

**To: Chairman and Members of the Alcohol and Gambling Licensing Committee**

**Councillors Jenns, D Clews, Farrow, Hancocks, M Humphreys, Jordan, Lees, Macdonald, McLaughlan, Moss, Osborne, Parker, O Phillips, Rose and A Wright**

**For the information of other Members of the Council**

**For general enquiries please contact Democratic Services on 01827 719221 or via email – [democraticservices@northwarks.gov](mailto:democraticservices@northwarks.gov).**

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## **ALCOHOL AND GAMBLING LICENSING COMMITTEE AGENDA**

**22 JULY 2021**

The Alcohol and Gambling Licensing Committee will meet on Thursday 22 July 2021 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The meeting can also be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

### **AGENDA**

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests.**

4 **Minutes of the Licensing Committee held on 26 January 2021** – copy herewith to be approved as a correct record and signed by the Chairman.

5 **Public Participation**

Up to twenty minutes will be set aside for members of the public to put questions to elected Members. This will not allow members of the public to speak on any licensing application being considered by the Committee if they are not a party to that application under the Licensing Act 2003. If you are a party to a hearing you will have received a notice of hearing and should respond as indicated in that notice.

Members of the public wishing to address the Board on any other issue must register their intention to do so by 9:30am two working days prior to the meeting. Participants are restricted to five minutes each.

If you wish to put a question to the meeting, please register by email to [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk) or telephone 01827 719221 / 01827 719226.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber;
- (b) attend remotely via Teams; or
- (c) request that the Chair reads out their written question.

If attending in person, precautions will be in place in the Council Chamber to protect those who are present however this will limit the number of people who can be accommodated so it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should dial the telephone number and ID number (provided on their invitation) when joining the meeting to ask their question. However, whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so, they made need to mute the sound on YouTube when they speak on the phone to prevent feedback).

## **ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)**

6 **Appointment of Licensing Sub-Committees** – Report of the Chief Executive  
**Summary**

To approve the appointment of Licensing Sub-committees to discharge the functions of the Alcohol and Gambling Committee.

The Contact Officer for this report is Clive Tobin (719251)

**ALCOHOL LICENSING HEARING**  
**(under the Licensing Act 2003 (Hearings) Regulations 2005)**

- 7     **Application to vary Premises Licence** – Spread Eagle Public House, High Street, Polesworth

STEVE MAXEY  
Chief Executive

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**MINUTES OF THE  
LICENSING COMMITTEE**

**26 January 2021**

Present: Councillor Jenns in the Chair

Councillors D Clews, Farrow, M Humphreys, Jarvis, Lebrun, Lees, Macdonald, McLaughlan, Osborne, Parker, H Phillips, O Phillips and A Wright,

An apology for absence was received from Councillor Downes.

**1 Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor D Clews declared a pecuniary interest in Minute No 3 – General Fund Fees and Charges 2020/2021 by virtue of holding a Home Boarders Licence and took no part in the discussion or voting thereon.

**2 Minutes**

The minutes of the meeting of the Committee held on 28 January 2020, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

**3 General Fund Fees and Charges 2020/2021**

The Chief Executive reported on the fees and charges for 2020/21 and the proposed fees and charges for 2021/22.

**Resolved:**

**That the schedule of fees and charges for 2021/22, as set out in the report of the Chief Executive, be accepted.**

**4 General Fund Revenue Estimates 2021/22**

The Corporate Director Resources reported on the revised budget for 2020/21 and an estimate of expenditure for 2021/22, together with forward commitments for 2022/23, 2023/24 and 2024/25.

**Resolved:**

**a That the revised budget for 2020/21 be accepted; and**

**Recommendation to Executive Board:**

- b That the Estimates of Expenditure for 2021/22, as submitted in the report of the Corporate Director Resources, be included in the budget to be brought before the meeting of the Executive Board on 15 February 2021.**

**5 Licensing Act 2003 – Review of Licensing Policy**

The Chief Executive sought approval of a revised licensing policy in respect of the Licensing Act 2003 for adoption by the Council.

**Recommended:**

**That subject to the inclusion of the amendments as set out in Appendix B to the report of the Chief Executive, the Council adopt the licensing policy under the Licensing Act 2003 (Appendix A).**

**6 Exclusion of the Public and Press**

**Resolved:**

**That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.**

**7 Appointment of Licensing Committees**

The Chief Executive sought approval of the appointment of a further Licensing Committee and delegation of certain powers to the Committee to ensure lawful discharge of all the Council's licensing functions.

**Resolved:**

**That the recommendations (a) to (d) as set out in the report of the Chief Executive be approved.**

A Jenns  
Chairman

## Agenda Item No 6

### Alcohol and Gambling Licensing Committee

22 July 2021

#### Report of the Chief Executive

#### Appointment of Licensing Sub- committees

### 1 Summary

- 1.1 To approve the appointment of Licensing Sub-committees to discharge the functions of the Alcohol and Gambling Licensing Committee.

