



Buckinghamshire Council Licensing Committee

Minutes

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD ON TUESDAY 27 FEBRUARY 2024 IN THE OCULUS, BUCKINGHAMSHIRE COUNCIL, GATEHOUSE ROAD, AYLESBURY HP19 8FF, COMMENCING AT 6.30 PM AND CONCLUDING AT 8.06 PM

MEMBERS PRESENT

A Baughan, J Baum, D Dhillon, P Gomm, T Green, W Raja, N Southworth, B Stanier Bt, D Town, J Towns, G Wadhwa, H Wallace and A Wood

OTHERS IN ATTENDANCE

S Gallacher, A Thomlinson, L Vallis, E Cook, J Bowles and M Brown and L Eastwood

Agenda Item

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Paul Griffin and Jonathan Rush.

2 DECLARATIONS OF INTEREST

Councillor Waheed Raja declared a prejudicial interest in item 5 (Taxi and Private Hire Licensing Budget Review and Fees and Charges). Councillor Waheed Raja left the room prior to the commencement of the debate on this item and did not return or take part in the vote on this item.

3 MINUTES OF THE PREVIOUS MEETING

The Minutes of the Meeting held on 7 November 2023 were agreed as a correct record.

4 BUCKINGHAMSHIRE COUNCIL DRAFT STREET TRADING CONSENT POLICY

The Committee received a report on the Buckinghamshire Council draft Street Trading Consent Policy. Prior to the formation of Buckinghamshire Council in April 2020, street trading was dealt with differently in each legacy district council area, using different application forms, processes, and fee levels. Since becoming a unitary authority, the licensing team had been working to consolidate records and develop working practices that were consistent across the new council area. There was currently no street trading consent policy covering the Buckinghamshire Council area. Whilst there was no statutory requirement for a policy under the legislation, it was considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to street trading. The adoption of a policy supported the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

A pre-draft policy consultation exercise had been carried out and the results had helped shape Buckinghamshire Council's first draft street trading consent policy. It was proposed that all streets in the Buckinghamshire Council area be designated as 'consent' streets. Subject to agreement by the Licensing Committee, the draft policy would be consulted upon widely for a period of 6 weeks. The results of the consultation would be reported back to the Licensing Committee for further consideration. The draft Street Trading Consent Policy (referred to onwards as "the Policy") at Appendix 1 also provided guidance on the application processes and a brief overview of relevant legislation. The Policy provided an opportunity to outline matters which the Council would take into consideration when deciding whether to grant a street trading consent and it aimed to balance the needs of the public, traders, businesses, and the environment as well as supporting the Council's Corporate Plan. The ability to determine where street trading could take place, the articles that might be sold and the way trading was conducted, could help to support other council plans in terms of how public spaces look, feel, and are used. The street trading regime could be used to promote healthy lifestyle choices and environmentally friendly activities. A well-planned street trading policy also presented an opportunity to support economic prosperity and areas with vibrant street trading activity were likely to benefit not only traders themselves but also other businesses within the vicinity.

The draft Policy was based on the recommendation that Full Council designates all streets in the authority's area as 'consent' streets, should the Licensing Committee be minded to support this recommendation. This would mean that anyone wishing to trade in Buckinghamshire Council's area would need to apply for a street trading consent unless one of the exceptions, as shown in 2.7 of the report, applied.

If approved by the Licensing Committee, and subject to any suggested amendments, the draft Policy would undergo a six-week public consultation with all relevant stakeholders notified, including current street trading consent holders and non-consent holders (where these could be identified), Ward, Town and Parish Councillors, Community Boards, Thames Valley Police, Fire and Rescue Service and a number of Council departments such as Environmental Health, Trading Standards, Economic Development Team, Public Health, Planning and Community Safety.

Following the consultation process, a further report would be presented to the Licensing Committee providing full details of any comments received, together with any recommended changes by the licensing service to the draft Policy arising from the consultation. Should the Licensing Committee be minded to agree the proposed recommendation to adopt consent street controls, the matter would be referred to Full Council for consideration once a final version of the Policy had been agreed by the Licensing Committee.

