

Licensing Committee

Tuesday 10 December 2013

PRESENT:

Councillor Rennie, in the Chair.
Councillor Mrs Bowyer, Vice Chair.
Councillors Jordan, Morris, Mrs Nicholson, Parker, Singh, John Smith and Wright.

Apologies for absence: Councillors Drean, Gordon, Dr Mahony, Monahan and Kate Taylor.

Also in attendance: Ann Gillbanks, Senior Lawyer, Katey Johns, Democratic Support Officer, Fred Prout, Senior Licensing Officer, and Andy Netherton, Manager Health Safety and Licensing.

The meeting started at 10 am and finished at 11.05 am.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

19. APPOINTMENT OF VICE-CHAIR

Agreed, in the absence of Councillor Gordon, that Councillor Mrs Bowyer is appointed as Vice-Chair for the purposes of this meeting only.

20. DECLARATIONS OF INTEREST

There were no declarations of interest made by members in accordance with the code of conduct.

21. MINUTES

Agreed the minutes of the meetings of the Licensing Committee held on 17 September 2013 and the Licensing Sub-Committee held on –

- 17 September 2013
- 24 September 2013
- 15 October 2013
- 26 November 2013

22. CHAIR'S URGENT BUSINESS

There were no items of Chair's urgent business.

23. INFORMATION REGARDING DELEGATED DECISIONS FOR APPLICATIONS FOR THE GRANT/VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

The Director for Place submitted a report detailing applications which had received representations from responsible authorities or interested parties and had been mediated out by agreement by both the applicant and the respective responsible authority without the need to bring the applications before the committee for determination.

The committee noted the report.

24. **SCRAP METAL DEALERS ACT 2013 - DETERMINING SUITABILITY**

Further to minute 17, the Director for Place submitted a report updating Members on the key provisions of the Scrap Metal Dealers Act 2013. Members were advised that –

- (a) since the initial report to committee in September, the scrap metal fees for 2013/2014 had now been set based on best estimates of the amount of work and time required, including set up costs. However, in accordance with best practice, the fees would be reviewed to ensure that the income balanced costs over a three-year period;
- (b) there were two types of licence –
 - a site licence which authorised an operator to carry on a business as a scrap metal dealer, and
 - a collector's licence which allowed the collector to carry on a business as a mobile collector throughout Plymouth;

A dealer could only hold one type of licence in any one local authority area;

- (c) every applicant was subject to a suitability test and matters to be considered included –
 - whether the applicant or any site manager had been convicted of any relevant offence;
 - whether the applicant or any site manager had been the subject of any relevant enforcement action
 - any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
 - any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
 - any previous revocation of a scrap metal licence (and the reasons for the revocation);
 - whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with;
- (d) to date, 37 applications had been received, 15 site licences and 22 collectors' licences, none of which had been deemed necessary to refer to Licensing Sub-Committee.

In response to questions raised, Members heard further that –

- (e) delays with the issue of disclosures certificates by Disclosure Scotland could affect the target date of 1 December 2013 to start issuing licences, however, measures were being put in place to ensure that licences could be issued as soon as officers were in possession of all the relevant information;
- (f) officers were ensuring that all dealers had every opportunity to apply for a licence prior to introduction of the enforcement provisions. Dealers should now be making records of who they are receiving scrap from, noting ID and ensuring transactions are dealt with through bank credits as opposed to cash;
- (g) guidance issued by the Home Office was not particularly clear and Officers would have to come to an informed view on whether or not a licence was required, depending on the amount of scrap metal generated and the working practices of the business in question. Discussions with peers and debate via the Devon Licensing Forum would help officers in this regard;
- (h) the flow chart set out in Appendix I to the report outlined the process for dealing with applications which had been refused, varied or revoked;
- (i) as there was a value in scrap metal it was hoped that fly-tipping would not be a problem.

The Committee noted the report.

25. **CONTROL OF PUBLIC PERFORMANCES OF HYPNOTISM**

The Director for Place submitted a report on the control of public performances of hypnotism. Members were informed that –

- (a) there was a duty on licensing authorities to control public performances of hypnotism, mesmerism or any similar act or process;
- (b) the City Council had not adopted standard conditions to be attached to licences to control public performance of hypnotism defined by the Hypnotism Act 1952, since the introduction of the Licensing Act 2003.

In response to questions raised, Members heard further that –

- (c) the Home Office Circular Guidance stemmed from the Hypnotism Act of 1952 and therefore the language used in the Guidance was reflective of that era;
- (d) if the standard conditions were not adopted –
 - the Council would have to write its own standard conditions which it would then have to consult on, including the licensing trade and

- the Home Office;
 - officers would have to spend more time considering applications and applying individual conditions;
- (e) licenses would be personal to the performer, not the venue, and would be 'policed' by the Licensing team. Licences would not be issued to anyone who was unable to demonstrate that they carried the necessary public liability insurance;
- (f) whilst separate applications would normally be expected for each performance per venue, there was no reason why a performer doing a circuit of the City could not list all dates and venues on one application;
- (g) in order to ensure that the Home Office Guidance Circular was adequately communicated, Licensing Officers would write to every licensed premises in the City and put the information on the Council's website.

Agreed that –

- (1) the model conditions contained in Home Office Circular Guidance 39/1996 (Appendix I to the report) which are to be applied to any future authorisation are adopted;
- (2) a letter is sent to the Home Office expressing the Committee's concerns at the outdated language used in the circular and requesting that it is brought up to date and modernised.

26. **EXEMPT BUSINESS**

There were no items of exempt business.