

Minutes

Planning and Licensing Committee Tuesday, 3rd November, 2015

Attendance

Cllr McCheyne (Chair)	Cllr Morrissey
Cllr Trump (Vice-Chair)	Cllr Mynott
Cllr Barrell	Cllr Newberry
Cllr Carter	Cllr Tee
Cllr Cloke	Cllr Wiles
Cllr Keeble	Cllr Mrs Murphy

Apologies

Cllr Reed

Substitute Present

Cllr Mrs Murphy (substituting for Cllr Reed)

Also Present

Cllr Mrs Henwood	
Cllr Mrs Hones	
Cllr Mrs Hubbard	
Cllr Parker	
Cllr Foan	West Horndon Parish Council
Cllr Watley	Blackmore Parish Council

Officers Present

Ashley Culverwell	- Head of Borough Health Safety and Localism
Gordon Glenday	- Head of Planning & Development
Claire Hayden	- Governance and Member Support Officer
Caroline McCaffrey	- Development Management Team Leader
Gary O'Shea	- Principal Licensing Officer
Paulette McAllister	- Design and Conservation Officer
Sukhvinder Dhadwar	- Planning Officer
Jonathan Binks	- Planning Assistant
David Carter	- Environmental Health Manager
Christine Stephenson	- Planning Lawyer
Charlotte White	- Senior Planning Officer

211. Apologies for Absence

Apologies were received from Cllr Reed and Cllr Mrs Murphy was in attendance as a substitute.

212. Minutes of the Previous Meeting

The minutes of the Planning and Licensing Committee held on 13th October 2015 were approved and signed by the Chair as a correct record.

213. General Licensing Fees

The report asked that Members agree the proposed budget and Schedule of fees and charges for 2016/17 in respect of the general licensing functions other than Hackney Carriage and Private Hire and any statutory or centrally set fees.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Trump to agree the recommendation in the report.

RESOLVED UNANIMOUSLY to:

- 1. That the schedule of fees and charges for all non statutory fees as attached at appendix A be agreed and to take effect on and from 1 April 2016.**

REASON FOR RECOMMENDATION:

As above stated, the fees should be set individually for each account and cross over between each is not permitted i.e. a surplus in one is not permitted to offset a deficit in another. Generally, where a fee is discretionary it is required to be 'reasonable'. This means that the Council is not permitted to make a profit and therefore that the fee should aim to achieve full cost recovery subject to the inclusion only of the element of cost permitted by legislation.

- 5.2** The licensing team record their time on a daily basis in order to feed information into the budget setting process as accurately as possible. Traditionally, this has been done in respect of the Taxi Trading Accounts where the complexity of the legislation requires that these are calculated in a specific and very transparent manner. The same statistics have been used to calculate the cost of providing each licensing function and therefore the most appropriate fee, where this can be set or to accurately record any surplus or deficit where the fee is statutory.
- 5.3** In all cases further streamlining of processes within the licensing department and cost reductions brought about by efficiencies within the

council as a whole e.g. the Town Hall project are expected to make a long term positive impact on the cost of running each function.

- 5.4 The proposed fees and charges and/or the surplus or deficit on the account along with a summary of the reasoning behind the proposals are highlighted separately below:

All calculations are reproduced in appendices B and C.

5.4.1 Licensing Act 2003: - All Fees are Statutory

The licensing Act 2003 (LA2003) function accounts for 39.09% of the overall licensing function/resource. The overall cost of the LA2003 function as at the close of the 2014/15 accounts is £137,423 as compared to an income of £78,753. This means that a deficit is carried forward to 2016/17 of £58,670.

However, these fees are set under Central Government regulations and have remained unchanged since implementation of the Licensing Act in November 2005. In view of this there is no scope to set these fees at present, although the possibility of locally set fees has not been totally discounted by Government, which means that by continuing to calculate the year on year cost of this service, the Council will be better placed to set the most accurate and appropriate fee should this become possible at a later date.

5.4.2 Gambling Act 2005 – Fee set at discretion up to a statutory maximum

The Gambling function accounts for 6.68% of the overall work of the team and for the year 2014/15, the total costs of administering this function were £23,353. With an income of £10,275 from the gambling account for the same year, this means that gambling incurred a loss of £13,078.

