

**BRIGHTON & HOVE CITY COUNCIL**

**LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)**

**3.00PM 29 JUNE 2017**

**COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ**

**MINUTES**

**Present:** Councillors O'Quinn (Chair), Morris (Deputy Chair), Deane (Group Spokesperson), Bell, Cattell, Cobb, Gilbey, Hill, Horan, Janio, Lewry, Page, Phillips, Simson and Wares

**PART ONE**

**1 PROCEDURAL BUSINESS**

**1a Declarations of Substitutes**

1.1 Councillor Janio was present in substitution for Councillor Hyde.

**1b Declarations of Interest**

1.2 There were no declarations of interests in matters listed on the agenda.

**1c Exclusion of Press and Public**

1.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

1.4 **RESOLVED:** That the press and public be not excluded from the meeting during consideration of any items contained in the agenda.

**2 MINUTES OF THE PREVIOUS MEETING**

2.1 **RESOLVED** – That the minutes of the Licensing Committee (Licensing Act 2003 Functions) Meeting held on 2 March 2017 be agreed and signed as a correct record.

**3 CHAIR'S COMMUNICATIONS**

**Update – Taxi Forum / Uber Taxis**

- 3.1 The Chair stated that on the taxi front it had been less antagonistic since the last meeting of the Committee. The Taxi Forum meeting which had taken had ran relatively smoothly and although many complaints continued to be received about Uber taxis parking in taxi ranks and Uber taxis from as far away as Birmingham plying their trade here, there had not been quite the same level of hostility as before. That could be the calm before the storm, however, as Uber's licence was due to be renewed in November. The planned National Taxi demonstration had not taken place as planned – it had been postponed- because of the Manchester terrorist attack which had occurred the previous day. It should be noted that taxi drivers in Manchester had been of great assistance to those who were affected by the attack on the night – ensuring that people got home safely, often without charging for their services. The union had not as yet, provided information regarding when the Taxi Demonstration would now be but the Chair suspected it might be in the autumn.
- 3.2 The Chair, was also able to confirm that a meeting had eventually taken place with representatives of Transport for London (Tfl) and that it had been a very productive meeting. As a result of the meeting arrangements were now in place for a number of joint enforcements over the coming months. The Chair was sure that this will be welcomed by Brighton and Hove licensed taxi drivers, as it helped to create a level playing field.
- 3.3 A training session about taxis regulations and related issues had been organised for Members and would take place at the end of September although the date had yet to be confirmed. It was intended that this would be helpful in increasing member's awareness and understanding of the present situation in the city.
- 3.4 **RESOLVED** – That the content of the Chair's Communications be received and noted.

#### **4 PUBLIC INVOLVEMENT**

##### **4a Petitions**

4.1 There were none.

##### **4b Written Questions**

4.2 There were none.

##### **4c Deputations**

4.3 There were none.

#### **5 MEMBER INVOLVEMENT**

##### **5a Petitions**

5.1 There were none.

##### **5b Written Questions**

5.2 There were none.

### 5c Letters

5.3 A letter had been submitted by Councillor Mac Cafferty in the following terms and as set out in the agenda:

“I write to express my concern at the council’s current policy position with regard to on-street trading. I have been in regular contact with residents of Selborne Road in my ward since early January about a particular street trader.

My discussion with my residents echoes the frustration expressed by other Councillors at licensing committee in March. I welcomed the moves at that committee to begin the necessary discussion about a fresh look at street licensing including the new approach outlined viz: *“2.3 That the committee requests officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations, and bring a report to the next committee for consideration.”*

I have been in regular contact with residents and raised queries with the city’s parking highway, enforcement, environmental health and licensing teams, however nothing has changed sadly. Please find attached Appendix A my email to council officers from 9<sup>th</sup> March which outlines some of the overarching concerns we continue to have. The same trader has been parked in a pay and display parking zone now for over half a year.

Residents are exasperated by what they see as a faulty policy framework with little or no effective enforcement mechanisms. The trader in question is trading at all times of the day and night; is causing nuisance in parking for weeks at an end- without the trading receptacle being removed from the trading site at the end of each trading day; and further has taken no effort to provide for collection of rubbish. They have been able to do this because of the lack of clarity over zoning including the attitude of enforcing officers to the edge of the zone.

I have a number of outstanding questions around the policy:

- What evidence is currently required by council officers to demonstrate compliance with policy?
- What monitoring is undertaken about street traders complying with policy in Zone A?
- Under the existing policy is there a provision for rejection of street traders if they continue to cause problems for residents as outlined in the street trading policy?

In the circumstances I would argue the licensing authority should now consider much more robust policy which will be fairer for all- residents as much as street traders. At the very least it should include:

- Consideration of Zone A expansion;
- Or, at the very least, clearer policy for the edge of Zone A;
- Tougher rules and much clearer enforcement mechanisms for traders unprepared to follow policy, including transparent warning signals.
- Changing the designation of streets in zones A and B;

- Consideration of options to prevent or restrict traders from trading on yellow lines and contravening any road traffic regulations.”

