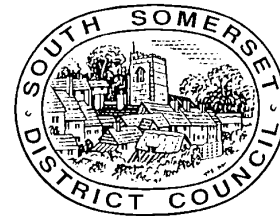


South Somerset District Council

Notice of Meeting



Licensing Committee

Making a difference where it counts

Tuesday 9th October 2012

10.00 am

**Council Chamber B
Council Offices
Brympton Way
Yeovil
Somerset**

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** on Yeovil (01935) 462055
email: jo.morris@southsomerset.gov.uk, website: www.southsomerset.gov.uk

This Agenda was issued on Monday 1st October 2012

Ian Clarke, Assistant Director (Legal & Corporate Services)



2007-2008
*Neighbourhood and
Community Champions:
The Role of Elected Members*

2006-2007
*Improving Rural Services
Empowering Communities*

2005-2006
Getting Closer to Communities

**This information is also available on our
Website: www.southsomerset.gov.uk**



INVESTOR IN PEOPLE

Licensing Committee Membership

Chairman Nigel Mermagen
Vice-Chairman Martin Wale

Dave Bulmer	Jenny Kenton	David Recardo
John Vincent Chainey	Tony Lock	Linda Vijeh
Pauline Clarke	Paul Maxwell	William Wallace
Nick Colbert	Roy Mills	
Tony Fife	David Norris	

South Somerset District Council – Corporate Aims

Our key aims are: (all equal)

Jobs - We want a strong economy which has low unemployment and thriving businesses
 Environment - We want an attractive environment to live in with increased recycling and lower energy use
 Homes - We want decent housing for our residents that matches their income
 Health and Communities - We want communities that are healthy, self-reliant, and have individuals who are willing to help each other

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.

Information for the Public

The Licensing Committee shall be responsible for those licensing 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.

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.

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Licensing Committee

Tuesday 9th October 2012

Agenda

Preliminary Items

1. **To approve as a correct record the Minutes of the Licensing Committee meeting held on 12th June 2012 and the Licensing Sub Committee Meeting held on 2nd July 2012.**
2. **Apologies for Absence**
3. **Declarations of Interest**

In accordance with the Council's current Code of Conduct (adopted July 2012), 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. A DPI is defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 No. 1464) and Appendix 3 of the Council's Code of Conduct. A personal interest is defined in paragraph 2.8 of the Code and a prejudicial interest is defined in paragraph 2.9. In the interests of complete transparency, Members of the County Council, who are not also members of this committee, are encouraged to declare any interests they may have in any matters being discussed even though they may not be under any obligation to do so under any relevant code of conduct.

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

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Licensing Committee – 9th October 2012

5. Public Fundraising Regulatory Association PFRA – Site Management Agreement

<i>Strategic Director:</i>	<i>Vega Sturgess, Strategic Director Operations & Customer Focus</i>
<i>Assistant Director:</i>	<i>Laurence Willis, Assistant Director Environment</i>
<i>Service Manager:</i>	<i>Nigel Marston, Licensing Manager</i>
<i>Lead Officer:</i>	<i>Nigel Marston, Licensing Manager</i>
<i>Contact Details:</i>	<i>nigel.marston@southsomerset.gov.uk or (01935) 462150</i>

Purpose of the Report

To update members on the monitoring and performance of the site management agreement with the Public Fundraising Regulatory Association (PFRA) in relation to face-to-face fundraising.

Recommendation(s)

- (1) That members note the report;
- (2) That members agree that the site management agreement should continue;
- (3) That an annual monitoring report be brought to Licensing Committee.

Background

In April 2009 District Executive approved a proposal for joint working between South Somerset District Council and the PFRA for an initial 12-month period. Following this initial 12-month period, a monitoring report was presented to Licensing Committee prior to a decision by District Executive on whether to extend the agreement. District Executive agreed to continue with the agreement and requested that the offer be made to Yeovil Town Council to extend the Site Management Agreement (SMA) to include the Yeovil Town Centre.

The SMA was subsequently amended to include Yeovil Town and the new agreement has been fully operational since March 2012.

