

LICENSING COMMITTEE

Minutes of the meeting held on Wednesday, 14th September 2016 at Worksop Town Hall

Present: Councillor J Potts (Chair)
Councillors J R Anderson, B A Bowles, K M Greaves, S Isard, G Jones,
D Merryweather, D Potts, D R Pressley and K Sutton.

Officers in attendance: S Aston, S Bacon, J Hamilton, W Nuttall and A Webster.

(Meeting opened at 6.30pm.)

(The Chair welcomed all to the meeting and read out the Fire Alarm/Evacuation Procedure. She also enquired as to whether any member of the public wished to film/record the meeting or any part thereof; however, although one applicant was present, this was not taken up).

(The Principal Solicitor (Licensing and Regulatory) introduced Mr Wayne Nuttall, the newly appointed Enforcement Officer, who will be replacing Mr K Wood.)

19. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors H M Brand and G Clarkson.

20. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

(a) Members

Councillor J R Anderson declared a Disclosable Pecuniary Interest in Agenda Item No. 7(b) – Application for Exemption from DVSA Taxi Driver Test, as he is employed by the company that administers the test. He left the meeting and took no part in the discussion and voting thereof.

Councillor D R Pressley declared a non-pecuniary interest in Agenda Item No. 6(g) – Campsite Licences, as his son works at Clumber Park; he remained in the meeting.

(b) Officers

There were no Declarations of Interest by officers.

21. MINUTES OF THE MEETING HELD ON 20TH JULY 2016

RESOLVED that the Minutes of the meeting held on 20th July 2016 be approved.

22. MINUTES FOR ACTION

The Principal Solicitor (Licensing and Regulatory) informed Members that Minute No. 15(a) – Hackney Carriage / Private Hire Drivers, Private Hire Operators and Licensed Vehicle Penalty Points Scheme had been implemented.

With reference to Minute No. 15(b) – Park Homes Licence Conditions, the Principal Solicitor (Licensing and Regulatory) informed Members that the consultation exercise closes on 16th September, and a report will be brought back to a future meeting.

RESOLVED that the Minutes for Action be received.

23. OUTSTANDING MINUTES LIST

The Principal Solicitor (Licensing and Regulatory) informed Members that work on Minute No. 35(b) – Roadside Catering Policy, is progressing but delayed due to long term sickness in other departments.

With reference to Minute No. 6(a) – Review of Proposed Hackney Carriage Fare Increase, this is dependent on the outcome of Agenda Item No. 6(a) being considered tonight.

RESOLVED that the Outstanding Minutes List be received.

SECTION A – ITEMS FOR DISCUSSION IN PUBLIC

Key Decisions

None.

Other Decisions

24. REPORT(S) OF THE PRINCIPAL SOLICITOR (LICENSING AND REGULATORY)

(a) Private Hire Operator’s Licence Advertisements

Members were asked to consider whether it is necessary for the Authority to place a Public Notice advertisement in the local press to notify the public when an application (or change) has been made for a Private Hire Operator’s Licence and, if so, who should pay for the advertisement.

The Principal Solicitor (Licensing and Regulatory) advised Members that the current application process for Private Hire Operator’s Licences requires that a Public Notice advertisement is placed in the local press (Worksop Guardian or Retford Times) which notifies the public of the application, the name and address of the applicant and how many vehicles will be subject to the licence. It is believed that this was undertaken to allow members of the public to comment upon any “amenity” issues which may occur as a result of a business operating at a residential address. All applicants must liaise with the Council’s Planning Department to ascertain whether full planning permission is required to operate from with a home address/base address. Currently, the Council pays for this advertisement and the applicant is charged the standard fee, as detailed in Paragraph 3.4 of the report, which is less than the charge levied by the newspaper.

There is no statutory requirement to use a Public Notice to advertise a new Private Hire Operator’s Business, and other Nottinghamshire Authorities do not use such advertisements. A Private Hire Operator’s Licence can only be refused if the applicant is not a “fit and proper person” to hold such a licence. A licence cannot be refused for “amenity” issues; these are matters for the Planning Department. The Principal Solicitor (Licensing and Regulatory) proposed that the Licensing Department would notify the Planning Department of any new applications/amendments to Private Hire Operator’s Licences so that they can consider if enforcement action is needed for breach of planning requirements/conditions. A disclaimer about information sharing would be placed on the application form to advise applicants that the information contained on the form may be shared with other Council departments and/or external agencies and an express declaration that the Planning Department will be notified of the application for a licence.

Members discussed the options and risks detailed in the report in Section 5.

