

Minutes

Licensing Committee

17th July 2013



Present:

Councillors	Present	Councillors	Present
J S Allen	Apologies	C Gibson	Yes
M J Banthorpe	Yes	M Green	Apologies
J Baugh	Yes	S A Howell	Yes
T G Cunningham	Apologies	H D Johnson	Yes
J G J Elliott	Apologies	J A Pell	Apologies
J H G Finbow	Apologies	L S Walters	Yes
M J Fincken	Apologies	S A Wilson	Apologies
M E Galione	Yes	B Wright	Yes

6 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

7 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 15th May 2013 be approved as a correct record and signed by the Chairman.

8 **QUESTION TIME**

INFORMATION: There were two statements made. Details of the people who spoke at the meeting are contained in the Appendix to these Minutes.

Principally, these Minutes record decisions taken only and, where appropriate, the reasons for the decisions.

9 **STREET TRADING CONSENT APPLICATION – LAYBY ON A1017, YELDHAM ROAD, CASTLE HEDINGHAM/GREAT YELDHAM**

INFORMATION: Consideration was given to an application for a street trading consent which had been submitted by Mr Gary Bentley. Mr Bentley wished to sell hot and cold food and drink from a vehicle parked within a lay-by on land adjacent to the former entrance to Colne Valley Railway, on the A1017, Yeldham Road, Castle Hedingham. Mr Bentley wished to trade on

Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.30am and 4.00pm.

Members were advised that during the consultation period, the Council had been contacted by a local resident regarding the possibility of objecting to the application. Whilst the Council's Street Trading and Collections Policy did not require consultation with local residents, it had been decided that residents could make representations on this occasion. Representations of objection which had been submitted by local residents were attached to the Agenda report. No representations had been received from other consultees.

The applicant's wife Mrs Bentley attended the meeting, presented the application and answered questions put to her by Members.

In announcing the Committee's decision, it was made clear that street furniture did not form part of the application for a street trading consent, and that any consent which may be required for such structures should be obtained separately.

DECISION: That the application submitted by Mr Bentley for a street trading consent to sell hot and cold food and drink from a vehicle parked within a lay-by on land adjacent to the former entrance to Colne Valley Railway, on the A1017, Yeldham Road, Castle Hedingham be granted for Mondays, Tuesdays, Wednesdays, Thursdays and Fridays between the hours of 7.30am and 4.00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

10 **LICENSING ACT 2003 – REVIEW OF THE STATEMENT OF LICENSING ACT POLICY**

INFORMATION: Consideration was given to a report on the proposed review of the Council's Statement of Licensing Act Policy in accordance with the Licensing Act 2003.

The Council had last reviewed the Statement of Licensing Act Policy in 2010/11 and the revised Policy had taken effect on 7th January 2011. At that time, it had been agreed that the Policy should remain in force for no more than three years and be subject to regular review and further consultation prior to 7th January 2014.

It was reported that since the last review, there had been a number of changes to the Licensing Act 2003 and the Guidance issued under Section 182 of the Act. In addition, further changes to the Act and Guidance were planned, although no timetable for these changes had been set. However, amendments to Section 5 of the 2003 Act now required Licensing Authorities to prepare and publish a Statement of Licensing Act Policy at least once every five years, rather than every three years. In the circumstances, it was

proposed that the Council's Policy should now be reviewed by 7th January 2016 rather than 7th January 2014.

DECISION: That it be Recommended to Council that a review of the Licensing Act 2003 - Statement of Licensing Act Policy be commissioned by no later than 7th January 2016.

11 **SCRAP METAL DEALERS ACT**

INFORMATION: Consideration was given to a report on the Scrap Metal Dealers Act 2013. The Act, which had received Royal Assent on 28th February 2013, had been introduced in response to problems of metal thefts throughout the United Kingdom.

Scrap metal dealers would be required to obtain a licence from a Local Authority in order to carry on business as a scrap metal dealer. There would be two types of licence, either a site licence, or a collector's licence.

The Act required all applications for a licence to be accompanied by a fee which would be set locally by each Local Authority on a cost recovery basis. The Home Office would be publishing guidance to assist Local Authorities in setting the fee, which could not be used to support enforcement activity against unlicensed scrap metal dealers. The legislation placed a shared responsibility for enforcement on each Local Authority and the Police.

It was anticipated that Regulations and Guidance would be issued by the Secretary of State. Once these had been published, a further report would be presented to the Licensing Committee, and the Cabinet would be requested to approve a fee structure.

It was anticipated that the Act would come into force from 1st October 2013. However, it was expected that Local Authorities would start to receive and process applications from 1st August 2013.

DECISION: That the report be noted and that it be noted that a further report will be presented to the Committee once Regulations and Guidance have been issued by the Secretary of State and the Home Office.