Whilst the fee is subject to a statutory maximum with regard to premises applications, this is currently only set at 75% of the maximum figure. The proposal is to increase the fees up to the maximum permissible fee in order to recoup some of the deficit. This is unlikely to fully recover the total deficit due to the small number of applications likely to be received. There is no scope to increase any further although it is hoped that costs may reduce for reasons as highlighted in paragraph 5.3.

5.4.3 Street Trading – Discretionary

Street Trading incorporates the Market, individual stalls, the lighting up Brentwood event and Pavement Cafes. This work amounts to 7.22% of the licensing function at a cost of £26,479 as at the close of business for 2014/15. The income from this is £23,374 leaving a current deficit of just over £3,000 showing on the account.

The numbers of licences issued are relatively small and the calculation is somewhat complex given that some licences are issued on a daily rate, some weekly and others annually. The increase in fees has therefore been calculated to reflect the work that is involved in each case and is aimed at achieving full cost recovery by the end of 2016/17 and gradually reducing the year on year deficit from then on.

One area that has traditionally been calculated separate is the independent fruit stall. This is because it has been trading for many years, has made a positive contribution to the High Street area of Brentwood and does not require a great deal of supervision. The fee has been set at £280PA for the last two years. It is proposed on this occasion that it be raised to £350PA, which covers the costs associated with the grant of this particular licence. This increase has been discussed with the stall holder and he is in full agreement with the proposal.

5.4.4 Scrap Metal – Discretionary

Scrap Metal only accounts for 1.08% of the licensing function, a cost of £4,016 as at close of accounts for 2014/15. Income for the same period amounted to £2,170, which means a loss on the account of £1,846.

Costs for next year are likely to be similar as there is an exercise planned to visit a number of premises throughout the Borough in order to assess whether a licence is required. This may result in an increase in income as these compliance checks may identify traders who are yet to licence under this relatively new legislation. In addition the streamlining as identified in paragraph 5.3 may identify some efficiency savings.

The current increase is proposed from £365 to £495 for a 3 year site licence and from £180 to £280 for a 3 year collector's licence. The initial fee was set as a best estimate when the legislation was first introduced in 2013 and it was agreed at that time that a full review of fees would follow once more accurate cost figures had been assessed.

5.4.5 Skin Piercing – Discretionary

This is a very small element of the licensing function taking less than 0.5% of the overall workload of the team. Associated costs are, therefore also low and the expenditure on this account amounts to only £1220 at the close of accounts for 2014/15. However, with only 7 registrations in that year this has still brought about a small deficit on the account.

Traditionally these fees have only increased year on year by a few £'s and this therefore means that a substantial increase is required in order

to reduce the deficit. However, it is worth noting that this is a 'one off' fee as once registered this continues in perpetuity for as long as the premises is in operation.

Premises registrations are proposed to increase from £105 to £250 and practitioners from £47 to £89. Whilst this increase still leaves an anticipated deficit on the account, this is another area where streamlining of the process and planned future efficiencies should reduce the costs associated with conducting this function. Therefore these fees will be kept under review and re-assessed in detail as part of the fees and charges process for 2017/18.

5.4.6 Animal Licensing - Discretionary

This area covers a number of different types of licence as outlined in appendix C and accounts for 2.63% of the overall work of the team at a cost of £9,336 as at close of accounts for 2014/15.

A move to online applications and afore mentioned anticipation of efficiency savings should reduce these costs over time. Therefore, whilst the increase proposed from £158 to £250 does not recover the full cost of operating the animal function, it is proposed that given the size of the deficit (circa £6000PA) it is impractical to increase fees to the level that would be required to offset this. Therefore, a further review should be undertaken as part of the 2017/18 process, which can take account of any cost savings made over the coming year.

It remains likely that a further increase would be required for 2017/18, however, the impact of this would be spread and if delayed for a year the overall increase should be less than if it were all imposed now.

Zoo licensing is also included in this account and these licences are proposed to increase from £762 to £900 for the grant of a licence and £383 to £550 for a renewal.

