

LICENSING COMMITTEE

Minutes of the Meeting held on 26 November 2013 at 4.30 pm

Present:

Councillor D J Sanders Chairman
Councillor A P Hadley Vice Chairman

Councillor S Y Goss
Councillor R P Lillis
Councillor L W Smith

Councillor P N Grierson
Councillor E May
Councillor D J Westcott

Also in Attendance:

Councillor G S Dowding

Officers in Attendance:

Corporate Manager Housing, Welfare and Economy (I Timms)
Environmental Health and Licensing Manager (E Lake)
Licensing Officer (N Sambells)
Community Safety Officer (P Hughes) (LEP11 only)
Mendip Legal Representative (A Kershaw-Moore)
Meeting Administrator (H Dobson)

LEP7 Apologies for Absence

Apologies for absence were received from Councillor H J W Davies, M O A Dewdney.

LEP8 Minutes

(Minutes of the Meeting of the Licensing Committee held on 23 July 2013 – circulated with the Agenda).

RESOLVED that the Minutes of the Scrutiny Committee held on 23 July 2013, be confirmed as a correct record.

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.	Description of Interest	Personal or Prejudicial or Disclosable Pecuniary	Action Taken
Councillor S Goss	All Items	Stogursey	Personal	Spoke and voted
Councillor L W Smith	All Items	Minehead (South)	Personal	Spoke and voted
Councillor D J Westcott	All Items	Watchet	Personal	Spoke and voted

In addition:

Councillor A P Hadley declared a prejudicial interest relating to LEP11, Minimum Standards in Licensed Premises, he owned a licensed premises, he left the chamber for this item;

Councillor A P Hadley declared a personal interest relating to LEP12, Update on the Review of Statement of Licensing Policy and the Scrap Metal Dealers Act, he owned a licensed premises, he spoke and voted.

LEP10 Public Participation

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

LEP11 Report on Hackney Carriage/Private Hire Regulations

(Report No. WSC 156/13, circulated with the Agenda).

The purpose of the report was to discuss and determine the approach to a complaint received from a private hire operator regarding a proposal to purchase a vehicle that does not comply with West Somerset Council Hackney Carriage/Private Hire Regulations.

At this point and following legal advice regarding that part of the report that requested the Licensing Committee to consider an exemption from the West Somerset Council Hackney Carriage/Private Hire Regulations the Committee was adjourned and a Licensing Panel formed in order to consider the exemption.

The minutes to the Licensing Panel are attached as Appendix A to these minutes.

The Corporate Manager presented the report and set out the details in the report that led to the complaint.

The Legal Advisor advised of the options open to the Committee and asked them to consider the most reasonable course of action given that an error was made by the Council. To grant an exemption to the regulations there must be exceptional circumstances and she advised that members should also consider whether the current regulations were effective.

During the course of the debate the following points were raised:

- Concern that the construction of vehicles regarding access had changed since the approval of the regulations.
- Concern that the applicant be aware of the Council's regulations.
- Members suggested that the regulations regarding access and egress be reviewed by the Licensing Committee.

The Corporate Manager confirmed that a letter would be sent to the applicant who had been reissued a licence in error setting out the Council's regulations and the requirement that future models must comply with regulations at the time of renewal.

The Committee reconvened to consider the remainder of the report relating to the complaint, and the remaining items on the agenda.

RESOLVED (1) that the Corporate Manager be authorised to renew the exemption on the vehicle, Mitsubishi Grandis Equippe, as set out in 5.5 of the report and attached to the agenda, and that a letter be sent to the applicant setting out the Council's regulations and the requirement that future models must comply with regulations at the time of renewal.

RESOLVED (2) that the West Somerset Council Hackney Carriage/Private Hire Regulations 3.14 and 6.7 be reviewed at an appropriate Licensing Committee meeting in the future.

LEP12 CCTV Minimum Standards in Licensed Premises

(Report No. WSC 156/13, circulated with the Agenda).

The purpose of the report was to seek approval by the Licensing Committee to adopt a set of minimum standards for CCTV within any premises that are subject to an application for anew or amended premises licence.

