask. But Planning and Licensing were very different; Licensing had a wider impact on the community, not just restricted to immediate properties. As for the word vicinity, under the Licensing Act there had been a review, which specifically sought to remove the word vicinity from the guidance, as they thought that people should not be excluded from making a representation irrespective from where they lived. The point made in the report was by putting in a 150m line we deemed this to be the cut off point and those outside this we were less likely give it as much weight.

Councillor Neville agreed that if you had started something it was difficult to remove it. The idea of contacting people via a website was greener but a letter was more direct. We did make good decisions sometimes changing the conditions. He noted that the Town and Parish councils had less resources than we did, and they also had timing issues as to when their newsletters went out.

Councillor Mead noted that by having consultations on the internet we would be excluding a lot of people. There was also the fact a lot of people did not know what Licensing was and would not know to look at our website. This seems to work well as it is, and she would not change it.

Councillor Lion remarked that in trying to balance the books, if instead of sending letters could we send postcards. He asked what the costs in would be by reducing the radius down to 100m or 50m. We needed more information to say what savings we could make. We do need to consult, that was important, but how many we needed to consult was dependent on the costs and if there was any alternative means in reducing the costs.

Councillor Jon Whitehouse suggested that we could also send things by 2<sup>nd</sup> class post and/or use smaller envelopes.

Councillor Pond proposed that we kept the 150m radius and investigated other ways we could do this. Councillor Sartin added that we should also consult with the Planning department to see what they did.

D King said they would take this away and investigate some of the points raised today and bring it back to the Committee at a later date.

**Resolved:**

To continue with the 150metre consultations and to investigate alternative ways and their financial implications and bring this back to a future meeting.

**8. Pavement Licensing**

The Licensing Team Manager, Mr King introduced the report. The Committee noted that because of Covid 19 temporary measures were introduced on pavement licensing; a simplified and fast track route for pubs, restaurants and cafes to obtain temporary permission to place furniture including outdoor tables and seating on the highway, allowing them to increase their outdoor capacity safely, quickly and at a low cost.

The new pavement licence process was part of a package designed to make it easier for businesses to make use of outdoor space for dining and the consumption of alcohol, whilst proving a safer and with increased capacity to accommodate customers.

On 22 February 2021 the Prime Minister published a roadmap for easing the lockdown restrictions. Step 3 on this roadmap, on 17th May, allowed indoor hospitality to re-open; however, this was subject to restrictions including the requirement for customers to remain seated while ordering and consuming food and drink.

On 4th June the remaining restrictions, including those relating to social contact were lifted. However, in recognition of the ongoing disruption caused by Covid 19, the Government announced its intention to extend the temporary measures introduced under The Business and Planning Act 2020 and in doing so, pavement licensing and the new off-sales permission has been extended until 30th September 2022.

Members of the committee had noted that there had been some issues with public access through pavement areas and street furniture causing some problems. Overall, this initiative seemed to have worked. The extension was generally welcomed.

**Resolved:**

The Committee noted the extension of temporary measures.

**9. Taxi and Private Hire Vehicle Standards & National Register of Taxi and Private Hire Licence Revocations and Refusals (NR3)**

The Licensing Team Manager, Mr King introduced the report. In July 2020 the Government published the Statutory Taxi and Private Hire Vehicle Standards to licensing authorities aimed at safeguarding children and vulnerable adults. The Statutory Standards set-out a range of measures to protect taxi and private hire vehicle passengers and were intended to promote a standardised and consistent approach to Taxi Licensing across Local Authorities by requiring Councils to publish a single cohesive policy.

Contrary to its title, the Statutory Taxi and Private Hire Vehicle Standards were not mandatory. Licensing Authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of relevant law. Therefore, the Council may determine that none or only part of the recommendations set out in the Standards should be adopted.

However, the Department for Transport expects the recommendations to be implemented unless there was a compelling local reason for the Council to depart from the standards. If the Council were not to adopt some or all the recommendations it may be open to legal challenge if the new statutory guidance was not followed without sufficient justification.

Whilst a significant number of the DfT's Standards are already included within the existing policy, the Licensing service would undertake a detailed review of the policy and report back to Licensing Committee with its recommendation on changes required.

Councillor Neville welcomed the register and asked if this item would come back to the next Licensing Committee meeting in Spring. He was told that was a possibility, as this was a detailed piece of work, officers would use it to have a wholesale review of the taxi policy which would take time. Officers would also be looking at CCTV within taxis as part of taxi safeguarding and consulting the trade. As for the register, it was noted that the Council had already paid and signed up to the National Anti-Fraud Network, under the management of the Council's Fraud Team. The National Taxi Register sits under this framework and officers would ensure the Council subscribes to this.

Councillor Lion asked about CCTV, it was a year ago that we had last considered this, was there a time limit in which this would need to be enacted by ourselves. He was told that we did not have a statutory obligation to do this, but it was appropriate that we considered all the options. When we did a consultation about this a year ago, we had very little response, nothing that we could make any substantive decisions about. We would need a better way of doing this. Also, because of the pandemic, the taxi trade had been affected so much, this was not something they would be wanting to consider at present.

**Resolved:**

That the Committee considered and noted the report.

**10. Licensing Sub-Committee Meetings**

It was noted that over the past 18 months or so, because of the pandemic, Licensing Sub-Committee meetings have been held virtually, via Zoom. This was undertaken as a necessity to enable the Council to continue to carry out its business as usual.

