

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING COMMITTEE**

### **MINUTES OF THE MEETING OF 24<sup>TH</sup> MAY 2010**

Present:- **Councillors:** Tim Ball, John Bull, Gabriel Batt, Tony Clarke, Gerry Curran, Steve Hedges, Carol Paradise, Tim Warren (Chairman), Gordon Wood

Also in attendance: Andrew Jones (Environmental Monitoring and Licensing Manager), Francesca Smith (Senior Legal Adviser)

#### **1 EMERGENCY EVACUATION PROCEDURE**

The Clerk read out the procedure.

#### **2 ELECTION OF VICE-CHAIR**

**RESOLVED** that a Vice-Chair was not required on this occasion.

#### **3 APOLOGIES FOR ABSENCE AND SUBSTITUTION**

Apologies were received from Cllrs Bryan Chalker, Malcolm Lees, and Richard Maybury. Cllr Gordon Wood substituted for Cllr Lees.

#### **4 DECLARATIONS OF INTEREST**

There were none.

#### **5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

#### **6 ITEMS FROM THE PUBLIC – TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

#### **7 MINUTES: 13<sup>TH</sup> OCTOBER 2009**

These were approved as a correct record and signed by the Chairman.

#### **8 LICENSING ACT 2003 – REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY**

The Environmental Monitoring and Licensing Manager presented the report. He said that the Council was required by the Licensing Act 2003 to prepare and publish a Statement of Licensing Policy and to review it every three years. The current policy was last reviewed in 2008 and would need to be reviewed again by 5<sup>th</sup> January 2011. The Act required the Council to consult specified persons before it determined its policy; these were listed in paragraph 5.3 of the report. A consultation exercise would commence shortly. He invited the Committee to comment on the proposed Statement, which was attached at Appendix A to the report.

A Member was concerned about the omission of Ward Councillors from the list of consultees contained in paragraph 5.3 of the report. The Environmental and Licensing Manager replied that the paragraph merely reproduced the relevant provision of the Licensing Act 2003. After discussion it was agreed that the list of

consultees in paragraph 7.1 of the Statement would be expanded to include Ward Councillors and Town and Parish Councils.

Members discussed the assertion in paragraph 19.4 of the Statement *“that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises.”* The Environmental Monitoring and Licensing Manager said that problems caused by people drinking in the street were for the police to deal with. The Senior Legal Adviser agreed that the maintenance of order in the streets was the responsibility of the Police and the Street Marshals Scheme could also contribute. However conditions could be attached to premises licences to further the licensing objectives by, for example, controlling the entrance and egress of customers, or forbidding the taking of open containers of drink into the street. The Council had also made a designated public place order forbidding drinking in public within a defined area.

A Member was concerned that many people were unable to afford the prices charged by city centre premises and suggested that paragraphs 1.2-1.6 of the Statement, by referring, for example, to “bistros”, gave an impression of elitism and exclusivity. He also believed that local residents should be mentioned as well as the “needs of the local tourist economy”. Members agreed that a reference to local residents should be added to the text. With regard to the first point, Members acknowledged that the Council could not control the type of premises applying for licences or the prices they charged. It was agreed, however, that “all income groups” should be added to “people of all ages and social groups” in paragraph 1.4.

A Member asked about the second bullet point in paragraph 16.3 *“Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent”*. The Environmental Monitoring and Licensing Manager replied that, in 2007, Councillors had been involved in identifying whether there was a need for a cumulative impact policy. He stated that there had to be evidence to justify adopting and continuing such a policy. When the first cumulative impact policy had been formulated, the Police had provided a map showing crime and disorder hotspots in the city centre and the Primary Care Trust (PCT) had provided data. It was possible that the hotspots had moved and that the cumulative impact area needed to be redrawn. The Police and PCT would be asked to supply updated information.

A Member suggested that an outsider would be surprised by paragraph 1.3: *“In partnership with other agencies and interested parties, the Council/Licensing Authority seeks to develop the area with a view to increasing the number of establishments, including coffee shops and bistros, which are open and available to the public in the evening.”* This might be true in relation to the whole of Bath and North East Somerset, but he thought that the Council ought not to be saying that it wished to increase the number of licensed premises in the cumulative impact area. He suggested that the “area” needed to be clarified. The Environmental and Licensing Manager replied that there was no evidence that the cumulative impact policy had actually deterred people from opening licensed premises in the cumulative impact area. The wording in the Statement reflected the fact that each of the three town centre managers in B&NES had a vision for the economic development of their towns. A Member suggested that the Statement should say that the Council wished to see more premises which sold alternatives to alcohol.

A Member asked about the role of the Fire Authority. The Environmental Monitoring and Licensing Manager said that they were statutory consultees in relation to the

Statement, they provided advice to the Council, and participated in multi-agency visits to licensed premises. The Senior Legal Adviser said that, following the introduction of a new Order, each premises had to carry out its own risk assessment, which had to be approved by the fire authority. Because of this they now made very few representations to licence applications.

Members congratulated officers for producing a clear, readable document.

**RESOLVED** to note the revised Statement of Licensing Policy.

## **9 REVIEW OF STREET TRADING POLICY AND CONDITIONS**

The Environmental Monitoring and Licensing Manager presented the report. He explained that the Council had designated all streets in Bath and North East Somerset as “consent streets” under schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The effect of this was that, with certain exceptions, selling, exposing, or offering for sale any article in the street required a street trading consent issued by the Council. The current policy had been adopted in 2002. The draft revision circulated with the agenda had been updated to take into account subsequent changes. The decision to adopt the new policy was delegated to a Cabinet Member. It was being presented to the Committee as part of the consultation process.

Members congratulated officers on a much improved and clearer policy document.

A Member said that he had not realised that car boot sales on private land required a consent. He asked whether school fetes had to have a consent. The Environmental and Licensing Manager replied that they did not, and that a car boot sale held for charitable purposes would not have to have a consent. In reply to a question from another Member he said that a consent would only have to be obtained for a raffle if tickets were sold to the general public.

A Member noted the provision about mobile artists and asked about musicians. The Environmental Monitoring and Licensing Manager and the Senior Legal Adviser explained that a consent was not required for busking, but that musicians who offered CDs of their performances for sale would commit an offence if they did not have a consent. Visiting choirs, for example, had done this. They had not given notice of their intention to sell CDs, so there had been no consultation period and they had not paid the daily fee of £26.

In reply to question from a Member, the Environmental Monitoring and Licensing Manager and the Senior Legal Adviser explained that the distinction between a pedlar and a trader was that a trader had a fixed pitch, whereas a pedlar moved from location to location while trading and was not permitted to be stationary for more than 15 to 20 minutes.

### **RESOLVED**

- (i) to note the proposed Policy and Conditions in Annex A.
- (ii) to agree to the adoption of the Table specified in Annex B, subject to the following amendments:
  - a. in the row “*Approval of Street Trading Policy*” “*in consultation with the Chairman of the Licensing Committee*” to be inserted after “*All cases*” in the column headed “*Cabinet Member*”.

- b. insert a new bullet point "*affected businesses;*" after "*occupiers of premises immediately adjacent and opposite where appropriate;*" in the list of consultees in paragraph 5.5

The meeting finished at 11.55am.

Chairman.....

Date confirmed and signed.....