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Meeting	Licensing And Regulatory Committee
Date	4 November 2024
Present	Councillors Melly (Chair), Cuthbertson (Vice-Chair), Baxter, Clarke, Hook, Kilbane [withdrew for agenda item 6 Street Trading Consent Policy update], Mason, Nicholls, Ravilious, Warters and Wilson
In Attendance	Sandra Branigan, Senior Lawyer Lesley Cooke, Licensing Manager Helene Vergereau, Head of Highways Access and Development
Apologies	Councillors Knight, Smalley and Widdowson

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## **PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS**

**[See also under Part B]**

### **67. Apologies For Absence (5.35pm)**

Apologies for absence were received and noted for Cllrs Knight, Smalley and Widdowson, and Matt Boxall (Head of Public Protection).

### **68. Declarations of Interest (5.35pm)**

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests that they might have in respect of business on the agenda. Cllr Kilbane noted that as the Executive Member with responsibility for Economy, he would withdraw from agenda item 6 Street Trading Consent Policy update as Make it York were accountable to him. There were no further declarations of interest.

### **69. Minutes (5.35pm)**

Resolved: That the minutes of the meeting held on 11 June 2024 be approved and signed as a correct record subject to the following amendments:

1. In the paragraph of public speaker Arshad Mahmood, change the first sentence to Arshad Mahmood (Chairman of York City Taxi Association) noted that there were 84 wheelchair use taxis.
2. In the paragraph of public speaker Gary Graham change her to he at the beginning of the third sentence.
3. The last paragraph of the oral representations made at the meeting by the applicant under the application for a private hire operator's licence - Mr Neil McGonigle on behalf of Uber Britannia limited ('uber') to change to:  
'Regarding the political manifesto referred to by a public participant, the Senior Lawyer advised that the Monitoring Officer had given legal advice on the meeting. The Chair noted that the Conservative and Liberal Democrat manifestos make no mention of taxis and private hire. The Labour Party had not published their manifesto.'

## **70. Public Participation (5.37pm)**

It was reported that there had been four registrations to speak under the Council's Public Participation Scheme. All were speaking on agenda item 6: Street Trading Consent Policy update.

Andrea Piette noted a number of concerns regarding street trading. She explained that there was an issue with blue badge access to the city centre, which was complex and urgent issue and could not be fairly attributed to street traders. She also noted a concern regarding the MiY balance of power and noted that they would not accept any proposals and she asked how it was justifiable to remove street trade pitches during their busiest periods.

Margaret Rush noted that she and her husband had been running Graham's Ices for 50 years and was a member of the Street Traders Association. Referring to section 24 of the report, she noted that MiY were unwilling to guarantee the location of pitches or consult on it. She noted a number of points in relation to make it York and added that Councillors with links to MiY should make that link clear.

Tom Jackson thanked the Head of Public Protection and the licensing department for work on street trading. Addressing

section 7 of the report he asked that street traders only be moved for road repairs and not for commercial gain. He raised concern regarding his pitch in St Sampson's Square and asked why street traders were being singled out.

Lisa Grimbley (Head of Markets & Events, Make it York (MiY)) thanked the licensing department for the opportunity to consult on street trading. She noted the how increased footfall brought economic benefits to York. She explained that MiY accepted point 11 of the report. She noted that MiY evaluated each event which resulted in changes to events. She noted that MiY would offer street traders a pitch within the footprint of an event and she listed a number of things MiY would like street traders to agree to.

Following speakers, a Member requested a change in the order of agenda. The Chair explained that this would not be possible as the agenda had already been published.

**71. Review of Pavement Café Licensing Process and Guidance (5.52pm)**

Members considered a report that presented options for the Committee to review the Council's pavement café licensing process and guidance following the commencement of the pavement licensing provisions laid out in the Levelling Up and Regeneration Act 2023. The Head Highway Access and Development detailed the report outlined the changes made in line with the law. The Chair explained that a number of items had been decided at budget stage.

In response to questions from Members, The Head Highway Access and Development and officers explained that:

- The Highway Authority had the power to reduce the area of the pavement café if it was for a highway reason and there was not a notice period for that.
- Café pavements on private land were not covered by the guidance and the authority would work with individual businesses to find a solution. Work on this was aimed to start in 2025.
- There has to be a 3 metre wide corridor available on the carriageway/street for emergency services and for larger events any requirements to remove or reduce pavement cafes areas would be identified through the Safety Advisory Group (SAG).