Councillor A P Hadley left the Council Chamber for this item.

The Community Safety Officer presented the report and advised that adoption of the minimum standards would require pubs and clubs where there is a new application and/or where considerable changes to the layout of the premises is to be undertaken to install CCTV that is of sufficient quality to assist the police. CCTV would also benefit the owner of the premises. The guidance, attached as the Appendix to the report, was produced by the police service.

During the course of the debate the following points were raised:

- Praise for the CCTV minimum standards which promoted both protection of life and property.
- Confirmation that it was for the Licensing Committee to consider how the minimum standards should be implemented.
- Concern that in rural locations where public houses were not well patronised and there was a need to make changes the cost could be detrimental to the business. It was proposed that an additional recommendation be included giving appropriate consideration to relevant businesses in rural areas.

RESOLVED (1) that the minimum standards for CCTV in licensed premises that are subject to an application for a new or an amended premises licence, as set out in the Appendix and attached to the report, be adopted.

RESOLVED (2) that the CCTV Minimum Standards be applied at the discretion of the Group Manager for Housing, Welfare and Economy and special consideration be given to rural public houses where there are no specific issues.

LEP13 Update on the Review of Statement of Licensing Policy and the Scrap Metal Dealers Act

(Report No. WSC 155/13, circulated with the Agenda.)

The purpose of the report was to update members on the review of the Statement of Licensing Policy 2011-2014; the implementation of the Scrap Metal Dealers Act

2013 and associated fees; and the current working arrangements in the Licensing Team and management of the workload.

The Environmental Health and Licensing Manager presented the report and advised of the requirement to review the Council's Statement of Licensing Policy every three years. To date three comments had been received from local businesses in response to the consultation and it was envisaged that the working group would meet in the new year once the consultation process was complete to discuss the responses.

The fee as stipulated in the Scrap Metal Dealers Act 2013, would cover the costs of administration, the granting of a three year license and an annual inspection; it would not cover the cost of enforcement action.

In response to questions the Committee were advised that the fees were higher than other authorities due to the fact that to date the Council had received only three applications from existing scrap metal and motor salvage operators. In effect the three applicants would bear a higher percentage of the cost than other areas where there were more applicants. The fee of 755.00 was agreed informally and it was at the discretion of the Committee should they wish to amend it.

RESOLVED (1) that the progress of the consultation with regard to the review of the statement of licensing policy and the draft WSC Statement of Licensing Policy 2014-2018, attached as Appendix 1 to the agenda, be noted;

RESOLVED (2) that the recent introduction of legislation associated with scrap metal and motor salvage specifically the introduction of the Scrap Metal Dealers Act 2013 and the introduction of a 3 year fee for site operators and mobile collectors within West Somerset, be noted;

RESOLVED (3) that the Scrap Metal Dealers Act briefing, attached as Appendix 2 to the agenda, be noted;

RESOLVED (4) that the authority makes a Basic Disclosure Certificate a requirement of a scrap metal dealer licence application, be approved;

RESOLVED (5) that the current working arrangements within the Environmental Health and Licensing team and the workload tables in Appendix 3 attached to the agenda, be noted.

The meeting closed at 5.58 pm.

APPENDIX A

WEST SOMERSET DISTRICT COUNCIL

Minutes of the meeting of the Licensing Panel held on 26 November 2013 in the Council Chamber, Council Offices, Williton, commencing at 4.40 pm.

PRESENT: Councillors D J Sanders, A P Hadley and D J Westcott

OFFICERS IN ATTENDANCE: Alex Kershaw-Moore, Legal Advisor
Ian Timms, Corporate Manager Housing, Welfare and Economy
Erica Lake, Environmental Health and Licensing Manager
Nicola Sambells, Licensing Officer
Helen Dobson, Meeting Administrator

ALSO PRESENT: Andrew Virgin, applicant

MEMBERS IN ATTENDANCE: Councillor G S Dowding, Observer
Councillor S Y Goss, Observer
Councillor P N Grierson, Observer
Councillor R P Lillis, Observer
Councillor E May, Observer
Councillor L W Smith, Observer

L4 Election of Chairman

RESOLVED that Councillor D J Sanders be elected Chairman for the Panel.

