



Licensing Committee (CDC)

Monday, 12 February 2018 at 6.30 pm

**Large & Small Committee Room, King George V House, King George V
Road, Amersham**

A G E N D A

Item

1 Evacuation Procedures

2 Minutes (*Pages 3 - 6*)

To sign the Minutes of the meeting held on 17 July 2017.

3 Apologies for Absence

4 Declarations of Interest

5 Minutes of the Licensing Sub Committee (*Pages 7 - 32*)

To sign the Minutes of the meetings of the Licensing Sub Committee held on 17 May 2017 and 15 August 2017.

6 Dual Driver Licensing Fees (*Pages 33 - 36*)

Appendix 1 - Proposed Fees (Pages 37 - 38)

*Appendix 2 - Report and Appendices to the Licensing Committee 15
January 2015 (Pages 39 - 50)*

7 Exclusion of the Public (if required)

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: (Licensing Committee (CDC))

Councillors: J Rush (Chairman)
C Jackson (Vice-Chairman)
M Flys
G Harris
M Harrold
M Harker
P Jones
C Jones
R J Jones
C Rouse
N Varley
E Walsh
F Wilson
H Wallace

Date of next meeting – Thursday, 10 May 2018

If you would like this document in large print or an alternative format, please contact 01895 837236; email democraticservices@chiltern.gov.uk

CHILTERN DISTRICT COUNCIL

MINUTES of the Meeting of the
LICENSING COMMITTEE (CDC)
held on **17 JULY 2017**

PRESENT: Councillor J J Rush - Chairman

Councillors: E A Culverhouse
M Flys
G K Harris
M J Harrold
M Harker
P M Jones
C M Jones
E A Walsh
F S Wilson

APOLOGIES FOR ABSENCE were received from Councillors C J Jackson, R J Jones, D J Lacey, C J Rouse and N I Varley

ALSO IN ATTENDANCE: Councillors P J Hudson and S A Patel

3 MINUTES

The Minutes of the meeting held on 30 March 2017 and 16 May 2017, copies of which had been previously circulated, were agreed by the Committee and signed by the Chairman as a correct record.

4 DECLARATIONS OF INTEREST

There were no declarations of interest.

5 LICENSING ACT 2003 POLICY REVIEW 2017 CONSULTATION OUTCOME

The Chairman requested that agenda item 6 be considered first and the Committee agreed.

The Committee were asked to review the consultation and make minor amendments as necessary to the proposed policy before recommending adoption by Full Council. The consultation had produced 3 responses; one from the British Beer & Pub Association (see appendix) and two from Councillors that were concerned about neighbour notification. With regard to possible wording in the policy relating to neighbour notification, examples

were shown in appendix 3 from South Bucks District Council and Bracknell Forest.

The arrangements for advertising licensing applications were discussed. The applicant was responsible for advertising in the local paper but it was acknowledged that this would now be reaching a smaller number of people and alternatives were considered. It was confirmed that Town and Parish Council's would be notified by e-mail if an application was made in their area. Officers always check that a notice is displayed on the premises and could look at a map on the internet before going out to assist them in deciding which neighbours need to be notified by letter. Any additional notifications could be posted at this time. All applications would be accessible on the website in the same way that planning applications were made available.

Members were particularly concerned that they should be informed if there was likely to be a controversial licensing application in their area. It was also considered that residents needed more help in making an effective objection against an application and not all were able to access the advice on the website.

It was agreed that the Bracknell Forest wording was clearer and more comprehensive but with the addition of wording from the South Bucks statement to include notification to District Councillors.

RECOMMENDED:

- 1. To add a Neighbour Notification Policy, wording to be agreed by the Head of Healthy Communities in consultation with the Chairman of the Licensing Committee.**
- 2. That Full Council adopt the final draft Statement of Licensing Policy 2017 on 17 October 2017.**

Note 1: Councillor P Hudson left the meeting at 7.05 pm.

6 HACKNEY CARRIAGE & PRIVATE HIRE LICENSING POLICY

A further consultation had been carried out with the trade regarding the proposal for Hackney Carriage door stickers and alternative options as requested by the Committee at its meeting on 14 December 2016. The Committee were shown proposed stickers in different sizes and styles. The trade had agreed that stickers were acceptable for Private Hire vehicles that had to be pre-booked but did not find any of the stickers acceptable for

Hackney Carriages, although a QR code inside the vehicle that could be scanned for information was acceptable. It had already been agreed to remove the Police logo.

It was asked whether the requirement for door stickers was new and it was advised that it had been in place for some time but not enforced. It was considered understandable that the stickers on doors could damage the vehicle.

RECOMMENDED:

- 1. That Option E; the Use of QR Code on internal plate and no door sticker for Hackney Carriages.**
- 2. To agree the new Oval design for the Private Hire door sticker.**
- 3. That the revised Hackney Carriage and Private Hire policy be adopted by Full Council.**

Note 2: Councillor E Culverhouse left the meeting at 7.15 pm and Councillor S Patel left the meeting at 7.25 pm.

7 EXCLUSION OF THE PUBLIC (IF REQUIRED)

RESOLVED –

That under section 100 (A) (4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting for the following item(s) of business on the grounds that they involved the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.

Note: The relevant paragraph number from Part 1 of Schedule 12A is indicated at the end of the Minute heading.

The meeting ended at 7.43 pm

CHILTERN DISTRICT COUNCIL**MINUTES** of the Hearing of the
LICENSING SUB COMMITTEE (CDC)
held on **17 MAY 2017**

PRESENT: Councillor J J Rush - Chairman

Councillors: P M Jones
D J Lacey
M Harrold (Reserve)

4 DECLARATIONS OF INTEREST

There were no declarations of interest.

All parties indicated that they had no objections to the membership of the Sub Committee.

Note: Councillor M Harrold left the Hearing at 10.05am.

5 APPLICATION FOR A NEW PREMISES LICENCE RELATING TO THE CLUBHOUSE, AMERSHAM AND WYCOMBE COLLEGE, STANLEY HILL, AMERSHAM, BUCKS, HP7 9FH

Members were requested to consider an application for a new Premises Licence for The Clubhouse, Amersham and Wycombe College, Stanley Hill, Amersham, Bucks, HP7 9FH.

During the 28 day consultation period, 18 valid representations objecting to the application were received from local residents. A representation was also received from the Environmental Health Department. The Environmental Health Officer had proposed five new conditions to address the department's concerns if the application was allowed which had been agreed by the applicant prior to the Hearing.

The Licensing Sub Committee Members and Officers introduced themselves, and the Chairman asked those objectors present who wished to speak to introduce themselves. Chiltern District Councillor Caroline Jones was present as a representative (and not in her capacity as a councillor) to speak on behalf of Ms Juliet Kitchener and Mr Mark Grimson. Mrs Lucy Taylor was present to speak on behalf of Mr Steve Dann. Mr Nick Smith was present to speak for himself. The Applicant, Mr Mark McCree was also present to speak. The Chairman informed the parties present that District Councillor Caroline Jones was present to speak as a representative for some of the objectors and not in her capacity as a District Councillor. The Chairman assured the parties present

that Councillor Jones presence would not prejudice the Sub Committee's decision.

Following introductions, the Chairman explained the Council's hearing procedure.

The Licensing Officer then introduced the application, summarised his report and informed the hearing that the objectors' representations mainly related to noise and public nuisance. The Licensing officer confirmed the name of Objector number 3 in the report as Mr Steve Dann. The Licensing Officer referred to his report and concerns regarding anti-social behaviour including inconsiderate parking, but as they did not relate to the Licensing Objectives, these concerns could not be taken into account by the Sub Committee in reaching a decision. Further, a statement from the Environmental Health Department was referred to that set out why the Department had initially objected to the application and confirmed that their objection would be addressed by the imposition of the extra conditions they had proposed.

