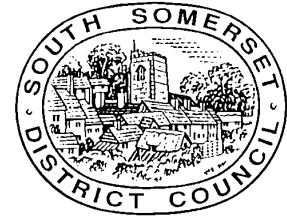


South Somerset District Council

Notice of Meeting



Licensing Committee

Making a difference where it counts

Tuesday 10th October 2017

10.00 am

**Council Chamber B
Council Offices
Brympton Way
Yeovil
BA20 2HT**

(disabled access and a hearing loop are available at this meeting venue)



The public and press are welcome to attend.

If you would like any further information on the items to be discussed, please ring the Agenda Co-ordinator, **Jo Morris, Democratic Services Officer**, website: www.southsomerset.gov.uk

This Agenda was issued on Monday 2 October 2017.

Ian Clarke, Director (Support Services)

This information is also available on our website
www.southsomerset.gov.uk



Licensing Committee Membership

The following members are requested to attend the meeting:

Chairman: David Recardo
Vice-chairman: Crispin Raikes

Clare Aparicio Paul
Jason Baker
Neil Bloomfield
Dave Bulmer
Nigel Gage

Val Keitch
Tony Lock
David Norris
Wes Read
Garry Shortland

Alan Smith
Linda Vijeh
Martin Wale

South Somerset District Council – Council Aims

South Somerset will be a confident, resilient and flexible organisation, protecting and improving core services, delivering public priorities and acting in the best long-term interests of the district.

- Protect core services to the public by reducing costs and seeking income generation.
- Increase the focus on Jobs and Economic Development.
- Protect and enhance the quality of our environment.
- Enable housing to meet all needs.
- Improve health and reduce health inequalities.

Members Questions on reports prior to the Meeting

Members of the Committee are requested to contact report authors on points of clarification prior to the Committee meeting.

Recording and photography at council meetings

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

Information for the Public

The Licensing Committee shall be responsible for those functions listed in part 3 of the Constitution as being the responsibility of the Committee. This will include licensing matters referred to it by officers, in accordance with the Officer Scheme of Delegation, such as contested public entertainment licences, and applications for taxi driver licences where the officer considers the application should be determined by members. The Committee shall also be responsible for all the functions assigned to it under the Licensing Act 2003.

The Statutory Licensing Committee has responsibility for all activities under the Licensing Act 2003 and the Gambling Act 2005 except for policies and fees. Established under the Licensing Act 2003, it exercises the functions of the Licensing Authority which itself is the Council.

The Other Licensing Committee can be responsible for all other licensing matters. Established by the Council under discretionary power contained in Section 101 of the Local Government Act 1972.

It is lawful for the membership of the two committees to be the same, but they are differently constituted and run under different powers.

Meetings of the Licensing Committee are held bi-monthly at 10.00am normally on the second Tuesday of the month in the Council Offices, Brympton Way.

Licensing Committee agendas and minutes are published on the Council's website www.southsomerset.gov.uk

The Council's Constitution is also on the web site and available for inspection in council offices.

Further information can be obtained by contacting the agenda co-ordinator named on the front page.

Licensing Committee

Tuesday 10 October 2017

Agenda

Preliminary Items

1. **To approve as a correct record the Minutes of the Previous Meeting held on 13th June 2017**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

4. **Public Participation at Committees**

a) Questions/comments from members of the public

This is a chance for members of the public and representatives of Parish/Town Councils to participate in the meeting by asking questions, making comments and raising matters of concern.

Items for Discussion

5. **Pre-application Advice Service** (Pages 5 - 12)
6. **Enforcement Update** (Pages 13 - 14)
7. **Date of Next Meeting** (Page 15)

Agenda Item 5

Pre-application Advice Service

Executive Portfolio Holder: Angie Singleton, Strategic Planning (Place Making)
Strategic Director: Martin Woods, Director Service Delivery
Service Manager: Nigel J Marston, Licensing Manager
Contact Details: nigel.marston@southsomerset.gov.uk or 01935 462150

Purpose of the Report

The report seeks permission to introduce a discretionary pre-application advice service for licensing by utilising the provisions of the Localism Act 2011.

The introduction of a discretionary pre-application assistance and advice service would be beneficial because it will enable the applicants to produce better quality licensing applications which are more likely to be acceptable to the Council and the various responsible authorities.

Public Interest

The Licensing Service currently provide free advice and information to applicants for various types of licences. This pre-application advice is not covered by the application fee. As a result of the time and resources involved in giving pre-application advice it is proposed that charges will be made in order to cover the costs of this advice and assistance. This means that this aspect of the service will not fall as a general cost to the council tax payer and will be paid for by those who benefit from a licence.

