



Minutes of a meeting of the Licensing Committee held in the Council Chamber at The Grange, Nutholt Lane, Ely on Wednesday, 9th March 2022 at 9:30am.

PRESENT

Cllr Julia Huffer (Chairman)
Cllr Christine Ambrose-Smith
Cllr Sue Austen
Cllr Lavinia Edwards
Cllr Simon Harries
Cllr Bill Hunt (as a Substitute)
Cllr Mark Inskip
Cllr Alec Jones
Cllr Alan Sharp
Cllr Lisa Stubbs (as a Substitute)
Cllr Gareth Wilson

OFFICERS

Stewart Broome – Senior Licensing Officer
Liz Knox – Environmental Services Manager
Adrian Scaites-Stokes – Democratic Services Officer
Angela Tyrrell – Senior Legal Assistant

IN ATTENDANCE

Rebecca Chong – Off The Beaten Truck
John Hudgell – Owner of a Street Trading Business

Prior to the commencement of the meeting, the Chairman suggested that future meetings of the Licensing Committee start at the later time of 10:00am. This would allow any taxi drivers to complete their school runs, should they wish to attend a meeting.

21. **APOLOGIES AND SUBSTITUTIONS**

Apologies were received from Councillors David Ambrose Smith and Jo Webber. Councillors Bill Hunt and Lisa Stubbs acted as Substitutes for this meeting.

22. **DECLARATIONS OF INTEREST**

No declarations of interests were made.

23. **MINUTES**

It was resolved:

That the Minutes of the Licensing Committee meeting held on 10th November 2021 be confirmed as a correct record and be signed by the Chairman.

24. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman made no announcements.

25. **REVIEW OF STREET TRADING POLICY**

The Committee considered a report, W150 previously circulated, that detailed minor amendments to the Council's Street Trading Policy.

The Senior Licensing Officer reminded the Committee that the Council's Street Trading Policy was revised in 2016 making all streets within the whole district 'Consent Streets', with the exception of a few trunk roads. The revised Policy with revised fees and procedures was adopted, but had minor changes made in 2018. As a result of the two years of the pandemic, a lot of enquiries had been received relating to 'pop-up' traders who wished to supplement their falling income. The Department had worked with Off The Beaten Truck (OTBT) and the Nationwide Caterers Association (NCASS) to re-align the Policy. In November 2021 the Policy was further revised and adopted, which introduced the concept of 'host premises' and 'pop-up traders'. Any pop-up trader had to register with the Council and obtain permission from the host premises to trade.

Those latest revisions had produced unexpected consequences for the traders and hosts. Feedback on those revisions had been received from OTBT and responses made, as shown in paragraph 3.3 of the report. The main issues related to the fee structure and the requirement for hosts and traders to register. The fee levels were proving to be a financial burden on the trade and comparisons had been made with the fees set by South Cambridgeshire District Council, which had recently changed its policy. The fees for charitable venues were considered too high and hosts were reluctant to register if they thought there would not be enough take up of pop-up traders. Those traders were also reluctant to pay the fees set.

The Policy agreed in November 2021 was lawful but something needed to be done to address the issues raised. The recommendations in the report sought to address those issues by scaling back the pop-up scheme, so the Council only needed to be notified of a pop-up trader and there would be no fee attached. However, proposed conditions would be included, to safeguard the public, and were set out in paragraph 4.4 of the report.

In response to the Committee's questions, it was revealed that NCASS membership would cover the points shown under Condition 1. The Conditions aimed to strike a balance between public safety and the provision of vital local amenities. There was no provision within the relevant legislation describing 'rogue traders', though the Council could remove consent to trade, or prohibit streets from being used, for any reasonable excuse. If the host did not comply with the licence conditions then their consent could be removed. For pop-up traders, if they acted recklessly, their badges could be taken away preventing them from trading. There was no right of appeal if these things happened, though they could call for a judicial review of any such decision.

AGENDA ITEM NO. 3(a)

Any instances of food poisoning related to these traders would be investigated by the Council's Commercial Team. Any enforcement action would be conducted via the host premises. The Department were aware that some pop-up traders traded in a number of different place but were unaware of any complaints within the district. The Department took an 'educational' approach to any complaints received, but could not provide any host's contact details to others due to data protection legislation.

Currently no host premises licences had been issued, though the Council was aware that there were approximately ten sites currently being used. This number was expected to grow.

In relation to the fees, the level was set to enable the relevant administration costs to be cost neutral. If the fee for the traders was removed the host fees would be looked at to see how it affected the Council's costs. It was hoped that the loss of income could be absorbed. Premises could apply for an annual host premises licence, which could be paid quarterly after paying an initial fee, or a daily licence if traders only visited infrequently. The current fee structure should be reviewed, as it became expensive for premises with multiple sites having regular traders. This review would include consultation with OTBT and NCASS.