Should new street trading controls be introduced across the whole council area, including controls on mobile traders, it was anticipated that more traders would be brought within scope of the regime. At present it was not possible to give an accurate estimate of the number of new traders, however it was expected that this information would be available following the proposed consultation exercise. Once final decisions had been made on the adoption of street trading controls and policy content, the licensing service intended to review both the budgetary position and levels of fees and charges during the period 2024/25 with a view to ensuring a cost neutral financial position would be maintained. A further report would be presented to the Licensing Committee on this and if approved new fees might be introduced during 2024/25 dependent on the policy decision making process. Thereafter fees and income levels would be reviewed on an annual basis.

Members were invited to ask questions of officers. A Member questioned what the benefits were to having consent streets rather than prohibited streets and asked why prohibited streets

were not being proposed in the new policy. In response, officers explained that consents would allow the Council to regulate the street trading activities across all areas that members of public might freely access. This would include the historical prohibited streets from legacy councils. Once an application was complete and deemed valid, the application would be subject to a 28-day consultation. This consultation was comprehensive and would allow other council departments, external stakeholders and members of the public to review the application and make any representations either for or against the application. This process would therefore flag up any issues in the historical prohibited streets. Furthermore, once a street was prohibited there could be no events held there, so if the Council wanted to hold an event on a prohibited street it might not be able to do so. Therefore, consent streets would provide more flexibility, whilst still ensuring that the necessary safeguards were in place.

A Member questioned what the need was for introducing a policy when it wasn't a statutory requirement and there didn't seem to be an issue with the current situation. The Member was concerned that the new policy was not necessary and was overregulation which would make things more difficult for small businesses. Having referred to 2.9 of the report, which stated that there were only 19 street trading consents in operation across Buckinghamshire Council area, the Member questioned whether the Council would have the resources to consider and determine the increase in the number of street trading consents which would result from the introduction of the new policy and whether it had the resources to carry out the increase in activities, particularly in relation to enforcement, which would be required. Furthermore, the Member was concerned that there would be an overlap with the enforcement activities carried out by other services and partner organisations such as Environmental Health and the Police.

With regard to the reason for the Policy, officers explained that a single policy would set out a clear and consistent framework for the Council's approach to street trading. Furthermore, the adoption of the Policy would support the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation. Historically, there had been objections made to street consents, so it was an issue that had created concern amongst members of the public. Currently, there were streets in Buckinghamshire which were not regulated that the Council had no jurisdiction over and therefore could do nothing about if there were any concerns.

With regard to scope, officers explained that at this stage the exact number of additional traders which would be brought within scope of the regime was not known. The proposal was that, through the consultation, the licensing service would contact all food mobile traders who were registered with Environmental Health to get a better understanding of how many of those would come within scope of the regime. Officers would then be able to report those numbers to the Licensing Committee. There were around 200 mobile food traders registered with Environmental Health, but it was anticipated that not all of those would come within the scope of the regime and therefore the number within scope of the regime would be less than that.

In terms of resources, officers explained that fees would be set at a cost recovery basis. Enforcement costs would be factored into the fee setting the same way as had been done with the other licensing regimes. If the Policy was adopted, a full fee review would be carried out on a cost recovery basis to ensure that there were no additional costs to the Council whilst ensuring that the costs for businesses be kept to a minimum. With regards to the concern regarding a potential overlap with enforcement activities carried out by Environmental Health and other enforcement agencies, officers explained that they had met with Environmental Health and other enforcement agencies such as the Police and the feedback had been that they were in support of the Policy. In relation to Environmental Health and Licensing, it was noted that they

were two distinct regimes which compliment each other.

A Member asked a question regarding the pre-draft policy engagement workshops and which organisations had attended. In response, officers explained that the workshops were attended by numerous departments within the Council, including Environmental Health, Planning, Trading Standards and other licensing colleagues. Externally, the workshops were attended by some representatives from the Town Centre Management Team, High Wycombe Business Improvement District (HW BIDCo), Thames Valley Policy, Bucks Fire and Rescue and other organisations listed in the draft Policy.

