

Guildhall Gainsborough
Lincolnshire DN21 2NA
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AGENDA

This meeting will be recorded and the video archive published on our website

Licensing and Regulatory Committee
Thursday, 26th January, 2017 at 6.30 pm
Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA

Members:

- Councillor Mrs Jessie Milne (Chairman)
- Councillor Owen Bierley (Vice-Chairman)
- Councillor Gillian Bardsley
- Councillor Sheila Bibb
- Councillor David Cotton
- Councillor Paul Howitt-Cowan
- Councillor Angela Lawrence
- Councillor Mrs Pat Mewis
- Councillor Richard Oaks
- Councillor Judy Rainsforth
- Councillor Mrs Diana Rodgers
- Councillor Lewis Strange

1. Apologies for Absence

2. Public Participation

Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each

3. Minutes of Previous Meetings

a) Licensing and Regulatory Committee

Minutes of the Licensing and Regulatory Committee held on 13 December 2016. (PAGES 1 - 4)

b) Taxi and General Licensing Sub-Committee

Minutes of the Taxi and General Licensing Committee 13 December 2016. (PAGES 5 - 8)

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio: Native Language

4. **Declarations of Interest**

Members may make declarations of Interest at this point or may make them at any point in the meeting.

5. **Public Reports**

a) Public Space Protection Orders

(PAGES 9 - 16)

M Gill
Chief Executive
The Guildhall
Gainsborough

18 January 2017

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Licensing and Regulatory Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 13 December 2016 commencing at 6.30 pm.

Present: Councillor Mrs Jessie Milne (Chairman)
Councillor Owen Bierley (Vice-Chairman)

Councillor Gillian Bardsley
Councillor Sheila Bibb
Councillor David Cotton
Councillor Mrs Pat Mewis
Councillor Judy Rainsforth
Councillor Mrs Diana Rodgers

Also Present Councillor Matthew Boles – Visiting Member

In Attendance:
Andy Gray Housing and Communities Team Manager
Kathryn Hearn Senior Community Safety Officer
Dinah Lilley Governance and Civic Officer

Apologies: Councillor Paul Howitt-Cowan
Councillor Angela Lawrence
Councillor Lewis Strange

Membership: No Substitutes were appointed

15 PUBLIC PARTICIPATION

There was no public participation.

16 MINUTES OF PREVIOUS MEETINGS

(a) Meeting of the Licensing and Regulatory Committee – 9 June 2016

RESOLVED that the minutes of the Meeting of the Licensing and Regulatory Committee held on 9 June 2016 be confirmed and signed as a correct record.

(b) Meeting of the Licensing Sub-Committee held on 11 July 2016.

RESOLVED that the minutes of the Meeting of the Licensing Sub-Committee held on 11 July 2016 be received and noted.

(c) Meeting of the Licensing Sub-Committee held on 26 August and 2 November 2016

RESOLVED that the minutes of the Meeting of the Licensing Sub-Committee held on 26 August and 2 November 2016 be received and noted.

17 DECLARATIONS OF INTEREST

Councillors Bardsley, Rodgers, Mewis and Bierley all noted that they had dogs but as responsible owners would not be affected by the Orders.

Councillor Bierley declared a personal interest in that he was the Community Representative and Trustee of the Keelby Sports Association, which may be affected by the Orders.

Councillor Cotton noted that many of the open spaces that were the subject of the report were in the custodianship of Parish Councils therefore any Member who was also a Parish Councillor may have a personal interest.

18 PUBLIC SPACE PROTECTION ORDERS

The Housing and Communities Team Manager and the Senior Community Safety Officer attended the meeting to outline proposals relating to three Public Space Protections Orders, and to seek consent from the Committee to consult in line with the proposed consultation plan.

A number of Public Space Protection Orders (PSPOs) on land in the District were proposed. These Orders could be made on any land open to the air that the public had a right or entitlement of access to. This meant that the legislation could apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.

To make an Order, the local authority needed to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be persistent or continuing in nature
- Is, or is likely to be unreasonable
- Justifies the restrictions imposed

Breach of a PSPO was a criminal offence, punishable by a fixed penalty notice or prosecution. Legislation required that a minimum 30 days consultation be carried out prior to a decision being made to make a PSPO or not.

The report outlined the three current proposed PSPOs, the reasons behind the requests and the requirements or prohibitions suggested, and to ask the Committee to agree for consultation to take place.

