

MINUTES OF THE
REGULATORY COMMITTEE

held on 27 January 2022 at 7pm

Present:

Councillor L. Mascot (Chair)
Councillor D.G. Jones (Vice Chair)

Councillors R.H. Ambor, L. Ashley, A.E. Davidson, P.V. Hughes, R.J. Lee, and I.C. Roberts

Prior to the start of the meeting, the Committee observed a minute's silence and reflection for Holocaust Memorial Day.

1. [Apologies for Absence](#)

Apologies for absence were received from Councillors Clark and Frasca.

2. [Minutes](#)

The minutes of the meeting held on 18 November 2021 were agreed as a correct record and signed by the Chair.

3. [Declaration of Interests](#)

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda. None were made.

4. [Public Question Time](#)

A statement was received from a member of the public relating to Item 5. The Chair agreed to consider the statement after the officer report on Item 5.

5. [Licensing of Tables and Chairs on the Public Highway](#)

The Committee considered a report, seeking their approval for a revised Pavement Licence Policy ahead of the redevelopment of Tindal Square. It was noted by the Committee that at this stage, they were being asked to approve the policy for public consultation and final approval would be at their next meeting in March 2022. The Committee was informed that anyone wishing to place tables or chairs on the Public Highway, required a licence issued by the Council and that the Council supported the principle of outside seating for businesses.

The Committee heard that the development of Tindal Square would result in its pedestrianisation and it had been designed to accommodate an unobstructed walking route alongside building facades with a minimum width of 3 meters. Therefore, a revision of the existing policy was required. The Committee was also informed that during the pandemic, the Government has allowed a relaxation of the

licensing rules for tables and chairs and a light touch approach had been adopted under the Business and Planning Act 2020. Officers informed the Committee that the Business and Planning Act was expected to replace the Highways Act and any decision made by the Committee would be valid for whichever of the acts was in force after September 2022. The Committee was informed that the new policy would result in the High Street from Number 8 up to Shire Hall being unsuitable for current licences and that they would be revoked under the new policy.

The Committee also heard that there is no specific guidance in respect of types of furniture and each case was determined by officers on a case by case basis. Members were also informed of the key points of the revised policy and noted that the use of the area in front of Shire Hall was not included. It was noted that this was a key area of the redevelopment of Tindal Square and any application would therefore be considered separately by the Regulatory Committee. Members were also informed that the new policy would be in force from 1st April 2022. It was noted that prior to this a 28 day public consultation would be undertaken with all current licence holders and the BID. Following this, the Regulatory Committee would consider any comments at their next meeting on 17th March 2022.

In response to the statement from the member of the public, the Committee agreed to add the following condition to the policy before it goes out to public consultation.

‘Tables and chairs shall not be put on any cycle route, cycleway or any position which impedes cyclists ‘

In response to questions and discussion from the Committee, officers provided the following information;

- On a separate note, the new Traffic Regulation Order that will be in place after the redevelopment, will allow the Council greater enforcement powers against cycling or the use of e scooters on the High Street.
- Businesses do not have an automatic right to place tables and chairs on the public highway and some have been refused in the past.
- It was too much of a risk for public safety, to allow businesses to have seating further away from their premises, potentially outside businesses that are traditionally closed during the Night Time Economy. It was noted that it would be difficult for staff to manage customers who were not seated directly outside their own premises.
- In other locations, for example those outside of the City Centre, tables and chairs were often sited on private land rather than the public highway. The policy being discussed only referred to the public highway and officers would clarify this in the policy.
- An Equality Impact Assessment would be carried out after the public consultation period.
- Liability insurance would continue to be a requirement for any business using the public highway for tables and chairs.

- The 'no plastic white chair' policy would still stand in other areas of the City Centre. This is in place to prevent the domestic type of seating that isn't suitable for commercial use, rather than the 'white' element.
- 9/10 High Street was unlikely to be permitted to have tables and chairs outside as it would block the pedestrian walkway or if it was placed in line with others, i.e. 3m from the façade, it would obstruct pedestrian flow the other side of the High Street.
- The policy did not foresee what buildings may be used for and attempt to cover all possibilities. Individual applications would be dealt with as they arise.
- Exchange Way and Backnang Square are established seating areas that successfully accommodate a greater density of tables and chairs, therefore the current view is that the policy shouldn't adversely affect these areas and businesses.
- A lighter touch approach had been adopted to the Garrison's large seating area at the top of the High Street due to the pandemic and the fact that a new policy was being drafted.
- Close of business varied depending on the business, it was not closely monitored but flagged to businesses that tables and chairs do need to be removed every day.
- Any issues with outdoors entertainment were already managed and enforced by the premises licence or noise nuisance legislation.
- It would be too bureaucratic to pre approve furniture, the guidelines such as 'in keeping with' were there as a backstop to prevent something particularly objectionable being used.

