

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING AND REGULATORY COMMITTEE - 19 JUNE 2017

SUBMITTED TO THE COUNCIL MEETING – 18 JULY 2017

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Patricia Ellis (Chairman)	Cllr Tony Gordon-Smith
Cllr Bob Upton (Vice Chairman)	Cllr Carole King
Cllr Maurice Byham	Cllr Libby Piper
Cllr Michael Goodridge	

Apologies

Cllr John Fraser, Cllr Simon Inchbald, Cllr Peter Isherwood, Cllr Anna James and Cllr Robert Knowles

1. APPOINTMENT OF CHAIRMAN (Agenda item 1.)

Councillor Patricia Ellis was confirmed as the Chairman of the Licensing and Regulatory Committee for the Council Year 2017/18.

2. APPOINTMENT OF VICE-CHAIRMAN (Agenda item 2.)

Councillor Bob Upton was confirmed as Vice-Chairman of the Licensing and Regulatory Committee for the Council Year 2017/18.

3. MINUTES (Agenda item 3.)

The minutes of the meeting which took place on 26 January 2017 were confirmed and signed.

4. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda item 4.)

Apologies for absence were received from Councillors John Fraser, Simon Inchbald, Peter Isherwood, Anna James and Robert Knowles.

5. DECLARATIONS OF INTEREST (Agenda item 5.)

Councillor Patricia Ellis declared a non-pecuniary interest on Item 9 “Street Trading Application” as a Member of Cranleigh Parish Council. She informed the Committee that she had not been involved in any discussions or consideration of the application at the Parish Council.

LICENSING ACT 2003 ITEMS

There were no items to report under this heading.

OTHER LICENSING ITEMS

PART I - RECOMMENDATIONS TO THE COUNCIL

There were no matters falling within this category.

PART II - MATTERS OF REPORT

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

6. **THE EQUALITY ACT 2010 - LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES AND EXEMPTION CERTIFICATES** (Agenda item 8.)

The Committee received a report seeking approval for the Council to maintain a list of designated wheelchair accessible vehicles for the purpose of the Equality Act 2010 and the formalisation of the criteria/process that the Council and the Waverley Hackney Carriage and Private Hire licensed trades would have to follow in order to lawfully comply with Sections 165 and 167 of the Act.

The Committee noted from the report that the Equality Act 2010 introduced new provisions in respect of disabled persons and transport. There were several sections within the Act which applied specifically to hackney carriages and private hire vehicles and drivers. Section 165 of the Act, placed the following duties on drivers of designated wheelchair accessible hackney carriages and private hire vehicles;

- To carry the passenger while in the wheelchair;
- Not to make any additional charge for doing so;
- If the passenger chooses to sit in the passenger seat to carry the wheelchair;
- To take such steps as were necessary to ensure that the passenger is carried in safety and reasonable comfort;
- To give the passenger such mobility assistance as was reasonably required

The requirements of section 165 did not apply to drivers who had a valid exemption certificate and were displaying a valid exemption notice in the prescribed manner. The Committee was surprised to hear that the Council was currently dealing with one such exemption but based on the lack of historic requests and small amount of wheelchair accessible vehicles (made by choice rather than requirement), officers did not envisage that many if any exemption requests will be made

The Committee was advised that Section 167 of the Act stated that a licensing authority may maintain a list of hackney carriage and private hire vehicles which are wheelchair accessible that it considers to be wheelchair accessible; e.g. as a minimum, the vehicle is designed for and is able to carry, a passenger seated in a standard "reference wheelchair" and also publish a list of those vehicles. The Committee noted that Waverley currently had 8 wheelchair accessible licensed vehicles.

