



Members of the Licensing Committee:–

Councillors R P Lillis (Chairman), D J Westcott (Vice Chairman),
I Aldridge, S Y Goss, I Jones, A J Kingston-James, J Parbrook, R
Thomas, N Thwaites, K H Turner, T Venner

23 June 2017

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OR IN OTHER LANGUAGES ON REQUEST**

Dear Councillor

LICENSING COMMITTEE MEETING

Date: Wednesday 5 July 2017
Time: 4.30 pm
Venue: Council Chamber, Council Offices, Williton

Please note that this meeting may be recorded. At the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

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Therefore unless you advise otherwise, by entering the Council Chamber and speaking during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact Committee Services on 01643 703704.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bruce Lang".

BRUCE LANG
Proper Officer

RISK SCORING MATRIX

Report writers score risks in reports uses the scoring matrix below

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

LICENSING COMMITTEE - AGENDA

Wednesday 5 July 2017 at 4.30 pm

Council Chamber, Williton

1. **Apologies for Absence**

2. **Minutes of the meeting held on 15 March 2017**

Minutes of the Meeting of the Committee held on 15 March 2017 – **SEE ATTACHED** – to be confirmed.

3. **Declarations of Interest**

To receive and record any declarations of interest in respect of any matters included the Agenda for consideration at this Meeting.

4. **Public Participation**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. **Licensing Update Report**

To consider Report No. WSC 73/17. To be presented by John Rendell, Licensing Manager – **SEE ATTACHED**.

The purpose of the report is to provide an update on the activities of the Council's licensing service, changes to legislation, current consultations and other general licensing matters.

6. **Changes to the Licensing Regime of Hackney Carriage and Private Hire Vehicles**

To consider Report No. WSC 74/17. To be presented by Leigh-ann Fumagalli, Licensing Officer – **SEE ATTACHED**.

The purpose of the report is to consider the Hackney Carriage and Private Hire Licensing Regime for vehicles within West Somerset and the recommendation set out in the report with regard to the fixed interval and renewal dates for Hackney Carriage and Private Hire vehicle licences.

7. **Minutes of the meeting of the Licensing Sub-Committee**

Minutes of the meeting of the Licensing Sub-Committee held on 28 February 2017, for information – **SEE ATTACHED.**

8. **Forward Plan**

To review the Licensing Forward Plan 2017/18 – **SEE ATTACHED.**

COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS

The Council's Vision:

To enable people to live, work and prosper in West Somerset

The Council's Corporate Priorities:

- **Local Democracy:**
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.
- **New Nuclear Development at Hinkley Point**
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

LICENSING COMMITTEE

Minutes of the Meeting held on 15 March 2017 at 3.00pm

In The Council Chamber, West Somerset House, Williton

Present:

Councillor R P Lillis Chairman

Councillor I Aldridge
Councillor R Thomas
Councillor K Turner

Councillor S Goss
Councillor N Thwaites
Councillor D Westcott

Officers in Attendance:

Licensing Manager (J Rendell)
Licensing Officer (L Fumagalli-Roberts)
Licensing Officer (F Avis)
Democratic Services Officer (C Rendell)

LEP7 Apologies for Absence

Apologies were received from Councillors Davies, Jones and Parbrook.

LEP8 Minutes of the meeting held on 29 November 2016

(Minutes of the Meeting of the Licensing Committee held on 29 November 2016 – circulated with the Agenda.)

RESOLVED that the Minutes of the Licensing Committee held on 29 November 2016 be noted.

LEP9 Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No.	Member of	Action Taken
Councillor I Aldridge	All	Williton Parish Council	Spoke and voted
Councillor S Goss	All	Stogursey Parish Council	Spoke and voted
Councillor R Thomas	All	Minehead Town Council	Spoke and voted
Councillor N Thwaites	All	Dulverton Town Council	Spoke and voted
Councillor K Turner	All	Brompton Ralph Parish Council	Spoke and voted
Councillor D Westcott	All	Watchet Parish Council	Spoke and voted

LEP10 Public Participation

No members of the public had requested to speak on any item on the agenda.

LEP11 Licensing Update Report

The purpose of the report was to keep the Council's statutory Committee up to date on the activities of the Council's Licensing Service, changes to legislation, current consultations and other general licensing matters.

The Licensing Manager presented the report which contained details of the Licensing Service's activities since the last meeting of the Committee as well as updating Members on the backlog of applications and on the staff appointments that had been made.

A summary of the activity and performance of the Licensing Service since the last meeting of the Committee was as follows:-

- The performance of the Licensing Service was measured against the number of applications that were completed within 14 days of them being determined. The target was 95%.
- This target had been reached between 1 October and 31 December 2016.
- The performance of the service over the last quarter was especially pleasing given the reduction in staffing levels during the period. Since the last Committee meeting, two members of staff had been appointed to the vacant posts.

Members were provided with a comparison of the numbers of applications received for each of the regimes administered by the Licensing Team between October and December and the numbers of licenses in force and notices given as at 27 February 2017.

Further reported that the Department for Environment, Food and Rural Affairs (DEFRA) had announced plans to tighten up dog breeding licensing legislation.

The new rules would mean that smaller establishments and commercial breeders would have to meet strict welfare criteria before receiving a licence. The rules would also be updated and made fit for the modern age with anyone trading commercially in pets online needing to be properly licensed.

It was anticipated that the above changes would coincide with the modernisation of the other animal licensing regimes, concerning riding establishments, pet shops, dangerous wild animals, zoos and animal boarders.

The Policing and Crime Bill had received Royal Assent on Monday 31 January 2017. Within the Act were a number of proposed changes to licensing legislation, specifically the Licensing Act 2003, which regulated alcohol, entertainment and late night refreshment.