Report Detail

The aim of the site management agreement (SMA) is to monitor and facilitate charity fundraising in agreed locations within the South Somerset area, including Yeovil Town and provide a balance between the right of the charity to fund raise and the right of the public to go about their business with the least impression of inconvenience.

Since March 2012 the PFRA have been managing allocations for collections throughout the district. The agreement specifies a number of areas in which street collections will be permitted and the frequency of those collections. Town Councils within those areas were consulted on local requirements for the designated areas. A copy of this agreement is included as Appendix A to this report.

The SMA provides a mechanism for reporting apparent instances of inappropriate activity / behaviour and for receiving feedback on how any issues have been resolved.

The Last 12 months

Since the beginning of March 2012 the PFRA have administered 77 face-to-face fund raising collections on behalf of the district council; 45 of these have been in Yeovil Town centre.

In this period, 4 complaints were received in relation to these fund raising activities; and all related to the positioning of the teams within Yeovil. Teams were repositioned, but it is worth noting that although one team was correctly positioned; it was re-sited as they were close to a site where a previous team had been incorrectly positioned.

In all cases the complaints were investigated by the PFRA, the fundraisers were spoken to, and the relevant disciplinary procedures were followed. The complaints were investigated in a very timely manner and the outcome of the complaint was notified to the licensing manager or town clerk within 48 hrs. It is worthy of note that 3 of these complaints were made by retailers direct to the PFRA via the hotline they have provided. Both SSDC and Yeovil Town Council have dedicated information in relation to face – to-face fundraising on their respective websites.

There was no cost to SSDC or Yeovil Town Council in administering these collections.

Financial Implications

None to the Council.

Implications for Corporate Priorities

There will be a positive impact on Corporate Theme 4, ensuring safe, sustainable and cohesive communities.

Other Implications

None

Background Papers: *Site Management Agreement*
DX Minutes 02.04.09
Licensing Committee Minutes 14/06/11

Licensing Committee – 9th October 2012

6. Annual Update on the Activities of the Licensing Service

Strategic Director: Vega Sturgess, Strategic Director Operations & Customer Focus
Assistant Director: Laurence Willis, Assistant Director Environment
Service Manager: Nigel Marston, Licensing Manager
Lead Officer: Nigel Marston, Licensing Manager
Contact Details: nigel.marston@southsomerset.gov.uk or (01935) 462150

Purpose of the Report

The report provides an annual update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters for the financial year 2011/12. Please note the figures in brackets throughout the report relate to the financial year 2010/11 and are added to enable comparison.

Public Interest

The report gives an overview of the work of the Licensing Service of the Council. The report shows the various types of licenses, permissions and consents that are issued by the Council and the numbers of applications that have been dealt with over the last financial year. The Licensing Service continues to work closely with the various Town Councils' on licensing matters.

Recommendation

That the Committee note the report.

Report Detail

Licensing Act 2003

Licences Issued and Notices Given

Within the Licensing Authority's district there are currently 734 Licensed Premises. 701 of those hold Premises Licences while the remaining 33 benefit from Club Premises Certificates. In addition a total of 1,752 Personal Licences have been issued by the authority, 108 of these were issued in the current year.

Since the commencement of the Act in November 2005, a total of 3,440 Temporary Event Notices have been given; 523 of these were given in the current year. This is a decrease of 7% on the previous years figure. It is felt that this can be attributed to the down turn in the economy, with people having some reluctance to putting on events that may or may not prove successful.

Inspections

164 licensed premises were inspected for compliance, this equates to 77% of the inspections that had been scheduled for the financial year.

Enforcement

The pro-active educational partnership approach to enforcement with the aim of compliance through consent continues to be successful. Formal action against licensed premises following inspection visits has not been necessary. It is also pleasing to report that although there has been an increase in complaints being received against licensed premises all have been resolved without the need for formal enforcement action.

Hearings

The following hearings have been held during the 2011/12 financial year.

