

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 14 MARCH 2013

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Duncan (Chair), Deane (Deputy Chair), Cobb (Opposition Spokesperson), Lepper (Opposition Spokesperson), Gilbey, Hamilton, Hawtree, Hyde, Jones, Marsh, Pidgeon, Rufus, Simson, C Theobald and Wakefield

Apologies: Councillor Buckley

PART ONE

21. PROCEDURAL BUSINESS

21a Declaration of Substitutes

21.1 Councillor L Wakefield declared that she was substituting for Councillor Buckley.

21b Declarations of Interest

21.2 There were none.

21c Exclusion of the Press and Public

21.3 In accordance with Section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in Section 100I of the Act).

21.4 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any item on the agenda.

22. MINUTES OF THE PREVIOUS MEETING

22.1 Councillor Cobb stated that the word "wheelchair" should be removed from the resolutions set out in Paragraphs 17.3 and 17.5 respectively of the minutes and also from Paragraph 3.1 of Item 27 of that days agenda " Consultation on the Accessibility Policy for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators.

22.2 **RESOLVED** – That subject to the amendment set out above the minutes of the Licensing Committee (Non Licensing Act 2003 Functions) Meeting held on 22 November 2012 be agreed and signed as a correct record.

23. CHAIR'S COMMUNICATIONS

Hackney Carriage and Private Hire Vehicles

Suspensions and Revocations:

23.1 The Chair explained that since the last meeting of the Licensing Committee (Non Licensing Act 2003 Functions), officers in the Hackney Carriage Office had:

Revoked and refused a renewal of one licence as the driver no longer held a DVLA driving licence on medical grounds.

Revoked one licence following the conviction of the driver on drug related offences.

In addition to this one driver had received a formal warning for a motoring conviction and one driver for not declaring pending court proceedings.

23.2 **RESOLVED** – That the position be noted.

24. PUBLIC INVOLVEMENT

24a Petitions

24.1 There were none.

24b Written Questions

24.2 There were none.

24c Deputations

24.3 The Committee received a Deputation from Mrs Krachen-Lashbrook in the following terms:

Subject : Public Health, road safety & nuisance caused by Licensed taxis in Paston Place, Kemptown

Problem: Paston Place has two taxi ranks, in addition to other traffic, and is inundated by over-ranking taxis.

Public Health: This makes it a pollution hotspot where all Defra assessment factors are present and hence legal limits are very probably exceeded- unfortunately measuring has been refused. The city's Senior Technical Engineer states in the 2011 AQAP that air pollution is the biggest factor affecting our health. The city's latest health survey shows a difference in life expectancy between the city centre and the outside, e.g. along the

no. 7 bus route life expectancy decreases by as much as 10 years. There is a clear and compelling link and we are very worried about our health and that of our children.

Road safety: In addition the over-ranking taxis create road safety hazards for local residents and the wider public as the taxis do not adhere to any road traffic regulations but rather operate as if Paston Place were the Wild West.

Nuisance: Drivers do not conduct themselves according to their code of conduct, instead they are abusive, anti-social and threatening to residents. **Noise pollution:** Taxis, especially London cabs and wheelchair accessible vans, make constant noise whilst engine is running during waiting on rank and over-ranking directly outside residential dwellings.

By Residents of Paston Place and Members of the Responsible Licensing Initiative

Request :

Relating to Rank Location:

Move rank 2 away from residential dwellings into a safe distance (back to original place or hospital) and Reconsider location of rank 1 on a hill climb due to its detrimental effect on emissions (downhill better)

Relating to Taxi Management :

Effective enforcement of the bye laws and elimination of the over-ranking problem and its consequences for road safety, health & the right to enjoyment of our properties

Capping taxi licences and operating a licensing strategy that is responsible to the residents, the taxi trade and the wider public. Capping would protect local residents' health and road safety, give drivers a realistic chance of making a living and protect other drivers and pedestrians using Paston Place.

Relating to Air Quality:

Introduce a no Idling Policy:

as a major measure to improve the air in Paston Place and across town for the wider public by utilizing the legislative measures available to AQMA's and widely used in UK. Paston Place are happy to act as a pilot for this new policy.