There were particular changes which would affect personal alcohol licences. The 2017 Act would allow licensing authorities to suspend or revoke a personal licence where they became aware that the licence holder had been convicted of a relevant offence or was required to pay an immigration penalty.

The list of relevant offences, which already included offences involving alcohol, drugs, violence and psychoactive substances, had been expanded to include the following:-

- Using someone to mind a weapon.
- Manufacturing, importing and the sale of realistic imitation firearms.
- Offences listed under Section 41 of the Counter Terrorism Act 2014, which included encouragement of terrorism, preparation and training for terrorism.
- An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences), which included kidnapping, false imprisonment and threats to kill.

Noted that it had recently been announced that Sections 165 and 167 of the Equality Act 2010 were to be commenced from 1 April 2017.

This would give local authorities the ability to publish lists of 'designated vehicles'; taxis or private hire vehicles that wheelchair users could get into and out of safely and could travel in with reasonable comfort and safety, whether they used a wheelchair or not.

Where local authorities had published lists of designated taxis and private hire vehicles, the drivers of such vehicles then automatically had certain legal duties:-

- To carry the passenger whilst they were in their wheelchair and not make any additional charge for doing so.
- If the passenger chose to sit in a passenger seat, to carry the wheelchair.
- To take such steps as were necessary to ensure that the passenger was carried in safety and reasonable comfort.
- To give the passenger such mobility assistance as was reasonably required, which included helping them to get into and out of the vehicle and loading their luggage.

There was the ability to issue exemption certificates to those drivers who, for medical reasons, could not perform the above mentioned duties.

During the discussion the following points were raised:-

- It was confirmed that the Council dictated the specifications used for the vehicles accepted for Hackney Carriages and private hire use.
- A suggestion was made that other Authorities had a list available for taxi operators to check what vehicles would be accepted before they purchased their fleet. This was not looked at as an option because the specifications were so general and they did not want to exclude any vehicles. There were some small differences in the policies for West Somerset and Taunton Deane, and these would be brought into line over time.
- Concern was raised on the omissions produced by diesel vehicles and it was suggested that a policy should be brought in to restrict taxi operators to only petrol or hybrid vehicles. Some Members were mindful that they did not want to alienate any of the operators in the area, so would need to research the options for lowering omissions.
- Clarification was given to the Committee on the rules for dropping off and picking up fares outside the District the license was issued from.

- Concern was raised on whether the breed of dog was checked prior to a license being granted?
An inspection would be carried out and if an illegal breed was found, the license would not be granted and it would be reported to the Police.
- A query was raised on whether it was the dog, owners or premises that was licensed under the dog breeders section and how was this monitored?
It was the premises that was licensed but the owner would be held responsible. Annual checks would be carried out and the department would also rely upon intelligence from the public.
- Members requested clarification on the term 'to sell'. It was confirmed this was at the point of transaction, when money changed hands, but would need to be after the puppies were eight weeks old.
- Did the Authority issue Temporary Event Notice (TENs) certificates electronically?
All TENs had to be issued on paper and sent to the applicants. They could have an electronic version as well, but had to have a hard copy to display.

RESOLVED that the update report be noted.

LEP12 Licensing Training Presentation

The Licensing Manager presented an update from the Safety Advisory Group (SAG).

The SAG was made up of core members from both District Councils and County Council, the Police, the Fire and Rescue Service and the Ambulance Service. Its primary role was to promote and encourage high standards of public safety and wellbeing at events held in the area and did this by providing event organisers with appropriate advice, sign-posting and guidance at regular meetings.

LEP13 Minutes of the Licensing Sub-Committees

(Minutes of the Meeting of the Licensing Sub-Committee held on 14 December 2016 – circulated with the Agenda.)

RESOLVED that the Minutes of the Licensing Sub-Committee held on 14 December 2016 be noted for information.

LEP14 Forward Plan

The Democratic Services Officer introduced the Licensing Forward Plan to the Committee and requested that any items Members would like to be brought to future meetings be highlighted and would be added to the Forward Plan.

RESOLVED that a Licensing Forward Plan be established and circulated to the Committee Members.

(The meeting closed at 4.25pm.)

Report Number: 73/17

West Somerset Council

Licensing Committee – 5 July 2017

Licensing Update report

This matter is the responsibility of Cabinet Member Keith Turner

Report Author : John Rendell, Licensing Manager

1 Executive Summary

1.1 This report provides an update on the activities of the council's licensing service, changes to legislation, current consultations and other general licensing matters.

2 Recommendations

2.1 That the report be noted.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
If the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.	4	4	16
Demonstrating good governance of the licensing function through presentation of current arrangements and statistics relating to the licensing service.	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

Performance of the service

- 4.1 The performance of the licensing service is measured against the number of applications that are completed within 14 days of them having been determined e.g. a licence is issued after a decision as to whether to grant the licence or not, has been reached. The target for the service is that, for all applications that are completed within a set quarter, 95% must be completed within 14 days of them being determined.
- 4.2 99% of all applications completed between the 1st of January and 31st of March 2017 were completed within the 14 day timescale.

Applications received and licences in force

- 4.3 The numbers of applications received for each of the regimes administered by the licensing service, between January and March 2017, are shown in comparison with those received for the period in the preceding two years at **Appendix A**. The numbers of licenses in force and notices given as of the 20th June 2017 are shown at **Appendix**

B.

Changes to the Licensing Act 2003 as a result of the Immigration Act 2016

4.4 Since the 6th April 2017 all applications after this date for the following licensing act applications require proof of the right to work in the UK to be provided, and this can be done with copies of documents such as passport, national identity cards if EU citizen, residence permits.