- The Highway Authority requests 2 metre wide footway on new developments where possible.
- There is a requirement for a 3 metre wide corridor on the carriageway for emergency services access and a 1.5 metre available width for footways.
- Business/trade applications for a pavement café to be licensed in areas where Blue Badge holders are allowed vehicular access are considered on a case by case basis.
- The new legislation only covers furniture used by cafés. Other furniture such as A boards are covered under separate legislation (by the Highways Act).
- The fees do not enable full cost recovery for the Council when the cost of administering the pavement café licensing process.
- Advertising on outside barriers could not be considered under planning rules as they are temporary.

The Committee had the following options available to them in making their decision:

Option 1:

1. Note the legislative changes to the pavement café licensing regime and the budget decision made by Council in February 2024 (concerning the pavement café licence fees and licence duration under the permanent regime).
2. Approve the following changes to the CYC local guidance:
  - a. Continue to implement the local guidance where a minimum available width of 1.5m is generally required on footways (with an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours).
  - b. Applications to be treated as new licence applications (at the cost of £500/year) where there is a different licence holder, different premises and/or different terms.
  - c. Update the guidance to state that where internal seating is provided, toilets should be available for customers but accepting that exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets.

Option 2: the Committee could ask for a further review.

The Chair proposed Option 1. This was seconded by Cllr Cuthbertson. Following a vote with eleven Members voting in favour and one voting against, it was:

Resolved:

1. That the Committee noted the legislative changes to the pavement café licensing regime and the budget decision made by Council in February 2024 (concerning the pavement café licence fees and licence duration under the permanent regime).
2. That approval be given to the following changes to the CYC local guidance:
  - a. Continue to implement the local guidance where a minimum available width of 1.5m is generally required on footways (with an exception for level surface streets in the footstreets area, where cafes can be licensed to occupy the full width of a footway during pedestrianised hours).
  - b. Applications to be treated as new licence applications (at the cost of £500/year) where there is a different licence holder, different premises and/or different terms.
  - c. Update the guidance to state that where internal seating is provided, toilets should be available for customers but accepting that exceptions can be made for premises which serve drinks and food as take away premises, without internal seating and without the ability to provide customer toilets.

Reasons: To ensure that the Council's pavement café licensing guidance is in line with the new legislation and to clarify some aspects of the guidance where required.

[Cllr Kilbane left the meeting at 6.12pm].

## **72. Street Trading Consent Policy Update (6.12pm)**

Members considered a report that provided an update on the progress towards implementing a Street Trading Policy. The Licensing Manager outlined the report noting that there was no legal requirement for the policy. She detailed the key changes to the policy, noting that consultation had been carried out. She noted the outcomes of the meeting with MiY and street traders.

She advised that condition 19 in the policy was no longer relevant. She explained that officers would continue to explore solutions and consider how the Street Traders Charter could be incorporated into the policy. She added that the aim was for the policy to go to the February meeting, or if not the March meeting. She explained that paragraph 8.2 was the contentious part of the policy. The Chair noted that the policy was putting into place what already took place.

The Licensing Manager was asked a number of questions from Members to which she explained that.

- Officers were aware of MiY planning in January and they would try to have a policy that took into account the views of different people.
- At present, consents were issued to individual names and officers would look into consents been issued in company's name. If the business was sold to a different person, the consent would need to be surrendered to allow the council to informally tender the site.
- Environmental considerations were lightly introduced in the policy and the council did not tender annually for street trading consents. If a site became available, they would write to people who had shown an interest in trading in the city.
- Regarding the formation of a working group, the Committee could not make a decision that day as it was an update report. Officers would discuss a working group with the Chair.
- At the meeting with MiY and street traders, MiY events such as the Christmas market, ice trail, Halloween/autumn events during half term were discussed.
- MiY have received some negative feedback regarding overcrowding at the Christmas market. They took this feedback and feedback given by the SAG into consideration. The food festival and Viking festival footfall was not as large as that of the Christmas market.
- MiY put out information about the costs of huts and the different fees for the different sizes of huts. The fees for the huts were considerably higher than street trader fees. MiY had said that they would accommodate street traders within the Christmas market offering a pitch, if street traders requested a different location for the pitch a different fee might be charged.
- Regarding the vehicle weight permitted as a street trader, officers would take advice on it from MiY and street traders at their next meeting.

- It couldn't be confirmed that street traders would get a different pitch at the Christmas market.
- [At this point a Member queried the transparency regarding the Leader being a Director of MiY and a member of the Shareholder Committee. Members were advised that appointments were made at Council and the Staffing Matters and Urgency Committee].
- If traders had to be moved, officers would work with MiY to try to relocate them.
- Information was collected when applications were renewed.

Resolved: That the update report be noted.

Reason: To be kept up to date on the development of the Street Trading Consent Policy.

[The meeting adjourned from 6.45pm until 6.50pm].

[Cllr Kilbane rejoined the meeting at 6.50pm].

