

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 6

Brighton & Hove City Council

Subject: Taxi Driver Behaviour – Paston Place Rank
Date of Meeting: 27 June 2013
Report of: *Head of Planning and Public Protection*
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Wards Affected: All

FOR GENERAL REALISE

1. SUMMARY AND POLICY CONTEXT:

To report on taxi driver behaviour at Paston Place Rank following monitoring in response to Licensing Committee resolution 14th March 2013.

2. RECOMMENDATIONS:

2.1 That Committee notes the report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Following a deputation from residents in Paston Place committee **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.

3.2 There are a number of issues with regard to driver behavior in Paston Place, over ranking, parking in disabled parking spaces, parking on double yellow lines, idling engines. There are also allegations that drivers have been intimidating, rude, harassing, verbally abusive and using hand gestures. There are also counter allegations that residents have been intimidating, harassing and goading drivers to react and video clips of incidents with comments having been posted on Youtube. The Police have been investigating these allegations.

3.3 Numerous complaints have been received from a resident in Paston Place which include numerous video recordings; many of these recordings have been viewed and none demonstrated offences or unauthorized parking as the context etc is not known. An officer would

need contemporaneous conversation with the driver at least but in any case, intermittent waiting in a restricted area is not a byelaw infringement and unlikely to be a traffic offence. Residents have been advised to report traffic offences to Sussex Police Road Unit or via Operation Crackdown.

- 3.4 Over ranking is controlled by means of the byelaws adopted by Brighton & Hove Council in 1999 under section 68 of the Town Police Clauses Act 1847 and section 171 of the public Health Act 1875.

Byelaw 7 states:

The driver of a hackney carriage shall, when plying for hire in any street and not actually hired: -

(a) proceed with reasonable speed to one of the stands appointed by the Council which that hackney carriage is permitted to use;

(b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand which that hackney carriage is permitted to use;

- 3.5 The byelaws are effective in encouraging hackney carriages to return to appointed ranks but are written in such a manner that it makes it difficult to be used to control over ranking especially where vehicles are not queuing immediately behind the last vehicle on the rank. TRO's (Traffic regulation Orders) used to create ranks no longer specify the number of vehicles the rank has been created for just the length of the rank. For vehicles not immediately behind the vehicle on a rank and dispersed in various positions officers would need to determine what a driver was doing as there are many legitimate reasons for a vehicle to be parked at the side of the road for instance taking a break, using a mobile phone, not working, on private business etc.
- 3.6 If there is a space on the rank it appears any action would fail and any action taken against a driver who only momentarily stops pending a space becoming available or while vehicles ahead move around is also likely to fail and not upheld in the Courts. It is normal for drivers to drive away once an officer is spotted on enforcement work.
- 3.7 Parking on double yellow lines, disabled bays and City Car Club bays is enforced by CEO's (Civil Enforcement Officers). Obstruction of the highway is enforced by the Police.
- 3.8 Although a driver must be a "fit and proper person" at licensing it is not possible to place licence conditions on a Hackney Carriage Driver's Licence; the only method of control as to the conduct of drivers is through the byelaws.

Byelaw 8 states:

The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.

These byelaws are intended to discourage unnecessary taxi movements. In general drivers if necessary are given written warnings as to their behavior which is then kept on file for a period of time, typically 3 years. This record could then be used as evidence should a driver appeal to a magistrate a decision to suspend or not renew a licence in the future. However, any conviction / caution would be considered on its own merits at mid-licence or at renewal where a decision as to suspend, revoke or not renew a licence can be taken.

- 3.9 Since the deputation to committee, a warning notice has been sent to all Hackney Carriage Drivers and proprietors, and specific warnings to some drivers where it has been established that they were over ranking or not returning to the nearest rank. Officers logged 38 complaints from a complainant alleging contravention of the byelaws and poor behaviour of drivers. Since the initial complaint this year, officers received one other complaint from a resident of Paston Place in relation to this matter. As part of the investigation, officers made an initial visit on 30 January 2013, and 19 further visits between 06 March and 09 May. These visits occurred on various days of the week and at varying times between 09:00 and 23:00, including a visit made by the Head of Regulatory Services and the directors of Streamline on 15 April 2013.

Officers requested Sussex Police also assist with this matter. On 21 May, a police inspector reported the results of Local Neighbourhood Policing Team officers' account. He reported that an officer had recently visited the complainant. He recognised that at times there were some obvious issues regarding taxis parking or waiting at this location and too many taxis for the number of spaces at the rank. He opined that filming over-ranking taxis had caused a few problems with the drivers who have made complaints against the complainant. Officers had patrolled Paston Place on numerous occasions after the complaints came in, but there did not appear to be any over-ranking or any issues at these times.

- 3.10 Work to review rank provision: in consultation with highway operations officers, hackney carriage officers have been looking at rank locations. Considerations to move the feeder rank back to its pre-2009 position in Sudeley Terrace do not appear persuasive. We are looking for additional rank space in the city centre, Kemp Town and the Marina to ameliorate strain on Paston Place.
- 3.11 The main Paston Place rank has been extant longer than officers here can remember. The preliminary environmental health position is that there is no apparent justification for removal of the main taxi rank on air quality grounds. The two space feeder rank, outside 9 and 10, was also

reviewed. Advantages of moving include: relocation from a steep slope to avoid hill starts and consequent emissions and annoyance; and Sudeley Terrace, parallel with the Audrey Emerton Building, is further from the building line compared with terraced houses on Paston Place. Disadvantages included taxis from a Sudeley Terrace feeder rank would have to cross Paston Place to join the main rank requiring a tight turning circle, potentially against the one way street and it would be less preferable to have taxis waiting on south side of Sudeley Terrace where residential façade with opening sash windows is closer. Sudeley Street also appeared less appropriate for rank spaces.