The Licensing Officer was asked a number of questions by the Sub Committee Members, and it was confirmed that there had been no objections from Thames Valley Police regarding the application. The Sub Committee enquired as to the Hockey Club's previous temporary event notices, and was advised that these related to the sale of alcohol but that the applicant would be able to give fuller details as to these notices. The Sub Committee noted that Amersham and Wycombe College had a licence for regulated entertainment but not for alcohol sales and that there had been no complaints about the College. Information was also provided by the Licensing officer in response to questions about deregulation. There were no questions asked by the applicant to the Licensing Officer at this stage.

In answer to questions from objectors regarding temporary event notices, the Licensing Officer explained the procedure regarding obtaining a temporary event notice, that temporary event notices allowed alcohol sales for a limited time period and were published on the Council's website, as well as being displayed at a premises. Further, it was noted that no complaints had been received regarding the temporary event notices. In response to a question asking how many people were permitted to attend each event, the Licensing Officer informed objectors that these notices allow for up to 499 people; however the applicant would be able to inform the hearing of the approximate number of people that had attended each event.

The objectors were then invited to address the hearing. Mr Smith advised the Sub Committee that whilst he objected to the application as the hours were unreasonable he was aware that if the application was refused there would be an appeal and the Applicant would get a licence. Mr Smith explained that he had two main concerns, namely, the potential for noise and public nuisance

caused by people leaving the premises late in the evening. Mr Smith informed the Sub Committee that he had no objections to the facilities on site for instance, the hockey matches, but objected to the licence for the abovementioned reasons and that the hours should be reduced and urged Members to consider the conditions of the licence if they were to accept the licence.

Mrs Taylor addressed the hearing on behalf of herself and her husband, Mr Steve Dann, and agreed with the points raised by Mr Smith. Mrs Taylor raised her husband's strong objections to the licence, and argued that the Hockey Club had not been a good neighbour, that there had been a lack of communication from the club owner to residents from the initial construction stage to the application stage for the new Premises Licence. Regarding public nuisance, the premises were in close proximity to their home and that there would be an increase in traffic and parking issues at weekends and evenings. Mrs Taylor referred to the Club Balcony and smoking area meant that there were lots of people outside. That there would be the potential for public nuisance in the area from parties and family functions, Mrs Taylor was concerned that residents in front facing bedrooms would be impacted negatively, as they directly faced the car park. Concerning the potential for excessive noise, Mrs Taylor informed the hearing that due to a footpath near her home leading to the town, her family, as well as the residents living nearby this footpath, could be more frequently impacted. She also informed the Sub Committee that there were multiple families in the area with young children. Further concerns of the parking problem being exacerbated and congestion were raised by Mrs Taylor. Mrs Taylor referred to Crime and Disorder mentioning wedding parties and 18th and 21st birthday parties with young people drinking and being disorderly in close proximity to her property.

District Councillor Caroline Jones spoke for Juliet Kitchener and Mark Grimson, and confirmed that the main issue was public nuisance. They concurred with Mrs Taylor in the view that there had been a lack of communication from the club to the residents. Councillor Jones informed the Sub Committee that residents already encounter disturbance by people and vehicles due to the confined nature of the area. Mrs Kitchener and Mr Grimson were concerned that parties and family functions would cause further disturbance to residents, particularly to elderly residents and young children as the club is close to educational facilities, as well as family homes. Regarding public safety and general disorder, Councillor Jones referred to existing anti-social behaviour in the community and that dog walkers using the public footpath walking past felt very vulnerable and there was a fear of general safety in the public area. Regarding the protection of children from harm, young people could potentially be influenced by alcohol and the premises were close to an educational facility as well as people's homes. Councillor Jones referred to family life as a basic human right being affected, as well as young children and

students within the college. Councillor Jones submitted that the application should be refused or granted with conditions.

The Sub Committee put several questions to the objectors on the points raised about use of the college car park and security. With regards to the current sporting facilities, the objectors informed the Hearing that the hockey pitch is used till approximately 6pm on Saturdays, 5pm on Sundays, and the floodlights are in use until 10pm on weekdays. The Sub Committee asked the objectors whether they were prepared to attend meetings and be part of a dialogue between local residents and the applicant in order to resolve any potential future problems that may arise. The objectors agreed that a dialogue would be beneficial to all parties but that monthly meetings may be difficult to attend.

The applicant was then invited to address the hearing. Mr McCree informed the Sub Committee that he had written letters and sent emails to the objectors summarising the objections received and inviting residents to come to the club to discuss any concerns they had; he made himself available for four evening sessions and provided contact details. The applicant explained that throughout the planning process for The Clubhouse, which included a kitchen and bar area, it was thought that alcohol would be sold as an extension to those facilities, and a natural part of the clubs activities following sporting games. The hearing also noted that The Clubhouse was Clubmark accredited and had a 500 junior membership. The applicant explained that The Clubhouse is a year round operation, not only providing sporting facilities, but used for family days, training, and charity events such as Hockey for Heroes (armed forces). It was heard that the club wished to hold future hockey social events, particularly for club members. It was noted that some events scheduled to be held at The Clubhouse had been moved to other venues after customers were unable purchase alcohol, which was reportedly a critical funding loss for the club. The applicant informed the Hearing that this was a fantastic facility for the community and in view of a lot of objections he would do everything possible to make this part of the community. That the club had been established in 1946 and The Clubhouse building was well insulated and had automatic closing doors, which would prevent excessive noise coming from events being held at the club. Further, that notes had been sent to the club's members regarding parking spaces encouraging them to park down the side of the college rather than in front of the college or in residential areas. Mr McCree explained about funding for the club and that he had applied for a Premises Licence for flexibility as Temporary Event Notices were expensive, and that a Club Premises certificate would be too restrictive.

Mr McCree referred to holding 18th and 21st Birthday parties and confirmed that they would not be having these types of activities in view of his previous experience and the issues that these types of events raised. Regarding children they operated Challenge 25 and that the premises were separate from the

college and they would not be offering alcohol to the college. Regarding parking there would be notices to members about parking being available at the college which was extensive. That the Clubhouse had a duty of care and took welfare very seriously.

In answer to questions from the Sub Committee, the applicant explained that for practical reasons relating to signing in of members and guests that he had applied for a Premises Licence and that CCTV would not be installed initially as it was felt that there was no need for it at the present time. However, the applicant confirmed that this could be reviewed in the future if deemed necessary. The applicant referred to capacity and urged residents to visit the facility; the maximum number of people the facility holds was reported as 114, with a maximum number of approximately 60 people when seated. The Sub Committee queried that during the planning stage, there was an indication that lunch and hot and cold soft beverages would be available, but not alcohol. The applicant apologised and informed the hearing that he had not been a part of this stage during the planning process specifically. In response to a question regarding music being played in the evening, it was heard that the doors would be closed when music was played. Members referred to 18th and 21st Birthday parties not being held at the premises and that this could be conditioned. Members asked questions about the type of music to be provided and whether there would be a decibel condition. The Licensing Officer explained that this type of condition was generally avoided because background levels varied and it raised difficulties in assessing noise nuisance. The Chairman then invited questions to the applicant from objectors. In response to a question asking whether the venue would be advertised externally (including on the website), the applicant responded that he had no intention to do so as the club already has a large market area because of its 600 members.

The Chairman then asked the Applicant if he had any questions he wanted to ask the Objectors and the applicant confirmed that he did not have any questions for objectors but encouraged them to visit the Clubhouse and to talk to him in order to mitigate any issues.

The Chairman then moved the Sub Committee to consider the "without prejudice" conditions proposed by the Licensing Officer and Environmental Health; the Licensing Officer referred to each condition individually and an error in the numbering of the conditions was noted and it was heard that the proposed conditions should be numbered 1-10. The parties present were asked if they had any comments regarding the proposed conditions. In response to comment on condition 2, the Licensing Officer explained that club staff will check the age of any person who looks under the age of 25 when conducting the sale of alcohol. With regards to condition 3, reference was made to lights being for safety purposes. With regards to condition 5, the applicant responded to a question on security by stating that at the present

time, there was no need for extra security at the venue. A question was asked as to how staff would enforce the closing of doors (condition 6) in the summer, to which the Licensing Officer replied that this was a legal requirement that the club management would need to fulfil. It was noted that the applicant agreed to the proposed conditions and that the objectors did not raise any objections thereto.