Following discussion, the Committee considered the recommendations in the report and RESOLVED that

1. Implementing Sections 165 and 167 of the Equality Act 2010 as laid out in the main body of the report be agreed and looks to implement within a period of six months from the date of the Committee meeting if it is possible to do so;
2. The final setting of this future date be delegated to the Head of Policy & Governance and/or the Licensing Manager; and
3. The suggestion made by the Department for Transport (DfT) and the Government that applications and decisions on medical or physical exemptions for drivers will be fairer and more objective if medical assessments are carried out by an appropriately qualified medical professional who is independent of the driver and this will be achieved by referring the driver/applicant to the Council's Occupational Health provider/assessor who is independent of the Council and such a request and referral for an exemption will be entirely at the applicant's own expense, be adopted.

7. STREET TRADING APPLICATION (Agenda item 9.)

The Committee considered an application from Mr Andrey Andreev, who was present at the meeting, to trade as a 'Kebab Burger Van'. The applicant wanted to operate in Cranleigh High Street (outside 41 High Street- The Post Office) with trading 7 days a week between 1730hrs and 2200hrs at this location. This was a new application.

The Committee was advised that officers had consulted Cranleigh Parish Council, Cranleigh Councillors, Cranleigh Chamber of Commerce, Waverley Borough Council's Planning Department, Surrey Police, Surrey Fire and Rescue Service, Surrey County Council Highways Authority and other relevant consultees. 7 objections had been received to the application. These were received from Cranleigh Chamber of Commerce, two local residents, three local businesses and a representative from Cranleigh in Bloom.

The Committee noted that matters which had been highlighted as concerns included increased littering, concerns of anti-social behaviour and noise nuisance (Public Order and Public Nuisance), potential for damage to local residential and commercial property, obstruction to the Post Office (which had recently increased its opening hours) and that there was sufficient current provision within the local area already.

The Committee had some concerns regarding this application and questioned the applicant on car parking outside the post office and the possibility that access to the building could be made difficult along with traffic, litter and the impact on local residents who lived in the vicinity. Having considered the report and asking questions of the applicant, specifically in relation to the operating hours and distance from the post office, the Sub-Committee withdrew to consider the application at 10.45am.

Whilst the Committee withdrew, the Members were informed that the applicant was willing to change his operating hours to start from 7pm during the week and 5.30pm at the weekends so as to minimise any issues created by working in close proximity to the entrance to the Post Office when it was still open.

Following the Sub-Committee's deliberation the meeting resumed at 11.34am

During the deliberations, the Council's legal advisor was asked to advise the Sub-Committee on legislation regarding Street Trading and application of Conditions.

The Sub-Committee RESOLVED that a street trading consent be issued that permitted the applicant to trade from a stationary van for a period of 6 months and that this would be carefully monitored. The Consent would also be subject to Standard Consent Conditions. The full decision is noted below:

The Sub-Committee considered the application from Mr Andreev to trade on The High Street, Cranleigh and took into consideration the representations received against the application and the information in support from the applicant at the meeting.

Mr Andreev had answered the Sub-Committee's questions and although he did not have complaints against him it was noted that at this location there had been noise, litter and other complaints received previously. The location also had residential properties in close proximity and the Committee felt that operating from this location was not a suitable location. However, the applicant did not have any complaints against his previous work and standard conditions could address concerns.

The Committee welcomed Mr Andreev's proposal to change his operating hours that would address the concerns raised by the Post Office regarding access to its entrance. There are also standard conditions on the licence which addressed public safety and environmental concerns with which Mr Andreev would have to comply. Therefore, the Committee granted the application for a period of 6months, and the consent would be carefully monitored for any issues before any further application was considered.

8. MINUTES OF THE MEETINGS OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE (Agenda item 10.)

The minutes of the meetings of the Licensing (General Purposes) Sub-Committee which took place on 26 January and 16 March 2017 were noted.

9. MINUTES OF THE MEETINGS OF THE LICENSING ACT 2003 SUB-COMMITTEES (Agenda item 11.)

The minutes of the meeting of the Licensing Sub-Committee A which took place on 2 May 2017 were noted.

The meeting commenced at 10.10 am and concluded at 11.39 am

Chairman