- Personal Licence
- Grant of premises licence
- Full variation of premises licence
- Transfer of premises licence
- Interim Authority Notice

4.5 In effect, the Home Office have become a responsible authority and are included in our circulations to all responsible authorities.

4.6 At present, it is not creating significant pressure and once officers have got into the habit, it will not be an issue in respect of time or management.

New guidelines for house to house collections

4.8 The Licensing Service issues permits for House to House Collections which cover collecting money, property, door to door from houses or businesses.

4.9 In March 2017 new guidance has been produced by the Committee of Advertising Practice (CAP) following a review by the Advertising Standards Agency (ASA) into misleading advertising practices by private door-to door collection companies, in particular not making it sufficiently clear the commercial nature of its business. Problems with charitable collections bags issued by commercial companies have included:-

- Giving recipients the misleading impression they are donating directly to a charity when they are not
- Not providing their company name or commercial status on the front of collection bags
- Giving undue prominence to a charity's name and registration number on collection bags
- Not giving their company name equal prominence, where it appears, as the charity's name

4.10 This new guidance provides examples of the type of wording and presentation on collection bags that is in line with the rules

4.11 Upon receipt of these applications they are being checked in accordance with this guidance, prior to a permit being issued.

4.12 You can view the guidance information on line at www.asa.org.uk

5 Links to Corporate Aims / Priorities

5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation, in order to support new and existing businesses and enable cultural and leisure activities, thereby supporting the Council's growth agenda.

6 Finance / Resource Implications

6.1 No finance or resource implications identified.

7 Legal Implications (if any)

7.1 No legal implications identified.

8 Environmental Impact Implications (if any)

8.1 There are no specific environmental impact implications identified as a result of this report.

9 Safeguarding and/or Community Safety Implications (if any)

9.1 The four licensing objectives under the Licensing Act 2003 are:

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

With the addition of securing the welfare of animals, these are the main aims of the Licensing Service. The continued work of the service to achieve and promote these aims, further supports the role of the Council in ensuring community safety.

10 Equality and Diversity Implications (if any)

10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.2 No equality and diversity implications were identified.

11 Social Value Implications (if any)

11.1 No social value implications have been identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications (if any)

14.1 No asset management implications were identified.

15 Consultation Implications (if any)

15.1 No consultation implications were identified.

16 Scrutiny Comments

16.1 There are no scrutiny comments or recommendations.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : Once only Ad-hoc Quarterly

