

Minutes

Licensing Committee

1st December 2010



Present:

Councillors	Present	Councillors	Present
M J Banthorpe (Chairman)	Yes	M Lynch	Yes
J C Collar	Apologies	T McArdle	Apologies
J G J Elliott	Yes	A M Meyer	No
R Elliston	Yes	Mrs J A Pell	Apologies
J H G Finbow	Yes	A F Shelton	Apologies
Mrs S A Howell	Yes	Mrs J A Smith	Apologies
P J Hughes	Yes	F Swallow	Apologies
E R Lynch	Yes		

19 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

20 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 15th September 2010 be approved as a correct record and signed by the Chairman.

21 **QUESTION TIME**

INFORMATION: There were no questions asked or statements made.

22 **STREET TRADING CONSENT – STEPFIELD, FREEBOURNES INDUSTRIAL ESTATE, WITHAM**

Consideration was given to an application for a street trading consent which had been submitted by Mr Mehmet Tursucu, who wished to sell hot and cold food and drinks from a van positioned at Stepfield Road, Witham. Mr Tursucu wished to trade from Monday to Saturday between the hours of 07:00am to 9:00pm, and as a new applicant who wishes to trade in a location where an existing trader already holds consent to trade in the same commodity the application has to be determined by the Licensing Committee. It was noted that following the consultation process no representations had been received.

Mr Tursucu attended the meeting with two colleagues, and his legal representative Mr David Dadds. The application was presented by Mr Dadds who referred to the existing site, the current circumstances of the proprietor of 'Busy Snacks' that is positioned on Freebournes Road, and the recent grant of Forest Foods, further south in Freebournes Road. In response to questions put to him by Members, Mr Dadds advised that the type of food, its preparation and the materials used will stay the

same as the previous trader, with disposal of cartons and wrappers in the existing waste bin. Furthermore, a litter-pick will be regularly undertaken to keep the trading area clean and tidy. Officers confirmed there had been no littering of the site previously, and Environmental Health had stated no concerns. The local Ward Member, Councillor Elliott, also confirmed that regular litter collection takes place in the area, and he had no objection to the application.

Mr Tursucu with his colleagues and Mr Dadds were excluded from the meeting whilst the Committee made its decision.

In determining this matter, the Committee acknowledged the four other traders in the vicinity and that the Council's Street Trading Policy allows for the area not being saturated in provision of similar commodities. Members requested that the status of permits of other traders in the area be reported to the next Licensing Committee, and if any are without consent it would be referred to the Council's Enforcement Team.

Next Meeting

DECISION: That the application submitted by Mr Mehmet Tursucu for a Street Trading consent to sell hot and cold food and drinks from a van positioned at Stepfield Road, Freebournes Industrial Estate, Witham be granted for Monday to Saturday between the hours of 07:00am to 9:00pm, subject to the Council's Street Trading and Collections Policy and the standard conditions relating to street trading.

23 OUTCOMES OF LICENSING ACT HEARINGS AND DRIVERS PANELS

Consideration was given to a report on the outcomes of hearings, reviews and appeals made under the Licensing Act 2003 and the outcomes of Drivers' Panel meetings. This information had been requested by Members, and it was noted that the Licensing Department will report outcomes within these categories to Committee in the future.

Members welcomed the report, and queried if the information could be made available on the Council's website and updated on a weekly basis. It was advised that Data Protection issues would affect this, as Personal Licences are not allowed in the public domain, and are considered under Licensing Hearings and Drivers' Panel held in Private. Further discussion ensued in relation to appeals and Magistrate's Court; the issuing of Summons, and the Court Service being under review. The availability of information to Councillors who do not sit on the Licensing Committee was also referred to, and their opportunity to make an objection relevant to Licensing objectives. It was considered that some Members, who make representation to a Licensing application, or on a planning issue, may not always be aware of the legislative process.

Member's requested that the new reporting method be reviewed in 12 months.

The Chairman referred to two occasions at Drivers Panel, when the driver had not attended or sent their apologies. This was considered unsatisfactory use of Councillors and Officers time and was not cost effective. On the first occasion Members waited an hour for the applicant to arrive, whilst on the second occasion only a short wait occurred before they determined the application in his absence.

