

Licensing Committee

Minutes of a meeting of the **Licensing Committee** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Thursday, 9 February 2017** at 10.00am

Present:

Councillor I Linington (Chair on election)
 Councillors W Botting, B Bovington, M Chartier, P Gander and T Rowell

Officers Present:

E Hele, Environmental Health Service Manager
 S Lindsey, Licensing Officer
 J Norman, Committee Officer
 M Wilkinson, Solicitor
 R Wynn, Environmental Health Specialist

Minutes	Action
<p>12 Election of Chair of this Meeting</p> <p><u>Resolved:</u></p> <p>12.1 That Councillor Linington be elected Chair of the Licensing Committee for the duration of this meeting.</p>	
<p>13 Minutes</p> <p>The Minutes of the meeting held on 8 December 2016 were approved as a correct record and signed by the Chair.</p>	
<p>14 Apologies for Absence/Declaration of Substitute Members</p> <p>Apologies for absence had been received from Councillors S Adeniji, S Gauntlett and A Loraine.</p>	

15 Determination of Operator's Licence Uber Britannia UK

The Committee considered Report No 35/17 relating to the granting of a Private Hire Operator's Licence to Uber Britannia UK.

The Environmental Health Services Manager explained that although he had the authority to grant the Licence to Uber Britannia UK, he thought it good practice, in consultation with the Chair of the Committee, to bring the application before the Committee so that it could make the final decision whether or not to grant the Licence.

He highlighted that it was appropriate that the application detailed in Report No 35/17 be considered properly on its own merits, as Uber Britannia UK operated differently from other private hire operators within the District.

The Environmental Health Services Manager explained that Uber Britannia UK had its own booking and payment system via a mobile phone app. He further explained the process for booking, types of vehicles available, fares and payments, and safety features as detailed in paragraphs 1.3 to 1.6 on pages 12 to 14 of the Report.

The Environmental Health Services Manager brought to the Committee's attention legislation and policy regarding Private Hire Operators and Private Hire Vehicles, as set out in paragraphs 2.1 to 2.2 on pages 14 to 15 of the Report. He noted that Uber Britannia UK only used individuals who held a Hackney Carriage or Private Hire Drivers Licence, having had the individual's suitability and rights to work checked with a Licensing Authority.

He highlighted paragraph 6 on pages 15 to 16 of the Report, which explained that under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 Act, the Council should not grant a Licence unless it was satisfied that the applicant was a fit and proper person to hold an Operator's Licence. This was the only grounds on which an application could be refused.

The Environmental Health Services Manager brought the Committee's attention to paragraph 7 on pages 16 to 17 of the Report, which listed the following options available to the Committee when making its decision:

- To grant the application in full without any additional conditions (other than the amended mandatory conditions imposed by Lewes District Council);
- To grant the application imposing conditions under Section 51(2) of the Local Government (Miscellaneous Provisions) Act 1976; or
- To refuse the application.

The Committee queried whether or not the refusal to grant the application for a Private Hire Operator's Licence to Uber Britannia UK may eventually be taken to a Magistrates' Court. The Environmental Health Services

Manager confirmed that if it refused to grant the application and this was appealed, the decision would go to a Magistrates' Court and the Council would be responsible for any costs incurred. He further explained that the Committee would have to have substantial reasons for why it did not feel that the Operator was fit and proper in accordance with the legislation on paragraph 6 on pages 15 to 16 of the Report.

Resolved:

- 15.1** That the application for the granting of a Private Hire Operator's Licence to Uber Britannia UK as set out in Report No 35/17, be approved.

The Resolution was put to the meeting and the vote thereon was recorded in accordance with Council Procedure Rule 18.5 as follows:

For the Resolution:

Councillors Botting, Bovington and Linington.

Against the Resolution:

Councillors Chartier, Gander and Rowell.

Casting Vote:

The Chair of the Committee, Councillor Linington, voted for the Resolution.

16 Street Trading in Lewes District

The Committee considered Report No 36/17 which sought the Committee's approval of the findings of the consultation on the Committee's preliminary decision to un-designate streets within Lewes District as Consent Streets, with the exception of those named in paragraph 1 of the officer recommendations on page 38 of Report No 36/17.

The Environmental Health Service Manager highlighted paragraphs 1.1 and 1.2 on page 39 of the Report when he reminded councillors that at its meeting on 8 December 2016, the Committee had authorised officers to publicise the preliminary decision to un-designate Consent Streets, in accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. It was also resolved that the Committee be requested to reconvene once the 28 day period had elapsed following publication of the statement of intention in order to consider the representations, if any, that were received.

The Environmental Health Service Manager referred to paragraphs 2.1 and 2.2 on page 39 of the Report as he explained that an advertisement was placed in a local newspaper on 15 December 2016, and that the consultation period had ended on 15 January 2017. The consultation was sent to Town and Parish Councils, existing traders and stakeholders. During

the consultation period comments were received from Falmer Parish Council and Highways England. Seaford Town Council had supported the proposal, but no other comments were received.

The Environmental Health Services Manager highlighted paragraphs 2.3 to 2.4 on page 39 of the Report, which detailed that Falmer Parish Council had requested to keep the current controls in Falmer Village, as it protected the village on football match dates hosted at the Amex Stadium. In addition, Highways England had advised whilst it did not object to any proposals, it respectfully requested that the A26 and A27 in Lewes District remain Consent Streets in order to retain control over trading, so as to maintain the safe and efficient operation of the strategic road network.