### **73. Gambling Act 2005 - Statements Of Licensing Policy (6.51pm)**

Members considered a report advising them of the review of the Councils Statement of Licensing Policy (the Policy) and the consultation undertaken. The report sought a recommendation to Council that the Policy be approved and permission to publish the revised Local Area Profile.

The Licensing Manager outlined the report noting the information in the annexes to the report. She noted that there had been one response from GamCare to the consultation. She noted they requested a public health approach be taken to gambling. She added that the last premises licence application was received in 2013 for a betting shop. She then outlined the options available to Members. The Chair thanks Members on the working group, officers and local partners for their work on the policy.

In response to questions from Members, the Licensing Manager explained that:

- With reference to the number of schools in the Rural West Ward, she would check the number with the council Business Intelligence Unit.

- Regarding licensed gambling premises in areas of deprivation, a new applicant and/or licence holder has to do a risk assessment looking at the risks within their area.
- Regarding government guidance, it was not known if this was one of their priorities. Officers were aware that the government had been in contact with the Gambling Commissions.
- Regulation in terms of the national lottery came under the Gambling Commission.

The Committee had the following options available to them in making their decision:

Option 1: Approve the revised Policy and make a recommendation to Council that the Policy is adopted. Authorise officers to publish the revised Local Area Profile.

Option 2: Amend the revised Policy and make a recommendation to Council that the amended revised Policy is adopted. Authorise officers to publish the revised Local Area Profile.

Cllr Cuthbertson moved and Cllr Baxter seconded the recommendation as detailed in Option 1 – to approve the revised Policy and make a recommendation to Council that the Policy is adopted and to authorise officers to publish the profile. On being put to the vote it was unanimously;

Resolved: That;

- It be recommended to Council that the Statement of Licensing Policy be adopted.
- Authorisation be given to officers to publish the Local Area Profile.

Reason: To meet the legislative requirements of the Gambling Act 2005, and recommendations within the Gambling Commissions Guidance to Licensing Authorities.

#### **74. Work Plan (7.04pm)**

Members considered the Committee's Work Plan for the 2024-25 municipal year. During discussion, Officers undertook to find out if street traders and MiY could be invited to the next meeting. The Licensing Manager was asked and confirmed that if the Street Trading Policy was not on the agenda for the



February meeting, there would be an update at that meeting. Regarding the formation of a working group to look at street trading, the Senior Lawyer advised that this could be set up outside the meeting.

Resolved: That an update on street trading update be given at the February meeting should the policy not be on the agenda for approval.

Reason: To keep Members updated on the progress of the Street Trading Policy

## **PART B - MATTERS REFERRED TO COUNCIL**

### **73. Gambling Act 2005 - Statements of Licensing Policy (6.51pm)**

#### **[See also under Part A]**

Members considered a report advising them of the review of the Councils Statement of Licensing Policy (the Policy) and the consultation undertaken. The report sought a recommendation to Council that the Policy be approved and permission to publish the revised Local Area Profile.

The Licensing Manager outlined the report noting the information in the annexes to the report. She noted that there had been one response from GamCare to the consultation. She noted they requested a public health approach be taken to gambling. She added that the last premises licence application was received in 2013 for a betting shop. She then outlined the options available to Members. The Chair thanks Members on the working group, officers and local partners for their work on the policy.

In response to questions from Members, the Licensing Manager explained that:

- With reference to the number of schools in the Rural West Ward, she would check the number with the council Business Intelligence Unit.
- Regarding licensed gambling premises in areas of deprivation, a new applicant and/or licence holder has to do a risk assessment looking at the risks within their area.

- Regarding government guidance, it was not known if this was one of their priorities. Officers were aware that the government had been in contact with the Gambling Commissions.
- Regulation in terms of the national lottery came under the Gambling Commission.

The Committee had the following options available to them in making their decision:

Option 1: Approve the revised Policy and make a recommendation to Council that the Policy is adopted. Authorise officers to publish the revised Local Area Profile.

Option 2: Amend the revised Policy and make a recommendation to Council that the amended revised Policy is adopted. Authorise officers to publish the revised Local Area Profile.

Cllr Cuthbertson moved and Cllr Hook Baxter seconded the recommendation as detailed in Option 1 – to approve the revised Policy and make a recommendation to Council that the Policy is adopted and to authorise officers to publish the profile. On being put to the vote it was unanimously;

Resolved: That;

- i. It be recommended to Council that the Statement of Licensing Policy be adopted.
- ii. Authorisation be given to officers to publish the Local Area Profile.

Reason: To meet the legislative requirements of the Gambling Act 2005, and recommendations within the Gambling Commissions Guidance to Licensing Authorities.

Cllr Melly, Chair

[The meeting started 4.30pm and finished at 7.00pm].