5.4.7 Sexual Entertainment Venues (SEV) – Discretionary

This area of licensing has been calculated in a different manner to the other functions performed by the department. The reason for this is that currently there are no licensed sex shops or adult entertainment venues in the borough. This means that the fee calculation must be made on an estimate of how much it would cost to fully process an application from start to finish and the cost of compliance checking throughout the term of the licence.

The fee is therefore calculated to include administration costs (including recharges, overheads and staff salaries), broad consultation, the cost of a hearing to determine the outcome of any application received, the additional cost of processing representations and producing a report for a hearing and two compliance checks per annum.

The recent Hemmings v Westminster Case looked at the fee charged for these types of licences and determined that the fee cannot be set as a deterrent as appears to have happened in some areas. The fee at Brentwood is however, reasonable and can be fully justified as being at an appropriate level to achieve cost recovery.

No costs have been appropriated to this account at this stage as the only expenditure unless application(s) are received would be in training, writing of processes and procedures and formulation of a policy. These are all currently in place and whilst they will be reviewed, there was no such review in the 2014/15 period upon which current expenditure predictions are based.

- 5.5 With regard to any of the increases proposed, the only alternative to not increasing by as much or in failing to impose any increase at all would be for the balance to be found through the Council's central fund. Ultimately this would mean that licence fees were subsidised by the Council Tax payer and not by those who benefit most from the grant of any licence. Anything other than attempting to achieve full cost recovery as outlined in this report is not therefore, seen as a viable or appropriate option.

(As a substitute of this Committee, Cllr Mrs Murphy did not take part in the debate or vote on this item. Cllr Carter was not present at this stage of the meeting and therefore did not take part in the vote).

214. Taxi Licensing Fees

The report asked Members to agree the proposed budget and Schedule of fees and charges for 2016/17 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.

A motion was **MOVED** by Councillor McCheyne and **SECONDED** by Councillor Trump to agree the recommendation in the report.

RESOLVED UNANIMOUSLY to:

1. That Members agree to the budget and proposed schedule of fees and charges for 2016/17 as shown in Appendix A of this report and for advertisement of the same to appear in a local newspaper in accordance with statutory requirements.

REASON FOR RECOMMENDATION:

The Council is required to review fees regularly to ensure that the Taxi licensing regime remains cost neutral. Should any surplus accrue this must be adjusted in the follow years licence fees.

The driver account in particular is running at a surplus as at close of accounts for 2014/15 and it is anticipated that by the end of this financial year (2015/16) that surplus will have increased to over £40,000. Funds cannot lawfully be used to subsidise other Council functions, nor indeed other areas of licensing.

Neither can the funds be transferred within the various Taxi trading accounts e.g. a driver surplus cannot be used to offset a vehicle deficit. Therefore the surplus belongs to the holders of driver licences and must be returned. A reduction in the fees is the simplest means of achieving this.

Whilst the deficit in the operator account is not large, this has to be measured in proportion to the size of the account and the relatively small numbers of licences issued. On this basis the deficit should be recovered as soon as possible, although as with all accounts, work continues on the streamlining of the various processes and it is hoped that this will see a reduction in costs for future accounting years.

215. The Bull Church Street Blackmore Essex CM40RN

Mr Doodes was present and addressed the committee in objection to the application.

Mr Pickering, Applicant's Representative was also present and addressed the committee in support of the application.

Cllr Keeble, Ward Member spoke in objection to the application, outlining the history of Blackmore which dates back to Roman times. The Bull is a large part of the village heritage and a community asset.

The site has diminished over the last 5 years, the bar has been removed and the original timbers have been sanded. The property is not been marketed appropriately and an offer has been received to develop the site as a local pub.

Blackmore has recently lost its Newsagent, Library and soon the post office premises, to lose the Bull will take out the heart of this village.

Cllr Watley, Parish Councillor of Blackmore, supports the objections to the application, along with strength of the comments from the Conservation Officer and the Inspectorate and the amount support within the Chamber.

Cllr Mrs Henwood, Ward Members also spoke in objection to the application.

A motion was MOVED by Cllr Barrell and SECONDED by Cllr McCheyne the application be refused.