5.3 The Chair, Councillor O’Quinn invited Councillor Mac Cafferty to speak to his letter. Councillor Mac Cafferty reiterated his concerns and having listened to all that had been said the Chair, responded in the following terms dealing with each of the concerns raised by Councillor Mac Cafferty in the order in which they had been put:

“Following a complaint the above procedure would be followed. The matter would be monitored by officers and the complainant may also be asked to keep a record, not only to be used in evidence but also to inform officers of the best time to monitor (also see answer above).

If an existing street trader was found to be breaching the Policy then the enforcement policy would be followed as outlined above. If a breach is witnessed then usually a warning notice is issued and any subsequent breach could lead to revocation or prosecution. If the breach is an appropriately serious case the licensing authority would look at straight revocation without the need to serve a warning notice

The Licensing Committee will consider a report to review the Street Trading Policy Item 6 on this afternoon’s agenda. Members will be asked to note the contents of the report and decide which of the following options (if any) to ask officers to initiate consultation on in order to change the Street Trading Policy.

(1) Consult on amending conditions so that trading cannot take place on yellow lines and/or otherwise contravene TROs (Traffic Regulation Orders) including parking restrictions. Legislation allows for the Council to vary the conditions of a street trading consent as they consider reasonably necessary. Conditions may specify trading time limits on yellow lines or parking restrictions, e.g. 30 minutes; and

(2) Consider re-designating some of the streets in Zones A & B. This would require a wholesale review of the policy with statutory provision to consult. A firm proposal with rational and identification of proposed consent streets to become prohibitive streets would be needed to go out to consultation. Therefore, resolve to set up an officer and member working group to consider this.

### **Selbourne Road Street Trader**

This trader in question currently holds a valid Zone B street trading permit and as such can trade within Zone B providing they are not causing a nuisance, obstruction or danger to the public, as well as complying with the conditions of the permit. Since receiving complaints relating to this trader, relevant council departments have investigated issues of nuisance, obstruction, parking and licensing breaches.

Licensing officers have monitored several times and a warning letter has been issued regarding not moving the vehicle from the trading site at the end of the trading day. Since that time officers have continued to monitor and no further breaches have been observed.

As well as holding a Zone B street trading permit the vehicle owner holds a trader's parking permit and residents parking permit allowing him to park in the residents' bay.

Our records show that since April 2017 no new concerns have been raised with this office regarding this trader, however any further complaints received will be investigated."

- 5.4 **RESOLVED** – That the contents of the letter received from Councillor Mac Cafferty and the response given to it be noted. It is also noted that a report entitled "Street Trading Policy Review" Item 6 on the agenda is to be considered and recommendations in respect of that matter agreed.

#### 5d **Deputations**

- 5.5 The Committee were requested to consider the Notice of Motion prepared by the Green Group and referred from the meeting of Council on 6 April 2017 details of which were set out on the agenda and below:

"This council notes the damaging effects of diesel engine emissions to people's health and to the environment and would welcome accelerating initiatives that will reduce this harm and lead to cleaner air. This council resolves to:

(1a) Request the Environment, Transport & Sustainability Committee to call for a report taking into consideration;

(1b) Whether it would be possible to follow the example of Westminster City Council and introduce visitor parking differentials to incentivise diesel vehicle drivers not to enter the highest polluted areas of the city;

(1c) Options to enforce the Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 in relation to vehicle idling offences;

(2) Request the Licensing Committee to consider calling for a report detailing the options to ensure that all new taxi licences issued under the council's policy of managed growth are for low emission vehicles only, and that all replacement taxis are low emission vehicles;

(3) To facilitate (2) above, this council requests the Chief Executive to write to Business Secretary, Greg Clark, requesting that financial assistance be made available to taxi drivers switching to more environmentally friendly vehicles, as announced at the recent opening of the new London Taxi Company factory in Coventry."

- 5.6 The Chair, Councillor O'Quinn, invited Councillor Deane to speak in support of the Deputation Having heard all that had been said, Councillor O'Quinn responded as set out below:

“We have the Council’s Air Quality Action Plan which details a number of initiatives for improving air quality. We do not have a current taxi licensing emissions policy. However, we are looking at different initiatives including electric taxis, and some of the taxi fleet have had exhaust adaptations to reduce oxides of nitrogen emissions and this was facilitated using Department of transport funding. We also have an age policy for new and replacement vehicles.

An unmet demand survey is due to take place next year, as is a review of the Blue Book, so any changes regarding emissions could be incorporated at that stage. Any policy change would go to licensing committee for approval and we anticipate that air quality issues in relation to taxi fleet will be discussed at a future Licensing Committee.”

