

# NORTHAMPTON BOROUGH COUNCIL

## LICENSING COMMITTEE

Tuesday, 30 April 2013

**PRESENT:** Councillor Malpas (Chair); Councillor Hill (Deputy Chair); Councillors Beardsworth, Ford, Patel, Sargeant, Strachan and Wire DL.

### 1. APOLOGIES

Apologies for absence were received from Councillors Capstick, Duncan and Eales.

### 2. MINUTES

- (1) The confidential (Part 2) minutes of the meeting held on 11 February 2013, which had been deferred at the previous meeting (held on 19 March 2013) to ensure that all Members had received them, were confirmed and signed by the Chair as a true record.
- (2) The minutes of the meeting held on 19 March 2013 were confirmed and signed by the Chair as a true record.

### 3. DEPUTATIONS / PUBLIC ADDRESSES

Mr Pasquale Renda, Mr Ian Page, Mr Paul Bruere, Mr Trevor Brown and Mr Ashraf Hussain were granted leave to address the Committee in respect of item 6: Safety Awareness Course. Mr Aldo Gallone was granted leave to address the Committee in respect of item 7: Street Trading Fees and Consents.

### 4. DECLARATIONS OF INTEREST

There were none.

### 5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

### 6. SAFETY AWARENESS COURSE

A Senior Licensing Officer presented a report on the proposed introduction of the Safety Awareness Course for drivers who had been acting illegally. The report had been deferred at the last meeting of the Committee, held on 19 March 2013, to seek the views of the trade and to give the trade the opportunity to present their views to the Committee.

Mr Pasquale Renda, having been given leave, addressed the Committee to commend the course, which he considered to be excellent. He asked that the course be extended for a further 6 or 12 months and that the resulting information from the course could then be reported to the Committee. He stated that he had a friend who was a Private Hire driver who had been "flagging" and who had received a £1,000 fine and 6 points on his licence. He was aware that his friend had contemplated suicide. Mr Renda stated that the course would provide a breathing space for any drivers caught acting in this way, whilst maintaining the Council's duty of keeping the public safe. He also referred to the high regard drivers and operators had for the Licensing officers.

Mr Ian Page, having been given leave, addressed the Committee, and gave a personal insight into the course. He had, in a moment of weakness and under financial pressure as

costs escalated, picked up two people who had “flagged” him down and been caught. He had been devastated, having always taken pride in his work and also at the thought of receiving 8 points on his licence and possibly losing his driver’s licence. He had been relieved to go on the course as an alternative to prosecution. He stated that many drivers would benefit from the same alternative. He recommended the Committee to agree to the continuation of the course. Mr Page also spoke of the excellent service provided by the Licensing Department and the good working relationship with the trade.

In answer to a question, Mr Page considered that drivers committing speeding offences should also have the opportunity of going on the course.

Mr Paul Bruere, having been given leave, addressed the Committee, and spoke to notes on “Prohibiting ‘Flagging’” which he had placed around the table before the start of the meeting. He stated that the Local Government (Miscellaneous Provisions) Act 1976 required the offence of “flagging” to be prohibited and that the proposal would not do so and would create a two tier system. He stated that prosecutions had not provided a deterrent to “flagging” as out of 72 prosecutions to September 2012 only 2 Private Hire badges had been permanently revoked. The Council’s Solicitor stated that if the Magistrates Court imposed a disqualification period on a driver’s DVLA licence then the driver would not be able to drive and subsequently his Private Hire Driver’s licence would have to be surrendered. With reference to Mr Bruere’s comments about prosecutions and revocations, the Chair referred to a recent incident where the Director of Public Prosecutions had decided that it was not in the public interest to prosecute a Hackney Carriage driver caught without a licence and as a result had no insurance. Mr Bruere was asked if the driver should be treated any differently to a Private Hire driver caught “flagging” and Mr Bruere stated that he should. Mr Bruere was also asked if he thought a Hackney Carriage driver caught driving without a licence and as a result had no insurance should always be prosecuted and he said no.