It was noticed that the application plan referred to in Appendix 2 of the report was not attached to the agenda. Therefore, at 11.27am there was a short adjournment of the Hearing while the Licensing Officer left the Hearing to retrieve hard copies of the application plan.

The Hearing recommenced at 11.33am and copies of the application plan were circulated at the Hearing.

The applicant confirmed that he would agree to a further condition being imposed that no 18th or 21st Birthday Parties would be held at the premises.

The objectors raised no objections to the proposed condition.

The Chairman then asked those present if they wished to make closing submissions. The Licensing Officer confirmed that he had nothing further to add. The objectors and representatives who had spoken at the Hearing thanked the Sub Committee for their time and requested they refuse the application. However, that if a licence was granted urged the Members to carefully consider the conditions, in particular the times of the licence, so that the potential for public nuisance was lessened and that family life was safeguarded. The applicant confirmed that he had no closing statements to add other than aiming to be a good member of the community. Following everyone present confirming to the Chairman that they had all had their say, the Chairman thanked everyone for their time and advised that they would be notified of the decision within 5 working days.

The Hearing ended at 11.37 am

RESOLVED

That the application for a new Premises Licence for The Clubhouse, Amersham and Wycombe College, Stanley Hill, Amersham, Bucks, HP7 9FH be allowed in part with immediate effect, subject to the mandatory and other conditions set out in the Schedule to the report, but re-numbered and added to by the Sub Committee, as set out in full in the Decision Notice attached to and forming part of these minutes.

LICENSING ACT 2003, AS AMENDED.**APPLICATION BY MR MARK McCREE ON BEHALF OF AMERSHAM AGP LTD FOR A NEW PREMISES LICENCE****DECISION OF THE LICENSING SUB-COMMITTEE SITTING ON 17TH MAY 2017.**

The Licensing Sub-Committee had before it an application from Mr Mark McCree on behalf of Amersham AGP Ltd for a new Premises Licence for The Clubhouse, Amersham and Wycombe College, Stanley Hill, Amersham, Bucks HP7 9FH.

The details of the Premises Licence applied for are set out in the Application form appended to the Licensing Officer's report at Appendix 2 ("the Report").

Relevant representations objecting to the application received from local residents and Environmental Health were listed in the Report at paragraph 4 and a copy thereof appended to the Report. It was noted that Environmental Health had confirmed that their objection would be addressed by the additional Conditions they had proposed being attached to the Premises Licence if granted in addition to those proposed by the Applicant in the Operating Schedule.

The Sub-Committee having listened to all the evidence, submissions and responses thereto and having read all the material before it including a copy of the Application Plan (Appendix 2 of the Report) which was tabled at the Hearing following a short adjournment was satisfied on balance that in all the circumstances and for the Reasons given below that this Application should be:

ALLOWED IN PART as follows –**Standard timings –****Supply of alcohol – On the Premises –**

Monday – Saturday	12:00 – 23:00
Sunday	12:00 – 22:00

Recorded Music - Indoors only –

Friday and Saturday 12:00 – 23:00
 Sunday 12:00 – 22:00

Hours premises are open to the public –

Monday – Saturday 08:00 – 23:15
 Sunday 08:00 – 22:00

Subject to the Mandatory Conditions, the Conditions set out in the Schedule to the Report – but re-numbered and **added to** by the Licensing Sub-Committee and an Informative as follows –

Additional Condition

No 18th Birthday or 21st Birthday functions, parties and/or events shall be held at the Licensed Premises.

Reason: The Licensing Sub-Committee noted the objections regarding public nuisance and anti-social behaviour and the submissions and assurances from the Applicant that such events would not be held at the Licensed Premises in view of past experience. Accordingly the Licensing Sub-Committee considered that restricting the Premises Licence in this way was justified and appropriate in preserving the Licensing Objectives of the “Prevention of Public Nuisance” and the “Prevention of Crime and Disorder”.

Informative

The Licence Holder is advised to offer and to hold regular liaison meetings with local residents at which any concerns and/or issues can be discussed.

This decision is considered to be justified as being appropriate for the promotion of the following Licensing Objectives

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance

- Protection of children from harm

and proportionate in consideration of representations made, the operating schedule submitted and matters heard today.

REASONS

The Licensing Sub-Committee considered carefully the Objectors' written representations and the Applicant's and the Objectors' submissions made at the Hearing.

The Objectors' representations mainly related to public nuisance in the form of noise, disturbance and antisocial behaviour including parking, crime and disorder and the protection of children from harm. It also considered the location of the Licensed Premises within the College grounds and in relation to the Objectors' premises.

The Licensing Sub-Committee noted that whilst there was support for the Hockey Club per se Public Nuisance was a particular concern to Objectors and that it was felt that nuisance and disturbance which was currently being experienced would be exacerbated if a Premises Licence was granted in view of the hours applied for. That there was a basic human right to enjoy family life which said right would be affected. Further, it was noted that the relationship between some residents and the Hockey Club was not the best and that there had been little contact between some of the residents and the Applicant and a more open dialogue was required.

There was also concern regarding the effect of alcohol on young persons and children and that the Licensed Premises was close to an educational facility as well as people's homes.

The Licensing Sub-Committee took into consideration that a number of concerns raised did not relate to the Licensing Objectives and also that the licensing law was not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals such as inconsiderate behaviour, parking and/or driving once they had left the immediate area of the Licensed Premises as provided by the April 2017 Revised Guidance (issued under section 182 Licensing Act 2003) and in particular paragraphs 2.21 and

14.13 thereof in that these are matters for the personal responsibility of individuals under the law and that they are accountable in their own right.

The Licensing Sub-Committee also took into consideration that some of the concerns raised by the Objectors were based on what might happen if the application was allowed. In considering this the Licensing Sub-Committee had regard to the April 2017 Revised Guidance (issued under section 182 Licensing Act 2003) and in particular paragraph 9.43 in that decisions should be evidence-based.

The Licensing Sub-Committee also considered very carefully the detailed submissions from the Applicant who had written letters which included his contact details to local residents and had held four meetings at the Licensed Premises for residents to come and discuss any issues they had. That in view of the number of objections he would do everything possible to continue to make the Hockey Club part of the Community. That he had applied for a Premises Licence as TENs were expensive and to provide flexibility regarding the number of events they could hold including family and charity days, who could attend and also provide much needed revenue for the Hockey Club. That the Licensed Premises was purpose built with limited capacity and had automatically closing doors which prevented noise escaping from the Licensed Premises.

It was noted that the only Responsible Authority which had raised an objection to the Application was Environmental Health relating to potential disturbance and public nuisance but that this objection would be addressed by the imposition of the proposed Conditions being attached to the Premises Licence.

Regarding the Conditions, it was noted that the Applicant agreed to all of the proposed Conditions including the additional Condition and that the Objectors had not raised any objections to these at the Hearing.

The Licensing Sub-Committee fully understood and appreciated the concerns of local residents. However these had to be balanced against national and local policy which allows the Applicant to legitimately carry on his business. It believed that the reduced hours were reasonable and that together with the Mandatory and other Conditions imposed on the Premises Licence including those relating to noise, the monitoring thereof and the need to keep log books will ensure that effective noise and complaint monitoring takes place

and that these written records will be available to the Council for investigation and compliance purposes. That these were appropriate and proportionate measures if properly implemented to adequately address the Licensing Objectives and the concerns of the Objectors and so decided to grant the application in part as stated above.

