

**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON WEDNESDAY 25 MARCH 2009 FROM 7:00 PM TO 7.45 PM**

Present:- Barrie Patman (Chairman), Gerald A Cockroft, Kay Gilder, Mike Gore, Kate Haines, Kirsten Miller, Denis Morgan, Malcolm Storry and Bob Wyatt

Also present:-

Julia O'Brien, Principal Environmental Health Officer

Madeleine Shopland, Senior Democratic Services Officer

PART I

21. MINUTES

The Minutes of the meeting of the Committee held on 22 May 2008 and 20 January 2009 were confirmed as a correct record and signed by the Chairman.

22. APOLOGIES

Apologies for absence were submitted from Councillors Chris Bowring, Pauline Helliar Symons and Claire Stretton

23. DECLARATIONS OF INTEREST

There were no declarations of interest received.

24. PUBLIC QUESTION TIME

There were no public questions received.

25. MEMBER QUESTION TIME

There were no Member questions received.

26. SAFETY MARSHAL EVALUATION

The Committee received a report setting out the evaluation of information gathered before, during and following the recent safety marshal initiative run by Wokingham Borough Council Community Safety and Licensing Services, in partnership with Thames Valley Police, to employ four safety marshals to operate in and around Wokingham Town Centre over the Christmas period.

It was noted that there had been some teething problems such as some incorrect paperwork and some communication difficulties between the marshals and some drivers. Members were concerned that not all marshals had had a good command of English. The Committee were informed that the Wokingham Times had reported that Thames Valley Police statistics indicated that over the Christmas period Wokingham had the lowest incidence in Berkshire for drink related problems and that the marshals' presence may have been a contributory factor to this result. The safety marshals had also been deployed on Valentine's Day and some issues which had been raised following their deployment at the Christmas period such as communication difficulties were addressed. The safety marshals were deployed once again on St Patrick's Day, although it had proved very quiet. Feedback from the drivers, the Police, venues within the town and the public was on the whole, very positive.

Members expressed concern that following the Christmas initiative several drivers had complained that the marshals had been over zealous in querying their bookings. The

Principal Environmental Health Officer commented that eight reports had been received back from the marshals, not all of which had been clear. A Member questioned why the marshals had approached members of the public and was informed that the marshals had also distributed information on taxi firms to the public. Members asked how much more funding would be available for this scheme and whether there were any plans for its continuation. They were notified that there was not and that funding had been produced in December 2008 and had had to be used up by March 2009. The Principal Environmental Health Officer assured Members that the marshals were SIA registered.

RESOLVED: - That the report on the Safety Marshals Evaluation be noted.

27. MEMBER TRAINING UPDATE

The Committee received a report updating them on the proposed Berkshire wide training on amendments to the Licensing Act 2003 and the Gambling Act 2005. Members were informed that following officers' discussions with the other Berkshire Authorities and the training provider a provisional date of 4th November 2009 had been booked. The Committee was asked to make a note of this date.

RESOLVED:- That the update be noted.

28. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY AMENDMENTS – CLASSIC VEHICLES

The Committee considered a report which detailed the outcome of initial discussions regarding concerns raised in relation to Classic vehicles and their inability to comply with the provisions of the current Hackney Carriage and Private Hire Licensing Policy. Officers had examined what the Council could do in the legal scheme and how they could progress matters. Members were reminded that in order to be licensed, vehicles must be suitable, not lead passengers to believe they had hired a hackney carriage, in a suitable mechanical condition, safe and comfortable and with the appropriate insurance. The Principal Environmental Health Officer indicated that legal clarification had been sought based on the questions previously raised by Mr Neale. She stated that whilst vehicles could be used both for private hire (such as for proms and birthdays) and weddings once the vehicle had been accepted as a private hire vehicle it must comply with legislative requirements on all other occasions it was used.

The Principal Environmental Health Officer outlined the proposed parameters for the definition of a Classic vehicle. This included old style vehicle – pre 1950, low mileage and having 4 doors. Officers would have discretion to allow for exceptions. A Member emphasised that a Vintage vehicle was one built between 1919 and the end of 1930 and that a Classic vehicle was one produced between 1931 and 1973.