Any Dog Control Orders currently in force in the District would remain in force and unchanged by these proposals, excepting those on Gainsborough Town Council owned land.

The first of the proposals was for a District wide PSPO for dog fouling and would apply to all land in the District of West Lindsey which was open to the air and to which the public have a right or entitlement of access whether paid or unpaid.

Discussion ensued as to whether it was felt that the proposals would work to help deter persistent offenders, although it was acknowledged that the problem was significant and needed to be tackled. Assurance was given that reporting offenders could be confidential and the only information required was dates, times and locations.

Those with the power to enforce the PSPOs and issue fixed penalty notices were discussed. Committee Members raised the matter of Parish Councils which had previously paid for Wardens to undergo training and thereby be authorised to issue notices, as under the current proposals this would seem to be money wasted, and it was suggested that representations be made to the Department of Environment that clarity was required. The Housing and Communities Team Manager advised that comments should be fed into the consultation, however it was suggested that lobbying the relevant minister be more appropriate as this was clearly a legislative oversight.

Members debated whether it would be better to defer the matter until further information and clarity was available, or whether to proceed with the consultation in the meantime. It was also questioned whether, if Proposal One was deferred, consultation should go ahead on the other two proposals in the meantime. It was felt that as Proposal Three related to land owned by Gainsborough Town Council and that as Proposal One was District Wide this could lead to confusion and residents feeling they were being consulted twice on the same matter.

It was proposed that the entire report and consultation be deferred until such time as further information be available, to clarify the legislation and the authority held by Parish Council Wardens. The proposal was seconded and subsequently voted upon.

RESOLVED that the report be deferred until clarification has been sought and provided to the Committee to ensure that the correct decisions be taken.

The Governance and Civic Officer sought verification that the further detailed report would need to be submitted to the Committee before the next scheduled meeting in March, therefore it would be necessary to arrange an additional meeting in the interim.

The meeting concluded at 7.16 pm.

Chairman

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Public Document Pack Agenda Item 3b

Taxi and General Licensing Committee- 13 December 2016

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Taxi and General Licensing Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 13 December 2016 commencing at 1.30 pm.

Present: Councillor Owen Bierley (Chairman)
Councillor Judy Rainsforth (Vice-Chairman)

Councillor Paul Howitt-Cowan
Councillor Mrs Pat Mewis
Councillor Mrs Jessie Milne

In Attendance:

Phil Hinch
Kim Robertson
Dinah Lilley

Licensing Team Manager
Legal Services Lincolnshire
Governance and Civic Officer

Apologies:

Councillor Sheila Bibb
Councillor David Bond
Councillor David Cotton
Councillor Lewis Strange

Also Present

MH – Applicant
AH – Applicant's Brother-in-Law

6 MINUTES OF PREVIOUS MEETING

Meeting of the Taxi and General Licensing Sub-Committee held on 9 May 2016.

RESOLVED that the minutes of the meeting of the Taxi and General Licensing Sub-Committee held on 9 May 2016 be confirmed and signed as a correct record.

7 DECLARATIONS OF INTEREST

There were no declarations of interest.

8 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to an individual.

9 APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE/PRIVATE HIRE PROPRIETOR'S LICENCE

An application had been received to renew an existing Hackney Carriage/Private Hire Proprietor's licence. This had been submitted for consideration by the Sub-Committee as there were concerns regarding where the applicant was plying for hire.

The Legal Advisor explained the procedure that would be gone through and round the table introductions were given.

The Licensing Team Manager explained that the application was not for a new licence therefore the question of whether the applicant was a 'Fit and Proper' person was not the issue for consideration. The licence plate had been issued in 2013 and since that time had been renewed, however the applicant had been requested to confirm that he was actually working within the West Lindsey area.

The applicant had confirmed that he had been out of the country for part of the year, but that otherwise he was plying for hire in Gainsborough. Confirmation and records of proof had been requested but not received.

The applicant was present at the hearing accompanied by his brother-in-law who provided translation for him. In presenting his case the applicant stated that he had had family commitments and problems and he apologised for his mistakes in the past, but requested one more chance, and he would comply with all requirements.

The Licensing Team Manager noted that the applicant had stated that he would be working in West Lindsey seven days per week, but on questioning the mileage that would be incurred by travelling from his home, plus actual taxi journeys, the total readings did not add up to what would be expected. The applicant stated that he occasionally stayed over rather than travelling back home.