Introduce RET to monitor taxi fleet, who are a big polluter, again by utilizing this extra legislative measure available to AQMA's. Paston Place is happy to also act as a pilot for this new policy. Introduce instant fines for double yellow lines used by taxis in Paston Place

We are aware of budget constraints and have proposed mostly self-financing solutions based on research into other councils' approaches and are happy to facilitate further research, surveys or other help in order to make this affordable and cost-effective. We are

also happy to collect data such as logs and photographic evidence so by law contraventions can be followed up and prosecuted cost-effectively.

Problems: Road Safety, Air & Noise Pollution and Nuisance:

Paston Place has to accommodate different types of traffic: it is used as a „car park“ for hospital patients, visitors and staff; three bus routes; visitors to church, church community centre and nursery, nursing home; a over-proportionate number of disabled car parking spaces (7) – there are 30 around hospital and area- visitors to Sam’s restaurant and in the evening to the Cabaret. This in addition to residential parking. Paston Place, btw. Eastern Rd and St. George’s, is a narrow and short street. This already makes it a busy street. In addition it has two taxi ranks. Rank 1 has 6 spaces, rank 2 has 2 spaces. Linking them is a little lane, the entrance of which is also filled up. So that both ranks have 9 taxis. Although Marine Parade has a taxi rank only two minutes away, it is always empty. Paston Place has taxis over-ranking, often the entire street between Eastern Rd and St George’s St can become one big rank. Often in addition to 9 taxis on the ranks, up to a further 8 taxis are over-ranking on double yellow lines, disabled spaces, car pool spaces, car park spaces, in the middle of Paston Place or obstructing the adjacent street exits from Sudeley St, Sudeley Terrace and Church Street – usually with their motors running. Sometimes it is like a beehive, sometimes very long waiting times.

Road Safety Concerns:

They obstruct other traffic, such as cars, disabled people, buses. Delivery vans for local residents cannot use dbl yellow lines. Rubbish cannot be collected as they do not make way for the vehicle (residents’ complaints lodged with council). They do not have any consideration for any other traffic. They have established an unofficial ‘over-ranking order’ snaking uphill until they reach the official rank. They often reverse backwards in the one way street seriously endangering oncoming traffic. They are a danger for the road safety of the wider public and the local residents. A residents’ little girl (no 6) was almost knocked over by a over-ranking taxi in front of her house. Taxis ‘own’ our street.

Nuisance:

Disabled residents cannot have deliveries as all spaces and yellow lines are taken. Visitors and residents cannot park when taxis occupy normal parking spaces/disabled bay. Residents requesting the taxi drivers to switch off their motors are verbally abused. One taxi parked unlawfully on the disabled space outside no.13, calling me a ‘bitch’ in the presence of my daughter when I politely requested him to switch off his engine. Another resident has his visitors casually insulted by over-ranking drivers chatting in front of his house about them (no 6). Recently we were threatened that all Brighton taxis would come to Paston Place unless we drop the matter. A threat previously used on another resident (no 11). Over the years numerous complaints relating to drivers’ rude, anti-social and threatening conduct have been placed by various residents and relating to various matters. Some drivers behave like the mafia.

Noise Pollution:

Hackney Carriage „London cabs“ and the now increasing number of wheelchair accessible big vans create a lot of noise pollution, vibration and further increased air pollution. The taxis

also constantly honk to indicate other drivers to move up or other cars need to honk to make the obstructing taxis move.

Air Pollution & Health Concerns:

Eastern St emissions are measured and exceed legal limits. Exceeding emissions there are mostly caused by mass & tally. The measurement is taken opposite the Barry building, adjacent to taxi rank 1. Taxi emissions would significantly contribute to the ambient pollution levels taken there. Most pollution in Brighton is not caused by mass & tally, but by other factors (Defra assessment factors). Paston Place has all these detrimental factors present and will therefore also exceed legal limits. The taxis either idle with running motors or stop/start, both on the rank and whilst over-ranking – throughout the day, evening and night. They constantly move small distances uphill from space to space. This is the pattern of ultra urban traffic, producing very high emissions. Especially as the London cabs and the wheelchair accessible vans are very high emission due to their weight. At ultra urban traffic eco features, if existing, are not effective. Paston Place is a narrow street with less than 15m (8,60 kerb to kerb), has a gradient, so every taxi movement uphill requires extra propulsion which results in highest emissions. The taxis come from around corners, which results in higher emissions from acceleration. The council has no data on the eco-fitting or engine types of their fleet. Although vehicles are commercial and high-mileage, no commercial nuisance legislation seems to be applied to the pollution they cause and emission testing is limited to MOT. Taxi rank 2 is at a distance of less than 5m (3,60m) immediately outside residential dwellings with basement flats (no 9 and 10), who are being 'gassed', as there is no room for dispersion, especially in cold winter weather. Sometimes the rank is extended to no. 13 and taxis occupy both normal spaces and the disabled space behind the rank. This creates a funnel effect and causes the highest health impact on those residents. The same is constantly the case outside no 5 and 6, no 17 and the nursing home. Our health is constantly exposed to the highest emissions of sometimes 17 taxis' simultaneous running motors. In 2011 a log was handed in with a resident (no 6) counting 300 over-ranking taxis outside her house in one day. In February I handed in a log to the HCO with 69 ultra urban movements of over-ranking taxis within 3 h and waiting times of average 18 min. over-ranking and altogether almost an hour to get a fare per taxi – mostly with simultaneous running motors of the 15 plus taxis. Further logs and photos/videos in evidence of all of the above are available on request and a facebook page and youtube channel are under construction.

Enforcement:

When alerting the council to the problem, the Environmental Dept. ignored the aggravating factors and responded with a generic statement, rather than applying the Defra factors and assessing the problem. When we requested pollution monitoring in order to assess the extent of the problem, we were refused. No serious efforts have been made by HCO to enforce the problem, although over-ranking is against the bye laws and a criminal offence. NSL shy away from even enforcing enforceable offences (e.g. parking on disabled space) for fear of abuse from the taxi drivers. Since requesting proper enforcement, it has been noticed that officers target the street only when it is empty, but avoid the street when the problem is present and actively walk away when taxis start over-ranking. We fear misrepresenting data is being compiled to cover their inaction. Cllr Mitchell has looked at the taxi problem in situ and has witnessed it at first hand.

Possible Solutions and Some That Other Councils Have Applied:

Utilize current legislation allows for max 500GBP fine for issues relating to drivers' conduct and bye law contravention is a serious conduct issue/criminal (self-financing enforcement)

Introduce a update for fining bye law contravention, i.e. update original fine of 1GBP in 1875 to equivalent amount today, e.g. 500GBP? (see Galway introduced an entire taxi bill to tackle problem) Establish a points system until licence is withdrawn (points for running motor, offensive conduct, obstruction etc. see

www.portsmouth.gov.uk/media/LIC_Conditions_of_Licence_and_Enforcement.pdf This needs to be adapted to the needs of Brighton and focus on over-ranking, conduct, road safety, idling motors, double yellow lines, eco measures such as optimum air in tyre etc. HCO would be able to utilize residents' complaints and photographic evidence– this seems most promising and cost-effectively Taxi fleet keeps contravening bye laws and is not co-operating, then Increase licence fee to fund necessary enforcement (self-financing) Utilize AQAM legislation provision: introduce fixed fine for idling motors and RET (self-financing); change TMR/TRO and make double yellow lines in street an instant fine (self-financing enforcement) then install quick escalation scheme to prosecution at court (1 warning, then final warning with hearing: if no aggravating factors then caution, if aggravating factors such as obstructing traffic, running motor, last warning in less than 6 months, no promise that bye laws will be followed, then prosecution of bye law contravention. Three pronged enforcement (police, parking, taxi office) over extended periods of time until resistance broken.