RESOLVED that:

1. It be agreed that, with immediate effect, advertisements in the local press relating to Private Hire Operator's Licences are no longer required.
2. The Licensing Department will notify Bassetlaw District Council's Planning Department of any new application for a Private Hire Operator's Licence or amendments to such a Licence.
3. Amendments are made to the Private Hire Operator's Licence application form to cover data sharing and the prevention of fraud.

(b) Review of CCTV in Hackney Carriage/Private Hire Vehicles

Members were asked to consider whether there is the need for a requirement to compel proprietors/operators/owners of Hackney Carriage and Private Hire Vehicles in the Bassetlaw District to install CCTV.

This was originally considered by the Licensing Committee at its meeting held on 16th September 2015 but deferred for a period of 12 months in light of issues being faced by Rotherham Metropolitan Borough Council (RMBC). The original report was appended to the report.

The Principal Solicitor (Licensing and Regulatory) advised Members that RMBC implemented changes in early 2016 compelling the installation of CCTV in all licensed vehicles by 6th July 2016 or by the date of renewal of the annual vehicle licence. A copy of the RMBC CCTV specification was appended to the report, and summarised at Paragraph 3.9 of the report, together with a list of systems considered suitable by RMBC. The conditions that RMBC has added to the Private Hire Vehicle Licences were listed at Paragraph 3.11 and those for Hackney Carriage Licences relating to CCTV were listed at Paragraph 3.12. Advice from the Information Commissioner's Office (ICO) and the Local Government Association (LGA) was outlined in Paragraph 3.13, also action taken/being considered by other Nottinghamshire Authorities.

Members noted that numerous requirements have already been introduced throughout 2015 and 2016 which have placed an increased financial burden on licence holders, and these were detailed at Paragraph 3.14 of the report. If mandatory CCTV is implemented, training may need to be provided to Licensing Enforcement Officers and Vehicle Testers to enable them to be able to check and operate the CCTV systems to ensure compliance with any conditions which may be implemented by the Committee.

Members discussed the options and risks detailed in the report in Section 5.

RESOLVED that no mandatory changes be implemented at this point in time but a paragraph be included in the proposed Hackney Carriage Private Hire Policy process stating that the installation of CCTV in licensed vehicles is at the discretion of the proprietor/operator/owner.

(c) Hackney Carriage and Private Hire Vehicle Age Policy

Members were asked to give consideration to clarifying the Council's current policy in relation to the age upon which a Hackney Carriage or Private Hire Vehicle will cease to be licensed.

In 2005, the Licensing Committee determined the number of wheelchair accessible vehicles which were to be made available to the public and the age policy in relation to the age of the vehicle at first licensing and the age at which a vehicle will no longer be licensed.

Current policy is that, on initial application, the vehicle must fall within the five-year age policy, i.e. the vehicle must be under five years of age in relation to the date of registration stated on the vehicle registration document (V5). Vehicles must come off the road for licensing purposes

at the age of ten years for saloons and estates. The maximum age for wheelchair accessible vehicles is twelve years, also specialist vehicles i.e. stretch limousines. A vehicle can be licensed for a longer period than specified in the policy if the vehicle meets the conditions as set out in the “exceptional condition” definition, which was appended to the report.

To date, officer discretion has been used to extend the vehicle over the ten or twelve-year and ten-year age policy to incorporate either the full annual or six-month vehicle licence in line with the appropriate remittance fee. The Licensing Department has received concerns from an existing Hackney Carriage proprietor that, in their view, the Authority is “acting unfairly” when providing such extensions and that the Authority should adhere exactly to the ten or twelve-year registration date stated on the vehicle registration document (V5).

Members discussed the options and risks detailed in the report in Section 6.

RESOLVED that delegated authority be granted to the Principal Solicitor (Licensing and Regulatory) and the Licensing Officer to continue to deal with individual age policy extensions to incorporate the full annual vehicle licence or the full six-month vehicle inspection as and when they arise.

(d) Criminal Records Checks for Private Hire Operators

Members were asked to consider whether to require Private Hire Operators to produce a criminal records check certificate when applying for a licence.

Bassetlaw District Council, as the Licensing Authority, grants Private Hire Operator’s Licences for periods of either three or five years, in accordance with Section 55 of the Local Government (Miscellaneous Provisions) Act 1976, if satisfied that the applicant is a “fit and proper person”, although there is no definition of this term. The applicant’s experience, character and any relevant previous convictions are taken into consideration, with the applicant providing two character references.

Some of the current Private Hire Operators hold Combined Hackney Carriage/Private Hire Vehicle Driver’s Licences and, for this, undertake an enhanced Disclosure and Barring Service (DBS) check. This issue is that in Bassetlaw it is not a pre-requisite condition that a Combined Carriage/Private Hire Vehicle Driver’s Licence is held before applying to become a Private Hire Operator, therefore such applicants are not required to undertake a criminal records check.

