

Minutes

Licensing Committee

22nd July 2015



Present:

Councillors	Present	Councillors	Present
Mrs J Allen	Apologies	H Johnson	Yes
M Banthorpe (Chairman)	Yes	Mrs J Money	Yes
J Baugh	Yes	Mrs J Pell	Yes
S Canning	Apologies	R van Dulken	Yes
J Elliott	Apologies	Mrs L Walters	Yes
J Goodman	Yes	Mrs S Wilson	Apologies
A Hensman	Yes		

Councillor J McKee was also in attendance (until 7.50pm).

1 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

2 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 29th April 2015 be approved as a correct record and signed by the Chairman.

3 **QUESTION TIME**

INFORMATION: There was one statement made. Details of the person 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.

4 **PAVEMENT PERMIT APPLICATION – THE LOUNGE, 10-12 MARKET PLACE, BRAINTREE**

INFORMATION: Consideration was given to an application submitted by Miss Nina Williams of Traders United Ltd for a Pavement Permit in respect of The Lounge, 10-12 Market Place, Braintree for Monday to Sunday between the hours of 11.00am and 9.00pm. The application proposed that 16 tables and 64 chairs should be placed on the pavement in two adjacent areas denoted as A and B on the plan attached to the application. Eight tables and 32 chairs

would be located in each area. Members were advised that the Council's Pavement Permit policy stated that normal hours of operation were 9.00am to 6.00pm Monday to Sunday and that an application for a permit beyond 6.00pm and up to 10.00pm had to be referred to the Licensing Committee for determination.

Following formal notification, representations had been submitted about the application by two Ward Councillors and a frontager with an interest. One of the Councillors, Councillor J McKee attended the meeting and spoke against the application. The applicant did not attend the meeting and she was not represented. As part of the consultation process, Essex Highways had given consent in accordance with the Highways Act 1980 to the Council to grant a Pavement Permit subject to conditions. If granted, Braintree District Council's standard conditions would also be attached to the Pavement Permit including a requirement for a minimum width of 1.8m to be maintained between the boundary of the Pavement Permit area and any other structure. It was reported that an application for a Pavement Permit had also been submitted for The Orange Tree, 13 Market Place, Braintree which was currently being processed and that application was for an area adjacent to the application site. It was reported that if both Pavement Permits were to be granted and the requisite minimum width of 1.8m could not be achieved between the areas designated for The Lounge and The Orange Tree, access to School Walk would be restricted. There would also be a conflict between The Lounge Pavement Permit area and market traders' stalls on market days.

In determining the application for The Lounge, Members were advised that they could grant a Permit subject to reduced hours of operation; and/or additional conditions. These could include conditions reducing the area authorised by the Permit and the number of tables and chairs permitted; and stipulating that there should be no obstruction of other structures or accesses including market traders' stalls. It was reported that there was no right of appeal against the Council's decision, but that the decision was subject to judicial review.

In discussing the application, Members considered that the proposed Pavement Permit area was too large and that the number of tables and chairs proposed was excessive. It was considered that the proprietor of The Lounge could have difficulty moving the tables and chairs each day, which would be required should the Permit be granted, and that the proprietor may not have sufficient space inside the premises to store the tables and chairs when not in use. Furthermore, it was considered that the proposed position of the tables and chairs could obstruct a main pedestrian route to and from a major supermarket and town centre car park. Concern was expressed also about the clientele of The Lounge and reports of anti-social behaviour by some, including the intimidation of passers-by. Further, concern was raised about the potential management of the application site should the area not be used for the purpose of refreshments and that it may become a smoking area for the premises. Members were reminded that a breach of Permit conditions could result in the Permit being withdrawn.

DECISION: That the application by Miss Nina Williams of Traders United Ltd for a Pavement Permit in respect of The Lounge, 10-12 Market Place, Braintree from Monday to Sunday between the hours of 11.00am and 9.00pm be refused on the grounds that the area of the proposed Pavement Permit is too large and would lead to the obstruction of the access to School Walk and market traders' stalls; that the number of tables and chairs proposed is excessive and difficulty would be experienced in moving and storing these; and the anti-social behaviour by some customers, including the intimidation of passers-by, is unacceptable.

