

NORTHAMPTON BOROUGH COUNCIL

LICENSING COMMITTEE

Tuesday, 27 September 2011

COUNCILLORS PRESENT: Councillor Caswell (Chair) Councillors I Choudary, Conroy, Duncan, Eales, Eldred, Ford, Nunn, Sargeant, Strachan and Wire

PUBLIC SPEAKERS Mr Ward
Mr Darlington
Mr Wilshire
Mr Russel
Mr Shah

1. APOLOGIES

There were none.

2. MINUTES

The minutes of the meeting held on the 28th June 2011 were signed by the Chair.

3. DEPUTATIONS / PUBLIC ADDRESSES

That Messrs Ward, Darlington, Wilshire, Russel and Shah be granted leave to address the Committee on Agenda Item 7 – Hackney and Private Hire Vehicles – Introduction of age policy.

4. DECLARATIONS OF INTEREST

Councillor Choudary declared a personal and prejudicial interest in Item 7, as several Hackney and Private Hire vehicle owners present at the meeting knew him. His wife is also the holder of an operators license.

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

The Chair was of the opinion that the following item was a matter of urgency due to the undue delay if it were deferred:

The Members attend the Private Hire Induction Course for new drivers to be held on the 10th October 2011.

RESOLVED:

That the report be noted.

6. APPLICATION FOR A CHANGE IN THE SEX ESTABLISHMENT LICENCE CONDITIONS.

The Licensing Officer outlined the report and explained that an application had been received by Simply Pleasure Ltd for an amendment to the Council's Sex Establishment License conditions, to allow for an 'Open Window Display' at their premises at Wellingborough Road, Northampton.

Colour photographs of window displays for other Simply Pleasure establishments were submitted and circulated to committee members. An objection letter received from Mr D Matthews, by the licensing department was also distributed to members.

In response to a question asked by the Committee, the Licensing Officer reported that the authority would be able to regulate what was deemed acceptable with regards to the suitability of the goods on display. He also confirmed that no objections had been received from the Police. In answer to a further question, the Licensing Officer explained that should there be a breach of the any condition placed on display in the shop window the Licensee could be bought back before the Licensing Committee, which could result in the revocation of the license.

Members considered whether the window display would be anymore controversial than the lingerie models displayed in the windows of other high street stores and whether prohibiting a display for Simply Pleasures would be contradictory.

Members considered the location of the shop and it's proximity to schools. Concern was voiced that the shop was in a school catchment area, which included a wide number of schools catering for different ages. It was suggested that the name of the shop itself indicated it's nature and therefore a window display would not be considered necessary.

Members voiced concerns that there seemed to be an inconsistency of items displayed in the various shop front displays circulated to Committee Members. The Licensing Officer explained that the authority would be stringent in their approach and could stipulate conditions the members would wish to place on the establishment.

The Solicitor explained that there was no legal definition of the word 'indecent' but commented on the dictionary meaning 'unbecoming, highly unsuitable or inappropriate, contrary to the fitness of things, in extremely bad taste or grossly offensive' quoted case law and also informed members that they should be mindful to consider whether the display would be offensive to the 'reasonable man'.

The Licensing Officer explained, in answer to a question, that a condition could be imposed, which would restrict the view into the shop beyond the window display. He confirmed that in the event of conditions being broken, the whole license would be breached and thus could be bought before the committee at a later date.

The Licensing Officer commented that should the Committee be minded to approve the report that an additional condition in respect of the prior by the Council of display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises.

Councillor Wire suggested deferring the matter to see what they proposed to put in the window display.

Councillor Strachan proposed and Cllr I Choudary seconded 'that the proposed change in the Sex Establishment License Conditions be not agreed'.

Upon a vote, the result was tied. Upon the Chairs casting vote the motion was defeated. Councillor Caswell commented that he felt enforcements would be able to keep abreast of this.

RESOLVED:

That the application for a change in the Sex Establishment License Conditions to allow an open window display be approved subject to an additional condition that:

No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:-

- a) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of License granted by the Council.
- b) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.

Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the Premises shall not be made expect with the prior approval of the Council.