Sub-Committee Members had concerns regarding the truth of the declaration and stated that they needed detailed records of work that had been carried out in West Lindsey. The applicant then produced a bag containing envelopes with receipts for fuel, and some notebooks with some journeys recorded.

The Sub-Committee adjourned at 14.18 to enable the Licensing Team Manager and the Legal Advisor to examine the documentation produced.

The Sub-Committee reconvened at 14.48 and the Licensing Team Manager informed the Sub-Committee that the receipts were for local purchases of fuel, small amounts on a regular basis, mostly from 2015. The information contained in the notebooks was insufficiently detailed to be comprehensive evidence.

The Sub-Committee question why the applicant had not produced the documentation previously when requested to do so by the Licensing Team. The applicant, through his representative, stated that if he was given another chance, he would keep detailed records.

Reference was also made to a complaint which had been received from a passenger, which at the time the applicant had stated that he did not recall the incident, however was now able

to give an explanation.

Parties were then given the opportunity to sum up their case, and the Sub-Committee then adjourned at 15.03 to deliberate on their decision.

The Sub-Committee reconvened at 15.19 and gave its decision.

“The Taxi and General Licensing Sub-Committee have read and heard all the information before them. MH produced receipts for fuel at the hearing for 2015, 2014 and for January-April 2016 and September-November 2016. MH also produced some journey notes for the same period in 2016. Notes of journeys were produced of other times but the dates and journey details were not included.

The Sub-Committee have taken into account the information provided however they are not satisfied on the balance of probabilities that MH has been working mainly in the West Lindsey DC area during 2016.

The Sub-Committee have considered their Out of Area Taxi Policy, Public Safety and the impact on MH’s livelihood. With this in mind the Sub-Committee have decided to refuse the application.”

The meeting concluded at 3.21 pm.

Chairman

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**Licencing and Regulatory
Committee**

Date 26 January 2017

Subject: Public Space Protection Orders – authority to consult

Report by:

Mark Sturgess – Chief Operating Officer

Contact Officer:

Kathryn Hearn
Senior Community Safety Officer
01427 675181
Kathryn.hearn@west-lindsey.gov.uk

Purpose / Summary:

To outline proposals relating to three Public Space Protections Orders, and to gain consent from Committee to consult in line with the proposed consultation plan.

RECOMMENDATION(S):

Elected members are asked to:

- a) Give authority to consult on Proposal 1 – PSPO on Trinity Arts Centre Grounds**
- b) Give authority to consult on Proposal 2 – PSPO on land belonging to Gainsborough Town Council**
- c) Give authority to consult on Proposal 3 – District Wide PSPO for dog fouling**
- d) Approve the suggested consultation plan and timeline**

IMPLICATIONS

Legal: These Orders are made under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014. A minimum 30 day consultation period is required by Legislation.

Power to make a PSPO has been added to the Terms of Reference of this Committee

Breach of a PSPO may be dealt with by a fixed penalty notice or prosecution. Delegated powers are in place for service of fixed penalty notices.

Appeals against the making of a PSPO can be made in the High Court within 5 weeks of the PSPO being made, on the grounds that the process has not been followed, or that the council did not have the authority to make the Order or put certain restrictions in the Order.

Financial : Fin Ref:FIN/109/17

There will be costs associated with the consultation process, signage and publicity and resource costs. These should be relatively low and met from within existing budget provision.

Fixed penalty notices for breach of a PSPO are set at £75 with a £50 early payment incentive in fees and charges. Income from fixed penalty notices may be used to support the service issuing the FPN.

Staffing :

Staff time will be required to support the consultation process and reporting back to Committee. Staff time will be required to deal with breaches to support the PSPOs. It is intended that multi-skilling enforcement staff will enable this with minimal impact on individual officers by sharing the load.

Equality and Diversity including Human Rights :

The PSPOs will not disadvantage any social groups over another, and the process will be applied fairly. Exemptions for fixed penalty notices for reasons of physical or mental impairment are detailed in the Fixed Penalty Enforcement Strategy.

Risk Assessment :

Challenge in the High Court – reduced by following process and considering reasonableness throughout process

Orders relating to dogs can be controversial and may lead to negative publicity. To be mitigated at consultation stage with careful publicity, reasoned grounds for suggested Orders and multiple options for responding provided.