A further question was asked as to whether any lessons had been learnt from the pre-draft policy engagement workshops and survey in terms of level of engagement and how to increase the number of responses in the consultation should the draft Policy be approved for consultation. In response, officers explained that the pre-draft policy consultation was publicised in the same way as any other consultation carried out by the Council and involved following a consultation plan which had been created in conjunction with the Council's Consultation and Engagement Team. The survey was published on social media and the link to the survey was sent to all relevant stakeholders including ward councillors. It was also publicised in the Town and Parish Councils' Newsletter. However, the response rate was low and the service would take on board any learning from the pre-draft policy engagement and work with the Council's Consultation and Engagement Team again on how to promote the consultation to improve response rates should the draft policy be approved for consultation. Officers welcomed any ideas which Members might have on how to promote the consultation and any support they could offer. This time, the consultation would not only go out to consented traders but would also go out to the mobile food traders registered with Environmental Health. The licensing service would also reach out to organisations like High Wycombe BIDCo and the Council's Town Centre Management teams.

Following a question regarding market traders, the Committee was advised that 'trading in a market or fair that has a legal right to be held by virtue of a grant or an enactment or order' was one of the activities which was not considered street trading in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (see section 2.7 of the report). A concern was raised by a Member that a market trader who paid a levy every year might feel undermined by a trader who had a consent and potentially was paying lower for their pitch. In response, officers stated the Policy could actually help to address this issue as a regulated system would mean that the Council would have the discretion to ensure that street traders would not conflict with authorised market traders. At present there were large areas of Buckinghamshire town centres which were not regulated, meaning that there were street traders who were operating without having to pay any kind of fee for that location resulting in inequity across Buckinghamshire. Following a request from a Member, officers agreed to ensure that the Market Traders Association would be consulted with as part of the consultation process should the draft policy be approved for consultation.

A Member commented that one of the issues raised in Wycombe was that the street traders were effectively in competition with other fixed businesses in the town centre and often street traders did not have to pay rents or rates unlike the fixed businesses on the high street did and the price of a street trading consent was quite low in comparison. A Member asked how these inequalities would be addressed and any potential conflict avoided. Officers explained that this was something which was raised in the discussion with the Economic Development Team and the Town Centre teams as part of the pre-draft policy engagement and that they had stressed the need to ensure, when considering an application, that authorisation of a consent would not adversely affect the businesses already existing in the town centres. The draft policy was

proposing a comprehensive consultation process whereby this issue could be raised and the Council would have powers to refuse an application if there was a conflict. In terms of the fees, there were strict legal provisions which set out the extent to which the level of the fees could be set. The Council could not set fees deliberately at a level which would deter people from applying but fees could be set at a level to ensure the Council could cover its costs and the Council could also factor in other costs, like street cleansing, so that they were not borne by other businesses.

A Member welcomed the proposal to introduce the draft policy and felt that it would offer the opportunity to support economic prosperity which would benefit traders and other businesses in Buckinghamshire. In response to a comment about ensuring that the public know which traders had consent, officers stated that the draft Policy required all applicants and nominated assistants to provide proof of identification and a passport photo which would be printed on the consent. This consent would then need to be displayed when trading. Furthermore, it was being proposed that a public register for consent street traders be made available on the Council's website, similar to the public register of licensed premises.

Another Member referred to the Council's website and how the process regarding street trader consent was confusing as the process differed depending on what area of Buckinghamshire someone was trading in. The Member, therefore, welcomed the introduction of a clear and consistent single Policy.

Following the discussion, the Chairman explained that the recommendations being put to the Committee had been amended and were now as follows:

- 1) That the draft Street Trading Consent Policy set out at Appendix 1, subject to any recommended amendments, be approved for public consultation.
- 2) That following consultation on the Policy, the Licensing Committee recommend that Full Council pass a resolution to designate all streets in Buckinghamshire as 'consent streets' for the purposes of street trading.

On a vote being taken the first recommendation was proposed by Cllr Wood and seconded by Cllr Baum and:-

RESOLVED that the draft Street Trading Consent Policy set out at Appendix 1, subject to any recommended amendments, be approved for public consultation.