Mr Bruere referred to his proposals to deter “flagging”, as set out in his paper and stated that the safety awareness course should be taught to all drivers when badges were issued and that safety was emphasised in the Private Hire Drivers Handbook.

In answer to questions, Mr Bruere stated that Private Hire drivers were blocking the taxi ranks, were “flagging” when they knew it was an offence, and that Hackney Carriage drivers were committing an offence if they did not have insurance. He stated that these issues were not mistakes but were instances of drivers acting illegally.

The Chair asked anyone submitting a paper to the Committee to do so at least the day before the meeting, not at the meeting itself, in order that the paper could be read and researched by Members before the meeting took place.

Mr Trevor Brown, having been given leave, addressed the Committee, and spoke of the town centre taxi ranks being blocked by Private Hire drivers so that when taxis had passengers they could not leave the ranks, of Private Hire drivers “flagging”, and of receiving abuse from Private Hire drivers.

These were particular problems at weekends, between 2.00am and 4.40am. He invited Committee members to join him at these times to see the situation for themselves. He stated that the Police took no action in these circumstances and often moved taxis on if they could not get on to the ranks.

In answer to a question Mr Brown considered that the Safety Awareness Course should be open to both Private Hire and Hackney Carriage drivers who had acted illegally.

Mr Ashraf Hussain, having been given leave, addressed the Committee, and stated that

much of what he had wanted to say had already been said. He stated that the situation with “flagging” was getting out of hand, particularly at weekends, and that the proposed course would make the situation worse. Currently, drivers “flagging” could get points and might get banned. Under the proposal, drivers flagging would not be banned after the first offence and would be more relaxed and comfortable about “flagging” rather than fearful of prosecution. Mr Hussain stated that he had been caught “flagging”, been banned and received six points on his licence. He considered that prosecution was a deterrent to drivers in respect of “flagging.”

In answer to questions Mr Hussain stated that between being reported and appearing in court for his offence he had been able to keep driving, also that under the proposal drivers would have to pay £200 to attend the Safety Awareness Course but would keep their Private Hire licences.

In answer to Members’ questions and issues raised by the speakers the Senior Licensing Officer stated that there had been a progression in the action taken by officers to address the problem of “flagging.” Initially, warnings had been given, followed by cautions. Prosecutions had then been introduced but, as some of the public speakers had said, had not proved effective in stopping flagging . The fact that it could take 12 months or longer to conclude a case could present an issue as during that time the driver was still able to drive. It was considered that an approach that included an element of education might have improved results. There had been a good response to date to the Safety Awareness Course and there had been no repeat offenders to date.

Members expressed concerns about the issues raised by the public speakers in respect of Private Hire drivers and the establishment of a working party was suggested to look into the issues. Whilst not doubting the comments they had heard some Members indicated a desire that information on the issues be collected and a Member suggested the possibility of a site visit at the times mentioned by a public speaker to ascertain the nature of the problem. The Council’s Solicitor stated that the Committee should not take a decision on an issue and afterwards investigate whether or not there actually was an issue. He stated that the issue should be investigated and then a course of action be considered.

The Head of Public Protection stated that resources had been increased in the Licensing area and would be deployed to investigate the issues raised by the speakers in respect of Private Hire drivers. He confirmed any repeat offenders would be taken to court, or individuals taken straight to court if that was felt to be a more appropriate action than attendance on the Safety Awareness Course.

Members considered that, although not part of the Safety Awareness Course, the issues raised by the speakers should be looked into and agreed to establish a working party consisting of Members and supported by a Licensing officer. This investigation would result in a report to a future meeting of the Committee.

The Council’s Solicitor advised that the Committee needed to consider whether or not the Safety Awareness Course should be introduced and, if so, indicate the reason(s) for so doing.

