

Minutes of the meeting of the **General Licensing Committee** held in Committee Room 1 - East Pallant House on Wednesday 21 October 2015 at 9.30 am

Members Present: Mr J Ridd (Chairman), Mr H Potter (Vice-Chairman), Mr G Barrett, Mr R Barrow, Mr P Budge, Mr J Connor, Mr J W Elliott, Mr L Macey, Mrs P Plant and Mr D Wakeham

Members not present: Mr I Curbishley, Mrs D Knightley and Mr P Jarvis, Mr G McAra and Mrs S Westacott

In attendance by invitation:

Officers present all items: Mrs K Jeram (Member Services Officer), Mr N Bennett (Litigation Lawyer), Mr I Brightmore (Health Protection Manager), Mr L Foord (Licensing Manager) and Mrs V McKay (Deputy Estates and Valuation Manager)

1 Chairman's Announcements

Apologies for absence had been received from Mrs Knightley.

Post meeting note: Apologies were received from Mr Jarvis who had not been notified of the meeting.

2 Minutes

That the Minutes of the General Licensing Committee meeting held on 22 October 2014 be approved and signed by the Chairman as a correct record.

3 Urgent Items

There were no urgent items for consideration at the meeting.

4 Declarations of Interests

There were no declarations of interest in respect of items on the agenda for the meeting.

5 Public Question Time

No public questions had been submitted.

6 Street Trading Guidance - Changes to Charges and Restrictions on Stall Numbers

The Committee considered the following report copy attached to the official Minutes).

Mr Foord introduced this report and provided the background to street trading within the Chichester City. Since 1991 East Street and North Street had been prohibited streets for street trading purposes and as a result the only way that street trading could take place in these areas was by obtaining a street trading consent or by operating under a pedlar's certificate. These certificates were issued by the Police and enabled an individual pedlar to operate as a pedlar anywhere in the country. The main applications received for street trading consents were from known market providers such as those who ran the Christmas, summer and local food fairs markets, as well as Chichester District Council for its farmers market.

He referred to a report to be considered by Cabinet later in the year concerning the wider provision of markets in the area following consideration by the Traders Market Task and Finish Group of current practices. He advised that the amendment of the Street Trading Guidance would supplement that work. He advised that the Council's charging regime for street trading consents was limited to cost recovery under legislation unlike the private market operators.

Each year four or five privately operated markets took place in East Street and North Street for which the Council received an income of approximately £2,000. It was for the Committee to consider if a review of the current Street Trading Guidance and the current fees was deemed appropriate. The Council had a challenging time dealing with pedlars and explained that one suggestion was to look at the restriction on the number of stall holders which was currently no less than 10 allowed to see if a smaller number of stalls could be permitted.

Mr Bennett explained that the legislation regarding the Council's charging powers was complex and that it was important that the charges were not considered to be an additional tax by charging more than the Council's administrative costs. With regard to the proposal to allow smaller groups of stall holders than 10, there were some concerns in respect of the Council's enforcement powers. There was a concern that by making the number of stall holders too low those persons acting improperly could use the lower number allowed as part of their defence. The current limit made clear the definition between a large market and a group of pedlars.

Mr Foord answered questions with particular reference to the income received by the Council for the farmers market as well as how the different types of market and street trading worked. Mrs McKay added that the fee obtained by the Council for the traders market was a commercial fee. Comment was made by the Chairman questioning whether the current operator of the general market for the traders market was pricing out the traders. Mrs McKay responded that when the contract with the current operator of the general market expired the Council would go out to tender. She advised that the current fee charged by the market operator to the stall holders was not known and the Council would not necessarily be aware of the fees to be charged to stallholders by the operator if the general market was moved to East Street and North Street. Mr Bennett added that it was

hoped that the proposed increase in the scale of charges would be absorbed by the agents running the markets and not passed on to the traders.