A vote was then taken on the second recommendation which was proposed by Cllr Gomm and seconded by Cllr Towns and:-

RESOLVED that following consultation on the Policy, the Licensing Committee recommend that Full Council pass a resolution to designate all streets in Buckinghamshire as 'consent streets' for the purposes of street trading.

5 TAXI AND PRIVATE HIRE LICENSING BUDGET REVIEW AND FEES AND CHARGES

The Committee received a report on the taxi and private hire licensing budget review and fees and charges and were asked to consider whether to approve the proposed fees and charges set out at Appendix A of the report prior to statutory advertising and consultation.

Taxi and private hire licensing fees could only be set at levels to recover such costs as were prescribed in law. The Council could not make a profit from licence fees and any shortfall in revenue, if not met by licence fee payers, must be borne by the Council as a whole. In practice,

this meant that the costs of the Service should be covered entirely by taxi licensing fee income into the Council. Any surplus or deficit must be carried forward and form part of any subsequent review of fees.

In July 2021, taxi and private hire fees and charges were approved as part of the implementation of a new Taxi and Private Hire Licensing Policy for Buckinghamshire, which came into effect in September 2021. The Licensing Service also went through the Better Buckinghamshire programme in 2021 and new structures for a harmonised Licensing Service, organised by specialism rather than geographical location, came into effect from the 1 September 2021. This created a single taxi and private hire licensing service serving the whole of Buckinghamshire and operating under the new Policy. Assurances were provided to the Licensing Committee that a full annual review of taxi licensing budgets and fees and charge would be carried out a year into implementation of the new Policy. This would enable the service to fully understand any surplus or deficit at that point and ensure that any adjustments required could be considered. This review was carried out between September and December 2022 and showed an adverse forecast position for the 2022/23 period of £100k. The main reasons for this were a reduction of application income into the service as a result of the longer term impacts of the Covid-19 pandemic and the alignment of legacy council licensing arrangements, which meant that licence holders who might have previously required more than one licence to work across Buckinghamshire, now only required one.

A revised set of taxi and private hire licensing fees and charges were presented to the Committee in January 2023, which were set at such a level to return the service to a cost neutral position over the following three financial rolling years. These fees were approved for statutory advertisement and consultation purposes and were subsequently approved by the Committee in April 2023 for implementation. Given the uncertainties at the time around the wider economy and the national trends on taxi and private hire driver and vehicle numbers following the impacts of the Covid-19 pandemic, it was proposed that the taxi and private hire licensing budget position be reported again to the Committee in Q4 of 2023/24. This would provide the opportunity to ensure that the budget position was as anticipated at the time that the fees and charges were set and that the service had maintained a cost neutral position. It would also provide an opportunity to carry out the annual review of fees and charges for the following year (2024/25) in relation to any increase in RPI that might be required to recover related increased costs to the Council. This report provided the Committee with the projected budget position for the 2023/24 financial period and proposed that a 4% uplift be applied to fees and charges for the 2024/25 period to ensure that the service remains cost neutral to the Council.

If approved, the proposed fees would be subject to a full consultation process with the licensed trade and other relevant parties. Section 70 of the Act sets out statutory advertising requirements in relation to vehicle and operator licences which require that an advert must be published within a local newspaper and at least 28 days provided for comments to be made. It was proposed that this consultation period would begin during March 2024. The licensed taxi and private hire trade would be made aware of the consultation and how to feed in via email, SMS and the Taxi and Private Hire News webpages. Following the statutory consultation process, a further report would be presented to the Licensing Committee at its next meeting on 16 April 2024, setting out the results of the consultation and any amendments made to the proposed fees as a result. If approved, the final proposed fees would take effect across the whole Council area from 22 April 2024. Fees would be reviewed annually and further reports would be provided to the Licensing Committee following review.

Members were invited to ask questions of officers. A Member asked why the proposed cost of a 3-year renewal was higher than some of the authorities listed in appendix B of the report.

Officers explained that the service was required to undertake the same checks for a renewal as were carried out for a new application. This included checks on right to work, DBS checks and ensuring that the processes around safeguarding had been followed. This was to ensure that the driver had not committed any motor offences or misdemeanours during the course of a previous licence. This also enabled officers to consider any additional intelligence or information from the Police or other authorities which might have been provided. This was in accordance with the statutory guidance which was issued to licensing authorities. This guidance had been applied differently in different local areas. Buckinghamshire Council had decided to be extremely robust in following the statutory guidance and its approach to licensing drivers and therefore the costs associated with these activities were the same as they were for a new application.