Recommendations

That Licensing Committee:-

- (1) Note the contents of the report;
- (2) Is recommended to approve the introduction of a discretionary pre-application service and charges for new and full variation applications made under the Licensing Act 2003;
- (3) Instruct the Licensing Service to investigate other potential pre-application and assistance charges within the service and report back to Licensing Committee on the feasibility of such charges.

Report

1. Background

- 1.1** The Localism Act 2011 (the Act) introduced a 'general power of competence'. It gives local authorities the legal capacity to do anything that an individual can do that is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power. This general power of competence can be exercised for the benefit of the authority, its area or persons resident or present – or otherwise. The power also allows authorities to make a charge subject to the conditions in Section 3 of the Act. This is considered in more detail in paragraph 5.5.
- 1.2** The Council can rely on the general power of competence conferred by Section 1 of the Localism Act 2011 because individuals could give licensing advice and the giving of such advice is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.

2. Current Arrangements

- 2.1 The Licensing Act 2003 is the primary legislation that makes provision for the licensing of the sale of alcohol, entertainment and the provision of late night refreshment.
- 2.2 Under the Licensing Act, the licensing authority is both responsible for the administration and determination of applications.
- 2.3 Although there exists a statutory duty on the Council to administer applications, that duty does not extend to the provision of pre-submission advice and assistance.
- 2.4 In 2016 the licensing section received 72 applications under the Licensing Act 2003 for both new premises licences and variations of issued premises licences. All of the applications required some form of statutory consultation with responsible authorities.
- 2.5 Notwithstanding the fact that all of the 72 applications required some form of statutory consultation, it is proposed that discretionary fees apply to new and full variation applications. This is due to the fact that these applications are more complex in nature and as a consequence licensing officers spend a considerable amount of time with applicants.

3. Reasons for recommendations

- 3.1 The proposal to introduce discretionary services holds benefits for the Council. Officers believe that the assistance offered under the proposed discretionary scheme will benefit persons resident or visiting South Somerset.
- 3.2 From discussions with potential applicants officers know that some are put off by, for example, the length of application forms and the amount of information, some of this is technical, required in submitting a completed application. Guidance notes and policies are publicly available to applicants, but the prescribed application process is inherently complicated mainly because it is closely linked to the primary legislation.
- 3.3 In addition, officers routinely reject incomplete or incorrectly served applications which are not resubmitted because applicants perceive the process to be too difficult and onerous.
- 3.4 Investment in the district is invariably affected by this because without the necessary licence, businesses cannot trade which has obvious investment implications. Officers are of the opinion that the perceived obstacles in obtaining a licence can be overcome with pre-submission advice and assistance.
- 3.5 As part of the application process, applicants must identify steps they propose to take to promote the licensing objectives. The objectives are:
 - (a) the prevention of crime and disorder,
 - (b) public safety,
 - (c) the prevention of public nuisance, and
 - (d) the protection of children from harm.

- 3.6 Less knowledgeable or experienced applicants would normally not put forward sufficiently robust conditions. Where this is the case, the Council is under a duty to issue that licence as applied for in the absence of relevant objections. The Council is not empowered in itself to impose conditions in the absence of relevant objections.
- 3.7 As a result, the operation of that licence could have an adverse effect on the social wellbeing of a community through, for example, causing a public nuisance or attracting crime and disorder.
- 3.8 Officers are of the opinion that better quality and better thought through applications could alleviate some problems that exists with licensed premises.

4. Charging Fees

- 4.1 Section 3 of the Act enables local authorities to charge where the council is providing a service relying on general power of competence. A charge can be made where the local authority is not under a duty to provide the service and the person has agreed to the service being provided. There is also a duty to ensure that taking one financial year with another, the income from charges does not exceed the costs of provision of the service, in other words the council cannot make a profit from charging for the service.

The Council has a discretion under the Act not to charge for providing a service relying on the general power of competence but it is considered appropriate to charge a fee to cover the costs in providing the service because as a discretionary service it will require officer time that, if not charged for, would be costed into the general licensing budget and thereby default be paid by all.

