

Public Document Pack

Date of meeting **Wednesday, 13th February, 2013**

Time **7.00 pm**

Venue **Council Chamber. Civic Offices, Merrial Street,
Newcastle Under Lyme, Staffordshire ST5 2AG**

Contact **Geoff Durham**

Licensing Committee

AGENDA

PART 1- OPEN AGENDA

- 1 Apologies**
- 2 Declarations of Interest**
- 3 MINUTES OF A PREVIOUS MEETING** **(Pages 1 - 2)**
To approve, as a correct record, the Minutes of the meeting of this Committee held on 8 November, 2012
- 4 Licensing fees for the year 2013/2014 in respect of Sex Establishments and Gambling.** **(Pages 3 - 6)**
- 5 LICENSING SUB-COMMITTEE** **(Pages 7 - 22)**
To receive and approve the minutes of the Licensing Sub-Committees held on 9,12,15 and 25 October, 2012 and 3 and 31 January, 2013
- 6 Urgent Business**

Members: Councillors Mrs Bates, Cooper, Eastwood, Hambleton (Chair), Mrs Heames, Lawton, Miss Mancey, Mrs Simpson, Tagg, Welsh, Wemyss, White, Williams, Mrs Williams and Mrs Winfield (Vice-Chair)

'Members of the Council: If you identify any personal training / development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Committee Clerk at the close of the meeting'

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

This page is intentionally left blank

LICENSING COMMITTEE

Thursday, 8th November, 2012

Present:- Councillor Trevor Hambleton – in the Chair

Councillors Eastwood, Miss Mancey, Tagg, Wemyss and Mrs Winfield

1. **APOLOGIES**

Apologies were received from Cllr White, Cllr Welsh and Cllr Mrs Heames, Cllr Mrs Simpson and Cllr Lawton.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

3. **TO CONSIDER ANY RESPONSES RECEIVED TO THE CONSULTATION ON THE GAMBLING ACT**

The consultation period ended on 8th November 2012 and the Council received a total of 7 responses all of which were positive and in favour of the existing policy, 4 of the responses contained comments, 3 of which related to issues that can only be considered by the Gambling Commission and therefore fell outside of the remit of the Council.

The remaining comment received from Staffordshire Trading Standards requested that the Policy support a Challenge 25 policy in place of the currently suggested Challenge 21 policy referred to on pages 14 and 17 of the Gambling Policy.

The Licensing Committee were in support of this alteration to the Policy and as such the change has been reflected in the revised Gambling Policy which will be in force for 3 years from the date of this meeting.

Resolved: a) That the current Challenge 21 policy be replaced by a Challenge 25 policy in the Gambling Policy for Newcastle under Lyme Borough Council.

(b) That the revised Gambling Policy be sent to Full Council for agreement.

COUNCILLOR TREVOR HAMBLETON
Chair

This page is intentionally left blank

LICENSING COMMITTEE
WEDNESDAY 13TH FEBRUARY 2013

Submitted by: **Head of Central Services**

Purpose of the Report

To inform the Committee of the need to set licensing fees for the year 2013/2014 in respect of Sex Establishments and Gambling.

1. **Background**

Members will recall that it is a requirement for the Licensing Committee to approve the fees to be set for the coming financial year. A copy of the proposed fees can be seen at Appendix 1.

On the 9th March 2011 the Licensing Committee resolved that in relation to the licensing of Sexual Entertainment Venues the initial fee would be set at £3000 and that the renewal fee each year thereafter would be set at £2000.

2. **Issues**

In relation to fees charged to licensing these should be charged on a cost recovery basis.

The proposed fees and charges must meet the cost recovery criteria and in this respect the following apply:

The European Services Directive states (Art 12.2):

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”.

Guidance for Local Authorities on the Provision of Service Regulations States (2nd Edition June 2009 Para 12d):

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities. Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.

Guidance for Business on the provision of Service Regulations states (October 2009 Para 86):

“Under regulation 18, fees charged in relation to authorisations must be proportionate to the effective cost of the process, e.g. to cover the actual cost of the application process. Fees should not be used as an economic deterrent to certain activities or to raise funds. As now, if you believe the fee to be disproportionate you can contest it with the authority concerned”.

3. **Options Considered**

The Committee can:

- a) Approve the proposed list of fees and charges.
- b) Amend any or all of the proposed fees and charges.