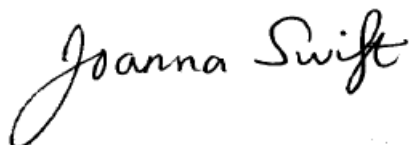
In light of concerns raised regarding contact between some of the local residents and the Hockey Club the Licensing Sub-Committee was also placing an Informative on the Premises Licence advising the Licence Holder to hold regular liaison meetings.

The Sub-Committee, whilst making this decision, also took into account the ability of the Objectors to make representations in the future which will lead, where evidence shows the premises is the cause of public nuisance, crime and disorder and harm to children, to a review of the Premises Licence where steps could be taken to address the issues. Accordingly the Objectors should be reassured that the Licensing Authority does have significant powers when dealing with a premises on review if appropriate and proportionate in all the circumstances.

The Licensing Sub-Committee also had regard to

National Guidance;
The Council's Licensing Policy;
The Human Rights Act 1998, as amended; and
The individual merits of this case

before reaching this decision.



**Head of Legal and Democratic Services and
Clerk to the Licensing Sub-Committee**

DATED 22nd MAY 2017

ATTENTION IS DRAWN TO THE ATTACHED RIGHTS OF APPEAL

YOUR RIGHT OF APPEAL

Licensing Act 2003, Section 181, Schedule 5

Rejection of applications relating to premises licences

1 Where a licensing authority -

- (a) rejects an application for a premises licence under section 18,
 - (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
 - (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
 - (d) rejects an application to transfer a premises licence under section 44,
- the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.

(2) The holder of the licence may appeal against any decision-

- (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
- (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).

(3) Where a person who made relevant representations in relation to the application desires to contend-

- (a) that the licence ought not to have been granted, or
- (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,

he may appeal against the decision

Variation of licence under section 35

3 (1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35.

(2) The applicant may appeal against any decision to modify the conditions of the licence under subsection (4)(a) of that section.

(3) Where a person who made relevant representations in relation to the application desires to contend-

(a) that any variation made ought not to have been made, or

(b) that, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section,

he may appeal against the decision.

If you wish to appeal you must do so within 21 days beginning with the day you were notified of the decision.

The postal address for the Magistrates' Courts that cover the Chiltern Area is:

Milton Keynes Magistrates' Court, 301 Silbury Boulevard,
Witan Gate East, Milton Keynes, Buckinghamshire MK9 2AJ

CHILTERN DISTRICT COUNCIL

MINUTES of the Hearing of the LICENSING SUB COMMITTEE (CDC)

held on **15 AUGUST 2017**

PRESENT: Councillors: J J Rush - Chairman
M Flys
M J Harrold
J J Rush

6 DECLARATIONS OF INTEREST

There were no declarations of interest.

All parties indicated that they had no objections to the membership of the Sub Committee.

7 APPLICATION FOR A VARIATION TO A PREMISES LICENCE AT SHELL AMERSHAM FILLING STATION, 40 - 42 WOODSIDE ROAD, AMERSHAM, HP6 6AJ

Members were requested to consider an application for a further variation to the Premises Licence, in respect of which relevant representations had been received. The application had been submitted by Motor Fuel Limited ("the applicant") in respect of Shell Amersham Filling Station, 40 – 42 Woodside Road, Amersham HP6 6AJ ("the premises"). Full details as well as the objections could be seen in the agenda pack.

During the 28 day consultation period, an objection had been received from the Environmental Health Department relating to the prevention of public nuisance licensing objective and a valid objection was received from a local resident.

The Chairman explained the Council's hearing procedure and the Licensing Sub Committee Members, the Agent on behalf of the Applicant, the Environmental Health Officer and Officers assisting the Members introduced themselves. Ms Clare Bradley was present to speak on behalf of the Environmental Health Department. The Agent acting on behalf of the Applicant, Mr Chris Mitchener was also present to speak.

Mr Mitchener and with the consent of Ms Bradley submitted photographs of the premises which provided a view of the premises and its proximity to residential properties as late evidence.

The Licensing Officer introduced the application and summarised his report and the objections received. It was confirmed that a variation application was granted under delegated authority (there having been no relevant representations received) on 20th June 2017 to increase the hours permitted for the sale of alcohol and to allow the premises to be open to the public for

twenty four hours a day. Mr Mitchener clarified that the premises had started operating 24 hour opening on 14 August 2017 as part of a planned operational programme.

Ms Bradley summarised her representations which could be seen in the agenda pack. It was highlighted that residential premises were very close in proximity to the premises the closest being 2 metres away and it would be highly likely that these residents would be disturbed by a 24 hour licensed premises. It was explained that the objector had already identified that they were disturbed from noise and happenings at the premises. The view from the Environmental Health Department was that this was not an appropriate location for what would be a 24 hour off licence due to the likelihood of customers being drawn to the premises to purchase alcohol which would result in an increase in vehicles, people, and as a result create a noise nuisance.

In response to questions from Members, Ms Bradley explained that whilst only one representation from a local resident had been received, other residents had expressed concerns about noise and disturbance with at least one having advised that they were unaware of the application until it was too late to make a representation. Ms Bradley also clarified that the sale of late night refreshments (limited to hot drinks) alone was not deemed by the Environmental Health Department to attract a significant amount of people to the premises and therefore not a concern.

Ms Bradley also confirmed that there had been one historic residential complaint which had been outlined in the Environmental Health representations. This dated back to 2004 and related to noise from vehicles and early morning deliveries.

The Licensing Officer responded to a Members question to clarify that there was one other similar premise in the District which had a 24 hour alcohol licence located on Amersham Road, Chesham.

Mr Mitchener addressed the sub-committee and re-iterated to members that the effect of the application was the addition of late night refreshments limited to hot drinks and the additional seven hours of alcohol sale. Mr Mitchener highlighted that this was a semi-residential area including commercial and retail premises and that there had been no evidence produced which would indicate that the sale of alcohol would increase noise levels over that created through the sale of other products. Mr Mitchener drew attention to paragraphs 2.8 and 2.10 of the Councils Licensing Policy and paragraphs 9.12 and 9.15 of the Section 182 guidance which he noted would apply in this case. Mr Mitchener added that were there to be complaints which could not be addressed by the applicant, a review of the Premises Licence could be requested. It was further said that due to the type of premises very few sales would be solely alcohol purchases and for the most part this premises would attract vehicular customers rather than pedestrians due to its location.

Mr Mitchener highlighted that only one resident from Shortway had made a representation and that other immediate neighbours to the premises had not made a representation. Mr Mitchener advised members that the Applicant had many 24 hour licensed premises across the country and were experienced

operators who liaised with local communities. Following an operational review, 84 variations nationwide had been applied for and where legitimate representations were made three had been withdrawn following careful assessment. A Member questioned whether there had been complaints at other locations where the 24 hour sale of alcohol had been permitted. Mr Mitchener advised that there had not been, although should any issue be raised these would be dealt with appropriately by the Management at the premises or the relevant authorities and if required by way of review.

Members were advised that the premises staff were trained in the sale of alcohol and were regularly re-trained and re-tested. The DPS regularly completed audits and a refusals log, incident book and monthly training book were kept.

A Member clarified that Shortway was a two way road although only allowed entry from one end.

The Chairman invited comments on a “without prejudice” basis from Members and the Parties on each of the proposed conditions as outlined in the Licensing Officer’s report. Comments were raised as below:

Condition 2 – Members suggested that this condition be amended to include reference to *‘The CCTV coverage shall include the areas of the forecourt, the entire store and the pay window’*. The reasoning for this was that were there to be any disturbance it would be made easier to identify the perpetrators. This amendment was agreed by Mr Mitchener and Ms Bradley.

Condition 7 – It was clarified that late night refreshments (hot drinks) would be provided through a Costa machine or similar.

Condition 9 – Mr Mitchener stated that the Applicant wished that this condition be replaced with the condition proposed in the Operating Schedule so that between 2300 and 0530 the door would be locked and access to the shop would be at the discretion of the cashier otherwise the door would remain locked. This was on health and safety grounds. Members and Ms Bradley were in agreement with this.