Members were informed that should the Committee wish the term 'classic' could be applied to Vintage and Replica vehicles. Several Members commented that they would prefer to see seatbelts in replicas as they were essentially modern cars. Members were notified that the Legal team had advised that replicas were not required to have seatbelts fitted. It was also noted that not all Classic vehicles were able to have seatbelts fitted. The Chairman commented that the Council would not be liable in such cases. The Committee agreed that it would be desirous for customers to be informed that the vehicle did not have seatbelts fitted when they first hired it. Members discussed the issue of two door Classic vehicles and agreed that they would prefer that only four door vehicles be considered as there were potential issues surrounding how the passengers in the back of the vehicle exited it.

The Committee examined the proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to the licensing in the particular circumstances of classic vehicles. In response to questions regarding the proposed amendment that the vehicle must be inspected and pass a standard government MOT every 6 months (rather than the more prescriptive Hackney Carriage/Private Hire vehicle test requirement), the Principal Environmental Health Officer stated this could be made a condition of the licence. Members agreed that the proposed amendments were admirable. The Committee was informed that consultation with the trade could begin in the near future. The Chairman requested that an additional Committee meeting be scheduled for late May or June to enable the Committee to hear the results of this consultation.

RESOLVED:-

- 1) That the following proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to the licensing in the particular circumstances of classic type vehicles be noted.
 - a) Vehicles would be exempt from the vehicle specifications in the Hackney Carriage and Private Hire Policy
 - b) Seatbelt requirement – this is a potentially contentious area –cars that are not currently fitted with seatbelts are legally allowed on the road due to their age – opinions on whether they should be fitted in this instance vary and more views as a result of the consultation are sought.
 - c) The vehicle must be inspected and pass a standard government MOT every 6 months (rather than the more prescriptive Hackney Carriage/Private Hire vehicle test requirement)
 - d) Insurance should be specific for the vehicle to be used to include for hire and reward purposes.
 - e) Vehicles should have a private hire licence plate identification badge fitted internally to the front windscreen.
 - f) The vehicles may only be driven by a driver who holds a Wokingham Borough Council private hire drivers badge.
- 2) That consultation with the trade on these proposed amendments be carried out.

29. VERBAL HEARINGS UPDATE

Members noted that three School Transport Appeals had taken place since the last meeting of the Committee. The Committee were informed that two appeals had been refused and that the third had taken place that day and the decision letter had not yet been issued.

RESOLVED:- That the update be noted.

These are the Minutes of a meeting of the Licensing and Appeals Committee

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TITLE	Hackney Carriage and Private Hire Licensing Policy Amendments – Classic Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee on 20th May 2009
WARD	None Specific
LEAD OFFICER	Julia O'Brien – Principal Environmental Health Officer, Licensing Service Mark Moon - General Manager, Place and Neighbourhood Services

PURPOSE OF REPORT

This report sets out the outcome of the consultation carried out in relation to classic vehicles and a proposed amendment to the Hackney Carriage and Private Hire Licensing Policy for them.

RECOMMENDATIONS

The Committee is recommended to amend the Hackney Carriage and Private Hire Licensing Policy by agreeing the proposed additional requirements for classic vehicles.

SUPPORTING INFORMATION

At a previous meeting of this committee on 25th March 2009 Members considered a report in which amendments were proposed to the existing Hackney Carriage and Private Hire Policy to accommodate classic cars. It was decided that a consultation would take place with the trade and the results brought back to the Committee. Five operators of classic cars which are currently only used for weddings were consulted on the proposed amendments. We received responses from two operators and their comments are incorporated into the final document.

The proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to the licensing in the particular circumstances of classic type vehicles are as follows:

2.3A Requirements for Classic Vehicles

The term "Classic Vehicle" in this policy will be taken to mean either an old style vehicle constructed pre 1 January 1973, or a replica of such a vehicle built after 1 January 1973, does not do more than an annual mileage of 2500 per calendar year, be in very good condition, be garaged when not in use, have a minimum of 4 doors and carry a minimum of 4 passengers. Officers have discretion to allow for exceptions to these requirements for classic vehicles that are generally recognised as being special in their era and that are suitable to convey persons in safety and comfort.