3.12 Parking infrastructure: Paston Place main taxi rank.

In terms of the main taxi rank of 5 to 6 spaces in Paston Place this is in a suitable position. It is near the main entrance of the Royal Sussex County Hospital (RSCH), is an acceptable distance from the frontage of properties and has been in existence for over ten years.

From a Transport and Road Safety perspective we see no reason to suggest any amendments to this taxi rank.

Officers also had a look at Eastern Road and there is no scope for any bays along this stretch of the road as it would cause significant congestion and road safety issues.

Officers have spoken with RSCH to find out whether RSCH had plans for a taxi rank on hospital grounds when the redevelopment is undertaken. RSCH have no such plan and their view is that the Paston Place rank should remain as the main rank for RSCH.

3.13 Paston Place feeder taxi rank.

In terms of the Paston Place feeder rank of two spaces this is in the ideal position to meet the requirement of feeding into the above rank with only a crossover / dropped kerb separating the feeder rank and main rank. So from a Transport and Road Safety perspective again this is in the best place.

However, officers appreciate there are concerns about pollution etc from residents so we looked at viable options. There is an opportunity to move the two space feeder rank into the southern side of Sudeley Terrace in the nearest pay and display spaces to the Paston Place junction (replacing current feeder rank with pay and display spaces).

This new position has one main disadvantage compared to the current position in that it would mean taxis would need to cross Paston Place to reach the main rank which may increase congestion / road safety issues. There are also likely to be objections from local residents as the taxi

feeder rank used to be in Sudeley Terrace pre 2009 and there were requests to change this.

Therefore, for officers to consider moving the feeder taxi rank to the above location they would need justification.

3.14 **Other taxi ranks**

In terms of other taxi ranks there should be scope to consider this although officers would have to take into account all groups wishing to use parking spaces.

In terms of no stopping, officers will also look into the current restrictions in Henley Road / St James Street to see if the current situation can be improved.

3.15 **Environmental Protection**

The Council's air quality specialist, Sam Rouse, advises that in this part of Kemp Town generally one city block removed from Eastern Road the air quality is good and is compliant with all air quality strategy limits. Recent air monitoring on the hospital site (condition 19 of planning approval) shows low background pollution levels.

Idling or revving diesels close to houses is localised. Resident has made reference to Paston Place on weekend mornings as quiet and empty as confirmed by video footage. There may of course be more busy times of the week, but most vehicle movements on Paston Place will be local access or taxi. Eastern Road and St James Street are through routes and will remain in the Air Quality Management Area, Lower Kemp Town is still to be determined. Road links in Kemp Town are included as emission sources in our latest dispersion model - results were expected in May.

The rank has been in place for over ten years. There is no justification for removal of the main taxi rank on air quality grounds. Question is re 7th and 8th feeder spaces outside No 9 and 10 Paston Place.

Advantages of move

Upper Paston Place has a steep slope = 1:12, Sudeley Terrace is level and avoidance of hill starts and hill climbs could avoid emissions and annoyance.

Sudeley Terrace parallel with the Audrey Emerton Building is further from the building line compared with terraced houses on Paston Place; GIS measure 4.2 metres compared with 3.2 or 3.4 on Paston Place.

Disadvantages

Cabs arriving from a Sudeley Terrace feeder rank would have to cross Paston Place to join the main rank in 6th place, a tight turning circle would be required - potentially against the one way street.

Less preferable to have taxis waiting on south side of Sudeley Terrace – where residential façade with opening sash windows are 3.8 m from kerb.

Sudeley Street to the south is also less appropriate for rank spaces. The Council's air quality action plan is being developed and reported to Environment Transport and Sustainability committee. The air quality action plan may inform taxi licensing policy in due course.

4. CONSULTATION

- 4.1 This matter was discussed at Taxi Forum on 14 February and 16 May 2013.

5. FINANCIAL & OTHER IMPLICATIONS:

- 5.1 There are no direct financial implications arising from the recommendation in this report.

Finance Officer Consulted: Jeff Coates

Date: 03/06/13

5.2 LEGAL

Legal implications are contained within the body of the report. It is considered that officer time spent in investigating over-ranking allegations and byelaw compliance can be recovered from licence fees for Hackney carriage vehicles pursuant to section 70 (1) of the Local Government (Miscellaneous Provisions) Act as this cost is considered incidental to the provision of hackney carriage stands as set out in S70 (1) (c). Furthermore S53 of the above Act and S46 of the 1847 Town Police Clauses Act have relevance in so far as driver behaviour is concerned and arguably allow an element of enforcement to be recovered from the licence fee.

Lawyer Rebecca Sidell

Date: 13/06/13

5.3 Equalities Implications:

The highway must be available for all types of transport to use, especially disabled persons.

5.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway

stations and the city coach station and approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

5.5 Crime & Disorder Implications:

Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

5.6 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for residents and visitors.

5.7 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

SUPPORTING DOCUMENTATION

Appendices: A: Spreadsheet of officers' actions.

Documents in Members' Rooms

None.

Background documents

None.