Members considered that in view of the information given earlier by the Senior Licensing Officer, and supported by the comments of some of the public speakers, that the current system of prosecutions could take 12 months or longer to conclude a case and prosecutions were not considered to be proving effective, the Safety Awareness Course should be introduced as a swifter way of maintaining public safety and reinforcing the concept of public safety to the drivers, and that the course be extended to Hackney Carriage drivers as well as Private Hire drivers.

## **RESOLVED:**

- (1) That the Safety Awareness Course be introduced as an addition to the introduction of a phased process of discipline/punishment for Private Hire Drivers and Hackney Carriage drivers who breached conditions and legislation in relation to plying for hire.
- (2) That reasonable powers be delegated to the Licensing Enforcement Officers to use their discretion as to when and under what circumstances the alternative action be taken.
- (3) That a working party, supported by a Licensing officer, be established to investigate issues raised by the public speakers above in respect of Private Hire drivers, with a membership of Councillors Beardsworth, Malpas, Patel and Wire DL.

## **7. STREET TRADING FEES AND CONSENTS**

A Senior Licensing Officer stated that the Committee had received the results of the consultation regarding the proposed increase in street trading fees and amendments to the Street Trading locations at its meeting on 11 February 2013. The Committee had agreed to undertake the consultation at its meeting on 11 December 2012. At the 11 February 2013 meeting the Committee had asked the officers to re-consider the proposed increases and to present a revised report indicating a more phased increase. All street traders had been notified about the proposed increases and a statutory notice had been placed in the local press and two objections to the proposed increases had been received, from Aldo Gallone and from Keith Hills.

Further analysis was being undertaken by the officers to determine suitable locations and periods of trading for Street Trading pitches in the town centre and a report on this issue would be presented to the Committee once the analysis had been completed.

Mr Gallone, having been given leave, addressed the Committee. He stated that he objected to the proposed increases and would like his site to be considered in line with increases to other sites and based on the Retail Price Index. This would make transparent any future increases and could be reviewed every 5 years. He stated that he paid £700 for his pitch now and that this would rise to £2,000+ over 5 years. He was concerned that any future changes to the Council's Administration might result in further high increases. He also stated that he paid business rates but the café in the park did not. Mr Gallone also wished to object at being moved from the traditional spot he had occupied outside Abington Park for over 80 years, which had affected his trade, and would prefer to stay in his location and have a pitch marked out on the highway.

In answer to questions Mr Gallone stated that he had no objection to paying an increase but wanted a level playing field for all street traders. He also supported a 5 year rent review. He would be happy to take the 2003 fees, which had not been increased since that time, and increase retrospectively by the Recommended Price Index. He accepted that there had not been an increase in his fees in 10 years

The Head of Public Protection stated that fees were reviewed annually and Street Trading fees had not been increased since they were introduced in 2003. The Council was now seeking to bring them up to a realistic level over a 5 year period. The Senior Licensing Officer stated that activities such as Mr Gallone's, which were outside the Park, were counted as licensable activities and that those in the Park were managed by leases under the Asset Management functions which were put out to tender. The fees had to be calculated in differing ways and governed by different legislation. In relation to Street

Trading fees, the Council is directed to calculate fees only to cover the cost of running the service in respect of licensable activities. Currently, this part of the service was running at a loss.

In respect of Mr Gallone's pitch, it was noted that there was currently some limited scope in respect of other pitches which might be available for his operation, should he wish to consider this. The Senior Licensing Officer outlined that any proposal to designate a new street trading pitch would go through the statutory consultation and be presented to the Licensing Committee accordingly.

In respect of any future review of fees it was noted that this Council could not lawfully fetter the discretion of any future Council.

**RESOLVED:**

That after due consideration of the two objections detailed in Appendix D to the report, the following be approved:

- (1) The three tier structure of the Street Trading fees, to include Standard, premium and Town centre categories, in accordance with paragraphs 3.1.16 to 3.1.18 of the report;
- (2) The proposed increases in Street Trading fees, in accordance with paragraph 3.1.19 of the report.

The meeting concluded at 7:12 pm