- 1 Classic vehicles are not required to comply with the vehicle standards as set out in paragraph 2.2 of the Hackney Carriage and Private Hire Licensing Policy, although reference must be made to the minimum standards as laid down in Section 48 of the Local Government (Miscellaneous) Provisions Act 1976 with regards to suitability, safety and comfort of the vehicle.

- 2 Where cars are legally allowed on the road without seatbelts there is no additional requirement that they be fitted.
- 3 The vehicle must be inspected and pass a standard government MOT test every six months.
- 4 Insurance must be specific for the vehicle to be used for hire and reward purposes.
- 5 Replica vehicles must be provided with a SVA certificate.
- 6 A private hire licence plate identification card must be fitted internally to the front windscreen
- 7 The vehicles may only be driven by a driver who holds a Wokingham Borough Council private hire badge.

Background

This matter has been brought before the Licensing and Appeals Committee following representations from the owners of vehicles of this type. This has brought about these proposals to amend the existing Hackney Carriage and Private Hire Licensing Policy.

Analysis of Issues

Amendments to existing policy following consultation on proposed amendments. This will enable this type of vehicle to be used legally for hire activities other than weddings and funerals.

Corporate Implications

No financial impact on the council.

Reasons for Decision

To amend the policy previously established by this Committee

Alternative Options considered, if any

Not Applicable.

Reasons for considering the report in Part 2

Not Applicable

List of Background Papers

Hackney Carriage and Private Hire Licensing Policy -June 2008 and consultation responses

Contact Julia O'Brien	Service Licensing Service
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Date 6 May 2009	Version No. One

TITLE	Street Trading Consent Consultation Amendments
FOR CONSIDERATION BY	Licensing and Appeals Committee on 20th May 2009
WARD	None Specific
LEAD OFFICER	Julia O'Brien – Principal Environmental Health Officer, Licensing Service Mark Moon - General Manager, Place and Neighbourhood Services

PURPOSE OF REPORT

This report sets out the proposed additional requirements to be undertaken with regard to resident consultation when a new or renewal street trading consent application is received.

RECOMMENDATIONS

The Committee is recommended to agree the additional steps 1 and 2 for the consultation process detailed in the report.

SUPPORTING INFORMATION

At a meeting of the Environmental Services Committee on 21 March 2000, Members resolved that all streets within Wokingham Borough Council should be designated as Consent Streets using its powers under the Local Government (Miscellaneous Provisions) Act 1982.

The existing consultation policy with regard to residents is to inform all occupiers within a 60 metre radius of the existing or proposed site of the consent application as well as the ward and parish councilors (this was adopted in line with planning application procedures). This in addition to the consultation undertaken with other Council services and partners e.g. Thames Valley Police. There is no statutory requirement to consult on street trading consent applications.

The Authority has received representation that although some residents may be outside the 60 m radius but still within the vicinity, they may feel affected but not receive the opportunity to comment during the representation period.

It is therefore proposed that the consultation procedure be reviewed and Members are asked to consider the following changes:

1. A requirement for the applicant to post a site notice in the location where the van is to be situated. This will allow all those residents living in the vicinity to see the notice and make their representations accordingly.
2. The creation of a register of interest where occupiers who have a particular interest in a site can request that they are consulted on any application for that site.

Background Representation has been received that in some cases residents felt that resident notification of applications was inadequate.
Analysis of Issues Extend consultation process to allow for improved resident notification of an application.
Corporate Implications Proposals have no impact on the general fund.

Reasons for Decision To extend community involvement.

Alternative Options considered, if any Not Applicable.

Reasons for considering the report in Part 2 Not Applicable

List of Background Papers Local Government (Miscellaneous Provisions) Act 1982

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Date 5 May 2009	Version No. One