12 **HACKNEY CARRIAGE VEHICLES PROPRIETORS' LICENCES – ALLOCATION**

INFORMATION: The Committee received a report on a proposed review of the Council's policy and procedure for allocating Hackney Carriage Proprietors' Licences (vehicle plates). Members were reminded that the Council currently limited the number of Licences to 84.

The current policy for the allocation of Hackney Carriage Proprietors' Licences had been approved by the Council in 2003 following a survey to

ascertain whether there were sufficient licensed Hackney Carriages in the District. At that time, the Council had decided to withdraw the existing waiting list system and had introduced a 'Register of Interest'. However, no formal procedure for allocating Licences had been adopted and no Licences had been re-allocated.

It was reported that a Hackney Carriage Proprietors' Licence became available for re-allocation for various reasons, including the death of the Licence holder, or if a Licence holder failed to renew. There were currently a number of Licences available for allocation.

It was proposed that a new policy and procedure for the allocation of Hackney Carriage Proprietors' Licences should be introduced, a copy of which was attached as an Appendix to the report. The policy had to be fair, transparent and meet the requirements of the Equality Act 2010. The draft policy would be subject to public consultation, following which it would be submitted to the Council for approval.

It was noted that a survey carried out in 2012 had concluded that there was no unmet demand for Hackney Carriages and it was proposed that Hackney Carriage Proprietors' Licences should now be re-allocated to operate within the whole of the District.

DECISION: That the proposed policy and procedure for the allocation of Hackney Carriage Proprietors' Licences be approved for the purpose of consultation.

13 **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS' KNOWLEDGE TEST – EXEMPTIONS POLICY**

INFORMATION: Consideration was given to a report on a proposed policy to exempt drivers undertaking limousine or executive work and school contracts from the topographical aspects of the Council's licensed driver's knowledge test.

Members were reminded that an electronic based knowledge test had been introduced as part of the application process for hackney carriage and private hire drivers with effect from 1st June 2011. All applicants wishing to obtain a driver's licence were required to sit all aspects of the knowledge test. However, at the time of implementation consideration had not been given to those drivers who, due to the nature of their work, may not be required to sit every aspect of the test. Such drivers included those who solely undertook executive work/limousine driving, or school contracts and who drove predominately outside the District, or on the same route on a regular basis.

Following representations from the trade and a review of the knowledge test, a Member Working Group had been established to determine if such drivers could be given an exemption from the topographical aspects of the test. The

Working Group had developed a draft policy and a copy of this was attached to the report.

The Working Group had concluded that a new test could be devised which would eliminate the topographical aspects of the original test at no additional cost. Furthermore, the initial set-up costs could be covered by the fee for the revised test, which would be the same as the full test fee.

The Working Group had sought to ensure that an exemption would not be abused and that penalties could be imposed if it was. It was also proposed that the Council's Penalty Point Scheme should be amended to include an additional category of failure to comply with a knowledge test exemption. This would attract penalty points of between five and ten points. It was proposed that a driver with an exemption should be issued with an identification badge denoting the exemption.

DECISION:

- (1) That the policy set out at Appendix 1 to the report to exempt drivers undertaking limousine or executive work and/or school contracts from the topographical aspects of the Braintree District Council licensed driver's knowledge test be approved.
- (2) That the Braintree District Council Penalty Point scheme be amended to include an additional offence category – '17. Drivers failing to comply with a knowledge test exemption (5-10 points)', as set out at Appendix 2 to the report.

14 **BRAINTREE AND DISTRICT TAXI ASSOCIATION LIAISON PANEL - APPOINTMENT OF MEMBERS**

DECISION: That Councillors J S Allen, M J Banthorpe, J Baugh, T G Cunningham, J H G Finbow, M E Galione, C Gibson, S A Howell, H D Johnson, J A Pell, and B Wright be appointed to the Braintree and District Taxi Association Liaison Panel for the 2013/14 Civic Year.

15 **DRIVERS' PANEL - APPOINTMENT OF MEMBERS**

DECISION: That all Members of the Licensing Committee be appointed to the Drivers' Panel for the 2013/14 Civic Year.

The meeting closed at 9.10pm.

M J Banthorpe

(Chairman)

APPENDIX
LICENSING COMMITTEE

17th JULY 2013

PUBLIC STATEMENTS

Details of People Who Spoke at the Meeting

- 1 Statement Relating to Item 5 - Street Trading Consent Application – Layby on A1017, Yeldham Road, Castle Hedingham/Great Yeldham

Statement by Mr Paul Lemon, Chairman of Colne Valley Railway, Yeldham Road, Castle Hedingham

- 2 Statement Relating to Item 8 - Hackney Carriage Vehicles Proprietors' Licences – Allocation and Item 9 - Hackney Carriage and Private Hire Drivers' Knowledge Test – Exemptions Policy

Statement by Mr Alan Holden, 29 Gilbert Way, Braintree