
LICENSING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Wednesday, 15 February 2023 from 7.00 pm - 7.50 pm.

PRESENT: Councillors Derek Carnell (Chair), Mike Dendor, Tim Gibson (substitute for Councillor Carole Jackson), Alan Horton, Lee McCall, Richard Palmer, Ken Rowles (substitute for Councillor Tony Winckless), Paul Stephen, Eddie Thomas, Ghlin Whelan and Mike Whiting.

OFFICERS PRESENT: Chris Hills, Jo Millard and Helen Ward.

OFFICERS PRESENT (Virtually): Steph Curtis and Kellie MacKenzie.

ALSO IN ATTENDANCE (Virtually): Councillors Steve Davey and Oliver Eakin.

APOLOGIES: Carole Jackson, Peter Macdonald and Tony Winckless.

652 **Emergency Evacuation Procedure**

The Chairman outlined the emergency evacuation procedure.

653 **Declarations of Interest**

No interests were declared.

654 **Minutes**

The Minutes of the Meeting held on 4 October 2022 (Minute Nos. 353 – 358) were taken as read, approved and signed by the Chair as a correct record.

The Minutes of the Licensing Sub-Committees held on 1 November 2022 (Minute Nos. 405 – 407) and on 31 January 2023 (Minute Nos. 619 – 623) were accepted by the Chair.

655 **Public Session**

No members of the public had registered to speak.

Part B Minutes for Information

656 **Pavement Licencing Policy**

The Licensing Team Leader introduced the report and referred to the request by Members at the Licensing Committee in October 2022 for a Pavement Licence draft policy to be produced. She explained that the policy was straightforward and detailed the application process, including the factors taken into account when deciding the outcome of an application and what conditions would be imposed on a granted licence. The Licensing Team Leader set out the process for adoption of the policy after a consultation had been carried out.

Referring to the limited enforcement powers, the Licensing Team Leader explained that currently there was reliance on Kent County Council (KCC) officers to act on their behalf

but in the future, under the Levelling Up and Regeneration Bill which removed the function of tables and chairs licences from KCC to local authority responsibilities, there might be greater enforcement powers for Swale Borough Council (SBC).

Finally, the Licensing Team Leader said that any policy agreed would be subject to a review to include the new provisions when they became law.

In the debate that followed, Members raised points including:

- Praised the comprehensive, easy-reading report;
- suggested disability groups and the Police be included as consultees;
- what provisions had been made in the budget for resource and expenses when enforcement powers were given to SBC?; and
- were 'A' boards outside premises in the high street controllable?

In response, the Licensing Team Leader thanked the Member's suggestion and welcomed the inclusion of disability groups to the consultation. She explained that the only likely costs were moving furniture onto a low-loader and as part of the Levelling Up Bill, costs might be recharged. Other administration work was part of officers' every day role. The Lawyer (Contentious) added that the details of enforcement would not be known until the Levelling Up and Regeneration Bill had received royal assent. The Licensing Team Leader explained that 'A' boards in the High Street were under the jurisdiction of KCC.

Resolved:

(1) That the draft Pavement Licence Policy as set out in the Agenda be agreed.

(2) That the consultation process as outlined in the Agenda with the addition of disability groups and the Police in the consultation be noted, and agreed for officers to proceed with the consultation.

657 Amendments to current Street Trading Policy

The Licensing Team Leader introduced the report which asked Members to consider proposed amendments to the current Swale Street Trading Policy. She advised that the current policy was adopted in March 2021 and explained that whilst the current provisions within the policy had worked well for those traders who had six-month or yearly consents, there had been issues with one-off consents which required a consultation period of eight weeks and for applicants to obtain a basic Disclosure and Barring Service (DBS) check. The Licensing Team Leader gave an example of how the demands of the policy and length of consultation process had caused problems with event holders and drew attention to the summary of proposed changes at Appendix II on page 57 of the report which could overcome this.

The Licensing Team Leader said that all event organisers submitted an event management plan which involved the same agencies as those consulted for Street Trading Consent and it was therefore an unnecessary duplication. She added that applications for one-off street trading consents were not required unless they were part of an event.

Referring to the requirement for a basic DBS check, the Licensing Team Leader said one-off traders did not pose the small safeguarding risk that those trading from the same location and holding a six monthly or yearly permission did. In addition, the current policy

stated that DBS checks for one-off traders would be required 'where necessary' without specifying when this would be required, and so had been carried out for all applications creating unnecessary costs and paperwork.

The Licensing Team Leader said that, if approved, the draft policy would go out to an eight-week consultation which would include all previous holders of one-off consents, before coming back to the Licensing Committee with responses and final adoption.

In the debate that followed, Members made comments including:

- Sought clarity on numbers in a 'series of events';
- sought clarity on paragraph 3.4 of the policy;
- suggested the Police and the Chair of the Safety Advisory Group be included as a consultee;
- suggested 'event organisers for regular annual events' instead of naming specific events as at paragraph 5.2 on page 29 of the Agenda;
- raised concern over the risk of malicious complaints if the nature of complaints was not specified as at 5.5.2 in the policy, on Appendix 4, and suggested adding 'substantiated' to complaint in order to deter malicious complaints; and
- did the policy cover the Friday market traders?.

In response, the Licensing Team Leader explained that some exemptions were included in the Act. She detailed how consultees were contacted as part of a wider group and said that most complaints came from the public and details of a complaint were always thoroughly considered. The Lawyer (Contentious) warned against being too specific about the nature of complaints, so as not to fetter their discretion. The Licensing Team Leader advised that the Friday market traders were mostly mobile traders and the policy did not cover this.

A Member raised concern that the Policy might not be in place in time for summer events and suggested that the consultation period be set at four weeks in order for the Policy to be agreed by Full Council. In the discussion that followed, a Member suggested the policy be accepted by the Committee with a waiver to take out the requirement for a DBS check before being discussed at Full Council. The Lawyer (Contentious) explained to Members that there needed to be a lawful basis to carry out a DBS check and it was not appropriate to prejudice Full Council's decision. She added that officers currently had discretion not to carry out a DBS check where it was not "necessary".

Councillor Mike Whiting proposed that the consultation period be reduced to four weeks. This was seconded by Councillor Lee McCall and on being put to the vote all Members agreed.

Councillor Alan Horton proposed that the Police, Safety Advisory Group and regular event holders be included as consultees. This was seconded by Councillor Richard Palmer and on being put to the vote all Members agreed.

Councillor Alan Horton proposed that Members do not anticipate DBS checks for one-off events during the consultation period. This was seconded by Councillor Palmer and on being put to the vote Members agreed.

Resolved:

(1) That the amendments as set out in the above minute be included in the Swale Borough Council Street Trading Policy 2021 – 2024.

(2) That the policy consultation process to include the additional consultees as set out it in the above minute be noted.

Chair

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All minutes are draft until agreed at the next meeting of the Committee/Panel