7. HACKNEY AND PRIVATE HIRE VEHICLES. INTRODUCTION OF AGE POLICY.

The Chair clarified that the purpose of the report was not to decide whether an Age Limit is put on Private Hire or Hackney vehicles, but to decide whether the Committee should move towards a consultation. If, on reading the report, they decide that there is evidence to support an age restriction on vehicles, then all those interested parties including the trade, would have an opportunity to put their representations forward in writing through the appropriate channels.

Mr Ward addressed the Committee and commented that he took exception to the report and stated that it factually incorrect. He suggested that should the policy be introduced, a false market would be created with the number of high mileage vehicles retaining value and under 3 years old still being within the law. He suggested that should there be a change in the policy it would be preferable to put a maximum age limit on the vehicle rather than a minimum.

The chair informed Mr Ward that should the consultation process be approved, he would be given the opportunity to bring his comment to the Committee.

Mr Darlington commented that having recently purchased 7 hybrid taxis, the proposed increase in engine size for private hire vehicles would leave his fleet somewhat redundant and suggested that should there be a review in engine capacity, it would be more effective to review the brake horsepower rather than engine size. He stated that the new hybrid cars and cars with smaller cc were out performing larger engine sized cars and were also less damaging to the environment as they had less damaging emissions. He questioned where the Councils green policy was and commented that greater consideration be given to environmental issues.

The Solicitor reported that should the consultation process be approved, people would be contact and given the opportunity to address the Committee.

Mr Wilshire, the Chair of the Private Hire Association spoke about the financial implications and costs that would be incurred by hackney and private hire drivers should the policy be put out to consultation and approved. He reported that taxi drivers were already suffering financial hardship due to the economic slowdown and changes to the policy would have a severe and detrimental financial affect on many drivers.

The Chair asked that Mr Wilshire put his concerns in writing during the consultation process, should the Committee approve it.

Mr Russell addressed the Committee and reported that it would not only be the private hire and hackney drivers that would be affected, should the policy be introduced, but the public would also suffer as a result as the costs of fares would have to increase to address the increased expense. He commented that the policy was corrosive and short sighted and that there had been no injuries due to any vehicle that had failed a safety inspection. He suggested that the robust plating system already in place was enough of a measure to ensure the safety of taxi users.

The Chair commented that 63 taxis had been taken off the road as a result of failing spot safety checks.

Mr Shah informed the Committee that he was speaking on behalf of a number of Pakistani drivers who would be affected should the policy be approved, post consultation. He asked that Members reject the consultation, as it was in the view of those he was representing, unnecessary. He claimed that the introduction of the policy would have a disproportionate effect on the Asian community and suggested that the Council would need to apply themselves in engaging with taxi drivers whose English was not their first language if the consultation process were to be approved. He stated that drivers would be adversely affected due to the economic climate and that consultation rules must be carefully followed should the Committee decide to approve the consultation process. He also gave mention that there was perceived unfairness to the policy between Hackney and private hire drivers.

Members agreed that should there be a consultation, the technical information brought before the Committee would need to be examined. They discussed the importance of giving consideration to environmental factors during the consultation process if approved, and were minded to consider the financial implications of the consultation. The Licensing Officer explained that due to financial constraints and for the sake of transparency and fairness, an independent and external consultation could be carried out. However, the Chair reported that he would like the consultation process carried out in-house and the costs would be met under the Director of Environment and Culture.

Members discussed whether or not the consultation process should be conducted as a blank canvass with none of the pre-requisites being considered.

RESOLVED:

That the consultation process with interested parties as to the feasibility and necessity of introducing a combined Hackney and Private Hire vehicle age policy be agreed.

8. LICENSING ACT 2003. REDRESSING THE BALANCE. RECOMMENDATIONS FOLLOWING CONSULTATION.

The Licensing Officer outlined the report and informed Members of the recommendations following the consultation process, which sought to redress the balance between the applicants for licences and the Responsible Authorities, which would give more powers to the Local Authority when considering applications.

RESOLVED:

That the report be noted

9. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12A to such Act.

The Motion was Carried.

The meeting concluded at 7.50pm