

MONMOUTHSHIRE COUNTY COUNCIL

Minutes of the meeting of Licensing and Regulatory Committee held at on Tuesday, 13th March, 2018 at 10.00 am

PRESENT: County Councillor J. Higginson (Vice Chairman in the Chair)

County Councillors: A. Easson, J.Pratt, R.Roden, J.Treharne,
D. Evans and L. Guppy

OFFICERS IN ATTENDANCE:

Linda O'Gorman	Principal Licensing Officer
Sam Winn	Licensing Officer
David Jones	Head of Public Protection
Ioan Gealy	Solicitor
Paula Harris	Democratic Services Officer

1. Apologies for absence

County Councillors B. Strong, A. Webb, F. Taylor, M. Lane and R. Edwards.

2. Declarations of interest

None.

3. To confirm and sign the minutes of the previous meeting held on the 30th January 2018

The minutes were agreed and signed by the Chair.

The Principal Licensing Officer responded to a question regarding film classification raised at the previous meeting and quoted two cases at other authorities.

4. Application for an Annual Block Street Trading Consent for Usk Town Centre

The Committee were joined by Christina Williams representing Usk Town Council for this item.

Context

To consider an application for a Block Street Trading Consent to trade in Usk Town Centre.

Key Issues

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An application was received on 22nd February 2018 from Tracey Huxley, on behalf of Usk Town Council for Usk Town Centre, which is attached to this report as Appendix A. The application request is to trade on Sunday to Thursday between the hours of 09:00hrs until 18:00hrs and Friday to Saturday between the hours of 09.00hrs until 23.00hrs. The location and number of pitches requested in the application form for Usk Town Centre are as follows:-

- Twyn Square, Usk – Subject to road closure (2 pitches)
- New Market Street, Usk (4 pitches)
- Bridge Street, Usk (4 pitches)
- Twyn Square Car Park, Usk (12 pitches)
- Owain Glyndwr Field, Maryport Street, Usk (10 pitches)
- Maryport Street, Usk – park area next to number 3 (2 pitches)
- Sitting Area Outside Coop (2 pitches)
- Legion Car Park, New Market Street, Usk (2 pitches)
- Conigar, riverbank next to Usk Bridge (4 pitches)

The total pitches requested for Usk Town Centre is 42 pitches.

The applicant has further stated that if the consent is granted they will ensure pitch holders will comply with the Council's conditions for the consent. The applicant has stated within Section 2 of the application form that each person requesting a pitch will be required to complete an "Application for a Day Market Pitch", which will be issued by Usk Town Council.

A Block Street Trading Consent was previously granted by the Licensing and Regulatory Committee on 3rd May 2016 for Usk Town Centre, to a different organisation, who subsequently surrendered the Consent on 14th November 2017. The changes to this application as opposed to the previous consent granted are as follows:

Owain Glyndwyr Field, Maryport Street Usk – 10 pitches (previously 2 pitches)
Car Park in Twyn Square, no longer required (Previously 18 pitches)

Number of pitches 42 pitches (previously 52 pitches)

The application was forwarded to the consultees (Appendix A), these being Heddlu Gwent Police, Monmouthshire Planning Department, Monmouthshire Environmental Health Department and the Local Ward Member. No objections were received on this application.

Section 13 of the Street Trading Policy adopted by this Authority on 9th February 2016 states;

An Authorised Officer will approve the application if it:-

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- Meets the criteria and
- There are no reasonable and appropriate objections.

And further states, "Except where objections are received for safety reasons the Head of Public Protection can determine the application or defer the matter to the Licensing and Regulatory Committee."

The Head of Public Protection has decided in this instance to defer the matter to the Licensing and Regulatory Committee for a decision, due to the application being a new application for a permanent consent, which will include a number of pitches with wider potential impact.

Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Part III there is no right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.

As there is no statutory right of appeal the applicant has the right to seek judicial review. As a judicial review is largely about the decision making process, it is difficult to see how any judicial review application could be made, when the applicant understands the reasons for the Members decision. If reasons are not given then there is de facto denial of judicial review.

A District Council are under no duty to grant a street trading consent and need not specify statutory grounds for refusal. However in the case of R v The Mayor and Commonalty and Citizens of the City of London ex parte Matson, the Court highlighted the need for decision makers to give reasons in the interests of fairness and to enable judicial review proceedings to become available.

Members Comments

In regard to the key issues Town Councillor C. Williams stated that the 12 pitches in Twyn Square is required. The Councillor advised the committee that Usk Town Council would like to be charge to ensure everything goes well for Usk.

A Member of the Committee asked if annual block trading was available throughout the County.

It was asked if Police and Environmental Health Team had any objections to the application.

In regard to Twyn Square, clarification was sought on the proposed layout of stalls.

A Member praised the application as anything done to encourage trade to our towns was felt to be a positive move. The frequency of events was questioned.

Members of the Committee look forward to receiving feedback on the success of the project.