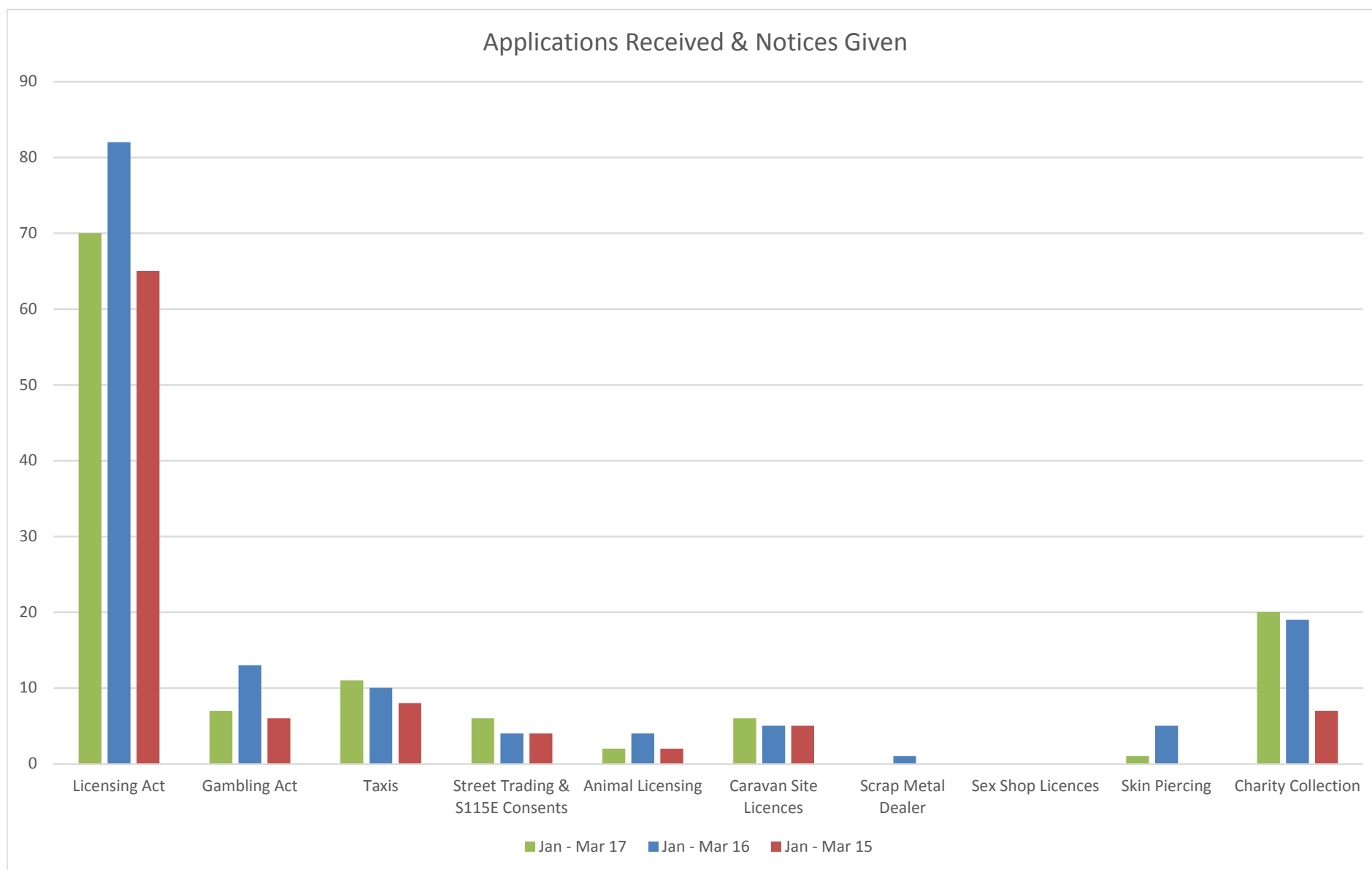
Twice-yearly Annually

List of Appendices

Appendix 1	Applications received and notices given
Appendix 2	Licences issued and notices given

Contact Officers

Name	John Rendell
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Email	j.rendell@tauntondeane.gov.uk



Licences Issued and Notices Given

These figures show the number of licences in force at 20th June 2017 and the number of notices given since commencement of the relevant legislation

Licensing Act 2003 Premises Licences	273
Licensing Act 2003 Club Premises Certificates	22
Licensing Act 2003 Personal Licences	824
Licensing Act 2003 Temporary Event Notices	2700
Gambling Act 2005 Club Machine Permit	8
Gambling Act 2005 Licensed Premises Gaming Machine Permits	3
Gambling Act 2005 Occasional Use Notices	25
Gambling Act 2005 Premises Licences (Adult Gaming Centre)	6
Gambling Act 2005 Prize Gaming Permits	1
Gambling Act 2005 Society Lotteries (since 01/09/2007)	48
Gambling Act 2005 Temporary Use Notices	0
Gambling Act 2005 Unlicensed Family Entertainment Centres	11
Gambling Act 2005 Notification of 2 or less Gaming Machines	32
Hackney Carriages	33
Private Hire Vehicles	18
Hackney Carriage & Private Hire Drivers	61
Private Hire Operators	14
Street Trading Consents	13
Section 115E (Pavement Café) Permits	N/A
Zoo Licences	2
Pet Shop Licences	1
Dog Breeding Licence	0
Animal Boarding Licence	12
Riding Establishment Licences	6
Dangerous Wild Animal Licences	0
Caravan Site Licences	36
Scrap Metal Dealer licence	2
Sex Shop Licences	0
Skin Piercing Registrations	22
Street Collection Permits	484
House to House Collection Permit	361

Report Number: 74/17

West Somerset Council

Licensing Committee – 5 July 2017

Changes to the licensing regime of Hackney Carriage and Private Hire Vehicles

This matter is the responsibility of Executive Councillor Keith Turner

Report Author: Leigh-ann Fumagalli, Licensing Officer

1 Executive Summary

- 1.1 Members are asked to consider the Hackney Carriage and Private Hire Licensing Regime for vehicles within West Somerset and the recommendation set out at section 2 of this report with regard to the fixed interval and renewal dates for Hackney Carriage and Private Hire vehicle licences.

2 Recommendations

Licence Duration

- 2.1 That members approve the proposal to remove the fixed interval and renewal dates for hackney carriage and private hire vehicle licences

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
That those who are granted a licence do not receive the full benefit for which they have applied and paid for, leaving the authority open to legal challenge.	4	4	16

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
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			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
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2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

- 4.1 Hackney carriage and private hire vehicle licences are currently issued for a maximum period of 12 months. Current policy (paragraph 1.8 of the West Somerset Hackney Carriage/Private Hire Regulations) dictates that all Private Hire vehicle licences expire on the 30th of April and the Hackney Carriage licences expire on the 30th of June, regardless of when the application is made or when the decision is taken to grant a licence.
- 4.2 The effects of the above arrangements are substantial peaks in pressure and demand for the service at times that are often busy with other applications; for example Temporary Event Notices for Spring and Summer time events. The demand upon the service at this time has the potential to disrupt the performance of the service which can in turn lead to delays in processing applications.
- 4.3 In addition to the effects on service and performance, under the current arrangements, new applicants rarely receive the full benefit of a one year licence. For example, those that might be granted what should be a one year Hackney Carriage licence in May, will only receive a licence that runs until 30th June. Officers are wary that the current system is liable to legal challenge on the basis that it does not deliver an equal level of service to all customers.

- 4.4 Officers propose that the current arrangement of fixed renewal dates is removed, as per the recommendation at paragraph 2.1 of this report, so that hackney carriage and private hire vehicle licences can be issued for a full year from the date of issue. It is anticipated that, were members to approve this recommendation, there are still likely to be peaks in demand on the service due to the existing patterns of licence expiry dates but that this will lessen naturally over time.

5 Links to Corporate Aims / Priorities

- 5.1 The licensing service is committed to helping businesses and individuals to comply with all relevant legislation and reduce unnecessary burdens in order to support new and existing businesses and enabling cultural and leisure activities, thereby supporting the Council's vision 'to enable people to live, work and prosper in West Somerset'.

6 Finance / Resource Implications

- 6.1 The proposals set out within this report would reduce the demands made on the service, which may in turn reduce costs to the trade through the fees that are levied.

7 Legal Implications

- 7.1 The recommendation at 2.1 of the report, in relation to the duration of hackney carriage and private hire driver licences, reduces the risk of legal challenge against the Council.

8 Environmental Impact Implications

- 8.1 No environmental impact implications were identified.

9 Safeguarding and/or Community Safety Implications

- 9.1 No safeguarding or community safety implications were identified.

