

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 22ND JULY 2024, AT 6.00 P.M.

PRESENT: Councillors A. M. Dale, J. Elledge, S. M. Evans, C.A. Hotham, D. Hopkins, B. Kumar (during Minute No's 1/24 to part Of 8/24), B. McEldowney, S. R. Peters and S. A. Robinson

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

1/24 **ELECTION OF CHAIRMAN**

RESOLVED that Councillor J. Elledge be elected Chairman of the Committee for the ensuing municipal year.

2/24 **ELECTION OF VICE-CHAIRMAN**

RESOLVED that Councillor B. McEldowney be elected Vice-Chairman of the Committee for the ensuing municipal year.

3/24 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Apologies for absence were received from Councillors H. J. Jones, and S. Ammar.

4/24 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

5/24 **MINUTES**

The minutes of the Licensing Committee meeting held on 25th March 2024 were submitted.

It was noted that the local resident who had submitted a representation to the Hackney Carriage Stand in Market Street Service Road – consideration of objections / representations (Minute No. 41/23); was contacted by officers as requested by Members.

RESOLVED that the minutes of the Licensing Committee meeting held 25th March 2024, be approved as a correct record.

BUSINESS AND PLANNING ACT 2020 - DRAFT POLICY ON PAVEMENT LICENSING

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS) presented the report and in doing so informed Members that in July 2020 the Business and Planning Act 2020 was enacted. The legislation was expedited through Parliament to make provisions relating to the promotion of economic recovery and growth as the country emerged from various restrictions that had been put in place in response to the global Covid-19 pandemic.

Part 1 of the Act introduced provisions in England and Wales that put in place a streamlined process to enable businesses to obtain permission to place removeable furniture on the highway for use in connection with the sale and consumption of food and drink. The need for a streamlined process was to ensure that hospitality businesses could maximise their opportunities to trade profitably at a time when social distancing requirements guidance remained in place which impacted the number of customers that they could accommodate inside their premises.

The legislation was put in place very quickly and therefore commenced as soon as it was enacted. This meant that there was very little time available to put in place policies and procedures for dealing with applications.

Responsibility for issuing the new “pavement licences” was given to district councils in England, including Bromsgrove District Council.

The provisions in Part 1 of the Business and Planning Act 2020 were only originally intended to remain in place for a temporary period, and section 10 of the Act originally stated that the provisions would expire at the end of 30 September 2021. The temporary regime was subsequently extended on three separate occasions before a decision was taken to make it a permanent licensing regime. The regime was made permanent on 31 March 2024 by virtue of the commencement of provisions made in the Levelling Up and Regeneration Act 2023.

At the same time as making the regime permanent, some important amendments were made to the pavement licensing regime including extending the consultation and determination periods in respect of applications from 7 to 14 days each. The permanent regime also contained new powers to serve notices and remove furniture that was placed on the highway without permission.

Now that the pavement licensing regime had been made permanent, it was now necessary to review and revise the Council’s Policy on Pavement Licensing to ensure that it was fit for purpose and that the policy reflected the amendments that had been made to the regime since it was first introduced.

Members’ attention was drawn to the draft policy, as detailed at

Appendix 1 to the report, that had been drafted with reference to the guidance on pavement licences as published by the Department for Levelling Up, Housing and Communities (DLUHC) on 2nd April 2024 under section 8 of the Business and Planning Act 2020.

The first two sections of the draft policy set out the background to the licensing regime, explained the scope and provided assistance in understanding key terms from the legislation used throughout the document.

The draft policy further detailed how people could apply for a licence, how those applications would be advertised and consulted upon and how they would be determined. The draft policy also sets out the standard duration of licences and the conditions that, licences that were granted or deemed to have been granted, would be subject to.

The draft policy also includes a new section, which sets out the approach to be taken in respect of compliance and enforcement activities in respect of the pavement licensing regime.

Members were asked to note that, before approving the draft policy on pavement licensing, it was considered best practice to carry out a consultation exercise with key stakeholders, relevant businesses and the wider public. This consultation exercise was envisaged to take place over a period of around 8 to 10 weeks and would invite respondents to express their views on the various matters set out within the policy including:

- The requirements for making an application.
- The advertising of, and consultation on applications.
- The standard licence duration.
- The standard conditions that would apply to licences granted or deemed to be granted.
- The approach that would be taken to compliance and enforcement activities.

The results of the consultation exercise would be reported back to a future meeting of the Licensing Committee for consideration and before Members were asked to approve the policy.