Condition 10 – Mr Mitchener requested that this condition be removed as there had been no representations made suggesting there had been any housekeeping issue at the premises. It was said that there was a working regime in place and a specific 5 a.m. inspection would create a further health and safety issue. Ms Bradley raised no concerns about this condition being removed.

There were no suggested informatives.

Closing submissions were made and all parties confirmed that they were satisfied they had been heard and with what had been discussed and had nothing further to add. In closing Mr Mitchener referred to the Thwaites case and in particular paragraphs 55 and 63.

The Hearing ended at 11.15 a.m. and all were advised that the decision together with the rights of appeal would be sent out within 5 working days.

The meeting ended at 11.15 am

RESOLVED

That the application for a variation to a Premises Licence for Shell Amersham Filling Station, 40 – 42 Woodside Road, Amersham HP6 6AJ be allowed in full with immediate effect, subject to the mandatory and other conditions set out in the Schedule to the report, but amended, added to and deleted by the Sub Committee, as set out in full in the Decision Notice attached to and forming part of these minutes.

CHILTERN DISTRICT COUNCIL

LICENSING ACT 2003, AS AMENDED

**APPLICATION BY MOTOR FUEL LIMITED FOR A VARIATION OF
A PREMISES LICENCE**

DECISION OF THE LICENSING SUB-COMMITTEE SITTING ON 15th AUGUST 2017.

The Licensing Sub-Committee had before it an application from Motor Fuel Limited to further vary the existing Premises Licence reference number 17/00869/LAPRE for the Shell Amersham Filling Station, 40-42 Woodside Road, Amersham, Bucks HP6 6AJ.

The Variations applied for are set out in the Application Form appended to the Licensing Officer's report at Appendix 3 ("the Report") a copy of which all the Sub-Committee Members and Relevant Parties had received.

The Variations sought can be summarised as follows –

- Sale of Alcohol – permission to **extend** the current permitted hours.
- To introduce Late Night Refreshment – limited to hot drinks only.

No other variation to the Premises Licence was sought.

Relevant representations objecting to the application received from Chiltern District Council's Environmental Health Department and one from local residents who did not attend the Hearing were listed in the Report at paragraph 4 and a copy thereof appended to the Report.

The Licensing Sub-Committee, having listened to all the evidence, submissions and responses thereto and having read all the material before it including the Report and a copy of two photographs taken from the forecourt of the Licensed Premises submitted at the Hearing by the Applicants Representative with the consent of the Environmental Health Officer present, was satisfied on balance that in all the circumstances and for the Reasons given below that this Application be **ALLOWED IN FULL** with immediate effect as follows:

**Late Night Refreshment – Limited to hot drinks only - Indoors only –
Mondays to Sundays inclusive - 23:00 to 05:00.**

**Supply of alcohol – Off the Premises only -
Mondays to Sundays inclusive – 00:00 to 00:00 (24 hours a day).**

Subject to the Mandatory Conditions and the existing and additional Conditions set out in the Schedule to the Report but **amended, added to and deleted** by the Sub-Committee as follows –

Condition 2 - shall be amended as **shown in bold** –

A CCTV system will be installed, maintained in working order and operated at the Licensed Premises for the duration of all licensable activities to a standard and in accordance with established Thames Valley Police Guidance on installing CCTV as amended from time to time/as agreed and approved in writing by **Chiltern** District Council's Licensing **Manager**. The CCTV coverage shall include the **forecourt, the Shop (including** the areas for the display of beer, spirits and wine) **and the Pay Window**. The recordings from the system whether installed in digital or other format will be retained for a period of 28 days and stored during that time in a suitable and secure facility and will be made available to an authorised officer of the **Chiltern** District Council and/or the Police when requested. A sign advising patrons that CCTV is in operation will be positioned in a prominent position on the Licensed Premises

Reason: The Licensing Sub-Committee having noted the representations regarding Public Nuisance and the submissions by the Applicant's Representative regarding the use of CCTV cameras at the Licensed Premises, considered that by ensuring the coverage of the CCTV included these additional areas this would assist in quickly identifying any causes and/or perpetrators of disturbance at the Licenced Premises. The Licensing Sub-Committee considered the amendment to be justified and appropriate in preserving the Prevention of the Public Nuisance Licensing Objective.

Condition 6 shall be amended to refer to **Chiltern** District Council (a typographical error).

Condition 9 shall be deleted and the following Condition 9 imposed on the Premises Licence:

Access to the Shop between the hours of 23:00 and 05:00 Mondays to Sundays will be at the discretion of the Cashier and the entrance door to the Shop will be operated by a shunt lock. Otherwise the entrance door to the Shop will remain locked between the hours of 23:00 and 05:00 Mondays to Sundays.

Reason: The Licensing Sub-Committee having noted the submissions by the Applicants Representative regarding Health and Safety concerns and in view of Members concerns regarding controlling access to the Shop late at night considered that the proposed condition should be replaced with a condition in line with that stated in the Operating Schedule. The Licensing Sub-Committee considered this to be justified and appropriate in preserving the Licensing Objectives.

Condition 10 – shall be deleted.

Reason - Members considered that there was no justification for this condition in light of there being no representations regarding litter and no concerns raised by the Environmental Health Officer.

This decision is considered to be justified as being appropriate for the promotion of the following Licensing Objectives

- Public Safety
- Prevention of Public Nuisance

- Prevention of Crime and Disorder
- Protection of children from harm

and proportionate in consideration of the written representations and submissions made at the Hearing.

Reasons.

The Licensing Sub-Committee considered very carefully the Local Residents written representations which related to Public Nuisance namely concerns regarding an increase in noise levels if the premises was open all night and that they were currently disturbed by noise from cars albeit that this was said to be infrequent.

Members noted the location of the Licensed Premises generally being situated on the corner of Woodside Road being a busy A- road and the main route between Amersham and Rickmansworth and Shortway which is a quiet residential street and also in relation to the Objectors premises. That it was located within a mixed use area of residential properties and commercial/retail uses. It noted the access arrangements as explained at the Hearing. Members also noted that there was a 24 hour Licensed Garage in Amersham Road Chesham.

The Licensing Sub-Committee also considered very carefully the Environmental Health Officer's written representations and the submissions made at the Hearing regarding Public Nuisance. It noted that there is a residential premises very close to the Licensed Premises being only 2 metres away and it was highly likely that disturbance would be caused by what would effectively be a 24 hour Off Licence operating in a residential area. That there was a risk that by having a 24 hour off licence here that people would be drawn to the Off Licence and this would lead to an increase in vehicle noise and door slamming. Therefore for these reasons the Environmental Health Officer did not consider that this was an appropriate location for an Off-Licence. However, Members also noted that there had not been any complaints regarding the Licensed Premises other than in 2004 as referred to in the Environmental Health Officers written submissions.

Regarding the provision of Late Night Refreshment it was noted that as this would be limited to hot drinks only the Environmental Health Officer was of the view that this in itself would not significantly increase the numbers of people visiting the petrol station.

Members took into consideration the detailed submissions made by the Applicant's Representative which included confirmation that the Licensed Premises had started to open 24 hours a day as of last night which was part of a planned programme following a variation to the Premises Licence granted in June 2017. That this tended to be primarily a vehicular site used by people with cars and experience indicates that vehicular sites do not tend to have alcohol only sales as customers would get out of their car to get petrol and other items from the shop. That whilst there would be additional noise during the night that it could not be said that this would only be the result of the additional hours applied for.

That the main concern related to noise and referring to the photographs there had not been any representations received from other residents living close to the Licensed Premises or by any other Responsible Authorities.

That there had been no evidence adduced which needed to be limited to the extra hours applied for under this Variation. Regarding the sale of alcohol it would have to be shown that any disturbance was attributed to the sale of alcohol during the extra hours applied for and not from the sale of petrol and/or other items sold in the shop and that it was very rare for alcohol to be purchased on its own at this type of site. That members of staff had very clear guidelines regarding the sale of alcohol and were regularly assessed and tested and were employed on the basis that they were able to do their job and all the responsibilities that went with it.