10 Equality and Diversity Implications

- 10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance quality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 10.2 No equality and diversity implications have been identified within this report.

11 Social Value Implications

- 11.1 No social value implications were identified.

12 Partnership Implications

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications

14.1 No asset management implications were identified.

15 Consultation Implications

15.1 No consultation implications were identified.

16 Scrutiny Comments / Recommendation(s)

16.1 None.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : Once only Ad-hoc Quarterly
 Twice-yearly Annually

Contact Officers

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West Somerset Council

Minutes of the Licensing Sub-Committee Hearing for a Variation of the Premises License for The Famous Pizza and BBQ House, Holloway Street, Minehead, held on 28 February 2017 at 2:00pm in the Council Chamber, West Somerset House, Killick Way, Williton, TA4 4QA.

Present: Councillor Turner (Chairman)
Councillors Thwaites and Westcott

Officers: Leigh-Ann Fumagalli (Licensing Officer), Alex Kershaw-Moore (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

Applicant: Mr Fatih Guney (Applicant), Ibrahim Songur (Employee) and Liam Warden (Customer).

Interested Parties: Police Constable Joe Sanderson (Responsible Authority – Avon and Somerset Constabulary), Mr L Hill (Interested Party), Mr G Anderson (Interested Party) and Councillor T Venner (Interested Party).

Other: Councillor R Lillis.

(The meeting commenced at 2.00pm)

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced her previously circulated report. An application had been received from **Mr Fatih Guney** for a Variation of the Premises License to be granted for **The Famous Pizza and BBQ House, Holloway Street, Minehead**.

The Applicant was seeking authorisation for the sale of alcohol for consumption on and off the premises, this included the sale of alcohol alongside food deliveries. Following the application being received, the Licensing Department had duly notified Environmental Health and Avon and Somerset Constabulary. Following the notification, objection notices had been received from Avon and Somerset Constabulary and other interested parties.

The current opening hours of the premises as per the license were seven days per week 12.00pm until 3.00am. On the variation application, the applicant was proposing the supply of alcohol for consumption on the premises seven days per week 12.00pm until 12.00am and the supply of alcohol for consumption off the premises for delivery Monday to Thursday 12.00pm until 1.00am and Friday to Sunday 12.00pm until 2.00am.

Detailed in the Officer's report were the four licensing objectives. The Sub-Committee was reminded that the Licensing Policy required the Licensing Authority to carry out its various functions to promote these objectives. These were:-

- The prevention of crime and disorder.
- Public safety.
- The prevention of public nuisance.
- The protection of children from harm.

The objectives would be paramount considerations when determining a course of action in

relation to the Licensing Authority's licensing functions. Each objective would be given equal importance.

The Licensing Officer informed the Sub-Committee that a letter had been sent out to all interested parties which offered the opportunity to mediate and to establish whether any changes could be made to the application in order to negate their objections. At the time the report was written, no interested party had responded and wished to mediate or felt that any changes to the application would help to address their concerns.

The Responsible Authority did not ask any questions following the Licensing Officer's report.

The following question was raised by the Sub-Committee of the Licensing Officer's report (Responses are shown in italics):-

- Clarification on what times alcohol would be sold on the premises at the weekends was requested.
It was confirmed that alcohol would only be sold on site until midnight on the weekends.

The following questions and statements were raised by the Interested Parties of the Licensing Officer's report (Responses are shown in italics):-

- How many letters of objection had you received?
18 letters had been received.
- Was the premises within a Conservation Area?
This was not taken into account when a license was determined.
- Concern was raised that the public's health and wellbeing was not taken into consideration in the report.
Public Health were consulted on this application, however, no response had been received, so the Licensing Officer was not able to submit any feedback within the report.
- The Council had a legal responsibility to promote health and wellbeing and preserve the local Conservation Areas.

The following statement was raised by the Legal Representative to the Sub-Committee:-

- It was noted that as a Council, they had a responsibility to promote health and wellbeing. However, as a Licensing Authority, the Sub-Committee were here today to consider this application and the criteria for this was heavily regulated. The Licensing Act stated as a starting point anyone could sell alcohol 24 hours a day and anyone could sell hot food after 11.00pm. Following on from this it then stated that anyone who wished to do this must operate within the four licensing objectives. Any decision to refuse an application must demonstrate that they would not promote the objectives. Within the Licensing Act there was no mention of health and wellbeing within the licensing objectives.

The Responsible Authority (Avon and Somerset Constabulary) presented their case to the Sub-Committee. The following comments and points were presented in relation to the written objection:-

- Concern was raised that if the variation was granted it would lead to increased crime and disorder, public nuisance and inconvenience to nearby residents, whom the Police were aware had also expressed concerns. Outlined in the report were some incidents that had occurred over the last 12 months in the vicinity of the premises. The Police felt that the numbers of incidents would increase if the premises were licensed to sell alcohol.
- The Police were unable to support an application that could result in street drinking in a designated 'No Drinking' Zone and lead to crime and disorder which they were actively trying to prevent.
- However, the Police had no representations to make regarding off sales being restricted to deliveries only to verified addresses with food orders away from the premises.

- The Police felt that to allow the sale of alcohol up until 2.00am would increase anti-social behaviour in the town to persons who might be already intoxicated and Holloway Street would become a new hotspot for anti-social behaviour within an existing 'hotspot'.
- There was not adequate seating or facilities to serve alcohol within these premises and the assumption was therefore that alcohol would be consumed on the street whilst eating takeaway food.
- The premises bordered the Minehead 'No Drinking' Zone. This zone had been set primarily to assist with the prevention of crime and disorder and anti-social behaviour from street drinkers.
- At present, no takeaway food premises within the town centre had a license to sell alcohol and if the variation was granted, this could lead to other takeaway premises applying to sell alcohol.. The Police felt that this would change the characteristics of the area and be detrimental to the town and its residents.
- If the Sub-Committee decided to grant the sale of alcohol in respect of deliveries only, the Police requested that several worded conditions were attached to the license. These conditions were included in their report.

