



LICENSING AND ENFORCEMENT COMMITTEE

MEETING : Tuesday, 19th March 2013

PRESENT : Cllrs. Noakes (Chair), Tracey, C. Witts, Lugg, Ravenhill, Hanman, Toleman, Randle and Gilson

Officers in Attendance

Steve Isaac, Solicitor

Lisa Jones, Food Safety and Licensing Service Manager

APOLOGIES : Cllrs. Porter, Brown, Durrant and Mozol

19. DECLARATIONS OF INTEREST

There were no declarations of interest.

20. MINUTES

The minutes of the meeting held on 11th September 2012 were confirmed as a correct record and signed by the Chair.

21. PUBLIC QUESTION TIME (15 MINUTES)

There were no questions from members of the public.

22. PETITIONS AND DEPUTATIONS (15 MINUTES, MAXIMUM 3 MINUTES PER PERSON)

There were no petitions or deputations.

23. APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Chair agreed to vary the order of the agenda to allow this matter to be considered later in the meeting to give the opportunity for the applicant to be present and for the vehicle to be inspected.

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24. PROPOSED REVISED DRAFT CONDITIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

The Food Safety and Licensing Service Manager presented the Committee with a report on proposed revised draft conditions for Hackney Carriage and Private Hire Licensing. Members were asked to approve these revised draft conditions to enable a formal consultation process to take place before endorsement of the final documents at the next Licensing and Enforcement Committee on 18th June 2013.

The Food Safety and Licensing Service Manager outlined the background to the report and highlighted the suggested changes which would require amendment of the three Rule Books and the Hackney Carriage and Private Hire Regulatory Guidelines. Whilst a number of the changes were minor, the Committee's attention was drawn to those revisions which were new or significant and thus required greater deliberation. At this point, the Chair advised Members not to consider the amendment described at 3.9 (a) of the report as it related to the matter of a Private Hire Vehicle Licence Application which had been deferred until later on the agenda.

Members examined the proposed amendments.

Councillor Lugg believed that the timescale for renewal of a Hackney Carriage driver's licence was too short and could penalise drivers who were unwell or away on holiday. The Food Safety and Licensing Service Manager agreed to change the period to six weeks and also clarified a further query from Councillor Lugg regarding insurance.

Councillor Tracey noted the proposed insertion of conditions in the Hackney Carriage Rule Book relating to Horse Drawn Hackney Carriages and asked if horse drawn carriages used for racing and weddings could be regulated. The Food Safety and Licensing Service Manager responded that these were not licensable activities.

Councillor Witts queried if licensed drivers were permitted to use another driver's licensed vehicle. The Food Safety and Licensing Service Manager confirmed that this practice was legitimate.

Councillor Toleman sought clarification on the rules regarding cycle cabs. The Food Safety and Licensing Service Manager advised that central government was currently planning reforms of legislation surrounding rickshaws. In the event that the City Council received an application for a rickshaw licence it would be necessary to bring it before the Committee and to draw up the relevant policy.

RESOLVED

That with the exception of the change proposed in 3.9(a), the revised Policy for Hackney Carriage and Private Hire Licensing be approved for 8 weeks' consultation.

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25. STREET TRADING REVIEW OF POLICY

Members considered a report which informed them of proposed changes to the Council's Street Trading Policy, required to comply with the European Services Directive 2006/123/EC of 12th December 2006 and the Provision of Services Regulations 2009.

The Food Safety and Licensing Service Manager outlined the various street trading activities undertaken in public streets. Members were informed that the Council's current criteria for determining street trading applications was not compliant with Articles 10 and 14 of the Directive reflected in the Regulations and that the existing policy needed revision to protect the Council from any judicial challenge. Additionally, the report proposed delegation of appeals against decisions to a Licensing and Enforcement Sub-Committee to avoid delays.

The Food Safety and Licensing Service Manager concluded her presentation by highlighting the changes that would be required to the Council's Constitution and the delegations that would apply once the revised Constitution had been approved.

Members were asked to approve the removal of the non-compliant criteria for determining street trading applications; and to recommend the proposed delegations as set out in the report for endorsement by Full Council on 21st March 2013.

RESOLVED

1. That the 'Criteria for Determining Street Trading Consent Applications in the City of Gloucester' be revised to remove the two criteria set out in paragraphs 5.2 and 5.3 of the report in respect of determining applications for Street Trading Consents.