#### **Recommendation to Committee**

- a That the Alcohol and Gambling Licensing Committee appoints all combinations of three member Sub-committees in accordance with this report to determine applications, review licences and take such other steps as are set out in Appendix B to this report; and**
- b To authorise the Chief Executive, in consultation with the Chair of the Committee, to call meetings of those Sub-committees as required to determine those applications, reviews and take other steps unless they agree that the whole Committee should meet to determine those matters.**

### 2 Issues and Choices

#### 2.1 Report Background

- 2.1.1 In January 2021 the Licensing Committee received a report in relation to the discharge of various functions. At that time the Licensing Committee agreed to recommend to Council that two separate committees were created to ensure that the Council met its various obligations under licensing legislation. Following that recommendation Council agreed to appoint a Taxi and General Licensing Committee under the Local Government Act 1972 (the 1972 Act) and to establish an Alcohol and Gambling Licensing Committee under the Licensing Act 2003 (the 2003 Act).

- 2.1.2 The 2003 Act prescribes certain matters which must be determined by the Committee established under that Act, along with certain functions which have to be reserved to Full Council, and also stipulates that the Committee may not

...

exercise any other functions which are not specified by that Act. Appendix A to this report sets out the following:

- (a) Table 1 shows those functions which must by law be discharged by the Alcohol and Gambling Licensing Committee;
- (b) Table 2 shows those functions which must be reserved to Full Council; and
- (c) Table 3 shows those functions which must, as a result, now be discharged by the Taxi and General Licensing Committee.

3.1.3 The 2003 Act also allows a Licensing Committee established under that Act to establish one or more Sub-committees consisting of three members of the Committee. The Act also states that the Committee may arrange for any of its functions to be exercised by those Sub-committees. Regulations make special provision for hearing of applications by a Licensing Committee or Sub-Committee established under the 2003 Act.

3.1.4 There are several benefits to arranging for Sub-committees to discharge the Licensing Committee's functions since regulations made under the 2003 Act require hearings to be held within specified time limits, including:

- (a) Applications for a new licence or to vary a licence, which must be heard within working 20 days of the end of the period for making representations to the Council;
- (b) Holding a review hearing within 20 working days of the end of the period for making representations to the Council;
- (c) Considering whether to issue a counter notice in relation to a temporary event within 7 working days of the period in which the police or environmental health may object; and,
- (d) Consider an application for summary review of a licence within 48 hours of the police applying to the Council.

3.1.5 Members will appreciate that these time limits will make it extremely difficult to arrange a meeting of the whole Alcohol and Gambling Licensing Committee to determine all applications which are made and require a hearing. It is more likely to be possible to arrange a Sub-committee meeting to hear those matters within the timescale available since it should usually be possible to identify 3 members who can sit when required.

3.1.6 Since there may be some cases in which the Committee as a whole can determine a matter, it is suggested that discretion remains to allow the Committee to sit to consider appropriate applications when it is possible to do so within the time limits in the regulations. It is suggested that this discretion is exercised by the Chief Executive in consultation with the Chair of the Committee taking account of each individual application.

... 3.1.7 The functions set out in Appendix B are those which it is recommended the Committee agree to delegate to Sub-committees in appropriate cases.

3.1.8 Since applications can be made at any time requiring a meeting to be called at short notice, only limited members may be available. It is therefore recommended that the Committee agrees to establish all possible permutations of Sub-committee so that, regardless of which members are available, they may sit as a Sub-committee to determine the matter concerned.

## **3.2 Alternative options**

3.2.1 The only alternative option is not to appoint Sub-committees and to delegate powers to them to decide applications. If however, all applications were considered by the Committee as a whole then there is a risk that the Council will fail in its duties to make decisions as required under the 2003 Act, miss statutory deadlines and, more importantly, deprive itself of the opportunity to take action to protect its inhabitants in appropriate cases.

## **3.3 Details of proposal**

3.3.1 It is proposed that the Council appoints all combinations of Sub-committee allowed under the Act. Since there are a large number of combinations, rather than listing these out in this report, it is suggested that the Committee simply agrees that any three of its members may sit on a Sub-committee at any particular time and that arranging which three sit in any case is delegated to the Chief Executive in consultation with the Chair of the Committee. This will allow for any potential future changes to the membership of the Committee.

3.3.2 It should be noted that since under the 2003 Act only members of the Committee established under the Act may be appointed to a Sub-committee, it is not possible for a substitute to sit on a Sub-committee in place of a Committee member. Since it is not a Committee appointed under the 1972 Act the rules on political balance do not apply to the Alcohol and Gambling Licensing Committee however, the Council did apply those rules when appointing the Committee. As those rules do not apply and, since decisions under the 2003 Act must be made based on the licensing objectives, it is lawful for a Sub-committee to comprise any three members regardless of political group.

## **4 Report Implications**

### **4.1 Policy Implications**

4.1.1 The proposals do not impact on any of the Council's existing policies since no previous arrangements have been made for determining applications under the 2003 Act.

### **4.2 Resources and Risk Implications**

4.2.1 There is unlikely to be any significant change in the number of committee meetings which take place as a result of the proposals. If Sub-committees are appointed there may, however, be a small cost saving since only three members will attend some of those meetings.