Officers reminded the Committee, that after being adopted, the policy would continue to be a live policy document that could be amended by the Committee if required at later dates. The Committee agreed to put the policy forward for public consultation, with the above amendment referred to regarding cycleways.

RESOLVED that an amended revised Pavement Licensing Policy be approved for public consultation.

(7.02 pm to 7.38 pm)

6. Private Hire Vehicle Condition No. 3 – External Use of Wording – Taxi or Cab

The Committee received a report asking them to consider the wording of Condition No 3 of the Private Hire Vehicle licensing conditions and whether it remained necessary and proportionate to retain. Members were advised that the condition detailed 'No private hire vehicle shall have roof signs or display the words "Taxi" or "Cab". It was noted that the removal of this condition would not interfere with Section 64 of the Transport Act 1980, which regulated the roof area of vehicles.

The Committee was informed that over time the condition had not been enforced by officers and no complaints from customers being misled had been received. It was noted that many operators in Chelmsford were not complying with the condition, however as no complaints had been received or issues raised, it was being proposed by officers to remove the condition. Members were asked that if they were minded, to keep the condition in place, to provide officers with direction on how to enforce the condition. It was noted that this would be costly to both operators and the Council to enforce.

The Committee agreed with officer's recommendation to remove the condition.

RESOLVED that Condition No 3 of the Private Hire Vehicle licensing conditions be removed.

(7.39pm to 7.47pm)

The Chair adjourned the meeting for a short period at this point to allow members of the public to leave ahead of the confidential business that was due to be considered.

Exclusion of the Public

Resolved that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Item 7 on the grounds that it involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

7. [Review of a Hackney Carriage and Dual Drivers Licence](#)

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee was informed that under the provisions of the Local Government (Miscellaneous Provisions) Act 1976, a district council should not grant a licence to drive a hackney carriage or private hire vehicle unless it was satisfied that the applicant, amongst other criteria, is a fit and proper person to hold such a licence. It was noted by the Committee that there is no statutory definition of what constitutes a fit and proper person, but that Chelmsford City Council had established its own guidelines which the Committee was required to have regard to when determining applications.

The Committee was informed that they were being asked to consider a review of a dual hackney carriage/ private hire drivers licence held by Driver X to determine whether or not they were a fit and proper person to continue to hold the licence.

Members were advised that the following options were available to them;

- a) To issue a formal written warning
- b) To suspend the licence for a period and reason to be determined, or for a period subject to a condition that the licence holder follow a specific course

of action, and to propose a course of action to be followed or risk suspension until completed.

- c) To Revoke the licence.
- d) To take no action.

Officers introduced the matter to the Committee, it was noted that a complaint had been received via a taxi operator which resulted in an investigation by officers. The confidential report before the Committee, took them through the full details of the complaint a telephone recording of the taxi booking being made was played for the Committee to hear. In summary, a journey had been pre booked to two drop off locations, one within the Chelmsford boundary and one slightly outside, with a pre agreed fare. The Committee were informed that the customer's version of events did not match up with the Driver's version of events. There were discrepancies over the final drop off location and how much the journey should have cost. There was agreement from both sides however, that the taxi driver after not receiving in their opinion full payment, returned to the initial pick up location to ask for the fare. It was noted by officers that this was unacceptable behaviour for a licensed driver.

It was noted by the Committee, that no previous complaints were on Driver X's record. Officers also

Driver X attended the meeting to answer any questions from the Committee. Driver X provided the Committee with their version of events. These did not align with the complainants version of events provided to officers.

Officers also clarified that as it was a pre booked fare to a destination outside of the Chelmsford boundary, then the set fare when the customer booked the journey is the one that should have been charged, not one from the meter.

The Committee gave careful consideration to all of the evidence and the representation made by Driver X. The Committee noted that the first element of the complaint regarding the drop off locations and non payment of the fare could not be verified either way. It was clear however that the driver had returned to the pick up location to request the payment of the fare. It was noted that this could have been viewed as intimidating behaviour and was not the behaviour expected of licensed drivers in Chelmsford.

RESOLVED that Driver X be issued with a formal written warning by the Committee.

Reasons for Decision

The Committee felt that the behaviour of Driver X was unacceptable. The Committee informed Driver X that a repeat of similar behaviour would lead to them being minded to revoke the licence in the future.

11. Urgent Business

There were no matters of urgent business.

The meeting closed at 9.04pm

Chair