

WEST DEVON PLANNING & LICENSING COMMITTEE



West Devon
Borough
Council

Minutes of a meeting of the **West Devon Planning & Licensing Committee** held on **Tuesday, 15th November, 2016 at 10.00 am** at the **Chamber** **- Kilworthy Park**

Present: **Councillors:**

Chairman Cllr Sanders
Vice Chairman Cllr Parker

Cllr Baldwin
Cllr Cann OBE
Cllr Mott
Cllr Pearce

Cllr Benson
Cllr Hockridge
Cllr Moyse
Cllr Roberts

In attendance:

Councillors:

Cllr Cheadle
Cllr Sellis

Cllr Leech
Cllr Yelland

Officers:

James Kershaw
Ian Luscombe
Sue Nightingale
Patrick Whymer
Naomi Wopling

Solicitor
Lead Specialist DM

33. **Declarations of Interest**

***P&L 33**

Members were invited to declare any interests in the items of business to be considered and the following were made:

Cllr T G Pearce declared a personal interest in all applications, by virtue of being a Member of the Devon Building Control Partnership. He remained in the meeting and took part in the debate and vote on each item.

Cllr P R Sanders declared a personal interest in application 2173/16/FUL: Proposed two storey detached dwelling, demolition of existing garage, alterations to existing utility and garden room, new detached double garage and reinstatement of original vehicle entrance – Bay Tree House, The Crescent, Crapstone by virtue of knowing the applicants. He remained in the meeting and took part in the debate and vote.

34. **Confirmation of Minutes**

***P&L 34**

The Minutes of the Planning and Licensing Committee Meeting held on 18th October 2016 were confirmed and signed by the Chairman as a correct record.

35. **Planning Applications & Enforcement Reports**

***P&L 35**

The Committee considered the applications prepared by the Development Management Specialists and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED**:

(a) Application No: 2173/16/FUL Ward: Buckland Monachorum

Site Address: Bay Tree House, The Crescent, Crapstone PL20 7PS

Proposed two storey detached dwelling, demolition of existing garage, alterations to existing utility and garden room, new detached double garage and reinstatement of original vehicle entrance

Speakers included: Parish Council Representative – Cllr Cheadle

RECOMMENDATION: Conditional Approval

COMMITTEE DECISION: Defer for Site Inspection (confirmed by Chairman's casting vote)

(b) Application No: 3001/16/VAR Ward: Okehampton

Site Address: Land adjacent to 25, 26, 27, 28 & 29 Hillside Drive, Hillside Drive, Okehampton

Variation of condition number 2 of planning consent 01324/2014 to allow revisions to approved drawings

Speakers included: Local Ward Member – Cllr Leech

RECOMMENDATION: Conditional Approval delegated to the COP Lead Development Management in consultation with the Chairman and Vice Chairman of Planning and Licensing Committee, subject to deed of variation of the section 106 Agreement

During discussion, Members noted that the application broadly resolved issues that had been raised whilst they were on site viewing an adjacent proposal.

COMMITTEE DECISION: Conditional Approval delegated to the COP Lead Development Management in consultation with the Chairman and Vice Chairman of Planning and Licensing Committee, subject to deed of variation of the section 106 Agreement

(c) Application No: 2544/16/FUL Ward: Okehampton North

Site Address: Land to rear of 65 Exeter Road, Okehampton, Devon EX20 1QF

Alternative proposal for construction of dwelling

Speakers included: Supporter – Mr Steve Blakeman: Parish Council Representative - Cllr Leech

RECOMMENDATION: Conditional Approval

In presenting the application, the Case Officer advised that Condition 4 as shown in the presented report was no longer required. In discussion, the height of the proposal was noted by Members, particularly in relation to the surrounding properties. However, that the upstairs windows were skylights was also noted so there would be no consequent overlooking issues.

COMMITTEE DECISION: Conditional Approval

Conditions: (please refer to report for conditions in full)

- Standard time limit
- Build in accordance with plans
- Removal of PD
- Boundary treatments
- Drainage details to be submitted/approved
- Parking to be provided and retained
- Landscape Scheme
- Environmental Health condition relating to unsuspected contaminated land

36. **Planning Appeals Update**

***P&L 36**

The Committee received and noted the updated list of Planning Appeals including enforcement appeals.

37. **Planning Performance Indicators**

***P&L 37**

The COP Lead Development Management presented the Performance Indicators and outlined the key information for Members consideration.

38. **To consider changes to the Constitution of the Council in relation to the delegation of powers for determination of certain licensing functions**

P&L 38

Consideration was given to a report that sought to recommend to Council amendments to the delegation of powers so that the Committee only made decisions on licences that had minimal technical input and where the basis of the determination should be quasi-judicial.

The COP Lead Environmental Health presented the report and gave a number of practical examples of the proposed amendments. He and the Senior Specialist Environmental Health responded to questions of clarity. Members asked that any future proposed amendments be presented as a tracked change document so that the differences between the current position and the proposed position were clear. Some Members felt that the discussion should be postponed until such information was forthcoming and a motion was **PROPOSED** and **SECONDED** that any decision was deferred until a document was provided showing the before and after position, however, on being put to the vote this motion was **LOST**.