### **4.3 Legal Implications**

4.3.1 The legal implications are largely set out in the body of this report.

4.3.2 The arrangements suggested will allow the Council to discharge its duties under the 2003 Act in a timely manner and ensure compliance with the various regulations which apply to hearings. The proposed arrangements also take account of case law decisions which have clarified the extent of any such arrangements.

4.3.3 If the Council does not make the recommended arrangements there is some risk that the Council could be challenged on any appeal against a licensing decision which could in turn result in the Council losing the appeal and paying the costs since it will not be able to show that the correct process was in place.

### **4.4 Equality Implications**

4.4.1 There are no equalities implications since the new arrangements would apply to applications made by all persons, regardless of any protected characteristics. The regulations applying to hearings along with the Council's own procedure contain appropriate provisions to ensure a fair hearing of each application.

The Contact Officer for this report is Clive Tobin (719251)

Table 1

Functions delegated to Alcohol and Gambling Licensing Committee

Function	Statutory Provision
<b>All licensing functions of the Council relating to the Sale / Supply of Alcohol, Provision of Entertainment and Late Night Refreshment</b>	Sections 7 and 10 Licensing Act 2003* (except for such functions as cannot be delegated)
<b>Gambling</b> Issue of premises licences	Section 154 Gambling Act 2005*
Determination of applications in relation to temporary use of premises for gambling	Section 232 Gambling Act 2005*
Determination of applications for gaming machine permits	Part 10 Gambling Act 2005
Determination of applications for gaming permits in relation to pubs and clubs	Part 12 Gambling Act 2005

\* these functions are automatically delegated to the committee under the provisions referred to and the Council may not make provision for their exercise in any other manner.

Table 2

Functions not delegated to Alcohol and Gambling Licensing Committee and Reserved to Full Council

Function	Statutory Provision
<b>Alcohol</b> Determination of 5 year Licensing Policy	Section 5 Licensing Act 2003
Making, varying or revoking of Early Morning Alcohol Restriction Order	Section 172A Licensing Act 2003
<b>Gambling</b> Setting of fees in relation to applications for premises licences etc.	Section 212 Gambling Act 2005
Determination of 3 year Licensing Policy	Section 349 Gambling Act 2005

Table 3

Functions delegated to Taxi and General Licensing Committee

<p><b>Taxis</b>  Determination of applications for hackney carriage drivers and vehicle licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p> <p>Determination of applications for private hire vehicle, operator and drivers licences, reviews, suspension and revocation of such licences and setting policy in relation to licensed vehicles and drivers</p>	<p>Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976</p> <p>Local Government (Miscellaneous Provisions) Act 1976</p>
<p><b>Sex establishments</b>  Determination of applications for licences for sex establishments, review and revocation of such licences and setting of policy in relation to such licences.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p>
<p><b>Street Trading</b>  Determining applications for street trading consent, renewal of street trading consents and revocation of street trading consents and setting policy in relation to such consents.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982</p>
<p><b>House to House and Street Collections</b>  Determination of applications for street collection permits and house to house collection licences, review and revocation of licences and setting of policy and making of regulations in relation to such licences and permits.</p>	<p>House to House Collections Act 1939  Police, Factories etc. (Miscellaneous Provisions) Act 1916</p>
<p><b>Car Boot Sales</b></p>	<p><i>Check any local provision</i></p>
<p><b>Tattooing etc.</b>  Determination of applications for registration of persons to carry on a business of skin piercing, tattooing, semi-permanent skin colouring, acupuncture and/or electrolysis, review, suspension and cancellation of such registrations and making of bye-laws in relation to such activities.</p>	<p>Local Government (Miscellaneous Provisions) Act 1982 (as amended)</p>
<p><b>Animal Welfare</b>  Determination of applications for licences for operation of businesses of pet animal sales, pet boarding, hiring out horses, dog breeding and/or keeping or training of animals for exhibition, review, suspension, variation revocation and reinstatement of such licences and appointment of inspectors.</p>	<p>Animal Welfare Act 2006 and Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</p>

<p><b>Scrap metal</b>  Determination of applications for site and mobile collectors licences, review and revocation of licences, imposition of conditions, closing of unlicensed sites and setting of policy in relation to such licences.</p>	<p>Scrap Metal Dealers Act 2013</p>
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For each power set out in Tables 1 and 3 all associated enforcement powers are also delegated to committee to allow effective administration of the licensing regimes concerned. The administration and enforcement of all relevant regulations made under the Acts referred to is also delegated to committee for these purposes.

## Appendix B

### Type of application

Determination of application for premises licence.

Determination of application for a provisional statement.

Determination of application to vary premises licence.

Determination of application to vary premises licence to specify individual as premises supervisor.

Determination of application for transfer of premises licence.

Cancellation of interim authority notice following police objection.

Determination of application for review of premises licence.

Determination of summary review of premises licence

Determination of application for club premises certificate.

Determination of application to vary club premises certificate.

Determination of application for review of club premises certificate.

Counter notice following police objection to temporary event notice.

Determination of application for grant of personal licence.

Determination of application for the renewal of personal licence.

Consider convictions coming to light after grant or renewal of personal licence.

Review of premises licence following closure order.