

**REPORT FOR CONFIRMATION**

**FOR: REGULATORY AND LICENSING COMMITTEE**

**Date: 20<sup>TH</sup> June 2011**

**Agenda Item: 4**

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**THE REPORT WILL BE JOINTLY PRESENTED BY –**

**TIM MATTHEWS, ENVIRONMENTAL HEALTH MANAGER  
JOHN BROWN, LAND AND PROPERTY MANAGER**

**THE RESPONSIBILITY FOR FUNCTIONS OF THE REGULATORY AND LICENSING COMMITTEE**

**1. Purpose of Report**

- 1.1 To advise Members of the Committee of their role in the context of the responsibility for functions of the Regulatory and Licensing Committee and to seek members views upon future work.

**2. Summary of background and issues for consideration**

- 2.1 As a result of changes in the Governance of local authorities that were introduced by the Local Government Act 2000, new Executive arrangements established specific roles and relationships within the authority.
- 2.2 As a result of these roles of the Council, the Regulatory and Licensing Committee was formed, as it undertakes a “Non Executive” function. Your Committee has many specific and diverse roles and responsibilities.
- 2.3 Through this report Members are provided with some detailed information about the many and diverse roles of the Committee to assist them in their future work.

**3. Recommendation**

- 3.1 That the contents of this report and accompanying verbal presentation be noted and Members views sought upon the future work of the Committee.

**4. The role and responsibility for functions of the Regulatory and Licensing Committee**

- 4.1 The Constitution of the Council, as provided to all Members, provides an important means of enabling citizens and stakeholders to understand how the Council makes decisions and who is responsible for those decision.
- 4.2 The constitution is at the heart of the Local Authority’s business. It allocates power and

responsibility within the Council, and between it and others.

- 4.3 The Regulatory and Licensing Committee remit and scope of the items of responsibility are set out at **APPENDIX A**.
- 4.4 Below is a brief summary of the nature of the work in each specific activity.

***The consideration of matters relating to gaming, alcohol licensed premises, entertainment, food and other miscellaneous functions relating to licensing and registration, including the Licensing Act 2003 (as amended) and Gambling Act 2005 and the Councils licensing scheme.***

The Licensing Act 2003 brought about new responsibilities, some of which were previously administered by the Magistrates court, for licensing the sale and supply of alcohol, the provision of **regulated entertainment** and the provision of **late night refreshment**. Other examples of miscellaneous licences would include, Street Trading consents, gaming machines, acupuncture and skin treatments, tattooists and electrolysis.

***Functions relating to health and safety at work under any “ relevant statutory provision “ within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as an employer.***

The Act places a duty on the Council to enforce the provisions of this very significant and powerful piece of legislation and as part of its duties require the appointment of competent authorised officers to discharge this function. This is separate to our duties as required by the Act as an “employer” in our own right. We have responsibility for many types of work premises including shops, offices, warehouses and other retail outlets.

***Functions relating to elections, the name and status of the area and individuals for recommendation Council.***

If any issues arise relating to election matters such as periodic review of boundaries, declarations of vacancies etc., then it will be a matter for this Committee to consider relevant reports. If proposals come forward to change the name of the Authority or appoint Honorary Aldermen, then this Committee would deal with that.

***The control of Licensing Powers concerning the operation of Hackney Carriages and Private Hire Vehicles.***

The licensing of Taxis and Private Hire Vehicles includes drivers and operators, and the factors considered when issuing licences include the condition of the vehicles, and medical fitness of the drivers. We licence over 140 cars and 180 drivers. By a number of specific conditions for each type of licence standards are set and maintained through enforcement and regulation of the conditions. Examples of conditions for vehicles include vehicle type, age, safety, seating configurations, insurance, maintenance and advertising and for drivers include medical fitness to drive, convictions, conduct and smoking.

### ***The control of Atmospheric Pollution.***

This is a wide area of responsibility and is controlled through a number of statutory powers. These include the creation and monitoring of Smoke control areas within the district that were commenced in 1973 and completed in 1992. The control of certain types of industrial processes is delivered through an authorisation system, that is a form of licence (permit) that allows the business to emit to atmosphere. This requires certain types of industry within the district to provide and maintain pollution control systems and monitor discharges to atmosphere. The Council are also required to periodically review and assess air quality in its area as part of the National Air Quality Strategy. This has been undertaken and reported to the Government. This Air Quality Review and assessment report was approved by the Department of Environment, Food and Rural Affairs (DEFRA) and concluded that the Air Quality within the district complies with the National Air Quality Standards. We are in a continuous cycle as required by law of reviewing and monitoring our local air quality and have previously, through this process, declared a Air Quality Management Area at Muckley Corner Island, as a result of road traffic pollution in a part of our local environment.