Referring to appendix B of the report, a Member asked why the Council was not doing better than some of the other local authorities in terms of fee levels. In response, officers advised that carrying out the necessary checks and measures was very important to ensuring public safety. Whilst all local authorities were encouraged to implement The Department for Transport's 'Statutory Taxi and Private Hire Vehicle Standards', it was not set in statute. Some local authorities were still in the process of including the guidance in their policies, whereas Buckinghamshire was one of the earlier adopters. There was still local disparity across the Country and whilst the gap between local authorities was narrowing, there was still report data being produced that showed that some local authorities were not operating to the same standards which were being operated to in Buckinghamshire. In terms of costs, considerable changes were made last year to the way the service was delivered to reduce the costs of running the service, which included making three staff redundant within the service to reduce staffing costs. It was noted that, following the recovery of the trade post-pandemic, the service was now experiencing a slight increase in demand compared to a year ago. The service had not had to take on any new staff to manage this increase in demand because of the improved systems and processes which had been put in place following the harmonisation of the service.

In response to a question regarding the timings of fee reviews, officers explained that there was a need to carry out an annual review of fees because due to a statutory requirement, the Council could not just apply an inflationary increase every year as there was a need to go out to consultation if the Council changed the vehicle and operator fees at a level above £25. This meant that the fees needed to be reviewed on an annual basis if an increase was proposed and brought to the Committee for a decision.

A Member asked why an increase in fees was being proposed if the forecast was that the outturn position would be £16k positive at end of year and questioned if there was a risk that taxi licence income would be reduced by pushing the trade away if fees were increased. In response, officers explained that forecast application income into the service was projected to be slightly higher than budgeted and likely reflected the gentle recovery of the licensed trade post-pandemic. Running costs and staffing costs had increased in line with this and were offset by the additional income received. Officers had carried out a comprehensive review of the cost of delivering taxi licensing services. The fees were set based on known information and on assumptions and forecasts. When setting fees, the Council had to take into account the rolling nature of the applications and renewal processes over a 1, 3 and 5-year application cycle. The Council also had to consider additional costs to the service which could occur over the next financial period, such as staffing pay awards and supplier costs which could vary subject to wider market pressures and contract costs. Furthermore, more applications would mean more activities and potentially more enforcement activity, activities at events and complaints. The service always strived to manage within its existing resources to keep the cost down for the

trade but if there was additional work required in that area, then the service needed to think about the potential cost of that.

With regard to the trade, officers stated that the service had tried hard to work closely with the trade and build relationships with their key representatives, such as through the working group and stakeholder meetings which were working well. Officers explained that whilst the service wanted Buckinghamshire operators to operate in Buckinghamshire and for the drivers to licence in Buckinghamshire, it was an open market and therefore drivers could licence in other areas and then subcontract back into Buckinghamshire. However, the service had not seen that happen in significant numbers in Buckinghamshire and if this was to happen it was likely that this would have happened last year when the fees went up.

In terms of communicating the fee increase to the trade, officers explained that the service would send out SMS and emails to operators and drivers and license holders and would update the trade's communications page on the Council's website. A Member stressed the importance of ensuring that the trade was informed of the reasons for the proposed increase and how the Council must retain a cost neutral position.

Following the discussion, the Chairman explained that the recommendation being put to the Committee had been amended and was as follows:

That the proposed fees and charges set out at Appendix A are approved prior to statutory advertising and consultation.

On a vote being taken the recommendation was proposed by Cllr Town and seconded by Cllr Dhillon and:-

RESOLVED that the proposed fees and charges set out at Appendix A be approved prior to statutory advertising and consultation.

Councillor Waheed Raja, having declared a prejudicial interest, left the room prior to the commencement of the debate on this item and did not return or take part in the vote on this item.

6 DATE OF NEXT MEETING

It was noted that the date of the next meeting was 16 April 2024 at 6.30pm.