5. Proposals & Process

- 5.1 The proposal is that potential applicants or persons indicating an interest in applying for a licence will be given the opportunity to take advantage of officer assistance at the appropriate discretionary fee.
- 5.2 The level of pre-application advice and assistance will be determined by the scale of the application. The nature of the pre-application advice and assistance offered for small, medium and large scale applications will be the same although the officer time allocated will differ because larger scale applications will demand more officer time.
- 5.3 Small scale applications would normally consist of applications relating to premises that occupy a relatively small floor area or premises where the proposed licensable activities will largely be ancillary to the operation of the premises, for example, independent supermarkets, food led restaurants or beauty salons. Medium to large scale applications would be any other premises that occupy a large premises or where licensable activities will form part of the primary operation of the premises. Extra large events will apply to events of 5,000 or more people and there will be 3 levels of advice available within this category. Officers will discuss the scale of an application with applicants to ensure agreement will be reached. It is not anticipated that this will be an onerous process.
- 5.4 It is proposed that the pre-application advice and assistance will consist of;
- Advice and assistance with completing the application forms including (not exhaustive);

- advice on appropriate conditions taken from the pool of standard conditions outlined in the Council's adopted policy statement or consultation with other responsible authorities, advice on drawing up plans to accompany the application in accordance with the relevant regulations, and
- advice on nominating an appropriate designated premises supervisor.
- Assistance with completing the statutory notices and advertising, and
- On-site visit(s) to ensure plans are compliant with prescribed regulations and the appropriate statutory notices are correctly on display.

5.5 The discretionary fee for the above will be calculated based on the amount of officer time allocated per type of application, small, medium ,large or extra large and based on the average cost per hour for Licensing Officers. The proposed fee structure is broken down below;

Small Scale applications -

Action	Allocated Officer time	Avg. officer £/hour	VAT	Total Cost
Up to one hour of advice regarding small licence applications, which are likely to have a minimal impact on neighbouring properties	1 hour	£43.00	£8.60	£51.60
Assistance with stat. advertising	30 minutes	£21.50	£4.30	£25.80
Total hours:	1hour 30 minutes	£64.50	£12.90	77.40¹

¹ Suggested round up to £80.00

Medium Scale applications

Action	Allocated Officer time	Avg. officer £/hour	VAT	Total Cost
Up to 3 hours of advice including a site visit by an EHO and/or a Licensing Officer if required.	2 hours	£86.00	£17.20	£103.20
On site visit travel time ½ hour	30 mins	£21.50	£4.30	£25.80
Assistance with stat. advertising	30 minutes	£21.50	£4.30	£25.80
Total hours:	3 hrs	£129.00	£25.80	£154.80²

Large Scale applications

Action	Allocated Officer time	Avg. officer £/hour	VAT	Total Cost
Up to 4 hours of advice including a site visit by an EHO and/or a Licensing Officer if required.	3 hours	£129.00	£25.80	£154.80
On site visit travel time ½ hour	30 mins	£21.50	£4.30	£25.80
Assistance with stat. advertising	30 minutes	£21.50	£4.30	£25.80

² Suggest round up to £155.00

Total hours:	4 hrs	£172.00	£34.40	£206.40³
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Extra Large Events – Up to 5000 persons on site - Category A

Action	Allocated Officer time	Avg. officer £/hour	VAT	Total Cost
Up to 7 hours of advice including site visits by an EHO and/or a Licensing Officer if required.	6 hours	£258.00	£51.60	£309.60
On site visit travel time ½ hour	30 mins	£21.50	£4.30	£25.80
Assistance with stat. advertising	30 minutes	£21.50	£4.30	£25.80
Total hours:	7 hrs	£301.00	£60.20	£361.20⁴

Extra Large Events – Up to 10,000 persons on site – Category B

Action	Allocated Officer time	Avg. officer £/hour	VAT	Total Cost
Up to 14 hours of advice including site visits by an EHO and/or a Licensing Officer if required.	13 hours	£559.00	£111.80	£670.80

³ Suggest round up to £210.00

⁴ Suggest round up to £365.00

On site visit travel time ½ hour	30 mins	£21.50	£4.30	£25.80
Assistance with stat. advertising	30 minutes	£21.50	£4.30	£25.80
Total hours:	14 hrs	£602.00	£120.40	£722.40⁵

5.6 Applicants who decide not to take advantage of the proposed new process will still be supplied with the relevant guidance notes and policies. It is also important to ensure that the new process does not become overly bureaucratic. As a consequence, no fees will be charged for straightforward queries that can easily be dealt with over the phone and do not require significant officer time.

5.7 A log will be kept detailing the amount of time spent on each application. If there is a major discrepancy between the time predicted and the actual time spent then a decision will be made as to whether to refund part of the fee. No extra charge will be made if additional time is spent, as an agreement would have been made prior to the advice being given.

5.8 An application form for applicants wishing to take advantage of the discretionary service is being developed. Members will note that the form will clearly set out the conditions under which the discretionary service will be provided to avoid any doubt. The wording of this will be agreed with legal.