### ***The regulation and control of animal welfare, dangerous wild animals, zoos and zoo licensing.***

These activities cover a wide and diverse area of licensing but are all essentially provided to ensure that the animals concerned are properly provided with appropriate provisions and welfare. Matters to consider would include size and layout of premises, permitted numbers to be kept, Fire and Emergency arrangements and Veterinary provisions. The type of premises licensed includes Dog and Cat boarding Kennels, Dog Breeding premises and Pet Shops. We currently license over 35 such premises. Licensing of Sex Establishments is also undertaken if an application were to be received.

Of a more specialist nature are licences for individuals who may chose to keep any type of Dangerous Wild Animal and Zoos where a collection of both dangerous and domestic animals are kept for display to the public. Horse Riding establishments are also licensed.

In these more complex areas of responsibility the advice of a specialist Veterinary Surgeon is required to be sought on an individual basis and the nature of such licences and the licensing process is highly complex.

### ***Powers and duties under Part 2 of the Licensing Act 2003, in relation to the licensing of premises used for the sale or supply of alcohol, provision of regulated entertainment or late night refreshment and of persons authorised to sell or supply alcohol***

As previously mentioned in paragraph 3.1, the Council as Licensing Authority is responsible for the issuing and control of premises licences, club premises certificates, personal licences and temporary event notices. The Act requires each licensing authority to carry out its duties with a view to promoting four licensing objectives. These are: the prevention of crime and disorder; public safety; the prevention of public nuisance and the protection of children from harm. These objectives are the basis on which the licensing authority determines what is in the overall public interest when carrying out its functions. A licensing authority may only restrict licensable activities where it is necessary for the promotion of these licensing objectives. Each objective is of equal importance. Any representations about the grant of a licence or grounds for a review of a licence should relate to the promotion of the licensing objectives. As part of the application for a premises licence the applicant must submit an operating schedule that includes a statement of the steps he proposes to take to promote the licensing objectives.

***The control and authorisation of street and house to house collections other than those relating to organisations holding certificates of exemption issued by the Home Office.***

In order to collect money for charitable purposes either in the street or house to house, then a permit from the Local Authority is required. This Committee would consider any relevant applications usually on an annual basis or otherwise dependent upon delegated powers that exist.

***To exercise the Councils powers in relation to the creation, closure, diversion and extinguishments of public paths and rights of way.***

Public Footpaths

Whilst Staffordshire County Council is the Highway Authority, the District Council has concurrent powers to make Public Footpath Orders. There are two forms of Public Footpath Orders, namely Public Path Diversion Orders where the Order provides for the diversion of a Public Footpath from the route indicated on the Definitive Rights of Way map to an alternative route and Public Path Stopping Up Orders where the Order provides for the deletion of the footpath from the Definitive Rights of Way Map, without the necessity to provide an alternative right of way.

Powers exist under the Town and Country Planning Act 1990 to make Public Footpath Orders to enable development, which has received planning permission, to take place. Powers also exist under the Highways Act 1980, to make Public Footpath Orders. The process involved with the making of the Footpath Orders is as follows:-

- Application submitted for diversion or stopping up of footpath
- Committee agree to make the Order if it is a reasonable proposal
- Footpath Order is made and advertised with period for objections
- If no objections to confirmation of the Order are made Order can be confirmed subject, in respect of a Diversion Order, to the new footpath having been created satisfactorily
- If objections are received to confirmation of the Order the Order is submitted to the Secretary of State who will decide whether to confirm the Order usually after holding a Public Inquiry

***The regulation of commons and village greens in the ownership of the District Council.***

The Committee would deal with any items arising out of this need to control any commons or village green in its ownership. The District Council currently own Pipe Marsh Common, Wall Butts Common and Gentleshaw Common which fall into this category,

***Authority under section 38 of the Staffordshire Act 1983 to prohibit the riding of cycles in any pedestrian area in the District.***

The District Council has powers to prohibit the riding of cycles in any pedestrianised area of the District but this prohibition should specify the times and days of such prohibition and should not be imposed without the consent of the Staffordshire County Council, as Highway Authority, in respect of any place over which the public have a right of way or the consent of the owner in other cases

***Authority to make a Designation Order under section 13 of the Criminal Justice and Police Act 2001, to restrict anti-social, public drinking in public places.***

Section 13 allows local authorities to designate areas for this purpose only where they are satisfied that nuisance or annoyance to the public or disorder have been associated with public drinking in that particular place. There is no intention that the provision of the 2001 Act should lead to a comprehensive ban on drinking in the open air.