Regarding the provision of Late Night Refreshment the Applicant's Representative submitted that only a passing reference was made in the representations and this was not seen as problem. That the provision of Late Night Refreshment was benign and could have been applied for by way of a Minor Variation application as the Premises could already open 24 hours a day.

The Applicant's Representative confirmed that the Applicant had over 189 Premises licensed to sell alcohol 24 hours a day and so they were not unused to operating for 24 hours. That the Management worked closely with the Community and would address any concerns as it had done regarding a floodlight when the canopy was raised at the Licensed Premises. That if concerns or complaints could not be resolved then there was the Review provisions under the Licensing Act 2003.

During his submissions, the Applicant's Representative referred Members to paragraphs 2.8 and 2.10 of the Council's Licensing Policy regarding hours and paragraphs 9.12 and 9.15 of the Section 182 Guidance regarding the role of the Responsible Authorities and the test regarding evidence. Reference was also made in closing to the decision of the High Court in Daniel Thwaites plc v Wirral Magistrates Court [2008] EWHC 838 (Admin) and in particular paragraphs 55 and 63 thereof. That there was a need to adduce evidence and that decisions needed to be evidence based not based on fear of what might happen referring again to the Review provisions which Members duly considered.

In determining this application Members also considered what the Applicant can do now under its current Premises Licence, namely it can open 24 hours a day and the effect of the Variation if it was allowed and that there had only been one objection from local residents, an objection from Environmental Health and no complaints since 2004.

Having considered very carefully all the submissions made to them and also the written representations, Members concluded that on balance there was no justification to refuse the application and could only afford limited weight to the representations from Environmental Health.

The Licensing Sub-Committee also took into consideration that some of the concerns raised were based on what might happen if the application was allowed. In considering this the Licensing Sub-Committee had regard to the Home Office

Guidance referred to and also paragraph 9.43 thereof - that decisions should be evidence-based.

Regarding the **Conditions** now imposed on the Premises Licence, it was noted that proposed Conditions 1 and 3 to 8 were agreed by the Applicant and no comments were made in respect thereof by the Environmental Health Officer. Regarding the imposition of amended Condition 2, new Condition 9 and the deletion of Condition 10 having listened to the submissions made to them Members imposed Conditions 2 and 9 and deleted Condition 10 for the reasons stated above noting that the Environmental Health Officer raised no comments or concerns.

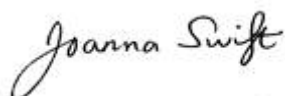
Therefore in granting this application in full the Licensing Sub-Committee considered that the variation to the Premises Licence was reasonable and appropriate for this type of premises which could open 24 hours a day and for the location and that the Conditions now imposed on the Premises Licence together with the Mandatory Conditions, were sufficient, proportionate and appropriate measures if properly implemented to address the concerns raised in the representations regarding Public Nuisance and noise.

The Sub-Committee, whilst making this decision, also took into account and gave weight to the ability of the Objectors to make representations in the future which will lead (where evidence shows the Licensed Premises is the cause of public nuisance), to a Review of the Premises Licence where steps could be taken to address the issues. Accordingly the Objectors should be reassured that the Licensing Authority does have significant powers when dealing with a premises on review if appropriate and proportionate in all circumstances.

The Licensing Sub-Committee also had regard to

National Guidance;
The Council's Licensing Policy;
The Human Rights Act 1998, as amended and
The individual merits of this case

before reaching this decision.



**Head of Legal and Democratic Services and
Clerk to the Licensing Sub-Committee**

DATED 18th AUGUST 2017.

ATTENTION IS DRAWN TO THE ATTACHED RIGHTS OF APPEAL

YOUR RIGHT OF APPEAL
Licensing Act 2003, Section 181, Schedule 5

Rejection of applications relating to premises licences

- 1 Where a licensing authority-
- (a) rejects an application for a premises licence under section 18,
 - (b) rejects (in whole or in part) an application to vary a premises licence under section 35,
 - (c) rejects an application to vary a premises licence to specify an individual as the premises supervisor under section 39, or
 - (d) rejects an application to transfer a premises licence under section 44,
- the applicant may appeal against the decision.

Decision to grant premises licence or impose conditions etc.

- 2 (1) This paragraph applies where a licensing authority grants a premises licence under section 18.
- (2) The holder of the licence may appeal against any decision-
- (a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of that section, or
 - (b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).
- (3) Where a person who made relevant representations in relation to the application desires to contend-
- (a) that the licence ought not to have been granted, or
 - (b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of that section,
- he may appeal against the decision

Variation of licence under section 35

3 (1) This paragraph applies where an application to vary a premises licence is granted (in whole or in part) under section 35.

(2) The applicant may appeal against any decision to modify the conditions of the licence under subsection (4)(a) of that section.

(3) Where a person who made relevant representations in relation to the application desires to contend-

(a) that any variation made ought not to have been made, or

(b) that, when varying the licence, the licensing authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under subsection (4)(a) of that section,

he may appeal against the decision.

If you wish to appeal you must do so within 21 days beginning with the day you were notified of the decision.

The postal address for the Magistrates' Courts that cover the Chiltern Area is:

Milton Keynes Magistrates' Court, 301 Silbury Boulevard,
Witan Gate East, Milton Keynes, Buckinghamshire MK9 2AJ

SUBJECT:	Dual Driver Licensing Fees
REPORT OF:	Director of Services – Steve Bambrick
RESPONSIBLE OFFICER	Head of Healthy Communities – Martin Holt
REPORT AUTHOR	Charlie Robinson, 01494 732056, crobinson@chiltern.gov.uk
WARD/S AFFECTED	All

1. Purpose of Report

1.1 This report is provided to committee to consider the proposed fees for dual driver licenses following the introduction of this licence as a result of the recent adoption of the new Hackney Carriage and Private Hire Policy.

1.2 RECOMMENDATION

1.3 It is recommended that

- i. To approve the proposed fees for dual driver licences as set out in Appendix 1 and to authorise the Head of Healthy Communities to advertise the proposed fees increase for 28 days.
- ii. If no objections are received, the increases to the fees set out in Appendix 1 to become effective on 1st April 2018.
- iii. That any objections received during the consultation be considered by the Licensing Committee at its meeting on 10th May 2018 and the Licensing Committee determine the fees with or without variation having had regard to objections received.

2. Background

2.1 Fees for private hire and hackney carriage licences were last set following the Licensing and Regulation Committee meeting on 26th March 2015. Following the adoption of the Chiltern District Council Hackney Carriage and Private Hire Licensing Policy on 1st December 2017, the option of a dual driver licence will now be available to applicants. Dual driver licences enable drivers to apply for a single licence to drive both hackney carriages and private hire vehicles without the requirement to apply for both a hackney carriage driver licence and a private hire driver licence. As the dual driver option was not available at the time of the fees being set, the process needs to be undertaken to ensure an appropriate fee is in place.

2.2 Licence fees for vehicles, operators and drivers are subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1976 ("1976 Act"). Section 53(2) of the 1976 Act in respect of Drivers Licences for Hackney carriages and private hire vehicles provides that the Council may charge and recover the reasonable costs of issue and administration.

2.3 The 1976 Act requires that where it is proposed that a fee exceeding £25 be imposed regarding vehicle and operators licences, an advertisement be published in the local newspaper, giving 28 days for objections. The Council also follows the same procedure regarding Drivers Licences.

2.4 If objections are received the authority must give them due consideration before either modifying or confirming the charges. Once agreed, whether modified or otherwise, the fee will come into

operation with immediate effect or on the date to be agreed, without the need for further consultation.