5 **SEX ESTABLISHMENT (SEX SHOP) LICENCE RENEWAL APPLICATION - 4 U ADULT BOUTIQUE LTD, 14 COGGESHALL ROAD, BRAINTREE**

INFORMATION: The Committee considered an application under the Local Government (Miscellaneous Provisions) Act 1982 for the renewal and variation of a Sex Establishment (Sex Shop) Licence in respect of 4 U Adult Boutique Ltd, 14 Coggeshall Road, Braintree for Monday to Saturday between the hours of 9.00am and 8.00pm. The applicant attended the meeting.

The application, which had been received and validated on 29th May 2015, proposed that the licensed area should be varied from the whole of the premises to a room at the rear only. The applicant considered that this variation would provide more control of restricted products and enable the front window of the premises to remain unobscured, thereby improving the aesthetics of the building externally. An amended floor plan was attached as an Appendix to the Agenda report.

It was reported that the application had been advertised in accordance with the requirements of the Act and that one objection had been submitted. The objection was attached as an Appendix to the Agenda report. In discussing this item, Members had regard to the Council's amended Standard Conditions for Sex Establishments which were attached as an Appendix to the Agenda report.

DECISION: That the application for the renewal and variation of the Sex Establishment (Sex Shop) Licence in respect of 4 U Adult Boutique Ltd, 14 Coggeshall Road, Braintree be granted, subject to the amended Standard Conditions for Sex Establishments as set out at Appendix 1 to the Agenda report and to the licensed area being restricted to the room at the rear of the premises behind a dividing brick wall, as delineated in red on a plan to be attached to the Licence.

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

INFORMATION: The Committee considered a report on the allocation of three Hackney Carriage Vehicles Proprietors' Licences.

Members were reminded that the Council currently limited the number of Hackney Carriage Vehicles Proprietors' Licences issued under Section 37 of the Town Police Clauses Act 1847 to 84 and that a survey undertaken in 2012 had indicated no unmet demand for Hackney Carriages in the Braintree District. However, due to differing circumstances some Proprietors' Licences had become available for allocation by the Council.

Members were reminded that in June 2014 the Council had approved a Policy for the allocation of Hackney Carriage Vehicles Proprietors' Licences and on 23rd July 2014 the Licensing Committee had agreed to three Proprietors' Licences being issued. The allocation of further licences had been withheld pending a report to the Committee on the demand for, effect and impact of the initial allocation. Members were advised that the newly licensed vehicles appeared to be operating mainly from the rank at Manor Street, Braintree, but there had been no noticeable effect on unmet demand within the District, either positively, or negatively.

It was proposed that the remaining Proprietors' Licences should be issued in accordance with the Allocation Policy. Expressions of interest would be sought and all qualifying applicants would be entered into a random ballot to be drawn at a future meeting of the Licensing Committee.

DECISION: That three Hackney Carriage Vehicles Proprietors' Licences be issued in accordance with the Council's Allocation Policy.

7 **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES – DURATION**

INFORMATION: The Committee was advised that the Deregulation Bill 2015 had amended Sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to the granting of licences to drive Hackney Carriage and Private Hire vehicles and to operate Private Hire vehicles. As part of this amendment, it was proposed that the Council's processes and procedures should also be changed. These changes would simplify the application process and could reduce the financial burden on applicants.

The Council currently granted drivers' licences for a period of one year and Operators' licences for a period of three years. However, the amendments to Sections 53 and 55 stipulated that the standard duration of a driver's licence should be three years and the standard duration of an Operator's licence should be five years. The revised law would come into force on 1st October 2015.

It was proposed that the Council's procedures for drivers' licences should be amended to coincide with the revised timescale and that applicants should, in future, be required to undergo a medical every three years, that these should meet 'Group 2' medical standards and that they be obtained from any Doctor, not just the applicant's GP. It was proposed that a Disclosure and Barring Service Certificate and an Intelligent Data Systems check of a driver's DVLA driving licence should be obtained at the time of application for, or every three

years on the renewal of, a licence to enable the Council to make an informed decision on an applicant's 'fit and proper' status.