The following was noted and agreed, that page 28 of the main agenda pack, paragraph number 4.3 be amended as follows: -

- The relevant Ward Member(s) for the District Council (not Borough Council); and that
- Parish Councils to be included in the list of consultees.

In response to questions from Members, the Principal Officer (Licensing), WRS, clarified that only furniture placed on highways land was included within the draft policy, privately owned land was not included. With regards to enforcement, officers were still scoping where

to store any furniture that needed to be removed by WRS officers where a pavement licence had not been granted.

The Principal Officer (Licensing), WRS further clarified that applicants would be informed within one working day if their application and necessary documents met all of the required criteria in order for officers to consider and process their application. As highlighted in the draft policy, applicants would be made aware that 'The public consultation period will not commence until the day after a **complete** application has been made.'

Members were informed that it was not a requirement of the policy for pavement licences to be displayed on the exterior premises. Furniture could be placed on a relevant part of the highway 'adjacent' to the premises and not directly outside of the premises, therefore it would not be very practical displaying the licence outside of the premises due to this and potential weather conditions. However, the policy did require that 'A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or authorised officer of the local authority.'

The Principal Officer (Licensing), WRS, further responded to questions from Members in respect of fees and if fees were capped, and the fee for a new application and a renewal application.

RESOLVED that

- a) subject to the amendments as detailed in the preamble above, the draft policy on pavement licensing, as detailed at Appendix 1 to the report, be approved for the purpose of consultation with relevant stakeholders; and
- b) the responses received to the consultation be presented to a future meeting of the Licensing Committee.

7/24

MANDATORY SAFEGUARDING AWARENESS TRAINING FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS

The Principal Officer (Licensing), WRS presented the report and in doing so drew Members' attention to page 46 of the main agenda pack and informed Members that in 2021 a review of all of the Council's hackney carriage and private hire licensing policies was undertaken in response to the publication by the Department for Transport of guidance under section 177 of the Policing and Crime Act 2017 entitled "Statutory Taxi & Private Hire Standards." This work had resulted in the production of a new draft hackney carriage and private hire licensing policy, which the Council implemented in September 2022.

As part of the changes implemented in September 2022 the Council introduced a 'Competency Certificate' which all 'new' drivers were required to undertake. This certificate comprised of training on

safeguarding, disability, equality, and many other aspects of training deemed necessary in order to apply for a new licence.

Anyone licensed prior to September 2022 and who continued to apply to renew their licence were only asked to undertake safeguarding training on a voluntary basis. This had in effect created an uneven playing field.

In 2018 licensing officers worked with partners across Worcestershire and offered a programme of child exploitation training (CSE) for all taxi drivers free of charge but on a voluntary basis. The take up of this training across the County was around 75%, which was very positive.

Many neighbouring authorities and local authorities across the country used the implementation of the statutory standards as an opportunity to implement mandatory safeguarding training for their licence holders.

Officers believed that the safeguarding module of the current training program for new drivers should be rolled out to all drivers including existing licensed drivers that had not undertaken the competency certificate.

The proposal that officers believed would cause the least disruption to drivers and be the most efficient way to implement, was set out in a draft revised extract from the Council's current Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 1 to the report, which stated:-

'With effect from 1st April 2025 each time a licence holder renews their licence they must undertake safeguarding training delivered by the Council's approved training provider prior to submitting their renewal application'.

Officers would therefore undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement, as detailed in the preamble above, with regards to mandatory safeguarding training.

A brief discussion followed whereby Members commented that this was a really good idea to take forward.

The Principal Officer (Licensing), WRS responded to questions from the Committee and explained that it was the responsibility of neighbouring authorities to implement safeguarding training for their licence holders.

The 'Competency Certificate' training was offered in English only. In order to obtain the Worcestershire Taxi and Private Hire Competency Certificate, a person must demonstrate they possessed a suitable level of skills, knowledge and understanding in the English language proficiency, both spoken and written. This requirement was highlighted in the Council's Hackney Carriage and Private Hire Licensing Policy.

RESOLVED that

- a) officers undertake a consultation with relevant stakeholders and the public on whether to introduce a requirement that takes effect from 1 April 2025, that all those who hold a licence issued by the Council authorising them to drive hackney carriage and / or private hire vehicles have to undertake mandatory safeguarding awareness training before renewing their licences; and
- b) the responses received to the consultation be presented to a future meeting of the Licensing Committee.

8/24

RENEWAL OF LICENCES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES THAT HAVE PREVIOUSLY BEEN WRITTEN OFF

Members of the Licensing Committee were asked to consider an issue that had arisen for the hackney carriage and private hire trade in Bromsgrove since the Council had the adoption of a new Hackney Carriage and Private Hire Licensing Policy on 1st September 2022.