2. That Full Council be recommended to resolve:-
 - (1) That the delegated function to consider appeals against officer decisions on street trading applications is delegated to the Licensing and Enforcement Sub-Committee

 - and

 - (2) That the delegated function to determine and approve Street Trading Policy is delegated to the Full Licensing and Enforcement Committee.

26. MEMBERS' UPDATE FOR LICENSING AND ENFORCEMENT COMMITTEE

Members were presented with an update on key licensing activities carried out in the last quarter. Details of future work and the updated Forward Work Plan to March 2016 were also included in the report.

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The Committee discussed issues regarding 'A' boards and the positioning of tables and chairs in the pedestrianised streets. The Food Safety and Licensing Service Manager asked Members to contact her with any concerns.

The Chair thanked the Food Safety and Licensing Service Manager for producing the report.

RESOLVED

That the report be noted.

27. APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE UNDER SECTION 48 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Committee had agreed to defer this item until later in the agenda to give the opportunity for the applicant to be present and the vehicle to be inspected. As the applicant had not arrived, Members agreed to consider the application in his absence, based on the report, including documentary evidence and photographs, without being able to inspect the vehicle.

The Food Safety and Licensing Service Manager outlined an application by Mr S Green for a new private hire vehicle licence for a BMW 730 LD SE registration number YK12 RXH which was presented to Members on the grounds that the vehicle did not meet the specification required by the Council's policy on Door Panels.

Members were reminded of the Council's current policy and conditions set out in the Private Hire Rule Book regarding the positioning and size of the door panels and were advised that some drivers were experiencing difficulties in meeting the minimum size because of the variety of different door sizes. This had resulted in some cases in magnetic panels not adhering to doors and becoming a hazard. Additionally, Members were advised that more new vehicles were being manufactured with fibre-glass or aluminium doors due to the light weight properties of the materials and that this was likely to result in more vehicles not meeting the Council's current policy conditions because they would not be able to use magnetic signs.

The Food Safety and Licensing Service Manager reported that Mr Green had requested to relocate the door signs to the rear wings as the doors to his BMW were made of fibre glass rendering them non-magnetic. Mr Green had been granted temporary permission to trial the new plates under the delegated power of the Group Manager for Environmental Health and Regulatory Services. This temporary permission had been granted on the proviso that the matter be brought before the full Licensing and Enforcement Committee for approval.

Members' attention was drawn to Appendix A of the report which set out a proposed change in wording to the Council's policy to focus on the minimum standard being the mandatory wording as opposed to the size of the panels and overall positioning.

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The Food Safety and Licensing Service Manager summarised the report by reminding Members of their options after considering the application, Mr Green's submission and the Council policy. The Committee was recommended to resolve to either:-

- (a) Refuse the application on the grounds that the vehicle fell outside of the Council's policy on acceptable door panels for licensing purposes because it did not meet the Committee's objectives behind the imposition of that particular condition.

OR

- (b) Accept the application on the grounds that the vehicle was of such a high specification that Council policy could be departed from for that particular case.

AND

- (c) Agree in principle to change the existing policy wording around door panels to accommodate vehicles manufactured with fibre-glass or aluminium doors.

Councillor Witts believed that the driver should have been aware of the conditions in the Private Hire Rule Book when he purchased the vehicle and queried why he could not have selected a vehicle which met the Council's requirements. The Food Safety and Licensing Service Manager acknowledged this comment, and added that the Council was likely to receive an increasing number of similar applications in the future.

The Chair reminded Members that an alternative approach could be to make it optional to have a door panel. However, the Committee had previously requested that private hire drivers had door panels to make them easily recognisable to the public and the Chair cautioned against this course of action.

Councillor Lugg stated that the panels were clearer on the wings of the car as door signs could be obstructed by drivers standing in front of them.

RESOLVED

- (a) That the application be accepted on the grounds that the vehicle was of such a high specification that Council policy could be departed from in this particular case.

AND

- (b) That the existing policy for Private Hire Licensing be revised as set out in 3.9(a) of the report on 'Proposed Revised Draft Conditions for Hackney Carriage and Private Hire Licensing' and issued for consultation.

28. UPCOMING LICENSING AND ENFORCEMENT SUB-COMMITTEES

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The Chair reminded Members of the work associated with licensing and enforcement and advised them of future sub-committees which would need to be scheduled in April 2013 requiring attendance by Members.

Councillor Witts thanked the Officers for their efforts in arranging the sub-committees. The Chair echoed this comment.

29. DATE OF NEXT MEETING

Tuesday 18th June 2013 at 18.30 hours.

Time of commencement: 18:30 hours

Time of conclusion: 19:30 hours

Chair