Members discussed options to alleviate this, the legal implications, and the duty of

the Council under the Hackney Carriage and Private Hire Policy and legislation. The inclusion of additional wording in notifications to the applicant was also considered, requesting confirmation of attendance by return. It was noted that the Licensing Officer already telephones the applicant two to three days prior to the meeting, to confirm attendance.

Members considered that in some instances the clause 'if you are unable to attend the hearing the application will be determined in your absence' could be included in notifications whereas, when a Driver's Panel is held it was the opinion that the applicant must be present to provide the opportunity for cross-examining, to determine their character and to achieve a balanced decision.

It was considered that the driver should have opportunity to re-attend on one instance, and that it was inadvisable to propose that the application be dismissed. Members were reminded that it is a statutory duty that a decision is made.

In conclusion, following further discussion the Committee considered it appropriate to wait half an hour in cases of non-attendance and retain the current process.

A Member requested that during the Driver's Panel process it is formalised that (i) all Driving Licences are available at time of hearing, and (ii) that every question on the application form must be answered. The Licensing Officer stated that (i) is already implemented by the Licensing Section and the request at (ii) is noted.

DECISION:

- (1) That the report on the Outcomes of Licensing Act Hearings and Drivers Panels be noted, and is reviewed in 12 months.
- (2) That the non-attendance by applicants at Driver's Panel be noted, and the above discussion in retaining the current process be endorsed.

24 HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS/VEHICLES PROJECTS - UPDATE

The Members of the Taxi Liaison Panel had requested that a progress report be made to Licensing Committee in respect of implementing the Private Hire and Hackney Carriage **Knowledge Test** and for ongoing projects.

The Licensing Officer stated that questions for the electronic Knowledge Test are to be finalised, and a laptop purchased to facilitate the Test. The Chairman, Councillor Banthorpe agreed to make contact with Officers to progress the purchase of the laptop. The Licensing Officer could not commit to an implementation date for the Knowledge Test until the two issues are resolved.

Cllr Banthorpe

The Knowledge Test will comprise of multi-choice questions and include Conditions, knowledge of the District, and the Highway Code. The questions will be rotated for each driver and answered directly on the laptop held at Causeway House. It was recognised that the Licensing Section may have to hold two systems to allow for new drivers taking the Test, and for existing drivers who had not undertaken the Test, when their licence requires renewal

The Licensing Officer agreed to circulate to Licensing Committee Members the questions used by neighbouring authorities at Uttlesford and Maldon, who had already introduced the Knowledge Test. It was noted that questions that cover the complete Braintree area would be required in the Test, including the town centres of

The update report also contained a request from the Taxi Liaison Panel for Officers to explore funding options for the use of **CCTV cameras in Hackney Carriages** and to work with Essex County Council to progress this. The Chairman referred to a recent incident in East Street, Braintree when a driver was attacked and money stolen. Members noted that Officers will require advice on the legal implications of the use of CCTV in Hackney Carriages in relation to the Data Protection Act.

The Licensing Officer advised that the draft policy on the **Private Hire and Hackney Carriage Policy** will be ready for consultation in the New Year. The consultation period will last eight weeks and Members will be contacted by email.

DECISION: That the report and proposed actions be noted.

25 **TAXI LIAISON PANEL – 13TH JULY 2010**

Consideration was given to the notes of the Taxi Liaison Meeting held on 13th July 2010. The Licensing Officer reported that the Unmet Demand Survey (Minute 5) requires a Tender to be undertaken to start the process, with the Survey being held during 2012.

At the last Taxi Liaison Panel held in September 2010 Members were provided with information on the Regulation of Hackney Carriage vehicles and that the Secretary of State is to issue a number on the percentage of vehicles that are wheelchair accessible, i.e. 25%, and that the Council will need to meet that standard. The Licensing Officer stated that 14.5% of the fleet are currently wheelchair accessible. The owners of Hackney Carriages and Trade members have been notified of the proposal.

DECISION: That the notes of the Taxi Liaison Meeting held on 13th July 2010 be noted.

At the close of the meeting, the Chairman wished everyone a Happy Christmas.

The meeting closed at 8.30pm.

M J BANTHORPE

(Chairman)