The Licensing Authority did not ask any questions of the Responsible Authority following the presentation of their case.

The Applicant did not ask any questions of the Responsible Authority following the presentation of their case.

The following questions and statements were raised by the Sub-Committee of the Responsible Authority (Responses are shown in italics):-

- The Police stated that they did not object to deliveries of alcohol but had requested that conditions were placed on this. Please could this be explained?
The reason they did not object to the deliveries was that they could request some conditions to be added to make deliveries manageable.
- Were the 'No Drinking' Zones due to be increased?
Yes, the area was to be expanded to cover the whole of Minehead within the Public Space and Protection Order.
- Concerns were raised about the alcohol sold on the premises.
The Police considered that they would be able to manage the situation for deliveries but were concerned that Security Industry Authority (SIA) staff did not work all the time and the other staff would not be able to manage the drunk and disorderly customers.
- Was it normal for premises to have SIA staff on duty all day?
This was not a usual occurrence. There were certain occasions that SIA staff would be employed to work all day. Because this was a food establishment, it did not have the facilities to manage the drunk and disorderly, so would require SIA staff to be on site.
- The Police shift pattern was requested.
The shifts that covered the West Somerset Area were given.

The following questions and statements were raised by the Interested Parties of the Responsible Authority (Responses are shown in italics):-

- Queried whether there were any other establishments within West Somerset or Taunton Deane that had this type of license granted. However, it was declared that this was not relevant and that the Sub-Committee had to focus on this application.
- Concern was raised that some crimes were not dealt with due to staffing issues within the Police shift pattern.
This could be an issue at times but crime would still be recorded.
- The Interested Parties did not mind the sale of alcohol for deliveries as long as they were monitored.

The Police could not monitor this. They would rely upon public intelligence and reports of breach of license.

- Concern was raised that children could 'phone up' and order delivery of alcohol. *Employees would need to be trained in the 'Challenge 25' Policy and request identification before supplying the alcohol upon delivery.*

The following questions and statements were raised by the Legal Representative to the Sub-Committee of the Responsible Authority (Responses are shown in italics):-

- Requested clarification that the Police would not support on site sales but would support delivery to addresses and not takeaways. *Yes that was correct.*
- It was confirmed that the Licensing Act required license holders to take responsibility for the sales that were undertaken, hence why conditions were added to a license. It was the responsibility of the license holder to accept they needed the conditions and to comply with them. The Licensing Enforcement Team, in conjunction with the Police, had the power to investigate and monitor premises. If the license holder was not compliant with their conditions, they risked losing their license.

The following comments and points were presented by the Interested Parties in relation to their written objections:-

- It was highlighted that the original letter of objection was drafted by a solicitor on behalf of the local residents to ensure that the licensing objectives were covered.
- The local residents expressed support for the Police.
- Concern was raised about the size of the premises and the lack of public toilets. This meant that customers urinated in the alleyway along the road.
- Concern was raised that customers would gather in the street which would lead to noise nuisance.
- Further concern was noted that the Applicant had placed a gas brazier on the pavement at night which blocked the pavement so residents had to walk along the road.
- It was noted that rubbish was already an issue in the area due to business waste which was left out on the pavement. It was predicted that this would only worsen if the sale of alcohol was granted.
- Consideration needed to be given to possible further anti-social behaviour issues. There was already a high amount of anti-social behaviour in Holloway Street.
- Concern was raised that there was no CCTV in the area to help monitor these issues.
- There were numerous flats and houses in the area that were classed as 'sheltered housing' that accommodated young adults with learning difficulties and severe disabilities. These tenants were often subjected to abuse by drunken members of the public.
- Vehicles parked in the area were targeted by vandals. Concern was raised that this might become worse.
- The Interested Parties queried how the Applicant would ensure that identification would be checked correctly and that the 'Challenge 25' Policy was adhered to.
- They did not understand why the Applicant needed to apply to sell alcohol during times that other licensed establishments were open.
- Several letters of objection had been received by the local Councillor.
- Concern was raised that if this license was granted, other premises in the town could apply for similar conditions. This would affect the local area and residents' health and wellbeing.

The following statement was raised by the Applicant of the Interested Parties (Responses are shown in italics):-

- The Applicant did not believe that the Interested Parties lived in Holloway Street. He said they only operated their businesses along the road.
The Applicant was handed a copy of the agenda which included the list of the Interested Parties and their addresses.

The following question was raised by the Sub-Committee of the Interested Parties (Responses are shown in italics):-

- Did the local representatives live along Holloway Street and were they aware of noise nuisance caused by the premises until 3.00am?
At present it was limited due to the premises restricted to food sales only. However, there were issues that had been reported.

The following question was raised by the Legal Representative for the Sub-Committee of the Interested Parties (Responses are shown in italics):-

- Requested clarification on where the gas brazier was placed.

The following comments and points were presented by the Applicant in relation to their written application:-

- The Applicant had applied for the license because customers had asked for alcohol when they had placed their order for their food and he had thought it would be a good idea.
- He was aware that a couple of the local residents who had objected to the application were owners of business premises in the area who sold alcohol.
- The Applicant had received several complaints from the neighbours since he had opened the premises even though he had adhered to the conditions on his license.
- The Applicant confirmed that when orders were placed for deliveries, identification would be requested upon arrival to prove a customer was over 18 years old. This was also the case for sales at the premises.
- The Applicant hoped that the Sub-Committee would support them in their application.