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Members of the Committee unanimously agreed to the recommendation to consider and determine the application form attached to the report as Appendix A.

5. Public Protection 2017/18 (first 9 months) performance report

Context

To receive and comment on the performance report for Public Protection services. The Public Protection division comprises of Environmental Health, Trading Standards & Animal Health and Licensing.

Key Issues

Cabinet approved a report in March 2014 recommending budget reductions to Public Protection services for 2014/15 and subsequent years. In January 2015 Cabinet asked for Public Protection performance to be reviewed regularly to assess any negative impacts.

As a consequence six monthly reports have been provided to Strong Communities Select committee, together with annual reports to Licensing & Regulatory committee.

The attached report summarises performance over the first nine months of 2017/18, and highlights the following –

- The four service teams, for the vast majority of the services they deliver, meet the Authority's legal obligations in relation to Public Protection services.
- As detailed in Appendix A, most proactive and reactive work is being carried out professionally, within prescribed response times. There are only a few exceptions, due to increased demand, eg. some slippage in housing, private water inspections and animal health visits.
- Annual reports will continue to be made to this Committee to assess performance over time, and help inform future priorities noting the competing demands.
 - Services may struggle to take on any new statutory duties that protect the public and the environment, and therefore funding must be sought to support any new work.
 - Future strategies for sustaining Public Protection services will be developed, (to include further income generation and collaboration), locally, regionally and nationally.
 - Services will improve linkages to the Authority's Corporate Business Plan 2017/22 – approved by Council last month – and other key drivers, eg. the priorities of the Chief Medical Officer for Wales.

Members at Strong Communities Select on 15th February 2018 were pleased with the levels of performance across Public Protection, particularly in light of new legislative

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burdens. The contribution to protecting vulnerable people, protecting the environment and reducing anti-social behaviour was recognised.

Members Comments

A Member of the committee praised officers for the report and highlighted the work as being critical for keeping the residents of Monmouthshire safe. It was asked if a major incident took place, such as the 2001 foot and mouth epidemic, would we as a Council have the capacity to deal with it and would we have the money to cover the problem as speedily as needed.

A Member asked if the department had contact details of farmers in the event of escaped animals.

In regard to private water supplies, the reference to them not being adequately monitored was raised and it was asked what strategies will be put in place to ensure monitoring takes place in future.

In terms of the department's responsibilities monitoring private landlords it was asked how often the department is involved in non-compliant landlords.

A Member of the committee asked what impact technological changes will have on the department.

Members agreed to the recommendation;

To consider and comment on the contents of the attached report – Appendix A – entitled 'Public Protection Performance report 2017/18, first 9 months'.

6. Gambling Act 2005 - Premises Licence Fees

Context

To agree the fees to set for this Authority in relation to Premises Licences under the Gambling Act 2005 for 21st May 2018 – 20th May 2019.

Key Issues

This Authority has a statutory duty under the Gambling Act 2005 to set fees for Premises Licences in accordance with the Gambling (Premises Licence)(England and Wales) Regulations 2007. The fees for these licences are to be reviewed and set annually on the 21st May each year. Premises Licences will include Betting Shops, Tracks, Adult Gaming Centres, Family Entertainment Centres and Bingo Premises. A fee assessment has not been carried out for Casinos as the Authority carried a resolution not to allow Casinos within its County at Full Council on 19th November 2015.

The general functions of the licensing authority in dealing with Gambling Premises Licences has been delegated to the Licensing and Regulatory Committee. This was

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agreed in the Gambling Act 2005 Statement of Licensing Policy approved at Full Council on 19th November 2015.

Licensing Authorities do not have the power to set fees for Permits which will be set by Central Government.

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 provided for the following types of fees to be determined by licensing authorities:

- Licence application fee
- First annual fee
- Annual fee
- Notification of change of circumstances fee
- Application to vary a licence fee
- Application to transfer a licence fee
- Fee for a copy of a licence
- Application for re-instatement of a licence fee
- Provisional statement application fee.

The Authority currently licence fifteen premises under the Gambling Act 2005 consisting of nine betting premises, one track betting and five adult gaming centre all of whom will be required to pay an annual fee.

The European Services Directive, along with other regulations, statutory guidance and case law underline that fees must be set on a “reasonable” cost recovery basis only and cannot be set in such a manner as to generate a profit or act as an economic deterrent to traders. In determining reasonable costs the Authority may take account of costs averaged over a reasonable period (up to three years). However, The Regulations referred to above has stipulated a maximum figure a local authority is permitted to charge for the licensing of premises under the Gambling Act 2005.

An assessment of the cost and the maximum amount a local authority can charge for premises licences has been undertaken. As a result of this assessment this report proposes that the fees commencing the 21st May 2018.

Members unanimously agreed to the following recommendations;

- i) the fees and charges detailed in Appendix A of the report be approved and have effect from 21st May 2018; and
- (ii) The fees are subsequently reviewed annually.

7. To note the date and time of the next meeting as 24th April 2018 at 10am

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The meeting ended at 10.48 am