4. **Proposal**

That the Committee consider the options.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- Creating a Borough of Opportunity
- People who are able to work can do so and there is improved prosperity
- There is an entrepreneurial culture

6. **Equality Impact Assessment**

None

7. **Financial and Resource Implications**

The possibility of costs being awarded against the Council should a successful challenge be made in the courts

8. **Major Risks**

Should the Committee approve a level of fees which are in contravention of the relevant directive / regulations, the Council could be challenged in the Courts with the possibility of being awarded costs against the Council.

APPENDIX 1.

| LICENCES | | | | | Statutory | No V. |
|---|-------------------------------|--|--|--|------------------------------|------------------------------------|
| General | | | | | | |
| Sex establishments - application fee | 3,000.00 | 3,000.00 | | | Freeze | |
| Sex establishments - annual fee | 2,000.00 | 2,000.00 | | | Freeze | |
| Motor salvage operator - annual fee | 100.00 | 100.00 | | | Freeze | |
| Gambling Act 2005 | | | | | | |
| Lotteries - application fee | 40.00 | 40.00 | | | Freeze | |
| Lotteries - annual fee | 20.00 | 20.00 | | | Freeze | |
| Bingo - application fee | 3,500.00 | 3,500.00 | | | Freeze | |
| Bingo - annual fee | 1,000.00 | 1,000.00 | | | Freeze | |
| Bingo - application to vary | 1,750.00 | 1,750.00 | | | Freeze | |
| Track betting - application fee | 2,500.00 | 2,500.00 | | | Freeze | |
| Track betting - annual fee | 1,000.00 | 1,000.00 | | | Freeze | |
| Track betting - application to vary | 1,250.00 | 1,250.00 | | | Freeze | |
| Track betting - application to transfer | 950.00 | 950.00 | | | Freeze | |
| Club machine permit - application fee | 200.00 | 200.00 | | | Freeze | |
| Club machine permit - renewal fee | 200.00 | 200.00 | | | Freeze | |
| Club machine permit - annual fee | 50.00 | 50.00 | | | Freeze | |
| Betting premises - application fee | 3,000.00 | 3,000.00 | | | Freeze | |
| Betting premises - annual fee | 600.00 | 600.00 | | | Freeze | |
| Betting premises - application to vary | 1,500.00 | 1,500.00 | | | Freeze | |
| Betting premises - application to transfer | 1,200.00 | 1,200.00 | | | Freeze | |
| Family entertainment centre - application fee | 2,000.00 | 2,000.00 | | | Freeze | |
| Family entertainment centre - annual fee | 750.00 | 750.00 | | | Freeze | |
| Family entertainment centre - application to vary | 1,000.00 | 1,000.00 | | | Freeze | |
| Family entertainment centre - application to transfer | 950.00 | 950.00 | | | Freeze | |
| Adult gaming centre - application fee | 2,000.00 | 2,000.00 | | | Freeze | |
| | Fee/Charge 2012/13 £,p | Proposed Fee/Charge 2013/14 £,p | | | Increase/Decrease £,p | Committee Approval/Comments |
| Adult gaming centre - annual fee | 1,000.00 | 1,000.00 | | | Freeze | |
| Adult gaming centre - application to vary | 1,000.00 | 1,000.00 | | | Freeze | |
| Adult gaming centre - application to transfer | 1,200.00 | 1,200.00 | | | Freeze | |

This page is intentionally left blank

- (iii) the provision of regulated entertainment
- (iv) the provision of late night refreshment

3. **Options Considered**

4. N/a

5. **Proposal**

6. N/a

7. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

8. These were considered when the applications were approved

-

6. **Equality Impact Assessment**

There are no equality issues arising from this information

7. **Financial and Resource Implications**

None

8. **Major Risks**

There are none.

LICENSING SUB-COMMITTEE

Tuesday, 9th October, 2012

Present:- Cllr Hambleton – in the Chair

Councillors Mrs Bates and Mrs Heames

1. APPLICATION FOR A VARIATION TO A PREMISE LICENCE FOR THE KING WILLIAM IV, HIGH STREET, TALKE PITS

Having taken into account the Licensing Act 2003 and the Guidance issued under Section 182 of the Act, the Councils Statement of Licensing Policy and also the fact that a number of interested parties had objected to the application on the basis that to grant the application would undermine the Crime and Disorder, Public Safety and Public Nuisance objectives.

