

Licensing Committee – 28 August 2013

Present: Councillors Mrs Allgrove, Beaven, Coles, Mrs Hill, Hunt, R Lees, S Lees, Morrell, Nottrodt, Mrs Reed, Mrs Smith and Mrs Waymouth.

Officers: Ian Carter (Licensing Manager), Olivia Denis (Licensing Officer), John Rendell (Licensing Officer), Scott Weetch (Environmental Health Lead), Roy Pinney (Legal Services Manager) and Emma Hill (Corporate Support Officer)

Others: Councillor Hayward
Mike Davis from A1/Ace Taxis

(The meeting commenced at 6.15 pm)

5. Appointment of Chairman

Resolved that Councillor Hunt be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

6. Appointment of Vice-Chairman

Resolved that Councillor Coles be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

7. Apologies

Councillor K Durdan, A Govier and Miss James.

8. Minutes

The minutes of the meeting of the Licensing Committee held on 6 March 2013 were taken as read and were signed.

9. Declarations of Interest

Councillors Coles declared a personal interest as Member of Somerset County Council. Councillor Mrs Hill declared a personal interest as an employee of Somerset County Council. Councillor Mrs Allgrove declared a personal interest as the Vice-Chairman of the Somerset Association of Local Councils. Councillor Lees declared a personal interest as regular user of Taxis. Councillor Nottrodt declared a personal interest as a Director of Southwest One.

10. Licensing Update Report

Considered report previously circulated, which provided an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters. This report was produced to keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

Summary of activity relating to the Licensing Act 2003:-

- Application numbers had remained consistently high for this quarter but slightly lower compared with the same period last year.
- Licenses Issued; 411 Premises Licences, 1133 Personal Licences and 2423 Temporary Event Notices (TEN's) in force on 31 July 2013.
- Three Licensing Sub-Committee Hearings had been held to determine licence applications and all premises had been granted subject to additional conditions.
- There had been an increase in Gambling Act applications on this time last year from three to seven as well as a slight reduction in the Street Trading applications from 17 to 14.

Summary of activities relating to Other Licensing:-

- The Scrap Metal Dealers Act 2013 was expected to come into force in early October 2013.
- The Community Film Exemption Consultation was due to close on 28 August 2013.
- There would be Licensing Training on 28 October 2013 provided by the Institute of Licensing (IOL).
- The Licensing Team was currently undertaking a full review of all its policies, procedures and processes.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- Members expressed surprise that the applicant (241 Leisure) had decided to appeal the imposed conditions from Licensing Sub-Committee for 43 – 45 East Street, Taunton. *The Conditions that had been imposed were for the most part accepted. The applicant was unhappy with the 'cut off' time ('chill out period') for regulated entertainment which, in his view, was too early.*
- How many out of hour's enquiries relating to the breach of licences had been received as well as how many visits had Taunton Deane officers made? *The Licensing Team had had no out of hour's enquiries as the office had no out of hour's service.*
- Concern was raised about the Council having no out of hours services.
- Members requested that the re-introduction of the out of hours service be investigated with a report being submitted to the Committee. It was reported that *any out of hours service would sit with the Environmental Health Team and not the Licensing Team.*

Resolved that the officers report to be noted.

11. Part I – Testing Regime for Hackney Carriages and Private Hire Vehicles

Considered report previously circulated, which provided details on the Hackney Carriage and Private Hire Vehicle Testing Regime within Taunton Deane and the

recommendations with regard to the requirement for an MOT certificate to be obtained from a Council Nominated Testing Station.

The guidance from Government, the legislative framework and the rationale behind the Council's Taxi Regime were set out in the report.

Recent experience of assisting the Licensing Service within West Somerset Council had provided additional insight into how the taxi testing regime was implemented in another authority. They, as do all other Local Authorities within Somerset, allowed an MOT from any Vehicle and Operator Services Agency (VOSA) approved testing station to be submitted.

From within the Taxi Trade opinions were still being expressed that the requirement to obtain an MOT from a Nominated Testing Station only was overly burdensome and financially detrimental to their business. They felt that the freedom to obtain an MOT from any VOSA approved testing station should be permitted as it would offer financial savings. In addition, the compliance regime operated by VOSA, being more efficient with greater penalties and sanctions than any control that could be implemented by the Council, was more than adequate to remove any doubt as to the legitimacy of the documents submitted.

Having gained wider experience of the operation of the taxi licensing regime in other Authorities, officers were inclined to agree with the trade on this matter. Doubts did remain though over the financial viability of obtaining an MOT from elsewhere and then a Part II test from a nominated testing station. This was however considered by officers to be a business decision for the trade and not a matter that the Council should seek to regulate.