In response to a question from a member, Mr Bennett referred to the issue of whether or not the minimum number of 10 stalls should be kept and the impact changes may have on any enforcement action taken by the Council. It was difficult to recommend a suitable figure. However, he advised that if the number was reduced by too much the less difference there would be between an individual pedlar and an approved trader, which could cause difficulties when taking enforcement action. He confirmed that no applications for less than 10 stalls had ever been received by the Council. He added that a request had been received from the Chichester Business Improvement District for the inclusion of Crane Street, Chichester as a consent street for the purposes of street trading.

Mr Foord reported that this Council along with other councils was lobbying the Department for Business, Innovation and Skills (BIS) on the revision of the Street Trading Controls legislation. However, the DBI had issued a statement the previous week advising that this was not a priority and that it would not be considered until late 2016. Mr Foord explained the difficulties encountered when observing pedlars who often only acted as pedlars whilst being observed and may well be stationery when not.

The Chairman reported that the Committee was not being asked to designate the number of stalls to be allowed, but was being asked to give officers authority to review the current Guidance and to look into the number of stalls that could be allowed.

The Committee voted on paragraphs 5.1 to 5.6 of the report as follows:

5.1 – agreed

A recorded vote was taken on paragraph 5.1 as follows:-

For the recommendation (8): Mr Barrett, Mr Barrow, Mr Budge, Mr Elliott, Mr Macey, Mr Potter, Mr Ridd and Mr Wakeham.

Against the recommendation (2): Mr Connor and Ms Plant.

5.2 – agreed.

5.3 – agreed subject to the addition of ... “commercial” markets held in the precinct...

5.4 – agreed

Mr Bennett added that this would be dependent on paragraph 5.1 and any changes to the minimum number of groups of stalls permitted to trade.

5.5 – agreed.

5.6 – agreed.

The Chairman thanked the officers concerned for the progress on this matter.

Resolved

That officers be authorised to revise the Street Trading Consent Guidance to provide for the recovery of costs as indicated at paragraphs 5.1 to 5.6 of the report and to permit street trading by smaller groups of stalls subject to the issue of a trading consent by the Licensing Team which reflects the other criteria of the Street Trading Consent Guidance.

7 Exclusion of the Press and Public

Resolved

That, in accordance with the section 100A of the Local Government Act 1972 (the Act), the public and the press be excluded from the meeting during the consideration of the following items on the Agenda for the reason that it is likely in view of the nature of the business to be transacted that there would be disclosure to the public of “exempt information” being information of the nature described in Paragraph 3 (information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part I of Schedule 12A to the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8 Street Trading Guidance - Changes to Charges and Restrictions on Stall Numbers

The Committee considered the Part II appendix (Charges and Regulations of Street Trading, Chichester City) to the Street Trading Guidance – changes to Charges and Restrictions on Stall Numbers report.

Mrs McKay provided details of the current and potential charges for street trading within the Chichester City, how these figures were arrived at and responded to questions from the Committee.

At the end of this item the committee resumed in open session in order to consider the outstanding Part I items of business.

9 Housing and Environment Services Enforcement Policy

The Committee considered the following report (copy attached to the official minutes).

Mr Brightmore introduced this report and explained that the current Housing and Environment Services Enforcement Policy had required updating to take into account changes to Government legislation and guidance. The draft Policy had also been simplified to make it easier for those who were the subject of enforcement action to read.

Officers responded to members questions. Mr Brightmore confirmed that where there were mitigating factors that had led to an offence these would be taken into

account and he added that prosecution proceedings were only taken by the Council as a last resort. With regard to the public interest test and the issue of financial gain arising from an offence, Mr Bennett advised that the sentencing guidelines required the offender to be punished more severely. The guidelines also advised that when the Council was assessing whether or not to take enforcement action, it should focus on offences that the courts would take more seriously.

Resolved

That the draft Housing and Environment Services Enforcement Policy be adopted.

10 **Consideration of any late items as follows:**

There were no late items for consideration.

The meeting ended at 11.00 am

CHAIRMAN

Date: