

Minutes

Licensing Committee

11th September 2019



Present:

Councillors	Present	Councillors	Present
J Baugh (Chairman)	Yes	S Rehman	Yes
Mrs J Beavis	Yes	B Rose (Vice-Chairman)	Apologies
P Euesden	Yes	Mrs J Sandum	Yes
A Hensman	Yes	P Schwier	Yes
H Johnson	Apologies	Mrs L Walters	Apologies
Mrs J Pell	Apologies	Mrs S Wilson	Apologies
R Ramage	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 10th July 2019 be approved as a correct record and signed by the Chairman.

8 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made during Question Time.

Mr R Green, the applicant, attended the meeting and he made a statement and answered questions put to him by Members of the Committee during the consideration of Item 5 – ‘Street Trading Consent Application – High Street, Braintree’.

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

9 **STREET TRADING CONSENT APPLICATION – HIGH STREET, BRAINTREE**

INFORMATION: Consideration was given to an application for a street trading consent submitted by Mr Roger Green. Mr Green wished to sell ice-creams, drinks, sweets and ice lollies from a van parked on the highway in the vicinity of David Connolly Jewellers, High Street, Braintree. Mr Green wished to trade on

Mondays, Tuesdays, Thursdays, Fridays and Sundays between the hours of 9.00am and 5.30pm. The application was attached at Appendix 1 to the Agenda report. Mr Green had held a street trading consent for the location since 2008.

Following consultation, Braintree District Council Environmental Health had objected to the application. The Environmental Health Service had stated that a complaint had been received regarding the emission of diesel engine fumes from the vehicle which was the subject of the application. Given the trading position of the vehicle in the vicinity of a bench, the complainant was deterred from using the bench for seating. The Environmental Health Service had advised Mr Green about the complaint and he had stated that he had to keep the engine of the vehicle running in order to maintain the required temperature in the ice cream freezer. Mr Green had indicated that he intended to convert the freezer to electric operation. However, there was no guarantee that a compatible electricity connection would be available at the current trading position. The objection was attached at Appendix 2 to the Agenda report and it was considered by Members of the Licensing Committee. In accordance with the Council's Street Trading Policy, where representations are received, the application must be referred to the Licensing Committee for determination.

Mr Green attended the meeting, presented his application and answered questions put to him by Members of the Committee. Mr Green stated that he kept his vehicle in a good condition.

Members noted that customers could be served from either side of the vehicle and they considered whether the orientation of the vehicle could be changed. However, it was noted that this would position the exhaust, which was located on the off-side rear of the vehicle, nearer to the bench and it would require customers to queue in the road. Mr Green indicated that an electricity connection might be feasible from the pitch which he occupied on market days. However, Mr Green was advised that the Committee had to determine the application as submitted and that if he wished to locate to an alternative site he would have to submit a separate application.

In discussing the application, Members of the Committee were advised that, in accordance with Braintree District Council's Street Trading Policy, the Council could grant a street trading consent subject to reasonable conditions being imposed to prevent nuisance or annoyance and that where the imposition of conditions was not adequate to control potential problems, applications would be refused.

Members of the Committee were advised that there was no right of appeal against a refusal to issue a consent, but that an applicant had the option to seek a Judicial Review of the decision. If an application was refused, the application fee would be refunded to the applicant.

DECISION: That the application submitted by Mr Green for a street trading consent to sell ice-creams, drinks, sweets and ice lollies from an ice-cream van

located at the junction of Bank Street and High Street, Braintree adjacent to David Connolly Jewellers be granted for Mondays, Tuesdays, Thursdays, Fridays and Sundays between the hours of 9.00am and 5.30pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

10 **QUANTITY RESTRICTIONS – TAXI LICENCES**

INFORMATION: Consideration was given to report on the quantity restrictions currently placed on the number of hackney carriage proprietors' licences issued by the Council and whether these restrictions should be maintained.

Members of the Licensing Committee were reminded that, in accordance with the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, the Council was responsible for issuing hackney carriage proprietors' licences (hereafter referred to as taxis).

In 1996 the Council had agreed that an independent survey should be commissioned at regular intervals to ascertain whether there were sufficient licensed taxis in the District. In 2003, the Council had agreed that there was unmet demand within the District and that 10 new taxi licences should be issued. A policy had also been introduced requiring newly licensed taxis to be wheelchair accessible vehicles and that licences must be retained by the licensee for a period of no less than two years before they could be transferred to another party. Currently, the Council imposed a restriction of 84 on the number of taxi licences it issued, all of which had been allocated.

Current Department of Transport guidance and Section 16 of the Transport Act 1985 stated that the grant of a hackney carriage licence may be refused for the purpose of limiting the number of taxis if, but only if, a Licensing Authority was satisfied that there was no significant demand for the services of taxis which was unmet. The Department for Transport considered it best practice not to impose restrictions on the number of taxis, but in cases where restrictions were imposed it urged Authorities to regularly reconsider the matter and to determine the advantages and disadvantages to the public of both maintaining quantity restrictions, or removing restrictions.

The report set out information, including advantages and disadvantages, about quantity restrictions at national and local levels. It was noted that the Office of Fair Trading had undertaken a market study in 2003 which had concluded that quantity restrictions did not serve the best interests of consumers and had a clear detrimental impact on the public. In 2017 the Competition and Markets Authority had undertaken a review of licensing conditions imposed by Licensing Authorities on taxis and private hire vehicles and had concluded that, in the interest of consumers, competition should only be restricted if this was necessary to protect passengers. In July 2011, the Law Commission had carried out a review of taxi and private hire services, which included a comprehensive assessment of the impact of quantity restrictions on the provision of taxis. The review had been

published in May 2014 and the Law Commission had concluded that the removal of quantity restrictions would not bring significant consumer benefit, that restrictions could have a positive role to play within the taxi licensing framework and that there was limited evidence of the benefits of derestriction.

The last survey to assess demand for taxis in the Braintree District had been undertaken in 2016. The survey had highlighted that there was no unmet demand for taxis in the District at that time and the Council had decided not to remove the quantity restriction, or to issue more taxi licences. Members of the Committee were advised that the Council could commission a new survey to defend its current position of placing a restriction on the number of taxis in the District. It was estimated that the cost of a survey would be £6,000 to £8,000, which would be funded from the taxi licence fee.

Conversely, the Council could decide not to commission a survey, but instead consult with relevant stakeholders about whether the current quantity restriction should be removed. An appropriate consultation would be conducted and the responses would be presented to a future meeting of the Licensing Committee.

DECISION: That a consultation exercise be undertaken to seek stakeholders' views on whether the Council should continue to limit the number of taxi licences it issues and to reconsider the matter based on the results of the consultation.

11 **AIR QUALITY REGULATIONS 2019**

INFORMATION: Members of the Licensing Committee were advised that the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 had come into force on 1st May 2019. These Regulations placed a duty on all Local Authorities in England and Wales to provide certain information to the Department for Environment Food and Rural Affairs (DEFRA) with respect to hackney carriage and private hire vehicles that had been licensed to operate in their respective areas.

In particular, the Council would be required to provide details about the registration mark of a licensed vehicle; the date from which the licence had effect; the date on which the licence was due to expire; a statement as to whether the vehicle was a hackney carriage or private hire and the unique Local Authority identifier reference attached to a vehicle licence. The Council would be required to provide the data at least on a weekly basis via electronic transfer.

The information provided would enable DEFRA to create a database and to share information with Local Authorities in order to enforce local air quality measures within Clean Air Zones. The information would identify hackney carriage and private hire vehicles entering a specific Clean Air Zone and enable charges to be imposed at the appropriate rate. In July 2017 the United Kingdom had published a plan to tackle roadside nitrogen dioxide concentrations and a number of Local Authorities would be introducing Clean Air Zones where legal limits were exceeded.

No Clean Air Zones had been established in Essex to date, although a Zone might be established in the Basildon and Rochford area. The nearest Clean Air Zone to the District would be in London. Cambridge City Council was also evaluating whether to introduce a Zone.

The Council had an obligation to act in accordance with The Data Protection Act 2018 and it would enter into a Memorandum of Understanding with DEFRA setting out the roles and responsibilities of each organisation for data management and protection. The Council would inform all taxi proprietors and private hire operators of its intention to transfer data, which was due to commence in October 2019.

DECISION: That the report be noted.

12 **LICENSING COMMITTEE UPDATE**

INFORMATION: Members of the Committee received an update on applications determined by the Drivers' Panel and the Licensing Sub-Committee since 10th July 2019 and on current licensing matters.

It was noted that two applications had been presented to the Drivers' Panel, but no Hearings had been held in accordance with the Licensing Act 2003. However, an application for a new premises licence for 92 High Street, Braintree would be determined at a Hearing on 17th September 2019.

All Licensing Authorities had received a letter from Swansea Trading Standards regarding Doctors on Wheels Ltd, a provider of Group 2 medicals, which applicants for hackney carriage and private hire drivers licences were required to undertake. The letter stated that Swansea Trading Standards was currently working with the DVLA to investigate the commercial services operated by Doctors on Wheels Ltd. The Council's Licensing Team was in the process of identifying licensed hackney carriage and private hire drivers who had used this service to obtain a Group 2 medical, but it was anticipated that they would be few in number. The Council would not be accepting medicals from Doctors on Wheels Ltd and the company had suspended its services until further notice.

It was reported that the Home Office had indicated that there would not be a general relaxation of licensing hours under the Licensing Act 2003 for the forthcoming Rugby World Cup 2019 to be held in Japan.

It was reported that Ms Alexandra Maschas, Licensing Officer would be leaving the Council on 13th September 2019 to take up a position of Senior Licensing Officer at Basildon Borough Council. Members of the Committee thanked Alex for her work and they wished her well in her new role.

The Local Government Association had updated the Councillor's Handbook (England and Wales). The Handbook was available to access via the Agenda report.

DECISION: That the Licensing Committee Update be noted.

The meeting closed at 8.54pm.

Councillor J Baugh
(Chairman)