



## **Minutes**

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**Licensing Committee  
Tuesday, 11 November, 2014**

### **Attendance**

Cllr Barrett (Chair)	Cllr Mynott
Cllr Newberry (Vice-Chair)	Cllr Dr Naylor
Cllr Mrs Cohen	Cllr Reed
Cllr Mrs Hubbard	Cllr Russell
Cllr Lloyd	Cllr Tee
Cllr Mrs Murphy	

### **Apologies**

Cllr Mrs Henwood

### **Substitute Present**

Cllr McCheyne (substituting for Mrs Henwood)

### **Officers Present**

David Carter	Senior EHO (Team Leader)
Ashley Culverwell	Head of Borough Health, Safety and Localism
Christopher Leslie	Financial Services Manager
Gary O'Shea	Principal Licensing Officer
Jean Sharp	Governance and Member Support Officer

### **255. Apologies for Absence**

Apologies were received from Cllr Mrs Henwood.

All present stood and observed a minute's silence for Armistice Day.

### **256. Minutes of previous meeting**

The Committee **RESOLVED** to approve the minutes of the 13 October 2014 Licensing Committee meeting and they were signed by the Chair.

**257. Mobile Homes Licensing**

Members were advised that the Government had introduced a new scheme for licensing of mobile home sites which more closely aligned the licensing provisions under the Caravan Sites & Control of Development Act 1960 with other local authority licensing regimes in order to improve site conditions and ensure that residents' health and safety was better protected.

Mobile homes used for permanent residential accommodation with full planning permission in the Borough would require an annual license. The Council would be able to recover the costs of administration and inspection of sites under the new licensing arrangements. The report before Members sought to establish the licensing arrangements to be implemented for the Borough.

**Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendations in the report and following a discussion it was RESOLVED UNANIMOUSLY that:**

- 1. Members agree to implement a scheme for Mobile Homes Licensing under the changes brought in under the Mobile Homes Act 2013 in the Brentwood Borough.**
- 2. Officers are authorised to establish and administer such a scheme.**
- 3. Members agree to adopt the Fee Policy in Appendix A of the report.**
- 4. The Head of Borough Health, Safety and Localism and any officers nominated by him are delegated authority to administer and enforce the powers brought in under the Mobile Homes Act 2013.**

**258. Variation in the Order of the Agenda**

**Cllr Barrett MOVED, Cllr Newberry SECONDED and it was RESOLVED UNANIMOUSLY that, since members of the public were present, the order of the agenda be varied so that items 6 (Proposed Hackney Carriage and Private Hire Fees and Charges for 2015/16) and 7 (Hackney Carriage Proposed Tariff Charge) be considered next.**

**259. Proposed Hackney Carriage and Private Hire Fees and Charges for 2015/16**

Members were reminded that the Local Government (Miscellaneous Provisions) Act 1976 permitted the Council to charge such fees for the grant of vehicle and operators licences as might be resolved by them from time to time as might be sufficient in aggregate to cover in whole or in part the reasonable costs associated with these licensing functions.

The report sought Members' agreement on the proposed budget and Schedule of fees and charges for 2015/16 in respect of the Hackney Carriage and Private Hire licensing functions and for publication of the agreed fees and charges in accordance with statutory requirements.

**Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendation in the report and following a discussion it was RESOLVED UNANIMOUSLY that Members agree to the budget and proposed schedule of fees and charges for 2015/16 as shown in Appendix A to the report and for advertisement of the same to appear in a local newspaper in January 2015.**

#### **260. Hackney Carriage Proposed Tariff Change**

Members were reminded that the setting of fare tariffs in respect of Hackney Carriage Vehicles was legislated under provision of section 65 the Local Government (Miscellaneous Provisions) Act 1976 . There was no provision for the Council to set tariffs in respect of private hire vehicles.

From time to time the fare tariffs might be amended in accordance with the legislation, usually following a request from the Taxi trade and appropriate advertising of the proposals in accordance with the provisions of the Act.

The current fares had been in place since August 2011, meaning that there has been no increase in taxi fares within the Borough of Brentwood for three years.

The report before Members considered an application received via the Taxi Trade Consultative Group (TTCG) for an increase in the maximum fares permitted to be charged by licensed Hackney Carriage Vehicles within the Borough of Brentwood.

A previous request for an increase in tariff was submitted at the TTCG held on 4 August 2014 and this had been considered and rejected by Licensing Committee on 13 October 2014.

Following the Licensing Committee held on 13 October 2014, the trade submitted a revised proposal, which was attached to the agenda as Appendix A. This proposal was discussed and formally submitted at a TTCG meeting held on 3 November 2014 and three members of the Taxi Trade Consultative Group were in attendance at this Committee meeting to respond to Members' questions. Background details of their proposal for increased fare tariffs had been submitted prior to the meeting for Members' information and consideration. The Chair agreed to a Member's request that this additional information be made available on the Council's website as a supplementary document to the agenda.