A vote was taken by a show of hands.

FOR: Cllrs Barrell, Cloke, Mynott, Newberry, McCheyne,
Morrissey, Mrs Murphy, Tee, Trump and Wiles (10)

AGAINST: (0)

ABSTAIN: (0)

RESOLVED UNANIMOUSLY. That planning permission is **REFUSED** for the following reasons.

LT11- change of use or redevelopment of local services, including public houses will not be permitted unless it can be clearly demonstrated that the use is not viable and that there is no interest from an alternative similar community use.

C14 - Development affecting Conservation Issues

CP1 (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment

CP15/17 - Historic development to a Grade II Building.

(Under Part 5.2 of the Council Constitution, Cllr Keeble was not able to vote on this application. Cllr Carter was not present at this stage of the meeting and therefore did not take part in the vote).

Cllr Morrissey declared a non pecuniary interest under the Council Code of Conduct by virtue of her employment at a local Estate Agents)

216. Appletree Farm Thorndon Park Warley CM13 3RJ

The agent has withdrawn his application. The reason for the withdrawal is that the applicant considers the officer suggested conditions were too onerous, he will instead submit a certificate of lawful development as soon as it is practicable.

217. Car Park William Hunter Way Brentwood CM14 4SS

Mr Gambardella, was present and addressed the committee in support of the application.

The Officer informed the committee of an amendment to condition 3 within the report.

3 TIM07 Temporary permission - Use (Land)

The use hereby permitted shall be discontinued and the land restored to its former condition on or before 18 months from the date of this permission

commencement in accordance with a scheme of work to be first agreed in writing with the local planning authority.

Cllr Carter, Ward Member spoke with reference to the application and acknowledged that improvements had been made, but still has concerns with regards to noise and the close proximity to local residents. The overall working area and opening times especially on a Sunday were expressed.

Cllr Mynott, Ward Member also spoke about his concerns relating to the application.

A motion was **MOVED** by Cllr Carter and **SECONDED** by Cllr Mynott the application be deferred.

A vote was taken by a show of hands.

FOR: Cllrs Mynott, Carter, Newberry and Keeble (4)

AGAINST: Cllrs Tee, Barrell, Wiles, Mrs Murphy, Trump and McCheyne (6)

ABSTAIN: Cllr Morrissey (1)

The motion was **LOST**.

A motion was **MOVED** by Cllr Trump and **SECONDED** by Cllr McCheyne that the application be approved, subject to two amendments.

Condition 2

Opening times to state Mon-Sat 8:00am-6:00pm and Sun 10:00am- 4:00pm.

Condition 6

Portacabin doors and windows remain closed for the whole duration.

A vote was taken by a show of hands.

FOR: Cllrs Tees, Barrell, Wiles, Mrs Murphy, Newberry, Morrissey and Keeble, Trump and McCheyne (9)

AGAINST: Cllrs Carter and Mynott (2)

ABSTAIN: (0)

The motion was **CARRIED**. That planning permission is **APPROVED** subject to the following conditions:

1 TIM01 Standard Time - Full

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 DRA01A Development in accordance with drawings

The development hereby permitted shall not be carried out except in complete accordance with the approved drawing(s) listed above and specifications.

Reason: To ensure that the development is as permitted by the local planning authority and for the avoidance of doubt.

3 TIM07 Temporary permission - Use (Land)

The use hereby permitted shall be discontinued and the land restored to its former condition on or before 18 months from the date of this permission in accordance with a scheme of work to be first agreed in writing with the local planning authority.

Reason: In the interest of amenity and to safeguard the character and appearance of the area.

4 U11267

The use shall not operate and no machinery or equipment associated with it shall be used on the premises before 07:00 and after 19:30, Mondays - Saturdays or before 09:00 and after 17:00 on Sundays and public holidays.

Reason: To safeguard the living conditions of nearby residents in accordance with the NPPF, C14 and PC4, CP1 Criteria (ii) and (vii)# of the Brentwood Replacement Local Plan.

5 U11268

The proposed boundary treatment including final finishes of paint work as shown on drawing 300_00 shall be implemented and completed within one month of the date of this decision, and retained in perpetuity.