L5 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	Description of Interest	Personal/Prejudicial	Action Taken
Cllr D J Westcott	All	Watchet	Personal	Spoke and voted

L6 Exemption from Regulation 3.14 of the West Somerset Council Hackney Carriage/Private Hire Regulations

(Report No. WSC 156/13, circulated as part of the Licensing Committee Agenda.)

The purpose of the report was discuss and determine the approach to a complaint received from a private hire operator regarding a proposal to purchase a vehicle that does not comply with West Somerset Council Hackney Carriage/Private Hire Regulations.

At this point the Panel left the Chamber to view the Hyundai i800 vehicle, parked outside the building. The applicant proposed to purchase this model should the exemption be successful.

On returning to the meeting the Corporate Manager presented the report and requested that the Panel consider the request for an exemption relating to the Hyundai i800 model. He reminded the Panel that the vehicle just viewed did not

comply with item 3.14 of the Council's regulations relating to vehicles with a third row of seats and that easy escape from an emergency situation may prove difficult. Further, the vehicle did not comply with Regulation 6.7, relating to sufficient safe and easy access and egress from the vehicle. However, in his opinion he believed that as Private Hire vehicles were used by pre-booked customers they were likely to know the driver and his vehicle.

In response to a question the Corporate Manager confirmed that the exemption applied for was for a Private Hire vehicle.

Evidence

The applicant made a statement to the effect that the only vehicles of the size he required that complied with the Council's regulations had temporary fold down seats. Much of his work entailed long distance trips to airports etc. His customers wanted to travel in comfort and be forward facing. The vehicle just viewed by the Panel would be, in his opinion, very suitable for such journeys. However, he confirmed that he would consider other vehicles if necessary.

The Legal Advisor advised the Panel that they were here to consider this application and not to be concerned about previous circumstances. She reminded the Panel of the Council's regulations and that the Panel were able to grant an exemption, explaining that in effect the Council would not take enforcement action against a non-compliant vehicle. She asked the Panel to consider carefully what it was about this application that it should be given different treatment to other vehicles in the district. Lastly, she asked that should the Panel grant the exemption they must be satisfied that the information provided by the applicant was sufficient to warrant an exemption.

Findings

The Panel were mindful of the fact that the Regulations have been adopted by the Council and apply to all vehicles, operators and drivers operating within the District of West Somerset. The Council has power to offer exemptions to operators and drivers where exceptional circumstances exist to warrant the grant of such an exemption. The Panel were further aware that an exemption is not an authorisation in its own right but purely an undertaking that the Council will not exercise its enforcement powers against non-compliance with the Regulations.

At the hearing today, the Licensing Panel looked at the request for exemption, inspected the type of vehicle proposed, and have agreed to grant an exemption from the Council's Private Hire Regulation 3.14 for a Hyundai i800 vehicle proposed to be purchased. Mr Virgin will be required to inform the Council's Licensing Team of the details and identification of the vehicle at the time when it is purchased. Failure to provide this information will mean that the exemption does not take effect.

The reasons for the decision are that the Panel have considered all matters including the amount of long-distance travelling and the comfort of persons undertaking those type of journeys with Mr Virgin's company. The Panel considered the safety implications but, having considered the type of vehicle proposed, decided that it was fair and equitable to grant the exemption and that safety of passengers would not be compromised.

Mr Virgin is reminded that in all other respects the Council's Regulations continue to apply and will apply to all vehicles purchased and used as private hire vehicles.

The exemption will take effect upon receipt of the vehicle identity information by the Council and will last until such time as the vehicle is replaced, reaches the age of 5 years old, or ceases to be a licensed vehicle in your name.

As an advisory note, please be informed that any future vehicles brought to the Council for licensing under either Private Hire/Hackney Carriage Regulations will be required to comply fully at the time of application.

You have the right to appeal to the Magistrates Court against this decision within 21 days of receipt of this notification.

The meeting closed at 5.10 pm.