It was proposed that in future the Council should issue Private Hire Operator licences for a five year period. In addition, it was proposed that a Basic Disclosure providing details of unspent criminal convictions should be requested at the time of application for, or every five years on the renewal of, a licence instead of the current requirement for a certificate of good character and a statutory declaration.

The proposed changes to the Council's procedures would be subject to consultation with the Hackney Carriage and Private Hire trade and the public and any feed-back would be reported to the Licensing Committee at its meeting to be held on 9th September 2015.

DECISION:

- (1) That the changes to Sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976, specifically the duration of Hackney Carriage and Private Hire vehicle drivers' licences and Private Hire Operator licences be noted.
- (2) That the following proposed changes to the Council's procedures be approved, subject to consultation with the Hackney Carriage and Private Hire trade and the public and to feed-back being reported to the Licensing Committee on 9th September 2015, namely:-
 - Hackney Carriage and Private Hire drivers to be required to undertake a 'Group 2' medical carried out by their GP or another Doctor when applying for a licence, or renewing a licence every three years;
 - That a Disclosure and Barring Service Certificate be sought for all Hackney Carriage and Private Hire drivers at the time of applying for a licence, or renewing a licence every three years;
 - That an Intelligent Data Systems check of all Hackney Carriage and Private Hire drivers be obtained at the time of applying for a licence or renewing a licence every three years;
 - That a basic criminal disclosure be obtained for all Private Hire vehicle Operators at the time of applying for a licence, or renewing a licence every five years.

8 **HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND PRIVATE HIRE OPERATOR LICENCES – SETTING OF LICENCE APPLICATION FEES**

INFORMATION: Consideration was given to a report on proposed changes to the fees charged for Hackney Carriage and Private Hire driver licences and Private Hire Operator licences in response to amendments to legislation.

Members were advised that the Deregulation Act 2015 had amended Sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 which authorised the Council to grant licences to drivers of Hackney Carriage and Private Hire vehicles and to Operators of Private Hire vehicles. The amendment stipulated that the standard duration of a driver's licence should be three years and that the standard duration of an Operator's licence should be five years. The Council currently granted licences for periods of one year and three years respectively. The amendments would come into force on 1st October 2015.

Details of current and proposed fees were set out in the report. The report also contained information on the Council's anticipated income based on the number of licences currently issued. In accordance with the Act, the Council was able to charge a reasonable fee for processing applications. However, the total income generated from such fees should not exceed the anticipated cost of issuing licences, or vice versa.

The Council was required to consult with the Hackney Carriage and Private Hire Trade and the public about the proposed fees. The outcome of the consultation would be presented to Full Council with recommendations to introduce the new fees with effect from 1st October 2015.

DECISION:

- (1) That the proposed schedule of fees, as set out in the report, be approved for consultation with the Hackney Carriage and Private Hire trade and the public.
- (2) That the Corporate Director, in consultation with the Chairman of the Licensing Committee, be authorised to adjust the schedule of fees following the consultation period, if required.

That, subject to paragraph (2) above, the proposed schedule of fees be **Recommended to Full Council** for approval to take effect from 1st October 2015.

9 **BRAINTREE AND DISTRICT TAXI ASSOCIATION LIAISON PANEL AND DRIVERS' PANEL - APPOINTMENT OF MEMBERS**

DECISION:

- (1) That Councillors M Banthorpe, J Baugh, J Goodman, A Hensman, H Johnson, Mrs J Money and Mrs J Pell be appointed to the Braintree and District Taxi Association Liaison Panel for the 2015/16 Civic Year.
- (2) That all Members of the Licensing Committee be appointed to the Drivers' Panel for the 2015/16 Civic Year.

The meeting closed at 8.22pm.

Councillor M Banthorpe
(Chairman)

APPENDIX

LICENSING COMMITTEE

22nd JULY 2015

PUBLIC QUESTION TIME

Details of Questions Asked / Statements Made During Public Question Time

- 1 Statement Relating to Item 5 - Application for a Pavement Permit – The Lounge, 10-12 Market Place, Braintree

Statement by Councillor John McKee, 36 London Road, Braintree (Objector)