3. Fee setting process

- 3.1 The Licensing Service should be operated on a cost neutral basis as the legislation allows for full cost recovery of the licensing functions but requires that the service does not make a profit.
- 3.2 There have been a number of legal challenges to the level of fees that have been levied by licensing authorities. The focus of these challenges has been where fees are considered to be higher than the cost of exercising the functions connected to the provision of licences and also where it has been considered that cross subsidisation is occurring. Cross subsidisation is not permitted under the legislation and requires that fees are charged to the correct licence holders for the specific functions connected to that licence.
- 3.3 The Council last set the fees for taxi licensing on 26th March 2015. As such it is proposed that the fee for dual driver licences is calculated in line with the figures used to set the existing fees for private hire and hackney carriage licences. The original report presented to the committee on 15th January 2015 is attached at Appendix 2.
- 3.4 The work required for issuing and maintaining dual licences is higher than that involved in a private hire or hackney licence. This is due to further work such as checking compliance with both hackney carriage and private hire criteria when determining the application. Therefore the additional administration involved in the issue of a dual licence as opposed to a hackney carriage drivers licence or a private hire drivers licence is reflected in the proposal to maintain an additional nominal cost of £35 when compared to a 1 year hackney carriage drivers licence.
- 3.5 To achieve full cost recovery the licensing fees should reflect service costs. The proposed fees are set lower than the estimated cost of recovery for the licensing function to ensure that the Council's fees reflect current legislation and guidance as clarified by recent case law.
- 3.6 The full table of proposed fees is attached at Appendix 1.

4. Corporate Implications

4.1 Legal

There is no statutory right of appeal against the level of fees once set. As with any council decision this can be challenged by way of judicial review proceedings on the grounds that it is unlawful or procedurally flawed. However, in this case the Council is proposing a fee which meets the relevant statutory criteria and is carrying out consultation in accordance with the 1976 Act. Therefore it not considered that the Council is at risk of a successful legal challenge..

4.2 Financial

The cost of carrying out the fees review and associated consultation including advertising costs will involve staff time and resources, but these costs will be met within the existing budget.

4.3 Equality Act 2010

An assessment has been carried out to establish if an Equalities Impact Assessment (EIA) is required in respect of this proposal, in accordance with the requirements of the Equality Act 2010. It was determined that a full Impact Assessment was not required. The assessment undertaken, a copy of

which can be viewed by contacting the Licensing Team, did not identify any adverse equality issues and as a result no further action or mitigation is considered appropriate.

5. Next Steps

The next steps will be as stated in the recommendations.

Background Papers:	
---------------------------	--

Proposed Dual Driver Licence Fees

Type of licence	Fee
Dual Drivers Licence Grant (3 year)	£394.00
Dual Drivers Licence Grant (1 year licence available upon written request, assessed on case by case basis)	£196.00
Dual Drivers Licence Renewal (3 year)	£297.00
Dual Drivers Licence Renewal (1 year licence available upon written request, assessed on case by case basis)	£145.00

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE - 15 JANUARY 2015**

Background Papers, if any, are specified at the end of the Report

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES

Contact Officer: Nathan March 01494 732056 nmarch@chiltern.gov.uk

RECOMMENDATIONS

- **To consider the proposed changes to the fees and charges to Hackney Carriage and Private Hire Licensing for 2015/16**
- **To consider the impact of these changes on the Policy and agree in principle changes to the policy which are impacted by the proposed fees and charges**

Background

- 1 The fees were last increased in 2007/8 following the Licensing and Regulation Committee meeting on 15th March 2007. This report sets out the options for the fees for April 2015/16
- 2 The licence fees for vehicles, operators and drivers are subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1976 ("1976 Act"). Section 53(2) of the 1976 Act in respect of Drivers Licences for Hackney carriages and private hire vehicles provides that the Council may charge and recover the reasonable costs of issue and administration.
- 3 Section 70 of the 1976 Act further provides that the Council may charge such fees for the grant of vehicle and operator licences as may be sufficient to cover in whole or part the reasonable costs of carrying out inspections of vehicles, reasonable administrative or other costs, and the control and supervision of Hackney carriages and private hire vehicles. The 1976 Act requires that where it is proposed that a fee exceeding £25 be imposed, an advertisement be made in the local newspaper, giving 28 days for objections.
- 4 If objections are received the authority must give them due consideration before either modifying or confirming the charges. Once agreed, whether modified or otherwise, the fee will come into operation with immediate effect or on the date to be agreed, without the need for further consultation.
- 5 The service has been through the service review process as part of the shared service programme, and the reduction in the cost of the service has helped to keep any fees and charges increases to a minimum.

Fee setting process

- 6 The Licensing Service should be operated on a cost neutral basis as the legislation allows for full cost recovery of the licensing functions but requires that the service does not make a profit.
- 7 There have been a number of legal challenges to the level of fees that have been levied by licensing authorities. The focus of these challenges has been where fees are considered to be higher than the cost of exercising the functions connected to the provision of licences and also where it has been considered that cross subsidisation is occurring. Cross subsidisation is not permitted under the legislation and requires that fees are charged to the correct licence holders for the specific functions connected to that licence.
- 8 Surpluses and deficits need to be taken into consideration when setting fees. The provision of Hackney Carriage and Private Hire licences have to be treated separately, so one cannot offset the other.
- 9 The figures for the income and expenditure for the licensing service suggest that each year since 2011/12, the Licensing Service has had surpluses in relation to the provision of taxi and private hire licences. However, the service review has identified that the proportion of work undertaken in respect of Hackney Carriages and Private Hire was underestimated. **Appendix 3** shows that 63% of the licensing activity is spent on Hackney Carriages and Private Hire.
- 10 To ensure that the Council's fees are set appropriately for each licence, the following process has been used for the estimation of costs:
 1. The volume of work and the time taken to carry out all licensing functions associated with each licence was estimated using data from the last 12 months.
 2. The Licensing Service resource costs were taken from the current year joint service budget (**Appendix 2**).
 3. Items 1 and 2 above were used to establish the cost of the time spent on each function. This enabled the costs associated with the time spent on Hackney Carriage and Private Hire to be identified.
 4. The calculated costs of Hackney Carriage and Private Hire (shown in **Appendix 5**) were compared to current fees to consider appropriate level of the proposed fees.
 5. As the costs have to be considered separately for all Hackney Carriage and Private Hire licences, the table in **Appendix 4** shows the breakdown of time that is spent on each licence type and the associated cost in doing so.
- 11 The proposed fees aim to move the service closer to being cost neutral. The impact in Chiltern will be mainly on new applicants and in relation to the renewal of Private Hire vehicles and the issue of Private Hire Operator licences

Classification: OFFICIAL

12 None of the proposed fees are higher than the estimated cost of recovery for the licensing function to ensure that the Council is protected against the risk of a challenge connected to these fees and charges. If the fees are agreed as proposed, it is estimated that £253k of the cost of the licensing service will be recovered. The cost of providing the service in relation to Taxi and Private Hire is estimated at 289k, so full in year cost recovery will not be achieved despite the increases.

13 The full table of proposed fees is attached in **Appendix 1**

14 Private Hire Operators

The Council currently charges a flat rate of £100 for Operators Licences, irrespective of the number of vehicles that work for them. It is considered that the licensing functions connected to operators is affected by the number of vehicles that the operator uses and therefore it is likely that cross subsidisation could occur where operators of few vehicles are paying the same fee as those with many. As a result of this the proposed fees introduce a banding system for operators as follows:

rate 1 vehicle
 rate 2-4 vehicles
 rate 5-10 vehicles
 rate 11+ vehicles

This proposed structure involves a cost increase for all operators with the aim of moving closer to full cost recovery for the associated licensing functions. However, as this was a flat rate of £100 previously, the larger operators will experience more significant increases.

15 Fee charged when application is not granted

A fee of £47 has been proposed for applications which are refused, or not proceeded with. This is the estimated cost of one hour work of a member of the Healthy Communities section and is to cover the cost of the partially processing of an application.