Since the country has opened up again and face to face meetings have become viable and, in some cases, a legal necessity, Licensing Sub-Committee meetings have continued to be held on Zoom. Members now, however, need to consider the situation and make a more formal decision on how (and where) to hold the Licensing Sub-Committee meetings.

Councillor Keska said he was an advocate for having physical meetings in the offices. He noted that they have always had four spaces set aside in the car parks for the members of a sub-committee, could we insist on this. Also, the report said that

officers could not guarantee a private room for private discussions. He then noted that at a recent licensing sub-committee meeting they had technical problems from start to finish, which reflected badly on the council and may open us up to an appeal. His view was that we should get back to face to face meetings as soon as possible.

A Hendry could not guarantee that officers could book four car parking spaces for the councillors as the parking spaces would be greatly reduced in the near future. A private room can be booked if available. Before we were able to go into the Members room or the Chief Executives or the Chairman's room but now there was no members room or other offices available. The Chairman noted that we could clear the Council Chamber to have a private discussion.

Councillor Jon Whitehouse noted that there was the conference suite available; this was a council building and if the current system did not permit us to perform our statutory functions then the system needed changing. It was a climate friendly option to have the meeting on Zoom or as a hybrid. He was keen that we had the option of hybrid meetings as it made it more accessible to people. In his experience the virtual meetings had been good, but some applicants have had to rely only on a smart phone to connect to a meeting, so it was important that applicants had the ability to request an in person hearing. But for non-contentious meetings then Zoom was a viable option.

Councillor Neville agreed that Zoom was the greener option. He noted the mandatory requirement to hold in person meetings for taxi applications. Also, he had noted that in the past meetings had been delayed because a public speaker or even a councillor had been delayed or not turned up.

Councillor Sartin said there were pros and cons for both sides. At a hybrid meeting held here last night, the officer had frozen on screen, this was a problem. We could ask an applicant to leave the chamber to have a private discussion, so she did not see the problem around finding a second space. There was always the Chairman's/Leader's room. Parking was a problem and we had to take this on board. However, she felt that we should come back here as there was always the possibility of Zoom breaking down and having to reconvene at a later date.

D King said it was a difficult decision. Remote meetings came about because of the pandemic which was still with us and should be kept under review. Perhaps we should treat each case on its own merit depending on the size of the hearing and if it was advisable to have it in person or on Zoom. He preferred having in person meetings and would like to revisit this again as the Covid numbers were still on the increase and that was still a factor.

Councillor Sartin commented that perhaps this was not the point when we should be making an absolute decision and park this for the time being. If there was a big application, then officers should then ask us to meet in person.

**Resolved:**

1. To carry on with Zoom meetings for now unless there was a particularly contentious application that officers felt that should be heard in person; and
2. To reconsider this at the next meeting to be held in March 2022.

**11. Review of Licensing Sub-Committee Procedures**

The Committee reviewed the proceedings of the Licensing Sub-Committee meetings held during the preceding six-month period and considered whether the procedure, policy and organisation of the Sub-Committees required review.

There were no matters to be discussed under this item.

## **12. Review of Current and Future Training Needs for the Committee**

Training was only needed for new members of the Licensing Committee. Councillor Williamson said that the one to one training he had received had been very useful, but just as useful was watching the past meetings on webcast.

Councillor Lion noted that there was some confusion between Planning and Licensing. He asked if we could also train Parish and Town Councillors on Licensing. Councillor Neville added that in the past the Licensing training had been open to the Town and Parish councils and this should continue. Councillor Jon Whitehouse suggested that the training could go to the Local Councils Liaison Committee. S Devine noted that there was online training available as well, along with bite sized version delivered by James Button. D King added that the Local Government Association also had handbooks available that could be circulated.

## **13. Matters Arising**

1. Councillor Lion asked about electric taxis and charging points. They had an interesting presentation at the previous night's Overview and Scrutiny Committee meeting about the taxi situation which was talking about incentives and barriers for electric vehicles.

Was there anything that we should be looking at, particularly with the ultra-low emission zone coming in in London. So, any taxi journeys beginning here and going into London would incur additional costs if they were not compliant with current rules. This was something we need to consider. Perhaps have the officer come to our next meeting. S Devine noted that the Licensing Team were working closely with this officer (Stephen Lloyd-Jones) and would be carrying out a joint consultation with us on this subject. This had to be balanced as it would have cost implications; did we want to encourage customers to use electric taxis or look at financial incentives to encourage our drivers to convert to electric without direct cost to the council. It may be worth while to invite him to the next meeting.

2. Councillor Pond asked for a street trading update, especially on the farmers market on Loughton High Road from officers. She noted that we did not have a policy on this sort of market. S Devine replied that some markets are Charter markets who did not need a licence from us. We have historically used street trading consent, but this was the wrong way of doing it. Nationally, everyone had been doing different things; now that we are looking at the rejuvenation of the High Streets and potential for markets in high streets we would like to regularise in a proper way, so were in the process of drafting a Markets Licensing Policy, which would set out parameters for operating markets across the district.

As we were not there yet we have found a get around process for the Loughton Farmers Market so that they can continue to operate for now if they wished to take it up.

Our draft policy will be going to the Portfolio Holder to look at and then go out for a district wide consultation. It would then go to the Stronger Places Select Committee and then go on for adoption by the Council.



**14. Date of Next Meeting**

The Committee noted the date for their next meeting, 15<sup>th</sup> March 2022.

**CHAIRMAN**

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