The proposal before Members was a maximum fare/tariff only and it was therefore up to the individual hackney carriage proprietor as to whether they

wished to charge the maximum. There was no legal obligation to charge the maximum, although it was unlawful to charge more.

Members requested that the fare tariffs be considered on an annual basis in future.

**Cllr Lloyd MOVED and Cllr Barrett SECONDED recommendation 2.1(a) in the report. Following a discussion a vote was taken on a show of hands and it was RESOLVED that the Committee agrees in principle the increase in the maximum fare/tariff attached at Appendix A to the report which was to be advertised in accordance with the relevant legislative requirements, and that the increased tariff should come into force at the end of a period of 14 days from the first date of advertisement if no objections are received, or be reported back to Licensing Committee for further determination in December 2014 if one or more objections were received.**

#### **261. Proposed Fee for Young Entrepreneurs Market**

Members were advised that a two year license for Essex Farmers Markets to operate a weekly Friday and Saturday Market in Brentwood High Street was agreed at the 16.7.14 Business and Town Centres Committee meeting and a report on Alternative Markets for Brentwood was discussed at the 15.10.14 B&TC Committee meeting. Inter alia the Committee resolved to recommend to the Licensing Committee a concessionary license fee for teenage (or young peoples') market stalls of £5.00 and to review this after the market had been in operation for a period of 9 months. Officers considered that given the requirement to ensure cost recovery that this should be formally reviewed in 6 months and the fee be increased if it was appropriate. The current license fee for a market stall was £21 per day.

It was anticipated that the requirement for enforcement and compliance requirements in relation to young persons' stalls would be minimal when compared to commercial stalls.

No licence would be issued to any person under the age of 17, although those under 17 years would be permitted to work the stalls and operate under provision of a licence held by an adult.

Members were advised that Essex Farmers Markets had agreed to operate the young people's market in the High Street or Crown Street. They were looking to trial the market on a Sunday in the New Year after obtaining sufficient interest and commitment and would be approaching local schools, colleges, universities, clubs and groups to offer students a chance to engage directly with their town centre.

**Cllr Barrett MOVED and Cllr Newberry SECONDED the recommendation in the report. Following the discussion a vote was taken on a show of**

hands and it was **RESOLVED UNANIMOUSLY** that Members agree to a fee of £5 and that this be formally reviewed in 6 months' time.

**262. Proposed General Licensing Fees and Charges for 2015/16**

Members were advised that, whilst some of the General Licensing Fees and Charges were statutory and therefore determined through legislation, the Council must review its discretionary charges for all services to ensure that they reflected the current cost of providing the service, including reasonable and recoverable running costs for administration and in some cases enforcement.

The report sought Members' agreement on the proposed budget and schedule of fees and charges for 2015/16 in respect of the general licensing functions other than Hackney Carriage and Private Hire and any statutory or centrally set fees.

Cllr Barrett proposed that the revised fees and charges should be frozen pending a full review being undertaken and Members requested that in future further detail be given in regard to each proposed charge and an explanation of how costs were arrived at.

**Cllr Lloyd MOVED and Cllr Barrett SECONDED the recommendations in the report and it was RESOLVED UNANIMOUSLY that:**

**1. Members agree to the proposed schedule of fees and charges as shown in Appendix A of this report to come into force on 1 April 2015.**

**2. A further report be presented to this Committee providing**

**details of the outcome of the planned review of the current charging policies, which will then inform the 2016/17 charging levels.**





## Minutes

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### **Licensing/Appeals Sub-Committee Friday, 31 October, 2014**

#### **Attendance**

Cllr Barrett  
Cllr Mrs Henwood  
Cllr Newberry

#### **Officers Present**

Dave Leonard	Licensing Officer
Gary O'Shea	Principal Licensing Officer
Chris Pickering	Principal Solicitor
Jean Sharp	Governance and Member Support Officer

#### **231. Appointment of Chair**

RESOLVED to appoint Cllr Barrett to chair this meeting of the Sub-Committee.

#### **232. Quasi-Judicial Function**

Members were respectfully reminded that, in determining the matter listed under Minute 233, they were exercising a quasi-judicial function with the civil burden of proof, that the matter would be determined on the facts before the Sub-Committee and the rules of natural justice applied.

#### **233. Application for a Premises Licence - Licensing Act 2003 – Brave Nelson, 138 Woodman Road, Warley CM14 5AL**

The report before Members provided information of an application for a new premises licence in respect of Brave Nelson, 138 Woodman Road, Warley, Brentwood CM14 5AL

Members were requested to determine the application having regard to the operating schedule, the representations received, the Council's Statement of Licensing Policy and the four Licensing objectives.

Each application must be considered on its individual merits and, therefore, no recommendations might be made. However, the available options were:

- i) To grant the application in full on the terms and conditions contained in the operating schedule along with any applicable mandatory conditions;

- ii) To grant the application, modified to such extent as considered appropriate in order to satisfy any relevant representations and to promote the licensing objectives; or
- iii) To reject the application in whole or in part

An authorisation was required in respect of any premises where it was intended to conduct one or more of the four licensable activities, these being:

- Sale of alcohol
- Supply of alcohol (in respect of a club)
- Regulated Entertainment
- Provision of Late Night Refreshment

An appropriate authorisation was either a premises licence, a club premises certificate or a Temporary Event Notice.