Climate Related Risks and Opportunities :

Nil

Title and Location of any Background Papers used in the preparation of this report:

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

X

No

1 Introduction

West Lindsey District Council has been asked to consider making, or feels it needs to make, a number of Public Space Protection Orders (PSPOs) on land in the District.

These Orders can be made on any land open to the air that the public have a right or entitlement of access to. This means that the legislation can apply to land belonging to local authorities, as well as, for example, Church grounds and land belonging to a resident owned management company.

To make an Order, the local authority needs to be satisfied on reasonable grounds that the activities carried out, or likely to be carried out, in a public space:

- Have had, or are likely to have a detrimental effect on the quality of life of those in the locality
- Is, or is likely to be persistent or continuing in nature
- Is, or is likely to be unreasonable
- Justifies the restrictions imposed

A PSPO can require something to happen e.g. requirement to keep dogs on a lead, or ban something from happening e.g. banning drinking alcohol in a public space.

A PSPO lasts for three years, after which it can be removed or extended. A PSPO can be removed or varied within the three year period if no longer needed.

Breach of a PSPO is a criminal offence, punishable by a fixed penalty notice or prosecution.

PSPOs, while a versatile and effective tool, have attracted some negativity nationally due to how they have been applied in some authority areas. It is therefore important to consider what activities the PSPO is aimed at stopping, whether those activities are deemed unreasonable, and whether the requirement or prohibition under the proposed PSPO is justifiable and enforceable.

The legislation requires that a minimum 30 days consultation is carried out prior to a decision being made to make a PSPO or not.

This paper is intended to outline the three current proposed PSPOs, the reasons behind the requests and the requirements or prohibitions suggested, and to ask the Committee to agree for consultation to take place.

Any Dog Control Orders currently in force in the District will remain in force and unchanged by these proposals, excepting those on Gainsborough Town Council owned land.

2 Legal advice

A number of queries were raised by Members at the previous committee meeting held on the 13th of December 2016 in regards to the enforcement and impact of PSPOs and the current legislation and officers were asked to clarify this via legal services prior to returning the paper for consideration. The queries and answers are contained below.

- Does the Dogs (Fouling of Land) Act 1996 designation still apply? (this required dog owners to pick up after their dogs across the District)
 - o No. The 1996 Act was repealed in full by the Clean Neighbourhoods and Environment Act 2005 Part 6, Chapter 1, and this itself was repealed by the Anti-Social Behaviour, Crime and Policing Act 2014 schedule 11. This means there is currently no provision for WLDC to enforce against uncleared dog fouling in the District.
- Will the introduction of PSPOs in the District impact on any current Dog Control Orders? (Dog Control Orders were made under the 2005 Act by Parishes/Towns on their land and cover dog exclusions, dogs on leads etc)
 - o Not unless the intention is to replace the Dog Control Order with a PSPO. In the three proposals as part of our paper, Gainsborough Town Council Dog Control Orders will be replaced by a PSPO. The Dog Control Orders in Caistor and Cherry Willingham will not be affected, and these will remain in force until 20 October 2017. We will review these orders prior to that date to ensure we can bring in PSPOs to replace them (if desired) before the current orders expire.
- Can Town/Parish wardens issue fixed penalty notices for breach of a PSPO?
 - o Yes, a re-read of the legislation and confirmation from legal services indicates that we can delegate powers to Parish and Town Wardens as we have done in the past. Officers will undertake to put these delegations in place and ensure that Wardens are trained and understand the new powers.

3 Proposal one – PSPO on Trinity Arts Centre grounds

3.1 Requirements/Prohibitions requested:

To prohibit dogs being brought on to the land designated in the Order. This prohibition will not apply to registered guide or medical alert dogs.

To prohibit the consumption of alcohol on the land designated in the Order.

3.2 Land PSPO to apply to:

The outside grounds of the Trinity Arts Centre, and the Pocket Park on Cleveland Street (map provided in Annex A)

3.3 Reason for application:

Frequent reports of groups gathering and drinking alcohol within the grounds of the Trinity Arts Centre and pocket park. Numerous visitors to the centre have commented on this and expressed concern for their safety as a result, as well as TAC staff and local residents. This has been on-going for some time and various options have been considered for dealing with this, however a resolution has not yet been found. There is a possible negative impact on the TAC as a venue if people do not feel safe attending, as well as local people feeling unsafe at home.