16 Introduction of 3 year driver licences

As part of the proposed fees, an option to allow drivers to be licensed for 3 years has been developed. Allowing drivers to be licensed for 3 years rather than just 1 reduces the cost to the Council as it reduces the amount of admin required over the 3 year period, this could reduce officer time required on processing applications and would allow the applicant to obtain a 3 year licence at a lower cost than that of obtaining annual licences over the same period. This would not affect the requirement for criminal record checks or medicals, and would not prevent the Council from taking appropriate action against any driver involved in any incident reported to the authority.

Background Papers

The fees have been calculated using an excel database which is available on request.

CDC Hackney Carriage and Private Hire Fees

Type of licence	Existing Fee (£)	Proposed Fee (£)
One year Hackney Carriage Vehicle Licence Grant	300	399
One year Hackney Carriage Vehicle Licence Grant using LPG and CNG Fuels	135	199.50 (50%)
Renewal Hackney Carriage Vehicle Licence	300	300
Renewal Hackney Carriage Vehicle Licence using LPG and CNG Fuels	135	150 (50%)
Hackney Carriage Drivers Licence Grant 1 year	95	161
Hackney Carriage Drivers Licence Grant 3 year	N/A	332
Hackney Carriage Drivers Licence Renewal 1 year	95	95
Hackney Carriage Drivers Licence Renewal 3 year	N/A	256
One year Private Hire Vehicle Licence Grant	200	329
One Year Private Hire Vehicle Licence Grant using LPG and CNG Fuels	135	164.50 (50%)
Renewal Private Hire Vehicle Licence	200	230
Renewal Private Hire Vehicle Licence using LPG and CNG Fuels	135	115 (50%)
Private Hire Drivers Licence Grant 1 year	95	161
Private Hire Drivers Licence Grant 3 year	N/A	332
Private Hire Drivers Licence Renewal 1 year	95	95
Private Hire Drivers Licence Renewal 3 year	N/A	256
Executive Plate	63	65
Transfer of Licence	80	90

Classification: OFFICIAL

Change of Vehicle	67	67
Replacement Internal Licence or badge	15	15
Replacement Plate	25	25
Private Hire Operators		
To operate 1 vehicle	100	155
To operate 2-4 vehicles	100	205
To operate 5-10 vehicles	100	255
To operate 11+ vehicles	100	305
Knowledge test	25	25
Bracket Charge	10	Cost of replacement
Disclosure and Barring Scheme	51	Cost of check (currently £44) +£8.50 Admin Charge
Admin charge should licence not be issued	N/A	47

2014-15 Joint Licensing Service Costs

The costs in the table are for the full provision of all Licensing regimes that the joint service has responsibility for across the two authorities

Joint Service Costs	Cost (£)
Staff costs (salary, training etc)	196,912
Section costs (equipment etc)	2,210
Recharges	265,199
Total joint service costs	464,321

Proportionate breakdown of Licensing regimes dealt with by the Licensing section

	Total Hours	% of total time
Taxi	4011	62.41
LA03	1374	21.38
GA05	165	2.56
Pet Shop	73	1.13
Boarding	124	1.92
Home Boarding	92	1.43
Breeding	15	0.23
Riding	19	0.29
DWA	5	0.08
Needles	45	0.70
Street Trading	0	0.00
Scrap Metal	116	1.81
Mobile Homes	102	1.58
Sex Establishment	0	0.00
H2H/Street	288	4.48
Total	6426	100.00

CDC Time Estimates for Taxi and Private Hire Related Licensing

Hackney Carriage Driver licence

Action	Total	Time Taken (minutes)	Total Time (minutes)
HCDL 1yr new application	1	30	30
HCDL 1yr renewal application	177	30	5310
HCDL send renewal pack	187	10	1870
Medical Reminder	61	6	366
DBS Reminder	60	6	360
Medical Suspension letter	6	10	60
DBS Suspension letter	6	10	60
Medical Received	61	7	427
DBS Received	61	7	427
DBS check returned faulty	5	15	75
Sub-Committee reports	1	60	60
Case briefings to management	1	60	60
		Total	9105

Private Hire Driver Licence

Action	Total	Time Taken (minutes)	Total Time (minutes)
PHDL 1yr new application	4	30	120
PHDL 1yr renewal application	161	30	4830
PHDL 3yr new application	0	30	0
PHDL 3yr renewal application	0	30	0
PHDL send renewal pack	191	10	1910
Medical Reminder	62	6	372
DBS Reminder	62	6	372
Medical Suspension letter	6	10	60
DBS Suspension letter	6	10	60
Medical Received	62	7	434
DBS Received	62	7	434
DBS check returned faulty	5	15	75
Sub-Committee reports	2	60	120
Case briefings to management	2	60	120
		Total	8907

Hackney Carriage Vehicle Licence

Action	Total	Time Taken (minutes)	Total Time (minutes)
HCVL new application	1	30	30
HCVL renewal application	137	30	4110
HCVL variation application	102	30	3060
HCVL transfer application	14	30	420
HCVL send renewal pack	166	10	1660
Insurance Reminder	165	6	990
MOT Reminder	169	6	1014
Compliance Reminder	255	6	1530
Insurance Suspension letter	21	10	210
MOT Suspension letter	20	10	200
Compliance Suspension letter	25	10	250
Insurance Received	168	7	1176
MOT Received	172	7	1204
Compliance Received	247	7	1729
Accident Report Form Received	22	7	154
Hackney Carriage initiatives	2	420	840
Complaint visits	0	90	0
Inspections following accident	0	15	0
Sub-Committee reports	0	60	0
Case briefings to management	0	60	0
		Total	18577

Private Hire Vehicle Licence

Action	Total	Time Taken (minutes)	Total Time (minutes)
PHVL new application	1	30	30
PHVL renewal application	87	30	2610
PHVL variation application	38	30	1140
PHVL transfer application	5	30	150
PHVL send renewal pack	137	10	1370
Insurance Reminder	134	6	804
MOT Reminder	130	6	780
Compliance Reminder	190	6	1140
Insurance Suspension letter	6	10	60
MOT Suspension letter	9	10	90
Compliance Suspension letter	19	10	190
Insurance Received	111	7	777
MOT Received	132	7	924
Compliance Received	198	7	1386
Accident Report Form Received	13	7	91
Private Hire initiatives	2	420	840
Complaint visits	0	90	0
Inspections following accident	0	15	0
Inspections at Council	0	10	0
		Total	12382

Private Hire Operators Licence

Action	Total	Time Taken (minutes)	Total Time (minutes)
PHOP new application	0	30	0
PHOP renewal application	31	30	930
PHOP send renewal application	41	10	410
Private Hire base inspections	44	90	3960
Complaint visits	4	90	360
Sub-Committee reports	0	60	0
Case briefings to management	2	60	120
		Total	5780

Average cost per licence for Joint Licensing Service

The table below shows the average cost for providing each type of licence. The average cost does not take account for the difference in granting a new licence, compared to renewing an existing licence, this has been considered separately. The figures used show the work that the Licensing Service does in relation to Taxi and Private Hire Licensing across the 2 authorities i.e. the figures are the combined figures for CDC and SBDC. The only work that the joint service does in relation to taxi and private hire licensing that is not shown is the work done to provide dual badges, this is not shown as these are only available for SBDC drivers.

Licence Type	Time	Percentage of Taxi Licensing time	Cost	No. Issued	Estimated average cost per licence (£)
HCD	10497	14.07	40,818.59	242	168.67
PHD	11245	15.08	43,727.26	270	161.95
HCV	22591	30.29	87,847.27	217	404.83
PHV	20780	27.86	80,805.02	224	360.74
PHO	8140	10.91	31,653.17	65	486.97
Total	73253	98.22*	284,622.15		
Total cost of Taxi and PH Licensing (62.4% of Licensing Service)	289,782.05				

*The Percentage Figure does not equate to 100% as 1.8% is used to deal with Dual Badges which are only provided for SBDC