It was then **RESOLVED**:

That Council be **RECOMMENDED** to adopt the amendments proposed to the Constitution in relation to the delegation of powers for the determination of licensing decisions, as attached at Appendix A.

39. **To consider approval of policy in relation to the licensing of Taxi Drivers**

P&L 39

Consideration was given to a report that recommended to Council that the draft Taxi Driver Licensing Policy be adopted at the meeting on 6 December 2016.

The Senior Specialist Environmental Health presented the report and reminded Members of the background and consultation. He then responded to a number of questions of clarity. In proposing the recommendation, the Chairman added that the policy was to take effect from 1 January 2017.

It was then **RESOLVED**:

That Council be **RECOMMENDED** to adopt the Taxi Driver Licensing Policy at the meeting on 6 December 2016 to take effect from 1 January 2017.

The Meeting concluded at 11.55 am

Signed by:

Chairman

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Appendix A to P&L minutes 15 November 2016

Licensing: Current vs. Proposed constitution arrangements

Responsibilities

To be responsible for all of the Council's licensing functions

Current	Proposed	Reason
<ul style="list-style-type: none"> • To review and recommend to Council: <ul style="list-style-type: none"> ○ the Licensing Statement of Policy ○ the Gambling Statement of Principles ○ the Policy not to permit casinos • To determine the revocation of any licence 	<ul style="list-style-type: none"> • To review and recommend to Council: <ul style="list-style-type: none"> ○ the Licensing Statement of Policy ○ the Gambling Statement of Principles ○ the Policy not to permit casinos 	<p>No change</p> <p>Responsibility for revocation now with COP Lead Environmental Health for Taxi Driver/Hackney Carriage Licences</p>
<p>To review and be responsible for all other Licensing Policies</p>	<ul style="list-style-type: none"> • To review and be responsible for all other Licensing Policies 	<p>No change</p>
<p>To determine the revocation and suspension of Hackney Carriage / Private Hire Driver or Vehicle Licences</p>	<ul style="list-style-type: none"> • To determine to revoke or suspend a Hackney Carriage/Private Hire Driver or Private Hire Operator Licence. 	<p>Slight wording change and removed mention of vehicles as this is proposed to be dealt with by officers.</p>
<ul style="list-style-type: none"> • To determine all licensing applications for all licensing functions (except in relation to the licensing functions under the Licensing Act 2003 and the Gambling Act 2005 see below) to which an objection has been received and not withdrawn or satisfactorily addressed by the applicant; 	<ul style="list-style-type: none"> • To determine whether to refuse to grant a licence for the following licensing functions ; • Street Trading Licence (South Hams) • Zoo Licensing • Sex Establishments • Houses in Multiple Occupation 	<p>Removes ambiguity about applications where there is no remit for a member of the public to object but may need to be refused based on failing to meet specified criteria. These types of applications are listed due to their political, financial and social impact.</p>
	<ul style="list-style-type: none"> • To determine such other applications as referred to the P&L Committee by the Community of Practice Lead for Environmental Health 	<p>Due to the delegation of powers to CoP Lead it was felt appropriate to introduce this measure to allow applications which become contentious to be brought to the committee.</p>

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Licensing sub-committee

Current	Proposed	Reason
<p>a) Licensing sub-committees have the following responsibilities in relation to functions under the <u>Licensing Act 2003:</u></p> <ul style="list-style-type: none"> • Applications for personal licences - if there is a police objection • Applications for personal licences with unspent convictions – all cases • Review of personal licences – if there is a police objection • Applications for premises licence/club premises certificate – if a relevant representation is made • Applications for provisional statement – if a relevant representation is made • Application to vary premises licence/club premises certificate - if a relevant representation is made • Applications to vary designated premises supervisor – if police objection made • Applications for transfer of premises licence – if police objection • Applications for interim authorities – if a police objection • Applications to review premises licence/club premises certificate – all cases • Decision to object when Council is a consultee and not relevant authority - all cases 	<p>a) Licensing sub-committees have the following responsibilities in relation to functions under the <u>Licensing Act 2003:</u></p> <ul style="list-style-type: none"> • Applications for personal licences - if there is a police objection • Applications for personal licences with unspent convictions – all cases • Review of personal licences – if there is a police objection • Applications for premises licence/club premises certificate – if a relevant representation is made • Applications for provisional statement – if a relevant representation is made • Application to vary premises licence/club premises certificate - if a relevant representation is made • Applications to vary designated premises supervisor – if police objection made • Applications for transfer of premises licence – if police objection • Applications for interim authorities – if a police objection • Applications to review premises licence/club premises certificate – all cases • Decision to object when Council is a consultee and not relevant authority - all cases 	<p>No changes proposed</p>