The Principal Officer (Licensing), WRS explained that on 1st September 2022 the Council had implemented a new Hackney Carriage and Private Hire Vehicle Policy, which was later amended with effect from 1st April 2023. The policy contained requirements in respect of the licensing of vehicles to be used as a hackney carriage or private hire vehicle. The relevant part of the current Policy was detailed at Appendix 1 to the report.

One of the changes that the new policy introduced was a stipulation that the Council would no longer licence any vehicle to be used as either a hackney carriage or private hire vehicle if it had been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.1.10 (page 58 of the main agenda report) and 3.2.10 (page 60 of the main agenda report) of the policy set this out in respect of those vehicles being licensed by the Council to be used as a hackney carriage or private hire vehicle for the first occasion.

The new policy further stated that the Council would also not renew any licence to use a vehicle as a hackney carriage if the vehicle had been graded as a Category A, Category B or Category C or Category S write-off for insurance purposes. Paragraphs 3.3.11 (page 61 of the main agenda report) and 3.4.11 (page 63 of the main agenda report) were the relevant paragraphs in this respect.

The wording currently used in paragraphs 3.3.11 and 3.4.11 of the policy meant that vehicles that were licensed before the new policy took effect and that had been previously graded as a Category A, Category B or Category C or Category S write-off no longer complied with the Council's policy, even though these vehicles had been licensed for a number of years without any issues arising.

Officers believed that when approving the new Hackney Carriage and Private Hire Vehicle Policy, Members had in fact intended for there to be a gradual phasing out of the licensing of vehicles that had been graded as a Category A, Category B or Category C or Category S write-off rather than intending to stop licensing all such vehicles when the relevant licences were next due to be renewed.

Officers further believed that this intention could be achieved by making minor amendments to the wording contained in paragraphs 3.3.11 and 3.4.11 of the policy; the proposed alternative wording was detailed at Appendix 2 to the report, as follows: -

Vehicles written off for insurance purposes

3.3.11 The Council will not renew any licence to use a vehicle as a hackney carriage if the relevant vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance **purposes after the date on which the vehicle was first licensed by the Council to be used as a hackney carriage. Vehicles written off for insurance purposes**

Vehicles written off for insurance purposes

3.4.11 The Council will not renew any licence to use a vehicle as a private hire vehicle if the relevant vehicle has ~~been~~ **become** graded as a Category A, Category B or Category C or Category S write-off for insurance purposes **after the date on which the vehicle was first licensed by the Council to be used as a private hire vehicle.**

In response to Members the Principal Officer (Licensing), WRS stated that the consultation period would be a short period of 4 weeks, with the responses received to the consultation being presented to a future meeting of the Licensing Committee. All licensed drivers would be consulted with individually and information would be included on the Councils' relevant website pages.

Members asked if the proposed policy changes, should they be approved by Members following the consultation responses received, be included on the Council's website under 'Frequently Asked Questions (FAQ)?'

The Principal Officer (Licensing), WRS explained that WRS officers had not included a FAQ section onto the Council's website, however, this was a valuable suggestion which he was happy to look into. The Council's Hackney Carriage and Private Hire Licensing Policy was a lengthy and detailed document, so it could prove useful to look at condensing the contents into salient points and also questions that WRS licensing officers were frequently asked into a FAQ section on the Council's licensing web pages. This may also reduce the number of similar enquires that licensing officers received.

The Principal Officer (Licensing), WRS agreed to present a report on the possibility of including FAQ on the Council's website to the next meeting of the Licensing Committee to be held on 9th September 2024.

RESOLVED that

- a) officers carry out a short, targeted consultation exercise on amending the wording of paragraphs 3.3.11 and 3.4.11 of the Council's Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 2 to the report,
- b) the responses received to the short, targeted consultation exercise be presented to a future meeting of the Licensing Committee; and
- c) as detailed in the preamble above, that a report on the possibility of including FAQ on the Council's website be presented to the next meeting of the Licensing Committee on 9th September 2024.

9/24

LICENSING COMMITTEE WORK PROGRAMME 2024/2025

The Committee considered the Work Programme for 2024/2025.

RESOLVED that the Licensing Committee Work Programme for 2024/2025, be noted.

10/24

ANY ENFORCEMENT / APPEALS UPDATES - VERBAL

There were no Enforcement / Appeals updates.

The meeting closed at 6.58 p.m.

Chairman