Before a Designation Order is made, the Council is required to consult with the Police, the relevant Parish Council, neighbouring Local Authorities and Parish Councils where a Designation Order covers an area on their boundaries, licensees within the area (or those who may be affected) and the owners or occupiers of any land that may be identified. The Council is also required to publish in a local newspaper, details of the proposed Order.

Following the consultation process if a decision is made to designate and Order, the Council is required to publish details, including the date on which the Order will take effect and erect signs to ensure that the public are made aware that restrictions on public drinking apply.

**5. Financial Implications**

5.1 There are none to this report.

**6. Strategic Plan Implications**

6.1 The provision of good services by the Council is a key objective of the Strategic Plan.

**7. Sustainability Issues**

7.1 The services for regulation and licensing contribute to the well being and safety of our residents and towards protecting and providing a high quality and sustainable environment for this and future generations.

**8. Human Rights Issues**

8.1 None identified within this report.

**9. Crime and Community Safety Issues**

9.1 None specifically identified within this report.

**10. Risk Management Issues**

10.1 None identified.

**Background Documents:**

The Constitution - Appendix A Extract from relating to the functions of the Committee

### **3. REGULATORY AND LICENSING COMMITTEE**

#### **DELEGATED TO THE REGULATORY AND LICENSING COMMITTEE**

- 3.1 The consideration of matters relating to hackney carriages, private hire vehicles, gambling, licensing, food and other miscellaneous functions relating to licensing and registration, including the review of the Council's licensing schemes.
- 3.2 Functions relating to health and safety at work under any 'relevant statutory provision' within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
- 3.3 Functions relating to elections, the name and status of the area and individuals for recommendation to Council.
- 3.4 The control of Licensing Powers concerning the operation of Hackney Carriages and Private Hire Vehicles.
- 3.5 The control of atmospheric pollution.
- 3.6 The regulation and control of animal welfare, dangerous wild animals, zoos and zoo licensing.
- 3.7 Powers and duties under the Licensing Act 2003, in relation to the licensing of regulated entertainment, the sale or supply of alcohol and late night refreshments.
- 3.8 Powers and duties under the Gambling Act 2005 in relation to the setting of fees, gambling premises licences, permits and gaming.
- 3.9 The control and authorisation of street and house to house collections other than those relating to organisations holding certificates of exemption issued by the Home Office.
- 3.10 To exercise the Council's powers in relation to the creation, closure, diversion and extinguishments of public paths and rights of way.
- 3.11 The regulation of commons and village greens in the ownership of the District Council.
- 3.12 Authority under section 38 of the Staffordshire Act 1983 to prohibit the riding of cycles in any pedestrian area in the District.
- 3.13 Authority to make a designation order under section 13 of the Criminal Justice and Police Act 2001, to restrict anti-social, public drinking in public places.

#### **4. LICENSING AND CONSENTS APPEALS COMMITTEE**

##### **DELEGATED TO THE LICENSING AND CONSENTS APPEALS COMMITTEE:-**

- 4.1 In accordance with Part V Article 18 of the Staffordshire County Council (Lichfield Central Area) Traffic Order 1997 to consider and determine appeals against the Council's refusal to issue a permit allowing vehicular access to the pedestrian zone detailed in the Traffic Order.
- 4.2 In accordance with Part V Article 18 of the Staffordshire County Council (Lichfield Central Area) Traffic Order 1997 to consider and determine appeals against the Council's decision to withdraw a permit under Article 15 (2) of the Traffic Order.
- 4.3 In accordance with Part V Article 18 of the Staffordshire County Council (Lichfield Central Area) Traffic Order 1997 to consider and determine appeals against the period specified by the Council under Article 15(2) and (3).
- 4.4 To consider and determine appeals against the refusal of applications for licences for hackney carriages and private hire vehicles, Operators and Drivers or appeals against the imposition of conditions attached to such licences.
- 4.5 To consider any other appeals against the refusal to grant a licence or permit or against the imposition of conditions attached to the granting of a consent.
- 4.6 To determine an application for a Personal Licence where a Police objection is made;
- 4.7 To determine applications for Premises Licences/Club Premises Certificates if a relevant representation is made;
- 4.8 To determine an application for a Provisional Statement if a relevant representation is made;
- 4.9 To determine an application to vary a Premises Licence/Club Premises Certificate if a relevant representation is made;
- 4.10 To determine an application to vary designated Premises Supervisor if a Police objection is made;
- 4.11 To determine an application for the transfer of a Premises Licence if a Police objection is made;
- 4.12 To determine an application for the mandatory alcohol condition requiring a Designated Premises Supervisor to be disapplied if a Police objection is made.