The Committee considered those Licensing objectives in the light of what had been said and listened to the arguments and were persuaded that in view of what had been said by the residents living in the vicinity of the premises and the evidence given by them the Committee considered that it would not be appropriate to grant the application in full. The Committee had taken into account the fact that the applicant was endeavouring to improve the premises for the benefit of the village and to attract a broader range of clientele and applaud this course of action. Nether the less evidence had been given in relation to the nuisance that was being experienced by residents and the applicant had accepted this. The residents had however agreed that if it was not for this nuisance then they would not have objected to the application. Residents were also concerned about the lack of consultation about the proposals and this was accepted by the applicant. Having said that there were variations that had been requested that would not offend the Licensing objectives.

The Committee also took into account the Provision of the Live Music Act 2012 which took effect on 1st October 2012.

Subject therefore to the conditions below the Committee were prepared to grant a variation of the licence in part for the premises on the following basis.

| | | |
|--------------------------------|---|----------------------------------|
| 1. Films (indoors) | Sunday to Saturday | 12 noon till 11pm |
| Indoor Sporting Events | Sunday to Saturday | 12 noon till 11pm |
| Live Music (indoors) | Sunday to Friday Saturday | 12 noon till 11pm as existing |
| Recorded Music (indoors) | Sunday to Thursday Friday and Saturday | 12 noon till 11pm as existing |
| Performance of Dance (indoors) | Sunday to Saturday | 12 noon till 11pm |

Opening hours of the premises as existing.

The conditions which the Committee were disposed to impose in addition to the relevant Mandatory conditions and also conditions that were consistent with those listed by the applicant both to promote the Licensing objectives in the application and these set out in the Operating Schedule are

1. Door staff to be provided after 9pm every night to keep the external doors closed in order to limit noise escape and so far as possible to prevent nuisance from patrons of the premises in the vicinity.

The Committee did however recommend to the applicant that local residents be consulted in relation to entertainment proposals and equally if residents had issues that they consult with the applicant.

Chair

LICENSING SUB-COMMITTEE

Friday, 12th October, 2012

Present:- Cllr Hambleton – in the Chair

Councillors Eastwood and Williams

1. AGENDA FOR RIZWAN NEWS REVIEW HEARING

Having taken into account the Licensing Act 2003 the S182 Guidance and the Council's Statement of Licensing Policy and having listened to the evidence given by Trading Standards and the representative for the licence holder the sub-committee acknowledged that there had been various difficulties with this case from the outset. However on the balance of probabilities the Committee considered that the licence holder had served a 14 day suspension and it would not be imposing a further period of suspension.

The committee accepted that the Premise Licence Holder had received poor legal advice but that he was entitled to rely on that advice.

The Committee did note that this was the 2nd occasion that the premises licence holder had been before them and warned that a dim view would be taken if the licence holder appeared before them again for whatever reason.

The Committee considered it appropriate to impose further conditions in relation to CCTV and amended page 4 of the licence by the addition of the following:-

1. The cameras will cover all vulnerable areas 'which for the avoidance of doubt shall include the till area and all entrances and exits'.
2. The CCTV will be in operation and recording for all of the hours that the premise is open for trading.

Chair

This page is intentionally left blank

LICENSING SUB-COMMITTEE

Monday, 15th October, 2012

Present:- Cllr Hambleton in the Chair

Councillors Mrs Bates and Eastwood

1. **APPLICATION FOR A VARIATION TO A PREMISE LICENCE, BIRAKS, 45 LONDON ROAD, CHESTERTON**

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's statement of Licensing Policy and also the fact that a number of interested parties had objected to the application on the basis that to grant the application would undermine the crime and disorder objective. The Committee considered that licensing objective in the light of what had been said and listened to the arguments and were persuaded that it would not infringe the licensing objectives to grant the application. None of the objectors appeared at the hearing and the representative for the applicant referred to the fact that largely the written objections had no relevance. The Committee also noted that none of the responsible authorities had objected.

The Committee took into account the High Court decision in the Thwaites case that made it clear that all determinations of licensing applications should be made on empirical evidence and should take no account of speculative evidence.

Further, the guidance at 10.22 stated that shops should normally be free to provide sales of alcohol for consumption off the premises at any time when it was open for shopping unless there were good reasons, based on the licensing objectives for restricting those hours. The Committee were not aware of any such reasons.

The Committee were impressed by the nature and number of steps that the applicant intended to take to promote the licensing objectives as a result of the proposed variation.