The Principal Solicitor (Licensing and Regulatory) related the advice given by Personnel Checks (the company which procures DBS checks for applicants of Combined Hackney Carriage/Private Hire Vehicle Driver’s Licences), which was summarised in Paragraph 3.6 of the report. Two options were presented to Members – verification by the Council or individual paper forms.

Members discussed the options and risks detailed in the report at Section 5.

RESOLVED that:

1. Applicants for Private Hire Operator’s Licences who do not hold valid Combined Hackney Carriage/Private Hire Vehicle Driver’s Licences and those who hold Combined Hackney Carriage/Private Hire Vehicle Driver’s Licences whose current DBS Certificate is more than two months old, be required to apply for the basic disclosure, and the results of this disclosure be provided to the Licensing Department in support of their application.
2. Applicants be able to apply for their own basic disclosure check directly with Personnel Checks, submitting their paper application with clear photocopies of ID for processing.
3. The cost of £38.00 per driver including VAT be approved.

(e) Comments Received in Relation to the Proposed Increase in the Hackney Carriage Scale of Fares

Members were presented with comments which had been received in response to the statutory advertisement relating to the proposed increase of the Hackney Carriage Scale of Fares, following the decision made by Licensing Committee on 15th June 2016. A copy of the June 2016 report and its appendices were appended to the report. Full copies of the responses were appended to the report and also summarised in Paragraph 3.5.

As objections have been received, Section 65(4) of the Local Government (Miscellaneous Provisions) Act 1976 states:

“If objections are made and not withdrawn, the council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.”

The Principal Solicitor (Licensing and Regulatory) advised Members that there is no set formula by which they have to increase the Scale of Fares; they have total discretion to set the Scale of Fares as they see appropriate.

Members discussed the options and risks detailed in the report at Section 5.

RESOLVED that:

1. No amendments be made to the resolution made at the meeting of the Licensing Committee held on 15th June 2016, i.e.:
 - (i) Tariff One be increased to £4.00 up to the first mile or part thereof and 19p for 1/10 or part thereof.
 - (ii) Tariff Two commencement time to remain at midnight and no increase to be applied.
 - (iii) Waiting Time - increase to 10p per 20 seconds.
 - (iv) Soiling Charge to remain at £75 as proposed in 2015.
2. The new Hackney Carriage Scale of Fares to come into effect from 31st October 2016.

(Councillor J R Anderson abstained from voting in respect of the above item.)

(f) Vehicle Age Policy Review

Members were asked to consider the maximum age at which vehicles are allowed to be licensed in the Bassetlaw District without being subject to an “exceptional condition” application by the owner.

Current policy is that, on initial application, the vehicle must fall within the five-year policy, i.e. the vehicle must be under five years of age in relation to the date of registration stated on the vehicle registration document. Vehicles must come off the road for licensing purposes at the age of ten years for saloons and estates. The maximum age for wheelchair accessible vehicles is twelve years. At the time this policy decision was made, only purpose-built Hackney Carriage wheelchair access vehicles, such as LTIs, were licensed by the Authority. The twelve-year age policy also applies to specialist vehicles i.e. stretch limousines. A vehicle can be licensed for a longer period than specified in the policy if the vehicle meets the conditions as set out in the “exceptional condition” definition, which was appended to the report.

A list of vehicle models currently licensed as Hackney Carriage or Private Hire Wheelchair Accessible Vehicles with Bassetlaw District Council was also appended to the report. Some of the vehicles are based on standard saloon and estates type vehicles which have been modified

by the manufacturers to enable them to transport a wheelchair. These vehicles have not been specifically designed as per the LTIs and Euro 7s to withstand heavy/commercial usage.

The Principal Solicitor (Licensing and Regulatory) and Licensing Officer have conducted research into the maximum age policies operated by other local authorities, the findings of which were appended to the report. It was noted that the only authority which allows Hackney Carriage vehicles to operate to 15 years is Sheffield City Council; however, they only license the "black cab" style vehicles as Hackney Carriages.

Members discussed the options and risks detailed in the report at Section 5.

RESOLVED that:

1. On initial application, the vehicle must fall within the five-year age policy (i.e. the vehicle must be under five years of age in relation to the date of registration stated on the vehicle registration document (V5).
2. Vehicles must come off the road for licensing purposes at the age of ten years for saloons and estates and twelve years for wheelchair accessible vehicles.
3. The twelve-year age policy also covers specialist vehicles i.e. stretch limousines.
4. Once vehicles reach the maximum age, if the proprietor wishes to keep/renew the vehicle licence, they must apply to have the vehicle licensed under the "exceptional condition" policy.