5.7 The Chair, Councillor O’Quinn, then opened the matter for Member discussion. Councillor Wares noted the Chair’s response and further proposed that a report responding to the issues raised and providing a further update be provided to the next scheduled meeting of the Committee. This was seconded by Councillor Page and the Committee concurred with the proposal.

5.8 **RESOLVED** – (1) That the contents of the Deputation and the response given be noted; and

(2) That a report responding to the points set out in the Deputation be provided for consideration at the next scheduled meeting of the Committee.

## 6 STREET TRADING POLICY REVIEW

6.1 The Committee considered a report of the Director of Neighbourhoods, Housing and Communities providing an update in response to decisions taken by the Committee at its meeting held in November 2016. At that time the Committee had requested officers to explore options for a review of the street trading policy with a view to changing the designation of streets in zones A and B and to consider options to prevent or restrict traders from trading on yellow lines or otherwise (potentially) contravening any road traffic regulations. This request had related primarily to councillor/resident/business enquiries into two mobile traders with Zone B permits trading close to the Zone A boundary of Church Road, Hove. One trader had been trading on double yellow lines and the other from a residents parking bay.

6.2 For members assistance it was confirmed that:

The regulation of street trading by consents covered infrequent itinerant trading. There was no right of appeal against refusal and so it was vital that licensing authorities behave in a fair and reasonable manner. An established street trader would have a reasonable expectation that his/her consent would continue. The primary purpose of Street Trading consent regulations’ was to prevent obstruction of the street or danger to persons using it, or nuisance or annoyance to people using the street or otherwise. The nature and extent of any consultation would depend on the change proposed and those affected, namely a wholesale review or varying conditions.

- 6.3 Councillor Janio referred to the proposed Conservative Group amendment which had been tabled prior to the meeting, this was seconded by Councillor Wares and sought to amend the recommendations set out below:

“Recommendations:

2.1 Agrees that consents for street trading will prohibit trading on double yellow lines and/or where other (Traffic Regulation Orders)TROs including parking restrictions exist.

2.2 Agrees that a working group be established comprising officers and a member of each political group to propose the establishment of exclusion zones to bring a report to the next committee for consideration.”

- 6.4 The Chair agreed that the proposed amendment would be considered during debate of the report and would be voted on when the Committee were considering the officer recommendations.
- 6.5 Councillor Deane sought clarification of the legality of vehicles parking and trading on double yellow lines. The Public Health Licensing Lead, Jim Whitelegg, explained a trading permit effectively suspended the restriction, however vehicles should not be parked in a bay unless/when they were not trading and that advice was taken from the highways team before deciding whether/what action might be appropriate.
- 6.6 Councillor Deane stated that she whilst accepting this it did seem somewhat perverse. Councillor Bell concurred stating that it appeared unfair to those who had purchased residents parking permits for example could be disadvantaged in this way. He considered it unfortunate that an officer was not present from highways in order to answer any questions arising and it was agreed that a representative would attend future scheduled meetings of the Committee.
- 6.7 Councillor Wares sought clarification regarding the consultation process as he was of the view that Members needed to determine what they were going to consult on before proceeding. Councillor Wares also sought clarification of the legal position in that respect.
- 6.8 The Legal Adviser to the Committee, Rebecca Sidell, advised that there was power to vary conditions but that consultation with those affected by the proposed changes and other relevant authorities was necessary before any decision to vary was made.
- 6.9 Councillor Page sought clarification regarding those who would need to be consulted and it was confirmed that both the public and street traders would need to be consulted.

- 6.10 The Conservative Group amendment was voted upon but was lost and Members then went to the vote on the substantive recommendations in the report.
- 6.11 **RESOLVED** – That consideration be given to re-designating some of the streets in Zones A & B and to specifying trading times on yellow lines or parking restriction. As a firm proposal would be required with rationale and identification of proposed consent streets to become prohibitive streets would be needed to go out to consultation.

## **7 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING**

- 7.1 The Committee considered a report of the Director of Neighbourhoods, Communities and Housing the purpose of which was to provide Members with an update on enforcement action taken against Hackney Carriage and Private Hire Drivers and Applicants between February and June 2017.
- 7.2 Councillor Simson stated that it was of great concern to her that some of the sanctions appeared to very light touch in that they did not appear to reflect the severity of the offences that had occurred. It was explained that the action taken was in line with agreed procedures set out in legislation.
- 7.3 Councillor Wares whilst accepting this to be the case stated that it would be useful for Members to receive details about that, otherwise they were considering the information provided in a vacuum. Councillors Cattell and Page concurred in that view, the Chair, Councillor O'Quinn also agreeing that it would be helpful for Members to receive this information separately from the meeting for in order for them to be better informed in this matter. It was agreed that would be done.
- 7.3 **RESOLVED** – That the contents of the report be received and noted.

## **8 ITEMS REFERRED FOR COUNCIL**

- 8.1 There were none.

The meeting concluded at 5.00pm

Signed

Chairman



Dated this

day of