On the basis of the above and subject to the conditions that would be referred to the Committee were prepared to grant a variation of the licence for the premises and a notice would be issued to that effect

The conditions that the Committee were disposed to impose in addition to any relevant mandatory conditions were those listed by the applicant on pages 19-21 of the application

Chair

This page is intentionally left blank

LICENSING SUB-COMMITTEE

Thursday, 25th October, 2012

Present:- Cllr Hambleton in the Chair

Councillors Mrs Heames and White

2. APPLICATION FOR A VARIATION TO A PREMISE LICENCE THE VICTORIA, 62 KING STREET.

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the councils statement of Licensing policy and also the fact that a number of residents in the vicinity of the premises had objected to the application on the basis that to grant the application would undermine the objective relating to the Prevention of Public Nuisance.

The Committee considered that Licensing objective in the light of what had been said and listened to the arguments and were persuaded that to grant the application applied for would offend the Licensing objectives.

The interested parties had given evidence that noise nuisance was being experienced from the premises albeit it was accepted that the premises had been closed for a considerable period of time and that there was now new management who had a new policy and wished to work with the residents.

Again evidence was given that the premises were situated in a mainly residential area and that taxi noise and parking was a major concern. The applicant in response to this had offered to use a dedicated taxi service with a no horn ring back policy.

The Committee did in fact take into consideration that neither the Police nor the Environmental Health Department had objected to the application and also took into account the High Court decision in the Thwaites case that made it clear that all determinations of Licensing applications should be made on empirical evidence and should take no account of speculative evidence. The Committee were also aware of the content of the Live Music Act 2012.

The Committee were impressed by the nature and number of steps that the applicant intended to take to promote the Licensing objectives as a result of the proposed variation.

On the basis of the above and subject to the conditions that will be referred to the Committee felt it appropriate to grant the following variation of the Licence Monday to Sunday and a notice will be issued to that effect.

Firstly:

| | |
|--|-------------------|
| The sale of Alcohol | 10am to 11.30pm |
| Opening hours of the premises | 10am till 12.00pm |
| Recorded Music | 10am to 11:30pm |
| Live Music being covered by the Live Music Act but Licensed | 10am to 11:30pm |
| Late Night Refreshment | 11pm to 11:30pm |
| The application for the Provision of Dancing being withdrawn | |

The conditions which the Committee were disposed to impose in addition to any relevant Mandatory Conditions were those consistent with the conditions listed by the applicant on pages 19 – 21 of the application together with the following:

1. There shall be a last admission policy to the premises of 11pm.
2. The applicant to ensure that none of their customers utilise the front of the premises for smoking and that any such smoking is confined to the rear area provided.
3. That no alcohol is taken out of the rear smoking area after 11pm and that anyone drinking in that area at that time is required to take their alcohol out.
4. That any Entertainment provided in the premises is limited to a Solo Artist or a Duo.

Chair

LICENSING SUB-COMMITTEE

Thursday, 3rd January, 2013

Present:- Cllr Hambleton – in the Chair

Councillors Williams and Mrs Winfield

1. APPLICATION FOR A PREMISE LICENCE BETLEY COURT FARM

Having taken into account the Licensing Act 2003 and the Guidance issued under section 182 of the Act, the Council's Statement of Licensing Policy and also the fact that representations had been received from the Police, Staffordshire Fire and Rescue and Environmental Health but that agreement had been reached as to the conditions that should be added to the licence.

The Committee considered the application in the light of what had been said and were persuaded that it would not offend the licensing objectives to grant the application subject to the agreed conditions. The Committee were therefore disposed to grant the application.

The conditions which the Committee imposed in addition to the relevant mandatory conditions and also conditions that were consistent with those listed by the applicant in the operating schedule were those conditions set out in agenda item 7 on pages 15 to 25 of the agenda.

Chair

This page is intentionally left blank

LICENSING SUB-COMMITTEE

Thursday, 31st January, 2013

Present:- Councillor Trevor Hambleton – in the Chair

Councillors Welsh and Mrs Winfield

2. HUMAN RIGHTS GUIDANCE NOTES
3. NATURAL JUSTICE GUIDANCE NOTES
4. PROCEDURE TO BE FOLLOWED BY THE SUB-COMMITTEE
5. APPLICATION FOR A PREMISE LICENCE HOLDITCH SERVICE STATION

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's Statement of Licensing Policy and also the fact that representations have been received from Staffordshire Police on the basis that to grant the application would undermine the Licensing objective relating to Crime and Disorder.