HEARING DATE	PREMISE OR PERSON	TYPE OF APPLICATION	DECISION
23 May 2011	Wincanton Race Course	Variation of Premises Licence	Granted with conditions
20 July 2011	Gemini Carnival Club Donyatt Arena	New Premise Licence	Granted with conditions
23 August 2011	Croftons Stores 2 Frederick Place, Yeovil	New Premise Licence	Granted with conditions
23 September 2011	Plot 4 King George St Yeovil	New Premises Licence	Granted with conditions
04 November 2011	Crown Inn Ilminster	Variation of Premises Licence	Granted with conditions
14 November 2011	Living Pretty Old Bakery Curry Rivel	New Premises Licence	Granted with conditions

The Council did not receive any applications to review any licences in the 2011/2012 financial year.

In addition there are no outstanding appeals to the Magistrates' Court against the decisions of this Council's Licensing Sub Committees.

Variations, new licence applications, and changes of Designated Premises Supervisor

Applications for variation, transfer, new licences or change of designated premises Supervisor/dis-apply the requirement, continue to be received at a fairly constant rate.

Applications for the grant of a Premises Licence (26) 19

Applications for the variation of a Premises Licence (13) 14

Applications for Minor Variations 23

Applications for the transfer a Premises Licence (36) 67

Applications for a change of Designated Premises Supervisor (88) 104

Applications to dis-apply the requirement for a Designated Premises Supervisor 2

Licensing Officers continue to offer advice and guidance to applicants and liaise regularly with partner agencies to ensure the Licensing Authority provides the best possible service.

Personal Licences

Applications relating to Personal licences are still being received at a steady rate. Since 2005 the service has now issued (1,643) 1,752 personal licences. (124) 108 of these were issued this financial year.

Gambling Act 2005

Licences Issued and Notices Given

Within the Licensing Authority’s area there are now 18 premises licensed under the Gambling Act for a premises licence or a permit. 103 licensed premises have notifications in place for two or less gaming machines. There are also (221) 223 Small Society Lotteries registered.

Premises Inspections

The Licensing Authority is required to inspect premises licensed under the Gambling Act in accordance with the advice given by the Gambling Commission. The majority of premises with a premises licence issued under the Gambling Act were inspected this year, with only one outstanding.

Enforcement

Currently the Authority’s role remains one of education and assistance. To date no formal enforcement action has been required and it is anticipated that as with the Licensing Act 2003, close working with partner agencies will prove most beneficial.

Hearings

Since the last update report there has been no requirement for any hearing relating to applications made under the Gambling Act. As is the case with the Licensing Act 2003, if there are no representations made against an application and in all other respects the application is properly made, there is no requirement for a hearing.

Taxis

Licences Issued and Notices Given

Within the Licensing Authority’s district there is currently a fleet of (280) 265 licensed Vehicles, the split between the various Town Councils’ is as follows;

Council	Number of Vehicles	% of the Fleet to the nearest whole number
South Somerset District Council	(229) 227	(82%) 85%
Wincanton Town Council	(27) 26	(10%) 10%
Yeovil Town Council	(14) 12	(5%) 5%
Crewkerne	(6) 0	(2%) 0%
Ilminster	(4) 0	(1%) 0%

There are (292) 362 licensed drivers (30) 40 licensed private hire operators across the district.

Enforcement

The Licensing Team has continued the education based enforcement and monitoring approach that is used with the Licensing Act 2003 with Hackney Carriage and Private Hire drivers and vehicles. Again close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.

The Licensing Service’s taxi enforcement operations are continuing with the police and other partner agencies, including Town Councils’. Four large-scale stops were organised in the last year along with several smaller scale operations. The Licensing Service is currently working with VOSA and the County Council to undertake inspections of vehicles providing school transport.

Hearings

There was one hearing relating to Hackney Carriage and Private Hire licensing during 2011/12. The driver’s licence was granted.

Street Trading Consents

A total of 317 Street Trading Consents have been issued, these are 13 permanent consents and 304 casual consents. This is an increase of 220% over last year’s figures. The Council has prosecuted one individual this year for street trading without consent. An appeal against the prosecution was lodged with the Court but was subsequently withdrawn.

Animal Welfare

The table below shows the number of licences issued in the year.

Type of Licence	Area North No	Area South No	Area West No	Area East No	Total
Pet Shops	2	3	2	1	8
Dangerous Wild Animals	0	1	0	0	1
Dog Breeders	1	0	0	0	1
Riding Establishments	2	1	2	2	7
Boarding Establishments	13	5	13	6	37

All animal welfare establishments’ are subject to annual inspection. 100% of these premises were inspected during 2010/11

Complaints

The following complaints were received by the Licensing Department in 2010/11. In all a total of (121) 73 complaints were received.