The following statement was made by the Interested Parties of the Applicant following presentation of their report: (Responses are shown in italics):-

- The other licensed premises in the area were public houses and restaurants. These had toilets and facilities to support the sale of alcohol.
The premises had CCTV installed to monitor customers and also had toilets available to use. The staff would ask customers for identification for proof of age. They also cleaned the outside area of the premises every night to help keep the area tidy.

The following questions were asked by the Sub-Committee of the Applicant following presentation of their report: (Responses are shown in italics):-

- Would the Applicant mark on the floor plan of the premises where the toilets were situated.
The Applicant marked the areas where the toilets were located. These were either accessed through the kitchen or by the side door which led up to the accommodation above the premises.
- There was not any direct access to the toilets. This should not be via the kitchen or accommodation.
- Concern was raised that there were only 10 seats inside the premises. What would happen when these were all taken?
That situation had never occurred. Normally only 6-8 customers were ever in the premises at the same time.
- How would the Applicant prevent customers taking the alcohol with them when they exited the premises?
He would issue the alcohol in plastic cups and the SIA staff would not allow customers to take alcohol with them. They also had CCTV installed which would be used.

- What would happen when photographic identification was refused?
Would not sell alcohol unless identification was provided.

The following questions were asked by the Responsible Authority of the Applicant following presentation of their report: (Responses are shown in italics):-

- How would the Applicant prevent alcohol leaving the premises if SIA staff were not present?
The Applicant would employ the SIA staff to work earlier or all day if needed.

The following questions were asked by the Legal Representative for the Sub-Committee of the Applicant following presentation of their report: (Responses are shown in italics):-

- The facilities were not suitable for use. Yes, the Applicant had toilets on site but they were not accessible.
The Applicant did not want his customers to urinate out in the streets so he allowed them access to his private toilets.
- The Sub-Committee was reminded that on the current license two SIA staff were required on duty on the weekends from midnight onwards.
- Concern was raised that the Applicant had not addressed all the issues that had been raised. Queried how he was going to manage these?
The Applicant would provide staff training on the 'Challenge 25' Policy and other regulations on the sale of alcohol. He would supply plastic cups for the alcohol to be sold in. He would also send additional staff on SIA training.
- The Legal Representative queried if the Applicant had to choose between onsite sales or deliveries, would he?
No.

Closing Statements

The Licensing Authority, Responsible Authority and Interested Parties did not have any further comments to be made to the Members of the Sub-Committee.

The Applicant made a brief closing statement to the Members of the Sub-Committee:-

- The Applicant reiterated that he would adhere to the conditions on his license if this application was granted.

The Sub-Committee Members retired at 3.35pm.

The Sub-Committee Members returned at 4.30pm

The Sub-Committee Decision

The Legal Representative of the Sub-Committee read out the following decision:-

This was an application by Fatih Guney for a variation to the Premises Licence in respect of Famous Pizza and BBQ House, 1 Holloway Street, Minehead Somerset TA24 5NP as described briefly in the application form and as set out in the Operating Schedule.

The current variation application sought to authorise the sale of alcohol, both on and off the premises seven days a week between 12:00pm and 1.00am from Mondays to Thursdays and between 12:00pm and 2:00am Fridays to Sundays. No other licensable activities had been applied for and in all other respects the licence remained as granted in June 2016. In his operating schedule the Applicant stated that "on sale of alcohol would cease at 00:00" and that alcohol sales would be limited to those who purchased food with a minimum order value of

£10.00. From these the Licensing Authority had inferred that the timings for sale of alcohol after midnight would be for consumption off the premises only.

Representations were made by Avon and Somerset Constabulary on the grounds of a detrimental impact on the crime and disorder and public nuisance objectives. These representations appeared to focus on the likely impact of the sale of alcohol to customers at the premises and, in particular, sales to customers for consumption off the premises. The Police did state that they “had no representations to make regarding off sales being restricted to deliveries only” but requested that certain conditions be imposed to govern such sales.

The Licensing Authority had received representations from various local residents and businesses, and the Ward Member, as Other Persons objecting to the grant of the Licence on the grounds of noise and issues with anti-social behaviour in Minehead.

No representations were received from Environmental Health, or any other Responsible Authority.

The Licensing Sub-Committee had heard and taken into account the oral representations from:-

- Leigh-Ann Fumagalli, Licensing Officer for West Somerset Council;
- PC Joe Sanderson, Avon and Somerset Constabulary;
- Mr F Gurney, the Applicant; Ibrahim Songur, an employee; and Liam Warden a customer on behalf of the Applicant;
- Mr G Anderson and Mr L Hill, Interested Parties representing local residents and businesses; and
- Councillor Terry Venner, Ward Member.

The Sub-Committee was informed that the remaining Other Persons who made representations were not able to attend the hearing and therefore the written representations of those persons were noted.

In its decision making process the Sub-Committee had addressed by way of procedural matters:-

1. The Licensing Act 2003;
2. The Statutory Guidance issued under Section 182 of the Licensing Act 2003 (amended in October 2012);
3. The powers of the Licensing Authority to deal with this application contained within Section 18 of the Licensing Act 2003;
4. The obligation to promote the four licensing objectives as set out in Section 4(2) of the 2003 Act; and
5. The Council’s Statement of Licensing Policy referred to in the Licensing Officer’s report as amended by the Police Reform and Social Responsibility Act 2011.

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, and accordingly focused its decision making on the likely effect of the grant of the application on the promotion of those objectives.