The Committee have considered that Licensing objective in the light of what has been said and have taken into account that Staffordshire Police have entered into negotiations with the applicant and are prepared to withdraw their objections to the grant of the Premise Licence on the basis of an agreement that has been reached regarding the imposition of the conditions on the basis of such agreement the Committee are persuaded that it would not offend the Licensing Objectives to grant the application subject to the agreed conditions.

The Committee are therefore disposed to grant the application and a notice will be issued to that effect.

The Conditions which the Committee are disposed to impose in addition to the relevant mandatory conditions and also conditions that are consistent with those listed by the applicant in the operating schedule but are not inconsistent with the agreed conditions. The list of final agreed Police conditions produced to the Committee were:

CCTV

1. ***CCTV must be installed and operative to the approval of the Police Licencing Officer (PLO). The CCTV unit shall be positioned in a secure part of the licenced premise and not within any private area of the location. Access to the system should be allowed as soon as reasonably possible.***
2. ***The CCTV system must be maintained so as to be fully operational and recording 24 hours every day.***
3. ***All images should be kept for a 31 day period and to be produced to the Police Licensing Officer, Trading Standards or Local Authority Officers in relation to the investigation of crime and/or disorder issues, upon request or within 24 hours of such request where it is necessary to do so for the prevention of crime and disorder, prosecution or apprehension of offenders or where disclosure is required by law.***
4. ***There will be notices displayed throughout the premises stating that CCTV is in operation.***
5. ***The CCTV system clock should be set correctly and maintained (taking account of GMT and BST).***
6. ***There should be a member of staff available (although they do not have to be on site) at all times who is trained and capable of operating the CCTV system and also downloading any footage required by the Police, Local Authority Officers or Trading Standards Officers.***
7. ***Daily checks to be made to check the operation of the CCTV system and confirm it is working correctly and such checks to be recorded in a register which is to be endorsed by the person conducting the check this record is to be fully updated at all times and remain on the premises for immediate inspection by Police, Trading Standards or Local Authority Licensing Officers upon request.***

8. ***The CCTV system should be fully maintained and records of maintenance will be kept.***
9. ***The CCTV system can be periodically inspected by the Police Licensing Officer (PLO) to ensure that it continues to function to their approval and access must be granted as soon as reasonably possible to the PLO upon request to facilitate such an inspection.***
10. ***A CCTV monitor should be positioned by the till area showing real time footage from all of the cameras to allow the staff at the till to monitor any activities. This monitor should also be fully functional and operating at all times the premise is open to the public.***

CHALLENGE 25

11. ***The premises must adopt the Challenge 25 scheme to tackle under age sales. All staff must be fully trained in its use before being allowed to sell alcohol.***
12. ***The Designated Premise Supervisor should ensure that a record is kept of all staff training and is fully updated at all times and this training must be refreshed at least every three months. Both initial and subsequent refresher training in relation to the sale of alcohol will contain a written test to be undertaken by the staff member and this record must be signed and sated by both the member of staff and the Designated Premise Supervisor.***
13. ***The records of training (including written tests) must be kept fully updated at all times and held at the licensed premises. The records must be made available immediately to |Police Officers, Police Licensing Officers or Trading Standards Officers upon request.***
14. ***A refusals book must be held at the premises and contain details of the time and date of any sales that are refused in relation to persons that are under age. The book must also contain details of the staff member***

refusing the sale. This book must be checked on a monthly basis by the Designated Premises Supervisor or duty manager and endorsed accordingly by the DPS or duty manager signing the book with the time and date of inspection.

15. *Persons purchasing alcoholic drinks who appear to be under the age of 25 must be required to produce proof of age by way of a proof of age card accredited under the Proof of Age Standards Scheme (PASS) or if a proof of age card is not available, a genuine photo driving licence or passport.*
16. *A till card / prompt to be put on each till in the premise that is updated daily that will show the correct date of birth for a person of 18 years or over.*

SALE AND CONSUMPTION OF ALCOHOL

17. *No sale of alcohol will be made through a serving hatch.*

6. BACKGROUND INFORMATION HOLDITCH SERVICE STATION
7. CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE
8. CONDITIONS AGREED WITH STAFFORDSHIRE POLICE

COUNCILLOR TREVOR HAMBLETON
Chair