(see www.plymouth.gov.uk/failing_to_proceed_guidance_note.pdf). Taxi office happy to inform about approach but requires really pro-active and astute enforcement staff)

If the council cannot protect the local residents and the wider public and effectively enforce, then the rank needs to be removed, especially considering that a rank should never be in a hill climb position due to its higher emissions and detrimental AQ and health effects.“

- 24.4 Ms Krachen-Lashbrook spoke to her petition and drew out the main points from it stating that in her view and that of her fellow deputees the current position and various residents were suffering at the hands of members of the licensed taxi trade was totally unacceptable, action needed to be taken to remedy the situation immediately as the current abuses had gone on for far too long.
- 24.5 Councillor Duncan, the Chair stated that as the matters raised related primarily to matters which fell within the remit of another Committee he did not consider that it would be appropriate for his Committee to consider the Deputation further. Following discussion it was considered that it would be appropriate to refer the Deputation on to the next meeting of the Transport Committee as it was that Committee which had authority over proposed traffic orders whilst this Committee did not. Any report dealing with rank appointment would require traffic orders to be made and should therefore in his view go forward for consideration by that Committee. The Chair stated that in his view before any determination of the matter, a full equality impact assessment and consultation with stakeholders would be essential.
- 24.6 It was confirmed by the Head of Regulatory Services, Planning and Public Protection that as the Licensing Committee was responsible for discharging the Council's functions

for licensing and registration functions, that did include taxi driver behaviour. Councillor Lepper stated that the behaviour referred to was inappropriate and considered that the matter needed to be investigated further and that it would be appropriate for a report detailing the outcome of those investigations to come back to the next scheduled meeting of the Committee on 27 June. In the meantime she considered it would be appropriate for the taxi drivers' trade association to be made aware of this issue. Other Members of the Committee were in agreement.

24.7 It was explained that details of the Deputation would be provided to the Clerk to the Transport Committee who would then contact Ms Krachen-Lashbrook separately in relation to consideration of this matter at that Committee.

24.8 **RESOLVED** – That the Deputation be noted and referred forward to the next available meeting of the Transport Committee. A separate report relating to taxi driver behaviour in relation to the rank referred to be brought back to the next scheduled meeting of the Licensing Committee (Non Licensing Act 2003 Functions) on 27 June 2013.

25. MEMBER INVOLVEMENT

25a Petitions

25.1 There were none.

25b Written Questions

25.2 There were none.

25c Letters

25.3 There were none.

25d Notices of Motion

25.4 There were none.

26. ZOO LICENSING

26.1 The Committee considered a report of the Head of Planning and Public Protection outlining the process for Zoo Licensing and requesting that the Committee note the licensing determination and renewal inspection process that officers completed in order to renew the licence for the Sea Life Centre which fell within the requirements of the Zoo Licensing Act 1981. As well as determining the current application for renewal the Committee were requested to consider whether they wished a recommendation to be made to the Policy and Resources Committee that in reviewing the constitution Zoo Licensing Act determinations should in future be reserved to the Licensing Committee and whether in future the Committee considered it desirable for the proper conduct of the Sea Life Centre that an elected Member be engaged in the zoo's ethical review process by joining its Ethics Committee in line with the recommendations set out in the DEFRA Zoos Expert Committee handbook.

- 26.2 It was explained that the licensing and inspection of zoos was a matter for local authorities under the Zoo Licensing Act 981. This Act set out how zoos in Great Britain were inspected and licensed in order to ensure that they were safe for the public to visit, that high standards of welfare were maintained and that zoos made a contribution to the conservation of wildlife. It also implemented the European Council Directive 1999/22/EC in the UK.
- 26.3 The Sea Life Centre was Brighton and Hove's only zoo and was currently licensed under the Zoo Licensing Act 981. The zoos current licence was due for renewal during March 2013. Such licenses were issued for a six year period.
- 26.4 Mr Levison, General Manager of the Sea Life Centre stated that whilst he was aware of the views of some action groups regarding zoos and also in respect of the Sea Life Centre, they would have to agree to disagree. He considered it was very important to stress the active role that the Sea Life Centre played in wildlife conservation, it was actively involved in the care and preservation of several endangered species. The centre took an active role in education and took its responsibilities in looking after the animals in its care very seriously. It went well beyond the minimum standards set as evidenced by the current DEFRA report which had been circulated as an appendix to the report. It should be noted that there had been no problems arising from the manner in which the Sea Life Centre was run. The zoos Ethics Committee was well balanced body of impartial experts and he did not therefore feel that if a Councillor was to sit on this body that it would add anything to the current arrangements.
- 26.5 Councillor Hawtree stated that he was rather perturbed by Mr Levison's apparent reticence regarding involvement of Councillors on the Ethics Committee as he considered that to have "lay" representation on this body could be very helpful .
- 26.6 Councillor Wakefield concurred with Councillor Hawtree stating that involvement on this body could be valuable in assisting members in answering questions received from residents (these were received periodically), relating to the manner in which the Sea Life Centre was run.
- 26.7 Ms Thornton, (the vet who carried out inspections for the Sea Life Centre) was also in attendance and explained that to appoint a Councillor appointed by the local authority to the Sea Life Ethics Committee would run counter to Government guidance regarding appointments to that body.
- 26.8 Councillor Simson stated that the report and its accompanying appendices, particularly the latest DEFRA report (Appendix 2) served to reinforce what a wonderful resource the centre provided for the city and how it had improved its offering year on year. Whilst happy to note the work carried out by the centre which was excellent and went far beyond the standards required, she would not wish to be associated with recommendations that the future grant of licences should fall to the Committee or that the local authority should appoint a councillor to sit on the zoo Ethics Committee. The establishment was clearly well run no problems had been reported and it was not appropriate for there to be any political interference in its management.