The Sub-Committee noted that the objection from the Police stated that permitting the sale of alcohol from the premises would increase anti-social behaviour “in the town” with the fear that Holloway Street might become a new “hotspot” in an already troublesome area. The Police referred to the Designated Public Places Order which was in place for the centre of Minehead although this did not include the location of the premises. It was understood that a new Order being brought into force under anti-social legislation would include Holloway Street and make the whole of Minehead centre “a No-Drinking Zone” though this was not currently in effect.

The Police objected to sales at the premises, other than for the purposes of delivery, on the basis that the premises had insufficient facilities to make such sales manageable. The current nuisance and anti-social behaviour in the area was well documented and the Police did not believe that either the premises or the current management was adequate to negate detrimental impacts on the licensing objectives. They noted that there was an impact for sales by delivery but believed that the conditions they proposed would make that impact manageable. It was noted that the majority of the conditions proposed were identical or similar to those offered by the Applicant.

The representations from Other Persons were made by various residents and businesses who lived and operated near the premises. The residents referred to the street being mostly residential and raised concerns about noise and intoxicated people being drawn to the area. Particular issues highlighted related to people loitering in the street around the premises late at night, an increase in litter and particularly broken glass, an impact on infants, young children and vulnerable adults who lived in the vicinity and the lack of toilet facilities. Since the premises re-opened last June incidents of litter in the vicinity were cited and the premises were a point of congregation for people coming out of Minehead. Holloway Street was a small, narrow residential street and was not suitable for the location of such a late-night premises selling alcohol. The Other Persons present did not believe that sales for delivery would be suitable either, as it would rely on self-monitoring by the Applicant and they were not confident that this would be properly managed.

It was accepted procedure in licensing decisions, that in order for a conclusion that a premises was not promoting the licensing objectives, evidence had to be present of incidents of crime, disorder, public nuisance etc. that particularly related to or arose from that premises. Matters such as the character of a location or the impact on other businesses were not relevant questions for the Sub-Committee to consider and therefore such comments had been disregarded.

The Sub-Committee was aware that there were issues of public nuisance and crime and disorder within the centre of Minehead but in order to refuse this application it must be satisfied that this particular application would have a detrimental impact upon the licensing objectives. It must be noted that a Premises Licence Holder should not be held responsible for anti-social behaviour of people who were not in the immediate vicinity of his premises.

The Applicant stated that he wished to provide alcohol because his customers had asked for it. His intentions were to provide alcohol with food to people who were taking meals at the premises until midnight. Thereafter he wished to be able to provide alcohol to people who were requesting orders for delivery. The Sub-Committee noted that he had offered a condition which prevented people from leaving the premises with open containers of alcohol and that he was willing to employ door staff to ensure that this condition was complied with. It was noted that his licence currently required him to have two SIA door staff at the premises on Friday and Saturday night from midnight. When asked by the Police representative how he would deal with needing to prevent people from leaving with alcohol earlier in the day, the Applicant had replied that they would rely on their CCTV and get extra security but could not provide any details. He also stated that he would provide alcohol in plastic glasses.

In response to questions the Applicant stated that three customer toilets could be provided but that these had not been requested by customers as yet. It was noted that the location of such toilets would be at the back of the premises, upstairs in residential accommodation and in a cupboard in the kitchen. The Applicant said that something would be sorted out if the licence was granted but could not provide any details.

The Sub-Committee was very concerned that the Applicant could not provide any indication that they were aware of the current issues which related to noise, litter and anti-social behaviour. There did not appear to be any plan in place for how to deal with the additional services that they were seeking to offer. Whilst the Sub-Committee accepted that, with the current level of seating provided, there was no legal duty on the Applicant to provide customer toilets, it was concerned that little thought could be demonstrated showing how facilities were likely to be provided. In addition whilst the Sub-Committee was fully aware that the Applicant and the premises were not responsible for the behaviour of people in Minehead late at night as a whole, they were concerned that little consideration appeared to have been given to how the premises – and the sale of alcohol in particular – might be a contributory factor to that behaviour or what should be done to address it.

On the evidence before it the Sub-Committee believed that the granting of the licence to permit on-sales of alcohol until midnight and off-sales (including through delivery) until 1.00am Monday-Thursday and 2:00am Friday-Sunday would have a detrimental impact on the licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance.

Although the Sub-Committee noted that conditions had been offered to manage off-sales through delivery and the Police had confirmed that these conditions would mitigate the impact of such sales on the licensing objectives, the Sub-Committee had significant concerns that the Applicant had not demonstrated an adequate understanding of the issues surrounding the late-night economy in Minehead. The Sub-Committee considered that any sales of alcohol from this premises, given that lack of understanding, was likely to undermine the licensing objectives and must therefore be refused.

All parties were reminded that there were rights of appeal against this the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the Authority's decision.

In the meantime the Premises Licence as granted in June 2016 would continue to have effect. All parties were reminded of the procedures contained within the Licensing Act 2003 relating to review of the Premises Licence. This provision permitted nearby residents, businesses or responsible authorities to apply for a review of a Premises Licence where problems with crime and disorder, public safety, public nuisance or the protection of children from harm were occurring.

The Chairman declared the meeting closed.

(The meeting closed at 4.40pm)

AGENDA ITEM 8

West Somerset Council - Licensing Committee – Forward Plan 2017

Meeting	DRAFT AGENDA ITEMS	LEAD OFFICER
5 July 2017	Licensing Update Report Update on Taxi Policies Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell Leigh-ann Fumagalli
28 November 2017	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell
14 March 2018	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell
	Licensing Update Report Sub-Committees – Minutes, Appeal Information Forward Plan	John Rendell