6. Exemptions

6.1 It is proposed that exemptions be applied in certain circumstances for educational institutes, buildings used for religious purposes, village and community halls and non-profit making charities. These premises already qualify for an exemption from paying the statutory fees and officers consider it appropriate to extend the exemption to also apply to pre-application advice.

7. Separation of Duties

7.1 Licensing officers only have delegated authority to determine unopposed applications. Applications that are opposed have to be referred to a licensing committee for determination. As a consequence, it is not envisaged that the operation of the new process would cause significant problems with the administration and determination process.

7.2 Notwithstanding this, it is important for the avoidance of doubt that arrangements for clear separation exist between officers who offer pre-application assistance and those who are responsible for the subsequent administration and determination of that application.

⁵ Suggest round up to £725.00

7.3 It is therefore proposed that the officer involved with pre-application assistance and advice will not have any subsequent involvement with that individual application. There are sufficient staffing resources in place at the moment to accommodate this arrangement.

7.4 The introduction of the proposed discretionary fee structure will not affect the Council's statutory duties. Officers will still carry out their statutory functions of processing the licence application and fulfil their role as the Licensing Authority and this will not be included in the discretionary charges.

Financial Implications

This proposal will ensure that persons that require help and advice in relation to applications are paying for the professional advice that they receive. The proposal will potentially generate revenue using existing resource. The amount generated will depend on customer take up of the scheme.

Council Plan Implications

There will be a positive impact on promoting a strong economy with thriving rural and local businesses by this proposal ensuring that better quality applications are received. This should mean less objections to applications and therefore businesses are able to be up and running or make changes to their operations much quicker.

Carbon Emissions and Climate Change Implications

None

Equality and Diversity Implications

None

Background Papers

None

Agenda Item 6

Enforcement Update

Executive Portfolio Holder: Angie Singleton, Strategic Planning (Place Making)
Director: Martin Woods - Service Delivery
Lead Officer: Colin Chown, Licensing Enforcement Officer
Contact Details: colin.chown@southsomerset.gov.uk or (01935)462135

Purpose of the Report

To update members on the work of the licensing enforcement team and the various issues they are currently involved with.

Recommendation

That the report is noted.

Background

Officers carry out a number of enforcement activities under the various legislative provisions that relate to licensing, in particularly with regard to taxi's and private hire drivers/vehicles, street trading and scrap metal dealers. This report seeks to brief members on the current issues that are being dealt with by the enforcement team.

Report Detail

Taxis & Private Hire Vehicles

General

The Enforcement Officer carried out weekly day time checks and several late night checks during the past six months. The checks were carried out in and around the centre of Yeovil and the purpose of them was to ensure compliance with the Council's Private Hire and Hackney Carriage Policy and Bylaws.

During the previous six months, one taxi and private hire joint agency vehicle enforcement check with the Police was completed. Advice was given to drivers on various issues, further dates have been arranged with the police throughout the next three months.

Monthly taxi checks continue to be carried out at the Pen Mill, Yeovil Junction, Crewkerne and Castle Cary railway stations in order to ensure that vehicles which tend to use the ranks in and around the main towns are also subject to ad hoc inspections.

Forty two taxi/private hire related complaints were received in the past six months, which resulted in the issuing of seven stop/prohibition notices, three for vehicle damage, two for tyres at or below minimum tread level and two for failure to provide proof of insurance.

The Enforcement Officer has issued penalty points on twenty occasions for more minor issues in line with the Taxi Licensing Policy & Guidance:

Four for using mobile phones whilst driving.
Three for failing to declare DVLA endorsements.
Five for failing to display Private Hire side plates correctly.
Two for failing to notify licensing of change of address.

Two for failing to display a roof sign on a Hackney Carriage Vehicle.
One for failing to notify Licensing of an accident involving a Hackney Carriage Vehicle.
One for no having badges whilst working.
One for leaving vehicle unattended on a taxi rank.
One for smoking in a licensed vehicle.

Street Trading

There are twelve permanent street traders; thirty one consents for casual street trading were issued in the past six months.

Scrap Metal Dealers

Due to police restructuring, the assistance of a dedicated Police Officer to accompany and assist the Enforcement Officer on these inspections is no longer available.

SSDC currently licence fourteen sites and four collectors

Financial Implications

None

Implications for Corporate Priorities

Ensure safe, sustainable and cohesive communities and increase economic vitality and prosperity

Other Implications

None

Background Papers: *None*

Agenda Item 7

Date of Next Meeting

Members are asked to note that the next scheduled meeting of the Licensing Committee will take place on Tuesday 12th December 2017 at 10.00am in the Council Offices, Brympton Way, Yeovil.
