

DONCASTER METROPOLITAN BOROUGH COUNCIL

LICENSING COMMITTEE

THURSDAY, 17TH JUNE, 2021

A MEETING of the LICENSING COMMITTEE was held at the COUNCIL CHAMBER - CIVIC OFFICE on THURSDAY, 17TH JUNE, 2021, at 10.00 am.

PRESENT:

Chair - Councillor Dave Shaw
Vice-Chair - Councillor Linda Curran

Councillors Nick Allen, Duncan Anderson, Iris Beech, Martin Greenhalgh, John Healy, Charlie Hogarth, David Nevett, Thomas Noon and Ian Pearson.

APOLOGIES:

Apologies for absence were received from Councillors Bev Chapman and Barry Johnson.

1 DECLARATIONS OF INTEREST, IF ANY

There were no declarations of interest made at the meeting.

2 MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 25 JANUARY 2021

RESOLVED that the minutes of the Licensing Committee meeting held on 25th January, 2021, be approved as a correct record.

3 LICENSING ACT 2003, GAMBLING ACT 2005 AND GENERAL LICENSING Update

The Committee considered a report which provided an update on the activities of the Licensing Committee and Sub-Committee during the previous year.

Appendix A of the report provided a summary of statistical information relating to licensing applications and significant enforcement actions taken by the Licensing service during this period.

A revised Hackney Carriage and Private Hire Licensing Policy had come in to effect on 1st April, 2021. The revised Policy moved the responsibility for determining the fit and proper status of applicants and licence holders, who did not meet the minimum standards of the Policy, and any subsequent appeals, away from Officers and towards the Members of the Licensing Committee

RESOLVED to:-

- (1) note that for the period 1st April, 2020 to 31st March, 2021 the following Committees were convened:-
 - Licensing Committee – 5 occasions
 - Licensing Sub-Committee - 8 occasions

A total of 8 applications/notices were determined by the Licensing Sub-Committee, 7 of which were applications made under the Licensing Act 2003 and 1 under the Gambling Act 2005;

- (2) note the Statistical details of all other licence applications (Licensing Act 2003 and Gambling Act 2005) determined by the Authority and a summary of significant licensing enforcement actions, for the period 1st April, 2020 to 31st March, 2021, as attached at Appendix A to the report;
- (3) note that a revised Statement of Policy (Licensing Act 2003) came in to effect on 7th January, 2021; and
- (4) note that a revised Hackney Carriage and Private Hire Licensing Policy came in to effect on 1st April, 2021. The revised Policy moves the responsibility for determining the fit and proper status of applicants and licence holders, who do not meet the minimum standards of the Policy, and any subsequent appeals, away from Officers and towards the Members of the Licensing Committee.

4 PAVEMENT LICENCE - APPLICATION PROCESS, CONDITIONS AND FEE (HIGHWAYS ACT 1980)

The Committee received a report that informed Members of the change in responsibility for the processing and issuing of Pavement Licences which had moved from the Town Centre team to the Licensing team.

The report set out details of an urgent S036 decision taken on 12th April, 2021 by the Director of Economy and Environment, in consultation with the Chair of the Licensing Committee and Cabinet Member for Communities, Voluntary Sector and the Environment, to align the delegations, conditions and processes of Temporary Pavement Licence Applications and applications made under the Highways Act 1980, including the setting of the fee structure. In addition, the report informed Members of a decision taken by the Director of Economy and Environment on 15 March, 2021, aligning the fee structure for Temporary Pavement Licence Applications in accordance with the proposals set out in the Business and Planning Act 2020, and applications made under the Highways Act 1980, to £100 per year, as appended to the report at Appendix B.

The Business and Planning Act 2020 introduced a fast-track application process to allow businesses to obtain permission to place tables and chairs on the highway for use by their customers. The responsibility for processing applications of this type was taken on by the Licensing team. To ensure a consistent approach in considering applications for a Pavement Licence, it was determined that both schemes should be operated by a single team and that the Licensing department were best placed to do this as the majority of applications were expected to be from those businesses which were licensed by the department, to sell alcohol.

Discussion followed, during which Councillor Ian Pearson expressed concerns regarding furniture placed on the highway which created obstacles for Guide Dogs, people who were visually impaired or had limited mobility. He highlighted that objections had been raised both on a national and international level with regard to Pavement Licences legislation in terms of ridged indicators not being in place so that

Guide Dogs could operate safely on pavements, rather than being forced out in to the highway because of badly laid out pavement furniture. He added that the report did not make reference to the fact that the Street Furniture Policy was currently under review because of Guide Dogs not having solid boundaries to navigate around.

Councillor Pearson asked what provision the Council had put in place to take in to account the needs of Guide Dogs visiting the Town. In response, David Smith, Licensing Officer drew Members' attention to the Alfresco Pavement Licencing conditions that had been drawn up in accordance with the provisions of the Highways Act 1980. The Licensing Officer cited 'Condition 6' relating to Barrier height and incorporation of a tapping rail of 150mm and 'Condition 21', which was a national condition and related to access along the highway and clear route of inhibited access along the public highway which had to be maintained at all times, and a clear width of 2000mm, which allowed for two wheelchairs to pass one another comfortably.