Licensable Activity	No of Complaints	Outcome
House to House Collection	(2) 1	No Formal Action Required
Pet Shop	(4) 9	No Formal Action Required
Animal Boarding Establishments	(2) 3	No Formal Action Required
Dangerous Wild Animals	(2) 2	No Formal Action Required
Zoo	(2) 0	No Formal Action Required
Dog Breeding	(6) 2	No Formal Action Required
Street Collections	(2) 0	No Formal Action Required
Face to Face Fundraising	(1) 1	No Formal Action Required
Regulated Entertainment	(1) 1	No Formal Action Required
Gambling	(1) 1	No Formal Action Required
Hackney Carriage Drivers	(26) 21	No Formal Action Required
Hackney Carriage Vehicles	(15) 14	6 Stop Notices Issued
Parking on Taxi Rank	(2) 9	No Formal Action Required
Smoking in Vehicles	(5) 2	2 Fixed Penalties Issued
Private Hire Operator	(2) 0	No Formal Action Required
Premises Licensed for Alcohol	(22) 5	No Formal Action Required
Skin Piercing/Tattoos	(2) 0	No Formal Action Required
Private Hire Vehicles	(5) 0	No Formal Action Required
Street Trading	(0) 2	Prosecution Taken

Legal Implications

There are no legal implications contained within the report.

Financial Implications

The Licensing Service generated an annual income of £280,243 in 2011/12, against a budgeted income of £246,030. Expenditure was £255,042 against a budgeted expenditure of £280,130.

Corporate Priority Implications

Increase economic vitality and prosperity – The Licensing Service contribute to this priority by ensuring businesses are not overburdened by inspections, and that all inspections are targeted based on a risk assessment protocol.

Ensure safe, sustainable and cohesive communities – The Licensing Service are at the forefront of balancing the needs of the night time economy with the needs of local residents and ensuring the safety of the public.

Deliver well managed, cost effective services valued by customers – The Licensing Service provide valuable help and guidance on all licensing matters, which is valued by customers. The service also generates a substantial income, which enables it to be virtually self-funding. It is not possible for the service to be fully self-funding as several licences and permits do not require a fee to be paid.

Carbon Emissions & Adapting to Climate Change Implications (NI188)

None

Equality and Diversity Implications

None

Background Papers: *None*

Licensing Committee – 9th October 2012

7. Enforcement Update

<i>Strategic Director:</i>	<i>Vega Sturgess, Strategic Director Operations & Customer Focus</i>
<i>Assistant Director:</i>	<i>Laurence Willis, Assistant Director Environment</i>
<i>Service Manager:</i>	<i>Nigel Marston, Licensing Manager</i>
<i>Lead Officer:</i>	<i>Colin Chown, Licensing Enforcement Officer</i>
<i>Contact Details:</i>	<i>Colin.chown@southsomerset.gov.uk or (01935)462135</i>

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 members note the report.

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. This report seeks to brief members on the current issues that are being dealt with by the enforcement team.

Report Detail

Taxis

General

During the previous three months, several dates for multi-agency taxi enforcement checks were arranged but all were cancelled by the police due to lack of police resources. Further dates have been arranged throughout the next three months.

The Licensing team carried out weekly daytime checks and several late night checks throughout the past three months on taxis in and around the centre of Yeovil to ensure compliance with the our Hackney Carriage Policy and Bylaws. It also carried out monthly taxi checks at the Pen Mill, Yeovil Junction and Castle Cary railway stations in order to ensure that vehicles that do not tend to use the ranks in and around the main towns are also subject to ad hoc inspections.

Fifteen taxi/private hire related complaints were received in the past three months, which resulted in the issuing of six stop/prohibition notices, one fixed penalty notice for smoking in a vehicle and two fixed penalty notices for illegal parking on a taxi rank.

Street Trading Carnivals

Nine casual street trading applications have been received for Ilminster Carnival and twelve for Chard Carnival.