The Chairman then invited Rebecca Chong, owner of OTBT, and John Hudgell, owner of a pop-up trade, to address the Committee. Rebecca Chong advised that street trading had evolved and had been the only industry that had grown during the pandemic. The team that OTBT worked with were highly vetted and skilled. They provided high quality food and worked with NCASS to ensure public safety was paramount. Although membership of NCASS was not a strict requirement, it had a paid membership scheme and organised events. This industry was highly regulated and NCASS helped monitor it by checking that the relevant documentation from the traders was acceptable.

It was appreciated that the Council was adopting a new policy, as these businesses were different to traditional street trading. However, there were concerns relating to the host sites, as there were a lot of them. Due to the pandemic many public houses had to close their kitchens and had used food vans on site to supplement their income. The fee for a host premises was high and made it difficult to afford, as many locations were already struggling. This could result in very few sites taking up this licence and push those businesses into other area, so everybody would lose out.

OTBT supported multiple businesses, pop-ups and host premises. This entailed ten to twelve venues with more than twenty food vans. New ones were starting all the time and it would be good for the Council to have a good idea who was trading.

John Hudgell owned two trucks, started his business three years ago and had seen the business grow through the pandemic. Overheads were high, as he employed three chefs and two part-timers, and traded in three districts. This required paying a fee for each district, though most of his business was within East Cambridgeshire. He had obtained permission to trade by the premises and relevant parish councils. 90% of the business was pre-ordered online but

turnover was not high. The business was not of direct benefit to the venues, though it was for the communities. There was no issue over paying the relevant fee for the business, but the current level was too much. The current fee structure had no winners, so something needed to be done to make it fair.

The Senior Licensing Officer explained that it was not possible to stop the current charging fee levels, as they were already in force. If a review of the fee structure was undertaken resulting in a lower set of fees it might be possible to retrospectively refund the relevant businesses. All payments would be recorded and there would be a procedure to pay back if required. The recommendations in the report would remove the fees for pop-up traders and introduce the requirement to register notifications of such trading.

In response to Members' queries, it was acknowledged that the current 'one-size-fit-all' fee structure did not recognise the potential differences in host premises and pop-up trading. Venues or traders could currently apply for daily consent at £15 per time, rather than the full £750 annual fee, but this would be limited to 16 occasions per year. A review would be mindful of what neighbouring authorities were doing, although each authorities' fee structures would be different as each had its own unique parameters. Although any review had to protect the public need for such host sites, all the related issues had to be looked at.

Members noted that things were in a period of change, so processes needed to change. A review had to be undertaken on the fee structure to get the balance between supporting those businesses and community amenities. So the Committee requested that an urgent review of the street trading fee structure be carried out, in consultation with OTBT and NCASS, and brought back to the June Licensing Committee meeting for consideration.

The Chairman proposed that Condition 2, as set out in the report under paragraph 4.4, include the Date and Time when a pop-up trader was at a host premises. This was agreed by the Committee.

It was resolved:

- (i) That the contents of the report be noted and that the revised policy attached at Appendix 2 be approved to come into effect immediately, with the following addition:

Condition 2 relating to the "Pop-up Trader" scheme includes the requirement for the "Host Premises" to also record the date and time that any 'pop-up trader' trades at their premises;

- (ii) The reversion back to the previous fees in relation to Street Trading be approved and officers be instructed to reflect this in the 2022/2023 annual fees and charges document.

26. **SENIOR LICENSING OFFICER UPDATE**

The Committee considered a verbal report that updated Members on the work of officers within the Licensing Department.

The Senior Licensing Officer advised the Committee that things were starting to recover from the pandemic. Licence applications were still down on previous numbers. The Department was working on Animal Welfare Guidance, as some legislative changes were going through, with the intention of minimising the effect on licence holders, who also now had to nominate a veterinarian for their business. Minor Right To Work changes had come in. Scrap Metal Dealers licence holders and taxi drivers now had to register for tax liability, otherwise their licences may be withdrawn.

The Chairman on behalf of the Committee commended the excellent work of the Licensing Team.

27. **FORWARD AGENDA PLAN**

The Committee considered its Forward Agenda Plan.

The Committee noted the amendments/additions of to the Agenda Plan:

- All future Licensing Committee meetings to start at 10:00am
- 22nd June 2022 meeting – additional items: (i) The Review of the Street Trading Fee Structure; (ii) Fit and Proper Persons for Caravan Sites
- 27th July 2022 – additional item: CCTV in Taxis

The meeting concluded at 11:04am.