The main area of concern expressed by the Committee when it last considered this issue was the potential conflict of interest should a vehicle proprietor obtain an MOT from an approved VOSA testing station that had an identifiable business or personal relationship with them.

Although this risk did still exist, officers agreed with the trade that it could be reasonably mitigated through the following matters:-

- The business plan of the vehicle proprietor recognising the reputational and business risk of using a non-roadworthy vehicle;
- The business plan of the VOSA nominated testing station recognising the legal and reputational risks of non-compliance with VOSA's testing criteria;
- The Nominated Testing Station undertaking the Part II test being able to notify the Council and, through them, VOSA of any suspected or identified non-compliance with MOT requirements.

In order to ensure that there was no financial detriment to the nominated testing stations in undertaking a Part II test only, rather than an MOT and Part II test, the pricing structure for the conducting of a Part II test and the ability to offer a discounted price if both the MOT and Part II test was to be undertaken, would be a matter for the Nominated Testing Stations to determine. The Council would however require, through the Service Level Agreements with the Nominated Testing Stations, a full justification of the cost to be submitted to, and approved by, the Licensing Manager and Chairman of the Licensing Committee.

To allow for the amendment of the Service Level Agreement and the submission and approval of costs for the Part II test it was suggested that the implementation of the changes outlined in the report be delayed until the 1 November 2013.

Resolved that:-

1. The removal of the requirement for an MOT to be obtained from a Nominated Testing Station for any vehicle that applied to be licensed as a Hackney Carriage or Private Hire Vehicle be agreed with effect from 1 November 2013;
2. An amendment to the current taxi testing regime be approved requiring that before a Part II test was undertaken by a Council Nominated Testing Station evidence must be produced of a valid MOT for the vehicle to be tested;
3. Authority be delegated to the Licensing Manager, in consultation with the Licensing Committee Chairman to approve a pricing structure by the Nominated Testing Stations for the undertaking of the Part II test; and
4. The re-naming of the Part II test as the 'Plate test' be also approved.

12. Part II – Testing Regime for Hackney Carriages and Private Hire Vehicles

Considered report previously circulated, which provided details of the Hackney Carriage and Private Hire Vehicle Testing Regime within Taunton Deane and the recommendations proposed with regard to replacing the current 'Part II test' with a new 'Plate test'.

The Part II test had remained unchanged since its introduction in 2007. Its purpose was to ensure that any vehicle licensed by the Council was safe, comfortable and visually acceptable. The Part II test covered those areas not included within the MOT that all licensed vehicles were also required to obtain. It could only be undertaken by the Council's Nominated Testing Stations.

Information received from the Taxi Trade had shown the current Part II test to be unfit for purpose. They had also expressed a desire for the testing regime to be improved to ensure vehicles within Taunton Deane met a high standard. The Council's Nominated Testing Stations had also found the Part II test wanting in areas such as vehicle modifications and the ability for vehicle testers to make recommendations.

Taking into account advice from a number of sources, a new set of vehicle testing criteria had been drafted to replace the current criteria as contained within the Council's Taxi Policy document, the Private Hire and the Hackney Carriage Drivers, Vehicles and Operators Handbook.

The new set of criteria would form part of a rebranding of the Part II test. The test would be renamed the 'Plate test' for clarity.

One of the notable changes in Plate test was the facility for the vehicle inspector to be able to recommend to the Licensing Authority that a licence should not be

issued to the vehicle being tested, on matters other than those contained within the test criteria. This would allow the licensing authority to benefit from the expertise of the Inspector, who might have concerns over the safety of certain areas of the vehicle which would not be covered by the Plate test criteria. It was hoped that this would ensure the closing of gaps in the current system.

The proposed Handbook insertion and inspection sheet were due to be introduced to the Taxi Trade on 16 August 2013 and any feedback received would be considered before the final version was produced.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses were shown in italics)

- How many limos were there in Taunton Deane? *There were no limos.*
- Reference was made in the report to a meeting with the taxi trade presenting the proposed Handbook. Did this meeting go ahead? *The members of the taxi trade had received copies of the proposed Handbook.*
- The Committee requested feedback at the next meeting of the Committee so they could look at the vendor feedback. *The feedback would be presented to the Committee as part of Update Report.*

Resolved that:-

1. The replacement of the Part II test with a new 'Plate test' from November 2013 be approved; and
2. Authority be delegated to the Licensing Manager, in consultation with the Licensing Committee Chairman to approve any further changes to the Plate test.

(The meeting ended at 6.40 pm)