Scrap Metal Dealers & Motor Salvage Operators

Enforcement officers carried out a number of inspections at registered scrap metal dealers and motor salvage operators; I am pleased to report that all registered premises were in compliance with the requirements of the appropriate legislation.

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*

Licensing Committee – 9th October 2012

8. Case Brewdog Bars Limited v Leeds City Council – For Information

IN THE LEEDS MAGISTRATES COURT

BETWEEN :-

BREWDOG BARS LIMITED

Appellant

- and -

LEEDS CITY COUNCIL

Respondent

NOTE OF DECISION OF
DISTRICT JUDGE ANDERSON
6th SEPTEMBER 2012

No doubt when the 2003 Licensing Act came into being, no-one foresaw the emergence of an operation such as Brewdog. They are a A Scottish company specialising in craft beers with a devoted clientele. They do not operate large public houses selling cheap lager or cheap food. They have outlets in other cities including in cumulative impact areas where they operate well and without police objection. Now they seek to come to Leeds.

The company takes a didactic approach, with books on brewing, and customers invited to watch instructional videos playing at their premises. Their customers could be described as “alcohol geeks.” They are not run of the mill or everyone’s cup of tea, but there is a demand for outlets selling a good quality of beer.

If they had identified a site outside the City’s Cumulative Impact Policy area, there is absolutely no doubt that they would already have their licence. They are an intelligent, well-run company, and in a short space of time they have shown themselves to be an effective operator.

However, this site does fall foul of the Cumulative Impact Policy which was introduced with the best possible motives to control the grant of licences to new premises. There is a presumption within it that new applications shall not be granted, unless the applicant can discharge the reverse burden in establishing that they will not add to the cumulative impact, and that is the issue in this case.

I can deal with one conclusion briefly, the issue of noise and nuisance. The Court heard evidence from Miss Ludford that she had gone to the trouble of circulating a letter to all residents in the neighbouring block of flats but received no objections. Against that was the more general evidence of Mr Kenny, which showed noise complaints to the Council. But most of those complaints were amplified music and Brewdog does not seek to be able to provide amplified music and so there is no risk of noise from regulated entertainment emanating from the premises. The capacity is small and any noise generated as people leave the premises will be very marginal indeed. It seems to me that the premises of this public house would not be a significant impact on the Cumulative Impact area regarding public nuisance and so I do not intend to mention this further.

That leaves the more important objection of the Police and the potential impact of another premises on the levels of crime in the area. There are a number of clubs around the Corn Exchange and the late

hours they trade, the marketing operations and the type of customer they attract means that there is regular disorder and violence. they run with late hours, attracting a different sort of customer. Their presence causes violence. That is a sad fact of modern life. The situation cannot be assisted by the sort of promotion I saw advertised by Chilli White with cheap vodka and free vodka, but they have their licence.

It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow such clubs to continue to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact.

If I accept, as I do, that the enterprise sells expensive beers in expensive measures, then I think I can conclude that the people likely to be attracted are not “get it down your neck” drinkers but rather better heeled customers. The type of clientele a premises attracts has a material part to the play in the decision, because if I am not worried about their clientele and am impressed by the running of their bars elsewhere, it follows that it is unlikely that their clientele will have any adverse impact on the area here.

The Police argued that customers may accidentally cause impact. Their argument that customers could get caught up in a melee caused by others is not a valid one. A simple increase in footfall isn't a rational reason to refuse entry to Leeds by Brewdog.

I have listened carefully but have heard nothing which causes me to believe that the application should not be granted. I am satisfied that the appellants have discharged the burden of proof placed on them.

I accept that the Committee and the Police did their best but their application of the Policy was too rigid. They seemed to take the view that man was made for the Policy, when the Policy should be made for man.

The appeal is upheld, and the licence granted in the terms set out in the bundle served on the Court.

Licensing Committee – 9th October 2012

9. Date of Next Meeting

Members are asked to note that the next scheduled meeting of the Licensing Committee will take place on Tuesday 9th December 2012 at 10.00 am at the Council Offices, Brympton Way Yeovil.

*Jo Morris, Committee Administrator, Legal and Democratic Services SSDC
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