

Licensing Committee  
22 August 2024

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the LICENSING COMMITTEE held on Thursday 22 August 2024 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, AL8 6AE

PRESENT: Councillors J.Weston (Chairman)  
H.Goldwater (Vice-Chairman)

J.Cragg, D.Jones, B.Sarson, R.Trigg, A.Chesterman,  
L.Gilbert, K.Bonkur, A.Skottowe, A.Nix and C.Watson

OFFICIALS K Payne, Licensing Team Leader  
PRESENT: R.Misir, Senior Democratic Services Officer

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21. APOLOGIES & SUBSTITUTIONS

Apologies for absence was received from Councillor Ian Walsh for whom Councillor Watson attended as a substitute, and from Councillor Jane Quinton for whom Councillor Adrienne Nix attended as a substitute.

22. MINUTES

The minutes of the meeting held on 18 June 2024 were approved as a correct record.

23. NOTIFICATION OF URGENT BUSINESS TO BE CONSIDERED UNDER ITEM 7

There were no items of urgent business.

24. DECLARATIONS OF INTERESTS BY MEMBERS

There were no declarations of interest.

25. PAVEMENT LICENCES POLICY AND FEE APPROVAL

The Licensing Team Leader introduced the report which clarified changes to the temporary pavement licensing regime under the Business and Planning Act 2020 (which were implemented as a temporary measure during the Covid pandemic) and the impact of the changes to this regime made by the Levelling Up and Regeneration Act 2023. The Levelling Up and Regeneration Act 2023 became law last year and the provisions to make the temporary pavement licence scheme permanent came into force on 31 March 2024. The provisions had introduced changes including a new capped level fee structure for new and

Licensing Committee  
22 August 2024

renewal applications. The fees levels were capped at a maximum amount of £500 for new applications and £350 for renewals. Licences could be issued for up to two years; the fee for a temporary pavement licence had been £100 for a year. The fees would cover the application process based on officers' hourly rate and oncosts.

There had been some changes under the Act, one of which was that the duration of the consultation and determination periods would increase from 7 to 14 days. The maximum term of a licence was now two years whereas it had previously been one. Pavement licences could now be amended by the local authority with the approval of the licence holder if it was considered the conditions on the licence were not being met. A new enforcement schedule provided powers to the local authority to remove furniture if a premises was not abiding by the pavement licence's conditions and hours. Pavement licences would be issued with local and national conditions and were set out in Appendix B of the report. One of the benefits of the procedures was that once a pavement licence was granted, the premises would benefit from deemed planning permission for the furniture for the duration of the licence.

A member asked how furniture was defined. Officers said it was moveable and could not be fixed to the ground. A-boards were a planning matter.

One of the local conditions was that 'The licence holder shall provide suitable barriers around the licensed area but only such as have been firstly approved by the council.' A member noted that occasionally, some premises had tables and chairs outside but no barrier. Officers advised some licences still came under Highways at Hertfordshire County Council as two regimes had run in parallel; the licenses Welwyn Hatfield had issued under the temporary scheme would all have barriers and officers would work with Hertfordshire staff on licences they (Hertfordshire) had issued. Hertfordshire's licences had been issued under different legislation; the Business and Planning Act had come in during the pandemic to facilitate getting people outside of premises. Older licences granted under the Highways Act would subsequently come under Welwyn Hatfield.

#### RESOLVED

(Unanimous)

The Committee:

- A. Agreed to recommend to full Council for approval the new maxima fees of £500 for a new two-year pavement licence and £350 for a renewal pavement licence; and
- B. Approved the new policy for pavement licensing.

#### 26. LICENSING ACT POLICY

The Licensing Team Leader introduced the report as set out in the agenda. The Council in its capacity as the licensing authority was obliged by law to have a Statement of Licensing policy that was formally reviewed and published every five years and which must be published before it carried out any function in respect of individual applications and notices made under the terms of the Act.

Licensing Committee  
22 August 2024

Part of the review consisted of a consultation that had taken place between 18 March to 9 June 2024. Four responses were received: one from Welwyn Parish Council, one from North Mymms Parish Council, both of whom had requested additions and changes to the wording of the policy, and two respondents who had made no comments. Some of the requested changes were in primary legislation and the Licensing Team Leader took the meeting through a presentation which identified the other requested changes.

Welwyn Parish Council had wanted some weblinks to be changed to [welhat.gov.uk/licensing](http://welhat.gov.uk/licensing). Online applications currently went through [gov.uk](http://gov.uk) which would no longer exist after March 2026 and would then go through the system the Council would set up, so officers were proposing the link be changed on the Welwyn Hatfield website.

