

Minutes of the **Licensing Committee**
of the **Test Valley Borough Council**
held in Conference Room 1, Weyhill Road, Beech Hurst, Andover
on Tuesday 13 February 2018 at 5.30 pm

Attendance:

Councillor J Budzynski (Chairman)	(P)	Councillor A Johnston (Vice-Chairman)	(P)
Councillor N Anderdon	(P)	Councillor D Denny	(A)
Councillor I Andersen	(A)	Councillor A Hope	(P)
Councillor A Beesley	(A)	Councillor P Hurst	(A)
Councillor A Brook	(P)	Councillor P Lashbrook	(-)
Councillor Z Brooks	(A)	Councillor J Ray	(-)
Councillor J Cockaday	(P)	Councillor A Tupper	(A)
Councillor C Collier	(P)		

245

Minutes

Resolved:

That the minutes of the meeting held on 12 September 2017 be confirmed and signed as a correct record.

246

Minutes of the Licensing Sub-Committee

Resolved:

That the minutes of the Licensing Sub-Committees held on 22 September and 7 December 2017 be received.

247 **Re-adoption of Part II of the Local Government (Miscellaneous Provisions) Act 1976**

Consideration was given to a report which detailed a proposal to readopt the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 within the Borough Council's area.

Part II of the 1976 Act contained provisions in relation to the licensing of private hire and hackney carriage vehicles, drivers and operators. The legislation contained provisions that allowed local authorities to control the operation and use of private hire and hackney carriage vehicles and to protect the public by ensuring that vehicles were fit for use as licensed vehicles and drivers were 'fit and proper' to act as such.

The Borough Council previously resolved on 8 August 1978 to adopt Part II of the Act and that it would come into force on 9 October 1978. Case law had seen decisions to prosecute for offences under Part II challenged successfully because a Council could not demonstrate – some 35 years after the event – that it had given the appropriate notices in its adoption of Part II; the paperwork was simply not available. A review of the Borough Council's records evidenced the resolution above, but unfortunately there was no evidence of the other aspects of the adoption process as set out in paragraph 2.4 of the report.

There was a general awareness that these challenges had taken place and in order to have a recent and robust position which would not be challengeable it was suggested that it would be beneficial to readopt the resolution for the purpose of clarity for the future and to ensure certainty in any enforcement action taken under the legislation. In doing so, Council records would ensure that the necessary paperwork to evidence the re-adoption was available.

It was therefore proposed that the Committee recommend to Council that authority be given for the provision of notice of the Council's intention to readopt the provisions of Part II of the 1976 Act. In accordance with the statutory requirements notice would consist of the publication of a notice of intention in a local newspaper for two consecutive weeks and service of the notice on the Parish and Town Councils within the Borough.

Resolved:

- 1. That notice be given of the Council's intention to pass a resolution applying the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 with effect from 12 May 2018.**
- 2. That notice of such intention be published for two consecutive weeks in a local newspaper/s circulating in the area.**
- 3. That notice of such intention be served upon all Parish Councils, and on the Chairman of any parish meeting, affected by the resolution.**

Recommended to Council:

That the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 be adopted to apply throughout the Borough of Test Valley with effect from 12 May 2018.

248

Licensing Sub-Committee

At its January 2005 meeting (Minute 466 of 27 January refers) the Committee agreed to establish Licensing Sub-Committees comprising three members. As the Licensing Act was silent on a quorum all three members needed to be present. As a result it was also agreed;

- (a) That a Sub-Committee be established comprising three members, and that the membership be drawn from a pool of members consisting of the membership of the Licensing Committee, subject to:
- (i) as an alternative arrangement those members being selected on the basis of one Liberal Democrat and two other members, and;
 - (ii) those members be selected from the Licensing Committee membership list in strict alphabetical order save when it transpires that a member has an interest as defined in the Code of Conduct or the member is a member for or lives within the ward within which an application premises is situated then the next member on the list shall be selected, subject to their availability.
- (b) That the Chairman of the Sub-Committee be rotated amongst all members of the Licensing Committee.

At its September 2013 meeting (Minute 126 of 19 September refers) the Committee considered Licensing Sub-Committee arrangements. Where previously it was agreed that proportionality would apply to Licensing Sub-Committees, it was noted that on occasions this had been difficult to achieve. It was agreed that where possible members would be selected for a Licensing Sub-Committee on the basis of one Liberal Democrat and two other members.

Resolved:

That the membership of the Licensing Sub-Committee be comprised of three members of the Licensing Committee determined in accordance with minute 126 of Licensing Committee 19/09/13.

(Meeting terminated at 5.50 pm)