(g) Campsite Licences

Members were asked to consider the implementation of licences for tented campsites in the Bassetlaw District, and approval was sought for the draft conditions which were appended to the report.

UK camping is controlled by several pieces of legislation, including the Public Health Act 1936 and the Caravan Sites and Control of Development Act 1960. To operate a tented campsite, the owner/operator needs to obtain a licence from the Licensing Department if they are operating for more than 42 consecutive days or more than 60 days in any 12 consecutive months. No fee can be charged for the grant of a licence but the local authority is under a duty to grant such a licence. The site will require planning permission to operate for over 28 days in any calendar year, unless the site is occupied by a recreational organisation.

Organisations such as the Caravan & Camping Club, Scout Association and Freedom Camping Club hold exemptions which allows them to certify small caravan and campsites for use by club members. Other exemptions were listed at Paragraph 3.4 of the report. Exempt sites must still comply with basic criteria to ensure those staying on them have access to a safe drinking water supply and suitable means of disposal for all waste, including toilet waste. Exempt sites must be maintained in a safe condition.

Council Enforcement Officers will need to inspect licensed campsites at least once each year. Those unlicensed campsites which operate without a licence but appear to need one, will be monitored by Enforcement Officers in an informal way as they travel around the District. The Licensing Department will retain a database of sites containing basic information which will be a useful reference should an enquiry be made about any particular site.

RESOLVED that:

1. The draft conditions for a Campsite Licence, as appended to the report, be approved.
2. Delegated authority be granted to the Council Solicitor and Principal Solicitor (Licensing and Regulatory) to amend conditions and draft specific conditions where they feel it is

appropriate after consideration of an application and a site inspection by officers of the Authority.

3. Where planning permission has been granted for a limited duration, the Campsite Licence shall only be granted for the duration of the planning permission.
4. Delegated authority be granted to the Principal Solicitor (Licensing and Regulatory) to design and publish an application form for those persons who wish to apply for a Campsite Licence.

(Councillor D R Pressley had declared a non-pecuniary interest in the above item; he remained in the meeting and took part in the discussion and voting thereof.)

25. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RESOLVED that, in accordance with Part 1 of Schedule 12A of the Local Government Act 1972, and after considering the public interest test as set out by the officer in the body of the report, Members agreed that the following items of business involved the likely disclosure of exempt information as defined in Paragraphs 1 and 3, and therefore, in accordance with Section 100A of the Act, the press and public be excluded from the meeting:

Agenda Item No. 7(a) – Application for Exemption from Displaying PHV Plates / Door Signs – Paragraph 3

Agenda Item No. 7(b) – Application for Exemption from DVSA Taxi Driver Test - Paragraph 1.

SECTION B – ITEMS FOR DISCUSSION IN PRIVATE

Key Decisions

None.

Other Decisions

26. REPORT(S) OF THE PRINCIPAL SOLICITOR (LICENSING AND REGULATORY)

(a) Application for Exemption from Displaying PHV Plates / Door Signs

Members were asked to consider an application for exemption in respect of the condition to display private hire vehicle plates and door signs for two vehicles. The applicant is in the process of applying for a Private Hire Operator's Licence with Bassetlaw District Council, and previously held one between 10th April 2013 and 9th April 2016 before moving his business to a different authority area.

A letter in support of the application and copies of photographs of the vehicles were appended to the report. The applicant was present and expanded on his business and its growth in response to demand.

RESOLVED that a Notice of Exemption for the display of private hire vehicle plates and door signs be granted under Section 75(3) of the Local Government (Miscellaneous Provisions) Act 1976 in respect of the applicant's two vehicles, as listed in Paragraph 3.3 of the report.

(b) Application for Exemption from DVSA Taxi Driver Test

Members were asked to consider an application for exemption from taking the DVSA Taxi Driver Test by the applicant in the previous item who is in the process of applying for a Private Hire Operator's Licence with Bassetlaw District Council.

The applicant's driving qualifications were listed at Paragraph 3.5 of the report, and the vehicles he is qualified to drive were listed at Paragraph 3.6. Copies of the evidence provided in support of his application were appended to the report. The applicant was present and expanded on his qualifications and driving experience.

RESOLVED that the applicant be exempt from having to sit the DVSA Taxi Driver Test based on the evidence which he had provided relating to driving qualifications which he currently holds.

(Councillor J R Anderson had declared a Disclosable Pecuniary Interest in the above item, and left the meeting, taking no part in the discussion and voting thereof.)

27. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS TO BE URGENT.

As there was no other urgent business to be discussed, the Chair closed the meeting.

(Meeting closed at 8.35pm.)