

Meeting	Licensing and Regulatory Committee
Date	22 February 2021
Present	Councillors Mason (Chair), Wells (Vice-Chair), S Barnes, Hook, Hunter, Melly, D Myers, Norman, Orrell, Pearson, Wann, Warters and D'Agorne
Apologies	Councillors Barker and Galvin

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## **ELECTION OF VICE CHAIR FOR THE MEETING**

Due to Cllr Wells, Vice Chair giving apologies for the meeting, there was a requirement to elect a Vice Chair for the meeting. Cllr Myers was nominated as Vice Chair for the meeting, seconded by Cllr Orrell. Following a unanimous vote in favour it was:

Resolved: That Cllr Myers be elected as Vice Chair for the meeting.

Reason: In order that there be a Vice Chair for the meeting.

## **54. DECLARATIONS OF INTEREST**

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. None were declared.

## **55. MINUTES**

[At 5.33pm, the Chair dropped out of the remote meeting because of internet connectivity issues and Cllr Myers chaired the meeting].

Regarding the minutes of the meeting held on 25 September 2020, Cllr Melly outlined the nature of her concerns regarding the accuracy of minute 44 [Taxi Licensing Public Consultation - Vehicle Licences]. She added that the nature of the discussions were to address the climate emergency about taking urgent

action and the recommendation to be made to the Executive Member, who in being present at the meeting was aware of the discussion. With this in mind she agreed with the spirit of the minutes.

Resolved:

- i. That the minutes of the meeting held on 25 September 2020 be approved as an accurate record subject to the corrections of typos in paragraph 4 of minute 43 being corrected and the signed by the Chair at a later date.
- ii. That the minutes of the meeting held on 17 November 2020 be approved as an accurate record and signed by the Chair at a later date.

[At 5.36pm the Chair re-joined the meeting and resumed as Chair].

## **56. PUBLIC PARTICIPATION**

It was reported that there had been one registration to speak on Agenda Item 6 'Taxi Licensing Policy' at the meeting under the Council's Public Participation Scheme.

Wendy Loveday gave an update on the position of North Yorkshire Police enforcement in relation to Uber taxis operating in York and she asked the council to support this. She was thanked by the Chair for her comments, who then invited the Head of Public Protection to provide an update. He advised that the Police position was that they would engage with Uber drivers and suggest to them to go home if they were not working.

In response to a Member question the Head of Public Protection clarified that there was no action the council could take regarding out of town Uber drivers working in York. It was suggested by one Member that an urgent meeting of the Committee be called the following Monday to discuss the matter and Members were advised that this would be outside the statutory timescales for the publication of the agenda. It was agreed that the Chair would email the Committee following receipt of the police response as to its position.

[Cllr Wells, the Vice Chair of the Committee, joined the meeting at 5.49pm and was welcomed to the meeting. She resumed as Vice Chair for the remainder of the meeting].

**57. RENEWAL OF A SEX ESTABLISHMENT LICENCE FOR ZIGGY'S (UPSTAIRS), 53-55 MICKLEGATE, YORK, YO1 6LJ**

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sexual Entertainment Venue (SEV) which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Ziggy's (Upstairs), 53-55 Micklegate, York, YO1 6LJ.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and similar venues. She outlined the report and annexes, noting that consultation had been carried out correctly and that there had been no objections to the application. She advised that there were no mandatory grounds for refusal. She outlined the options available to Members in determining the application. She was asked a number of questions concerning the application to which she responded that:

- The standard conditions applied to every Sex Establishment Licence and the Committee could impose additional conditions.
- The venue was to be licensed as 55 Club.
- The condition regarding the placement of gratuities had been approved by the Committee previously and there would need to be a reason for an amendment to the condition should the Committee wish to amend it.
- An assurance was given that the details of the managers in place when the premises open post lockdown would be updated.
- There had been no crime and disorder issues with the premises. There had been no objections to the application and the police as consultees had not made any comments.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Melly then moved and Cllr Warters seconded approval of the renewal (option 1). In accordance with the revised Standing Orders, a named vote was taken with the following result: Cllrs Barnes, D'Agorne, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters, Wells and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

## **58. UPDATE ON UNDERAGE SALES ENFORCEMENT ACTIVITY**

Members considered a report that informed them of the activity undertaken to prevent illegal sales of age restricted products. The Head of Public Protection gave an overview of the report noting that follow up visits were undertaken the week previous to the meeting during which there was one sale whereupon the customer was not asked to remove their mask. This was a chain store and the same seller as per a previous occurrence. The seller would be interviewed by the council before it decided upon further action to be taken.

In response to questions raised by Members, the Head of Public Protection confirmed that:

- Both visits were for the sale of alcohol.
- He would raise the publicising of the enforcement of underage sales activity with the council communications team.