Resolved:

- 16.1** That the responses to the 28 day consultation period, as detailed in section 2 of Report No 36/17, be noted;
- 16.2** That the A26 and A27 within Lewes District and the named streets in Falmer, as detailed in paragraph 2.3 on page 39 and in Appendix 1 of Report No 36/17, be included as Consent Streets;
- 16.3** That the preliminary decision to un-designate streets within Lewes District as Consent Streets, with the exception of the streets listed in paragraph 4 of the officer recommendations on page 38 of Report No 36/17 be approved, subject to the amendment of Lewes Town – High Street being amended to read “Lewes Town – High Street (up to junction of Rotten Row)”; and
- 16.4** That the Environmental Health Service Manager be authorised to undertake the necessary steps to designate streets identified on pages 38 to 39 of Report No 36/17.

EHSM

Recommended:

- 16.5** That the Licensing Committee recommend to Council that it formally ratifies that the designation of Consent Streets as detailed in Report No 36/17 take effect on 1 April 2017.

17 Taxi Licensing Fees

The Committee considered Report No 37/17 relating to responses to the Taxi Licensing Fees which had been advertised to apply from 1 April 2017.

The Environmental Health Service Manager referred to paragraphs 3.1 and 3.2 of the Report when he reminded the Committee that it had approved the fees set out in Appendix 1 to Report No 37/17 at its meeting on 8 December 2017, subject to any responses received during the consultation period. He noted that no responses were received despite an advert which was placed in the Sussex Express on 29 December 2016, which asked for objections to the proposals to be submitted no later than 1 February 2017. A copy of the

advertisement which was published in the Sussex Express could be found as Appendix 2 to the Report, and a copy of the advertisement had been available for inspection at Council offices at Southover House Reception.

The Environmental Health Service Manager highlighted paragraphs 3.3 to 3.6 of the Report which reminded the Committee that it had queried the £40K surplus for Taxi Licensing at a previous meeting on 8 December 2016 and had requested that a financial appraisal of income and expenditure be provided to the Committee. He brought the Committee's attention to the table in paragraph 3.6 of the Report which detailed the outcome of the requested financial appraisal.

The Environmental Health Service Manager reminded the Committee that there was an intention to use the £40K surplus to modernise the metal license plates to paper and plastic plates, and that the surplus would also be used to offset the cost of having CCTV cameras installed in taxis. He also reminded the Committee that a full review of taxi licensing costs was reported at the previous meeting on 8 December 2016, which resulted in some fees going up and some fees going down.

Resolved:

- 17.1 That officer recommendation 1.3 to Report No 37/17 be amended to read "That the Licensing Committee recommends to Council that it formally ratifies the new fees to take effect on 1 April 2017";
- 17.2 That it be noted that no responses had been received following the consultation on the scale of fees for Taxi Licensing as detailed in Report No 37/17; and
- 17.3 That the scale of Taxi Licensing Fees proposed in Appendix 1 to Report No 37/17 be approved.

Recommended:

- 17.4 That the Licensing Committee recommend to Council that it formally ratifies the new fees as detailed in Report No 37/17, subject to the amendment that the new fees take effect on 1 April 2017.

18 Residential Mobile Home Sites Licensing and Enforcement Policy

The Committee considered Report No 38/17 which sought its approval of the Residential Mobile Homes Sites Licensing and Enforcement Policy.

The Environmental Health Specialist referred to paragraphs 2.1 to 3.6 on pages 46 and 47 of the Report, when she explained that there were five relevant protected mobile home sites in Lewes District: three large residential mobile home parks and two single unit sites. All the current sites had site licence conditions attached to their licences as reflected in the 1960 model conditions of the Caravan Site and Control of Development Act (CSCD) 1960. She further explained that new model conditions were

published in 2008 and that the Council had powers to attach licence conditions under Section 5 of the CSCD 1960. The aim of the Residential Mobile Home Sites Licensing and Enforcement Policy was to upgrade the site conditions to reflect the new model standards and to clearly set out the legislation which related to mobile home sites.

The Environmental Health Specialist highlighted Table 1 on page 48 of the Report, which detailed the impact of the new model standards on the Council, site owners and residents.

The Environmental Health Specialist noted that all of the legislation listed in paragraph 3.1 on page 47 of the Report was written assuming that all homes on relevant protected sites were owner occupied. She further noted in paragraphs 4.1 to 4.2 on pages 48 to 49 of the Report, that it was the experience of the Council that a proportion of the mobile homes were privately rented and as such were not covered by the legislation and were also exempt from the Housing Act 2004, which regulated the private rented sector. The Council would therefore consider the Health and Safety at Work Act 1974 and the Public Health Act 1936 to resolve issues which related to the fabric of the homes that were privately rented.

The Committee thanked the Environmental Health Specialist for all of her hard work in researching and writing the Report.

Resolved:

- 18.1** That the Residential Mobile Home Sites Licensing and Enforcement Policy as detailed in Report No 38/17, be approved.

The meeting ended at 11:15am.

I Linington
Chair