Licence holders were required, when offering any licensable activity, to ensure that they promoted the licensing objectives at all times. The operating schedule of the application contained details of the activities applied for and the control measures that the applicant would have in place in order to promote these objectives. Such measures would, where appropriate, be converted into enforceable conditions on any licence issued.

The four licensing objectives were;

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

No objective carried any more weight than any other.

Any representation must be able to demonstrate that on the balance of probability the application in its current form would fail to adequately promote one or more of the licensing objectives. No other matters might be considered.

### **The Application**

The application was received on 9 September 2014 from Mr Paul Duley in respect of Brave Nelson, 138 Woodman Road, Brentwood CM14 5AL.

This application is submitted following meetings between the licence holder, his agent, the licensing team and members of two responsible authorities, namely the Council noise team and the Police. The application was sought to agree conditions that would allow a more efficient promotion of licensing objectives.

The application did not seek to vary the current premises licence or extend the hours of any licensable activity. It sought a new premises licence, operating to its current hours, to include conditions that were appropriate and practical together with an operating schedule that promoted the licensing



objectives within the community. The conditions on the current licence were ambiguous and difficult to enforce.

The hours for the sale of alcohol for consumption on and off the premises were for the following hours;

10:00hrs-23:00hrs on Sunday to Thursday and  
10:00hrs-23:30hrs on Friday and Saturday

The regulations of the Licensing Act 2003 outlined the requirements for the advertising of applications by the applicant.

Regulations also required that the applicant gave a copy of the application to each responsible authority on the same day upon which it was given to the licensing authority.

There were no other statutory requirements for advertising of any application, however, the relevant Ward Councillors were notified and details of all applications received along with the time limit for receipt of representations was posted on the Council website.

There had been one valid representation received from the Council's Environmental Health Officer relating to noise and public nuisance complaints received against the premises over an extended period of time supported by nine Service Request Reports.

The Police observations and agreed conditions were appended to the agenda together with the observations of a Senior Planning Officer.

Six representations had been received from local residents who lived in close proximity to the premises.

The Brave Nelson has been subject of several unsuccessful applications to redevelop the land for residential housing and the latest application, to redevelop the car park, was refused planning permission this summer.

#### **The Sub-Committee's Decision**

The Sub-Committee considered in detail the written objections from residents who raised concerns over the noise nuisance emanating from the premises and the Sub-Committee considered the submissions from the applicant in support of the application. It also considered the reports presented from Council officers. The Sub-Committee was concerned about the noise emanating from the garden in particular and in the interests of preventing public nuisance **RESOLVED** to grant the application as applied for subject to the following conditions:

1. An incident log will be kept in which staff will record any crimes, incidents, refusals and any complaints received.
2. Staff will be trained on their roles and responsibilities, records of training given will be retained and made available to the licensing authority or the Police for inspection upon reasonable request.

3. A comprehensive CCTV system is installed with full recording facilities covering both inside and outside parts of the premises.
  4. Any music provided will be closely monitored and controlled by the in house management team so as to minimise noise nuisance to the neighbours.
  5. All music will cease at 23:00hrs
  6. Smokers will be encouraged to use the garden smoking shelter in a quiet and noise friendly fashion
  7. Customers will not be permitted use of the garden after 22:00hrs except for the purpose of smoking. The number of smokers permitted to be outside smoking after 22:00hrs will be limited to 15.
  8. No drinks are to be consumed outside after 22:00hrs.
  9. Notices will be posted at entrance/exits requesting patrons to respect the neighbours and leave in a quiet & orderly fashion.
  10. The premises will adopt a Challenge 25 policy
  11. Children will only be admitted while in the company of a supervising adult and will be required to vacate the premises by 22:00hrs daily (except for a pre-booked family party/event
  12. The premises shall install and maintain a CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
  13. The CCTV system shall continually record whilst the premises is open to the public and during all times when customers remain on premises.
  14. All recordings shall be stored for a minimum of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer of a Responsible Authority.
  15. A staff member from the premises who is conversant with the operation of the CCTV system shall be available at all times when the premises are open to the public. This staff member must be able to show Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
  16. Self-closers shall be fitted on all doors that open to the front of the premises and into the garden and the doors shall not be fixed open whilst music is being played to avoid noise break-out from the premises.
  17. The children's play area will be closed to all patrons after 21:00hrs on any day.
  18. Ball games are to be banned from the children's play area.
  19. Music amplification is prohibited in the outside areas of the premises without prior permission from the Council's licensing department.
  20. Any special events planned at the premises shall be notified to the Council's licensing department at least 14 days before the event. The premises management will work with the licensing department so that the impact of such events is minimised.
  21. The hours of operation at New Year is limited to 02:00hrs, rather than the 08:00hrs applied for.
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