Welwyn Parish Council had raised concerns about the inclusion of new psychoactive substances (NPS). Officers felt NPS should be included as they could have the same effect as controlled drugs, whereas the parish council felt this meant licensees were expected to take too much responsibility for NPS and were concerned landlords might face severe penalties for their patrons' actions despite the fact that the substances might be legal. However the policy included examples of actions landlords could take which was supported by the British Beer and Pub Association's guide to keeping pubs free of drugs, which suggested a zero tolerance approach to NPS.

Welwyn Parish Council wanted the policy reframed to reflect a collaborative approach (rather than a zero tolerance approach). The policy set out the expectations around controlled drugs and NPS. The Crown Prosecution Service (CPS) required sufficient evidence before a prosecution could proceed. The government had committed to strengthening legislation around NPS, so section 17.5 of the policy did not seem unreasonable. However, the CPS had laid out strict controls for identification of substances and enforcement action could not be taken against any premises if substances used were not illegal. A member wondered whether landlords would know if patrons were using NPS. Officers noted they could have the same effect as controlled drugs and that there could be delays with legislation 'catching up' with drugs, for example, nitrous oxide had not been illegal last year but now was. A member expressed support for the inclusion of NPS in the policy and another commented that landlords generally took precautions to minimise drug use.

A member queried whether the committee should know more about the NPS before determining whether they should be included in the policy; if the substances were to be made illegal at a later date then by default they would be included in the policy. The Licensing Team Leader responded that landlords were being asked to take the same responsibility for NPS as they did for illegal drugs which could include calling the police or contacting the Licensing team. Enforcement action would only be taken if illegal drug activity was not being addressed and the policy sought to make landlords aware that drugs that were not illegal could still have an effect.

Licensing Committee  
22 August 2024

A member wondered whether if NPS were not in the policy, there was a risk that people might think they were safer than other drugs. Officers thought this was possible, noting that nitrous oxide could have dangerous effects particularly on young people but had often been taken openly when it was not illegal.

A member did not feel suitably knowledgeable about NPS and their impact and felt that deciding which substances might be damaging should be considered under health or drugs policies; it seemed excessive to ask landlords to take action when something was legal. Another member was wary of trying to regulate something that was not illegal and commented that pubs were used for consumption of alcohol which was itself a drug.

A member noted legal highs appeared to be on the rise and was unsure if they led to dangerous behaviour. It was important pubs were run well and attracted business but legal highs were a significant issue.

The Chair proposed a vote take place on whether the policy should include NPS. Voting was as follows:

In favour of retaining NPS in the Licensing Policy: 7

Against: 4.

The Licensing Team Leader continued her presentation. In respect of the local authority being able to classify or reclassify films, Welwyn Parish Council was concerned about the Council being able to overrule the British Board of Film Censors (BBFC) and was also concerned if this would be requested by a third party. It did support films without a classification being given a recommendation by the local authority. The definition of films had been expanded to cover a wider area and the local authority could reclassify films or rate a banned or independent film. An example was cited when Spider-Man had been reviewed in 2002 by Welwyn Hatfield councillors to ascertain whether a different rating should be applied. The Council had always had this power; the issue was about whether it was included in the policy as not everyone knew the Council had the ability to classify films. There had been two occasions in the last 30 years when the power was used. Following discussion, it was agreed to retain this section of the policy so that for transparency purposes the public was aware this power existed.

North Mymms Parish Council had expressed concern that the number of temporary event notices (TENS) that people could apply for had increased, however this was a change by government. A member asked whether if a premises wanted to have a number of TENS they would receive the same scrutiny as a permanent arrangement. The Licensing Team Leader commented that TENS were a light touch method of obtaining a licence and were for events for up to 499 people; if a TEN was seen as potentially problematic then the responsible authorities were able to object so the situation would then be reviewed by members of a sub-committee. It was possible to apply for a late TEN but this would be immediately cancelled if there were any objections.

Licensing Committee  
22 August 2024

North Mymms Parish Council had wanted more information about applications for events. Parish councils were not a responsible authority and so did not automatically receive applications for comment. All applications were listed on the Welwyn Hatfield website and a list was sent to all parish councils each week. Parish councils could also make representations. Officers felt the information was therefore available to parish councils.

North Mymms Parish Council had made further comments on outdoor events although one of those was about a planning matter which was outside of the licensing policy. The other related to events and safety. Officers advised that the Safety Advisory Group considered all large events that took place in the borough which were discussed with all relevant partners including police, fire staff and Highways. Their advice was shared with the event organiser to ensure the event was safe.

**RESOLVED**

The Committee:

- A. Noted the results of the consultation and agreed the changes proposed to the revised policy set out in Appendix 1 of the report; and
- B. Agreed this would go for onward approval by Cabinet and full Council.

Meeting ended at 8.26 pm