- 26.9 Councillor Lepper stated that she concurred wholeheartedly with Councillor Simson. There were no other instances where local authorities were directly involved in the running of a zoo in the manner suggested. She considered that it was appropriate for decisions regarding the licence to be delegated to those who were professionally qualified to do so and did not consider that the involvement of lay people could add anything to the arrangements which were already in place. This was a matter for consideration by the Committee, there was no necessity for political involvement in the decision making process.
- 26.10 Councillor Cobb stated that the report showed all the hard work that went on behind the scenes, and thought that the centre ought to do more to publicise its work, she did not however see why it had been considered necessary for a report to be put to the Committee.
- 26.11 Councillor Hyde concurred stating that she had every confidence in the ability of the staff to run the Sea Life Centre properly and agreed that there was no reason for a report to come forward to the Committee. She enquired why and who had taken the decision for a report to come forward.
- 26.12 The Chair, Councillor Duncan explained that that periodically he received comments and questions from residents regarding operation of the Sea Life Centre. It was a unique facility in Brighton and Hove and in the interests of democracy and transparency he had considered it was appropriate for a report to be brought forward to Committee. He also considered that it was appropriate for a Councillor to sit on the Ethics Committee as they would then be better placed to answer those questions received from residents.
- 26.13 Councillor C Theobald stated that the DEFRA report was glowing in its praise, the centre had built up a high reputation over a number of years, and she would not be supporting recommendations 2 and 3 as she considered them to be unnecessary.
- 26.14 Councillor Gilbey stated that as regular inspections were carried out by professionally qualified inspectors she did not consider that any action was necessary.
- 26.15 A Vote was then taken on each of the individual recommendations. Recommendation 1 as set out below was agreed on a vote of 12 to 0 .
- Recommendation 2 was lost on a vote of 10 to 4 with 1 abstention.
- Recommendation 3 was also lost on a vote of 10 to 4 with 1 abstention.
- 26.16 **RESOLVED** – That the Committee notes the licensing determination and renewal inspection process that officers have completed to renew the licence for the Sea Life Centre, Marine Parade, Brighton.
- 27. CONSULTATION ON THE ACCESSIBILITY POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE, DRIVERS, VEHICLES AND OPERATORS**
- 27.1 The Committee considered a report of the Head of Planning and Public Protection reporting progress on the consultation which had taken place on the Accessibility Policy for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators.

- 27.2 It was noted that the word “wheelchair” appearing in (1), Paragraph 3.1 appeared in error and should be disregarded.
- 27.3 Councillor Simson enquired whether the proposal of using a “Mystery Shopper” to test service provision had progressed and it was explained that this matter needed to be taken forward by the Federation for Disabled People.
- 27.4 **RESOLVED** – (1) That the Committee the progress being made in the development of an Accessibility Policy for Hackney Carriage and Private Hire, Drivers, Vehicles and Operators be noted;
- (2) That the engagement plan set out in paragraph 4.2 of the report be endorsed; and
- (3) That officers develop an equalities impact review and report back to committee when the accessibility policy and equalities impact review is complete.

28. ITEMS TO GO FORWARD TO COUNCIL

- 29.1 There were none.

The meeting concluded at 5.20pm

Signed

Chairman