- There were visits to retailers where complaints had been made. The council could also apply to the Magistrates Court for the placement of surveillance.
- Regarding the differentiation in numbers, this depended on which retailers complaints were made against.

It was then;

Resolved: That the content of the report be noted.

Reason: This report is for information only and is provided following the request of Members at the meeting on 17 November 2020.

## **59. TAXI LICENSING POLICY**

Members considered a report that advised them of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and changes that are required to the Taxi Licensing Policy to implement the recommendations within the Standards. The Licensing Manager outlined the report to Members noting how the coronavirus pandemic had changed the current situation and the need to take this into account. She noted the recommendations, highlighting that under paragraph 15 of the report it was proposed that the following recommendations within the Standards formed part of the consultation:

- a) DBS Update Service
- b) Licensee self-reporting (arrest and release, charge or conviction)
- c) National register of taxi and private hire vehicle driver licence
- d) refusals and revocations – 'NR3'
- e) Basic disclosure checks on vehicle proprietors
- f) CCTV
- g) Use of passenger carrying vehicles (PCV) licensed drivers

The Senior Solicitor advised that there is an error in the penultimate paragraph of 60(d) of the report and that the licensing authority should take the Standards into account when exercising relevant functions.

Members then asked a number of questions to which the Licensing Manager responded that:

- The current policy for CCTV is that CCTV is allowed if the vehicle proprietor asked the council if they could install it as this is classed as a modification to the vehicle. The policy for CCTV had been consulted upon previously.
- Because CCTV was not a legal requirement, the operator was in control of the CCTV and must comply with the requirements of the Information Commissioner Office.
- If the outcome of the consultation was different to the DfT Statutory Taxi and Private Hire Vehicle Standards, consideration would need to be given to the consultation and the licensing authority would legally have to justify why its Policy was not in line with the statutory requirements.
- All fees are set at cost recovery levels.
- Any changes to a private hire operator's licence would not be imposed until the licence was renewed.
- Any vehicle carrying over eight people was licensed by the DVSA.
- With regard to the DBS update service, the driver had to register with the update service. This could result in an increase in the department workload regarding the checks to be undertaken. It was difficult to estimate what the increased workload would be.

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

Option 1:

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Ask Officers to also undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Ask Officers to issue private hire operator's licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

Option 2:

- i) Ask Officers to undertake a formal public consultation with regards to the recommendation from the DfT

Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.

- ii) Determine that a public consultation with regards to additional changes to the Taxi Licensing Policy is not required at this time.
- iii) Ask Officers to issue private hire operator's licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

### Option 3

- i) Determine that further formal public consultation is not required, giving reason why. Ask Officer to amend the Taxi Licensing Policy to bring it in line with the requirements of the DfT Statutory Taxi and Private Hire Vehicle Standards. Bringing the amendment Policy back to this Committee to make recommendation to the Full Council.
- ii) Ask Officers to issue private hire operator's licences, grants and renewals, for a maximum period of 12 months, with immediate effect, until such time that the Taxi Licensing Policy is reviewed.

Cllr Melly then moved and Cllr Orrell seconded approval of Option 1. In accordance with the revised Standing Orders, a named vote was taken with the following result:  
Cllrs Barnes, D'Agorne, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters, Wells and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Officers be asked to:

- i) Undertake a formal public consultation with regards to the recommendation from the DfT Statutory Taxi and Private Hire Vehicle Standards as detailed at paragraph 15 of the report and other changes to the Policy. Bringing the results of the consultation back to this Committee.
- ii) Undertake a formal public consultation with regards to additional changes to the Taxi Licensing Policy, outside the scope of the Standards.
- iii) Issue private hire operator's licences, grants and renewals, for a maximum period of 12 months, with

immediate effect, until such time that the Taxi Licensing Policy is reviewed.

Reason:

- i) To gauge interested parties views on the recommendations within the DfT Statutory Taxi and Private Hire Vehicle Standards, and on additional charges to the Taxi Licensing Policy.
- ii) As private hire operator licences can be issued for a maximum period of five years, this will enable the Council to make sure appropriate conditions are placed on licences at the time of grant or renewal, following the consultation on and implementation of the reviewed Taxi Licensing Policy.

## **60. WORK PLAN**

Members considered the work plan for the remainder of the municipal year. It was agreed that the Chair would share the North Yorkshire Police response regarding Uber drivers operating in York and if necessary convene a meeting following week commencing 8 March.

Resolved: That an update on the reopening of hospitality after the lifting of lockdown restrictions and a report on hackney carriage fees be added as agenda items for the next meeting.

Reason: To ensure that the committee has a planned schedule of work for the year.

Cllr A Mason, Chair

[The meeting started at 5.30 pm and finished at 6.40 pm].