Reason: In order to remove visual clutter and to safeguard the character and appearance of this location within the vicinity of the Brentwood Town Centre Conservation Area, in accordance with the requirements of Chapter 7 and 12 of the NPPF along with policies C14 and CP 1 of the Brentwood Replacement Local Plan.

6 U11269

All machinery and noise producing equipment associated with the car wash activity, including pressure washers and vacuum cleaners etc. shall not be removed from the portacabins whilst the approved use is in operation. This machinery shall only be operated if it is housed within the portacabin and the doors of this portacabin remain closed for whole duration of the function of this equipment.

Reason: In the interests of residential amenity in accordance with paragraph 123 of the NPPF along with PC4 and CP 1 of the Brentwood Replacement Local Plan 2005.

7 U11270

No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light

spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

Reason: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site in accordance with the NPPF and policy CP1 of the Brentwood Replacement Local Plan 2005.

8 U11271

No sound amplifying equipment, loudspeaker, radio/CD player or public address system shall be installed /operated within the site hereby approved.

Reason: In the interests of neighbouring residential amenity in accordance with paragraph 17 of the NPPF and policies CP1 (ii) and (vii) and PC4 of the Brentwood Replacement Local Plan 2005.

9 U11274

No advertisements shall be displayed within the site or on the boundary treatment, without prior permission from the local planning authority.

Reason: To prevent visual clutter in accordance with chapter 7 and 12 of the NPPF and policies CP1, C14 and C16 of the Brentwood Replacement Local Plan.

10 U11361

Any existing connections to the surface water drain shall be disconnected prior to the first use of the site.

Reason: In order to prevent the development from contributing to, or being put at risk from water pollutants, in accordance with chapter 11 of the NPPF and Local Plan Policy PC2.

(Cllr Cloke was not present during this item and therefore did not take part in the vote).

218. 35 Mount Crescent Warley CM14 5DB

Mr Gravan, was present and addressed the committee in objection to the application.

Mr Charles, the Applicant, was also present and addressed the committee in support of the application.

Cllr Mrs Hubbard, Ward Member spoke in objection to the application due to the detrimental impact the proposal may have on the neighbouring property. The depth of the extension and concerns of overbearing presents of the proposed chimney and the overlooking to neighbouring properties by the Juliet Balcony.

Cllr Tee, Ward Member, the over mass of the property and lose of light to neighbouring property under CP1.

Cllr Barrell, Ward Member, expressed his sympathy with the applicant, the property does need re-developing.

A motion was **MOVED** by Cllr Tee and **SECONDED** by Cllr Barrell that the application be refused.

A vote was taken by a show of hands.

FOR: Cllrs Tees, Barrell, Wiles, Cloke, Mrs Murphy, Newberry, Morrissey, Carter, Mynott, Keeble, Trump and McCheyne (12)

AGAINST: (0)

ABSTAIN: (0)

The motion was **CARRIED**. That planning permission is **REFUSED** for the following reasons:

Development size, overlooking of neighbouring property and lost of light.

CP1 - (General Development Criteria) requires development to satisfy a range of criteria covering the following considerations: Character and appearance of the area; Residential amenities; Access; Highway safety; Environmental protection; and the Natural and Historic Environment.

219. Urgent Business

The Chair updated the committee on the report that went to Policy, Resource and Finance Committee 2 November 2015 Policy, it was unanimously agreed to set up a cross party member working group to identify any changes or improvements needed to the Modern Planning Service. It was also agreed that the findings and recommended actions of this review will be reported to the 15 December 2015 Policy, Finance and Resources Committee.

Wynbarns Farm

The minute of the 14th April Planning and Development Committee relating to Wynbarns Farm, 148 Chelmsford Road, Shenfield, inaccurately reflect the decision of the Committee. The implication contained within the minute, that a formal planning condition be applied to this permission, was not the decision of the Committee. The minute should therefore have the reference to conditions removed. The minute will therefore be amended to state the following:-

RESOLVED - to approve this application.

It was **AGREED** that the minutes been amended.

This meeting concluded at 9.23pm.