Councillor Pearson pointed out that the two metre rule in relation to wheelchairs was out of date as new legislation would be introduced to factor in wheelchairs carrying oxygen cylinders, therefore, the two metre gap was too small. In relation to clear routes of access across the highway, he asked that Officers have regard to how Guide Dogs operate when navigating obstacles. He spoke of some of the modifications that could be made to assist Guide Dogs, the visually impaired and people with limited mobility in navigating the pavement environment, such as raising the height of tap rails and lowering the height of bollards. Councillor Pearson also pointed out that there were numerous companies that produced tactile rubber and plastic matting that were used at various crossing points' to assist people who were visually impaired and people with limited mobility.

The Chair emphasised that the issues raised were not within the remit of the Licensing Committee. However, in noting the decision taken in relation to Temporary Pavement Licences and in light of the comments raised by Councillor Pearson regarding the logistics for Guide Dogs, visually impaired people and people with limited mobility in accessing the pavement environment, and the possibility of introducing tactile ground surface matting, the Chair stated that the issues raised by Councillor Pearson would be discussed with the Highways department.

The Licensing Officer responded to Member questions and it was noted that:-

- Pavement Licenses could only be issued to an area that covered the public highway, or land that has been delegated to the highway
- In relation to private frontages, owners of the property/businesses could put items of furniture and other items on the highway without the Council's permission.
- Businesses would need to obtain permission from the Council to place items of furniture on the highway where it was maintained by the Council where the public have access.
- An applicant applying for a Pavement Licence have to specify the dates and times the Licence would be required to operate, which would be subject to a 28 day consultation period with the Highway Authority.
- Each Pavement Licence application would be assessed on its own merits having regard to the Pavement Licence Policy.

- Businesses were only permitted to use the outside area for consumption of alcohol, where the business was licenced to sell alcohol and alcohol could not be sold beyond the permitted hours

RESOLVED to

- (1) note the approval to align the delegations, conditions and processes of the Temporary Pavement Licence Applications under the Business and Planning Act 2020 Process and the Alfresco Licence Applications under the Highways Act 1980, including the setting of the fee structure, taken by the Director of Economy and Environment, in consultation with the Chair of the Licensing Committee and the Cabinet Member for Communities, Voluntary Sector and the Environment on 12th April, 2021;
- (2) note that the fee for Temporary Pavement Licence Applications under the Business and Planning Act 2020 and applications made under the Highways Act 1980 has been set at £100; and
- (3) note that the determination and granting of Temporary Pavement licences has been delegated to the Assistant Director of Environment and Head of Service for Regulation and Enforcement.

5 TERMS OF REFERENCE, PROCEDURES AND DELEGATIONS

The Committee considered a report that detailed the Terms of Reference for the discharge of its Licensing functions, and sought approval of the procedure to be followed for Licensing hearings, and the delegation of functions. The Committee's approval was also sought to agree the appointment of Members to the Licensing Sub-Committee and the procedure for dealing with appeals.

The Terms of Reference of the Licensing Sub-Committee as set out at Appendix A of the report, had been amended to reflect the wider remit of the Sub-Committee, to consider applications falling outside of the scope of the Gambling Act 2005 and the Licensing Act 2003.

In answer to a question from a Member regarding the requirement for only 3 Members to sit on the Licensing Sub-Committee to consider Taxi Licensing Hearings, the Senior Legal Officer advised that the membership of the Licensing Sub-Committees would be 4 Members and that in accordance with Council Procedure Rules, the quorum of the Licensing Sub-Committee would be no fewer than 3 voting Members of the Licensing Committee.

RESOLVED that

- (1) The Licensing Committee Note:-
 - (a) the Terms of Reference for the Licensing Committee, as detailed in Appendix A to this report;
 - (b) the Terms of Reference for the Licensing Sub-Committees, as detailed in Appendix A;

(2) The Licensing Committee Agree:-

- (a) the procedures set out in Appendices B1 and B2, continue to be the procedures for Licensing Committee and Sub-Committee hearings held under the Licensing Act 2003 and the Gambling Act 2005, respectively;
- (b) to note the Council's Taxi Licensing Policy was recently amended to involve Members in determining Taxi applications where applicants fall below the minimum standards, as set out in the Policy, a role which was previously undertaken by officers. The procedure is set out in the Policy, as shown at Appendix B3;
- (c) the delegation of functions, as set out in Appendix C1, C2 and C3 of the report;
- (d) the appointment of Members to the Licensing Sub-Committee, as set out in Appendix D of the report; and
- (e) the procedure for dealing with settling appeals after the Sub Committee hearing but before the appeal hearing in the Magistrates' Court is decided, as set out in Appendix E of the report.