<ul style="list-style-type: none"> • Determination of a police or Environmental Health objection to a temporary event notice - all cases 	<ul style="list-style-type: none"> • Determination of a police or Environmental Health objection to a temporary event notice - all cases 	
<p>b) Licensing sub-committees have the following responsibilities in relation to the <u>Gambling Act 2005</u>:</p> <ul style="list-style-type: none"> • Application for premises licence: if a relevant representation has been made and not withdrawn • Application for a variation to a licence: if a representation has been made and not withdrawn • Application for a transfer of a licence: where representations have been received from the Gambling Commission • Application for a provisional statement: if a representation has been made and not withdrawn • Review of a premises licence • Application for club gaming/club machine permits: where objections have been made and not withdrawn, or where refusal proposed • Temporary use notice: Decision to give a counter notice, or where objection notice received • Fees 	<p>b) Licensing sub-committees have the following responsibilities in relation to the <u>Gambling Act 2005</u>:</p> <ul style="list-style-type: none"> • Application for premises licence: if a relevant representation has been made and not withdrawn • Application for a variation to a licence: if a representation has been made and not withdrawn • Application for a transfer of a licence: where representations have been received from the Gambling Commission • Application for a provisional statement: if a representation has been made and not withdrawn • Review of a premises licence • Application for club gaming/club machine permits: where objections have been made and not withdrawn, or where refusal proposed • Temporary use notice: Decision to give a counter notice, or where objection notice received • Fees 	<p>No changes proposed</p>
<p>c) Licensing sub-committees have the following responsibilities in relation to the Hackney Carriage / Private Hire Driver or Vehicle Licences:</p> <ul style="list-style-type: none"> • Review, revocation or suspension of licences • Refusal to renew licences 		<p>Deleted as replicates provisions in Licensing Committee and CoP responsibilities</p>

d) To determine appeals from officers' decisions where required.		Deleted as this is not appropriate, appeals from officer decisions should be to the magistrates or other court as specified by the legislation.
e) Officers shall have delegated authority to suspend licences in situations of urgency where there are reasonable grounds to do so		This has now been moved to the new paragraphs in relation to delegation to CoP lead.

Community of Practice Lead for Environmental Health

Current	Proposed	Reason
<p>Page 5</p> <p>This is the responsibility of Licensing Committee</p>	<p>Shall have the delegated authority:</p> <ul style="list-style-type: none"> To determine whether to refuse to grant an application for Hackney Carriage or Private Hire Vehicle Licence. 	<p>Determinations of whether a vehicle meets our policy are technical in nature and do not require a quasi-judicial process to assess the acceptability.</p>
<p>Not in current constitution. All revocations must go through committee.</p>	<ul style="list-style-type: none"> To determine in consultation with the Chair and Vice-chair of the P&L Committee whether to revoke a Hackney Carriage or Driver licence in situations of urgency ('urgency' to be determined by the Community of Practice Lead for Environmental Health). 	<p>Recently we had to revoke a licence in urgency due to concerns over the safety of the public. This had to be done by the Head of Paid Service using his emergency powers, otherwise the driver would have had to be brought in front of committee, possibly many weeks after the concerns were first raised.</p>
<p>Not in current constitution</p>	<ul style="list-style-type: none"> To refer such applications which, in the opinion of the Community of Practice Lead for Environmental Health, should be determined by the Licensing Committee. 	<p>Due to the delegation of powers to CoP Lead it was felt appropriate to introduce this measure to allow applications which become</p>

		contentious to be brought to the committee
Not in current constitution	<ul style="list-style-type: none"> • To determine applications for Licences under the following areas of work not previously delegated to other committees or individuals; <ul style="list-style-type: none"> ○ Public Health (e.g. Animal Boarding Establishments, Dangerous Wild Animals, Pet Shop, Riding Establishments, Skin Piercing and other special treatments). ○ Public Safety (e.g. Alcohol and entertainment licences, personal licences, club premises certificates, Hypnotism licences, Gambling licences etc.) ○ Housing (e.g. Selective licensing of residential accommodation, Licensing of houses in multiple occupation, Licensing of camping sites, Licensing of caravan sites) ○ Environmental (e.g. Environmental Permits, Licensing of scrap metal dealers) 	These changes are necessary to clarify which applications can be determined by the CoP lead without referring to Committee. The current constitution is not clear on whether an officer can refuse an application where no objection has been received but it would be contrary to policy.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> • To investigate complaints relating to licensed and licensable activities with the relevant powers of entry in order to undertake these investigation 	Sets service standards expected of the Environmental Health Community of Practice.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> • To instigate informal or formal action in order to resolve complaints or unlicensed activities and take appropriate action or remedy 	Not explicitly shown in the current constitution.
Contained in next section of constitution on delegation to Senior Officers	<ul style="list-style-type: none"> • To undertake formal consultations on amendments to policy, (or fares in accordance with the Maximum Chargeable Fare setting policy South Hams only) 	Not explicitly shown in the current constitution.

<p>Taken from Licensing Sub-Committee section above: “(e) Officers shall have delegated authority to suspend licences in situations of urgency where there are reasonable grounds to do so”</p>	<ul style="list-style-type: none"> • Authority to suspend licences in situations of urgency where there are reasonable grounds to do so (where urgency is determined by the Community of Practice Lead for Environmental Health 	<p>Moved from Committee delegation section to delegation to Community of Practice Lead, with slight rewording.</p>
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