The grounds of the TAC are frequently used by local people for exercising their dogs. This has unfortunately had the effect of the grass being covered in dog foul. While we are looking to tackle the fouling issue itself under proposal one, in discussion with the centre manager a ban on dogs was considered the preferred option. In 2015 a community event on the grounds required several hours clean up prior due to the fouling, and this cannot be accepted on our land. In consultation it is proposed that a full ban on dogs, and a requirement to keep dogs on leads, are put forward as two options.

4 Proposal two – PSPO on Gainsborough Town Council land

4.1 Requirements/Prohibitions requested

On all areas of land that the PSPO applies to:

- Dogs must be kept on leads
- No alcohol may be drunk except as part of events organised by or with the permission of the Town Council
- No motor vehicles may be used for recreational use on the land. This includes motorbikes, mini motos, cars and quad bikes.

On the areas indicated in blue on the maps, described as designated childrens play areas, dogs will be excluded. Registered guide and medical alert dogs will be exempt from the exclusion.

4.2 Land PSPO to apply to

The PSPO will apply to numerous pieces of land in Gainsborough owned by the Town Council. Annex B shows the areas of land in map format.

4.3 Reason for application

Gainsborough Town Council have requested that a PSPO is put in place on its public land to replace current Dog Control Orders, and extend them to other areas of land, and to encompass wider nuisance behaviours. This is due to frequent problems in the past relating to dog fouling, uncontrolled dogs, use of alcohol, anti-social behaviour and off road vehicles on those areas, negatively impacting the majority of users of its land.

GTC have decided to request a dogs on leads order rather than the outright ban of dogs, except within childrens play areas. The ban would not apply to registered guide or medical alert dogs.

GTC have agreed to hold any required public meeting in relation to this proposal, and to be a point of contact during consultation.

5 Proposal three - District wide PSPO for dog fouling

5.1 Requirements/ Prohibitions requested:

To require dog fouling to be picked up by the owner/person responsible for the dog(s), on all land which is open to the air and to which the public have a right or entitlement of access whether paid or unpaid.

To require the dog foul picked up to be properly disposed of in a waste bin.

5.2 Land PSPO to apply to:

All land in the District of West Lindsey which is open to the air and to which the public have a right or entitlement of access whether paid or unpaid.

Exemptions: private property that the public do not have right or entitlement of access to, grass verges of roads with a speed limit above 40mph, woodland, heathland and agricultural land (as per the exemptions in the Dogs (Fouling of Land) Act 1996). Verges which have footpaths running alongside roads with a speed limit above 40mph would not be exempt.

5.3 Reason for application:

Uncleared dog fouling poses a health hazard, as well as making the streets unsightly. The Dogs (Fouling of Land) Act 1996, which has previously applied, can no longer be enforced. This PSPO will bring back an enforcement option for dog fouling, and will give a good opportunity for an educational publicity campaign in the local media, as well as a medium to long term enforcement option to help clear our communities up.

6 Consultation plan

Should approval be given for consulting the following is proposed:

- Consultation to open 1st February 2017, to close 3rd March 2017.
- Statutory consultees will be notified by email where possible, and in writing otherwise (statutory consultees include elected members, Parish and Town Councils, the Police and any other person directly affected by the proposal e.g. the Church diocese where the order affects their land)

- A Public Notice will be placed in local press
- A press release will be sent to local newspapers and publications, and placed on the website and social media prior to consultation opening
- Responses will be accepted in paper or electronic format. Paper forms will be available in reception.
- The Citizens Panel will be used if possible to increase reach
- Proposals 3 will return to Licencing and Regulatory Committee in March 2017. A report will be produced for giving a recommendation, for the Committee to make a decision.
- Proposals 1 and 2 will return either in March or June 2017 for a decision
- Delegation of powers to issue fixed penalty notices for breach of PSPO will be given to appropriate persons, which can include Town and Parish Council Wardens, to enable enforcement, following a review of necessary training and processes to support this
- Dog Control Orders in Caistor and Cherry Willingham will be reviewed after March 2017, in order to convert these to PSPOs (if desired) prior to their expiry on 20th October 2017.

6 Recommendations

Elected members are asked to:

- a) Give authority to consult on Proposal 1 – PSPO on Trinity Arts Centre Grounds
- b) Give authority to consult on Proposal 2 – PSPO on land belonging to Gainsborough Town Council
- c) Give authority to consult on Proposal 3 – District Wide PSPO for dog fouling
- d) Approve the suggested consultation plan and timeline