

# Crawley Borough Council

## Licensing Committee

Agenda for the **Licensing Committee** which will be held in **Committee Room B**, Town Hall, Crawley, on **Monday 12 June 2017** at **7.30pm**

Nightline Telephone No. 07881 500 227



**Head of Legal and Democratic Services**

**Membership:**

Councillors R Fiveash (Chair), M L Ayling (Vice-Chair), T G Belben, N J Boxall, B J Burgess, K L Jaggard, M G Jones, K McCarthy, C J Mullins, D M Peck, C Portal Castro, B J Quinn, T Rana, R Sharma and J Tarrant.

Please contact Chris Pedlow (Legal and Democratic Services Division) if you have any queries regarding this agenda.

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The order of business may change at the Chair's discretion

## Business - Part A

**1. Apologies for Absence**

**2. Members' Disclosures of Interest**

In accordance with the Council's Code of Conduct, members of the Council are reminded that it is a requirement to declare interests where appropriate.

**3. Minutes**

To approve as a correct record the minutes of the meeting of the Committee held on 2 November 2016 (**Enclosure A**).

**4. Sub Committee Minutes**

To approve as a correct record the minutes of the meeting of the Licensing Sub Committee held on the following date:

- Meeting held on 6 March 2017. Application for the Grant of a Premises Licence to 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley, RH10 1FF. Chaired by Councillor M W Pickett (**Enclosure B**)

**5. Hackney Carriage unmet Demand Survey 2017**

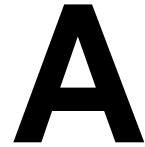
To consider report PES/250 of the Head of Economic and Environmental Services (**Enclosure C**).

**6. Supplemental Agenda**

Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.

**This information is available in different formats and languages. If you or someone you know would like help with understanding this document please contact the Democratic Services Team on 01293 438549 or email: [democraticservices@crawley.gov.uk](mailto:democraticservices@crawley.gov.uk)**

# Crawley Borough Council



## Minutes of Licensing Committee 2 November 2016 at 7.30pm

### Present:

Councillor M Pickett (Chair)

Councillor M L Ayling (Vice-Chair)

Councillors T G Belben, B J Burgess, R S Fiveash, K L Jaggard, M G Jones, K McCarthy, B McCrow, C J Mullins, D M Peck, B J Quinn, R Sharma and J Stanley.

### Officers Present:

Tony Baldock	Environmental Health Manager
Roger Brownings	Democratic Services Officer
Bill Nailen	Licensing Officer
Clem Smith	Head of Economic and Environmental Services.
Astrid Williams	Senior Lawyer

### Apology for Absence:

Councillor K J Trussell

### 5. Members' Disclosure of Interests

No disclosures of interests were made by Members.

### 6. Minutes

The minutes of the meeting of the Committee held on [13 June 2016](#) were approved as a correct record and signed by the Chair.

### 7. Hackney Carriage and Private Hire Licensing Policy Revisions Post Consultation

The Committee considered report [PES/225](#) of the Head of Economic and Environmental Services, the purpose of which was to consider the consultation responses in relation to the proposed addition of a Penalty Points Scheme (Scheme) and a Driver Code of Conduct (Code) to the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy (Policy). The Committee had agreed to the undertaking of the consultation at its meeting on 13 June 2016.

The report was introduced by the Environmental Health Manager who confirmed that before the consultation process commenced, minor amendments had been made to the draft Scheme and Code to incorporate clarifications sought by Members at the meeting on 13 June 2016. He also noted that it had been realised after the conclusion of the consultation process that one of the consultation questions relating to the draft Scheme incorrectly referred to a period of 2 years (in relation to the accumulation of penalty points) rather than 12 months (which was the actual proposal in the draft Scheme).

In welcoming the proposals generally, Members sought and received clarification on a number of issues raised, including matters already covered by existing legislation, whilst in response to a Member's suggestion that offences / breaches within the Points Scheme could be categorised as, say, driver specific and vehicle specific, the Environmental Health Manager suggested that this could be considered further. A question was also asked by a Member about whether the proposed 12 month period for points accumulation in the draft Points Scheme (para 1.2) was to be a rolling 12 months or a calendar year. In response, the Environmental Health Manager advised that it would be a rolling 12 months. It was felt that the proposed addition of the Scheme and Code would be reasonable, proportionate and an appropriate method of providing the Council with a range of enforcement options, as well as a mechanism to set and maintain a high standard of professionalism by the respective trade proprietors, operators, drivers and vehicles licensed by the Council.

The Committee was advised that the Equality Impact Assessment that was carried out in respect of the introduction of the original Policy in 2014 was currently in the process of being updated, with the intention that the finalised Assessment would be available as additional material for consideration by the Full Council.

## **RESOLVED**

That having considered the responses received to the consultation process, it is recommended that Full Council amend the Hackney Carriage and Private Hire Vehicle Licensing Policy as follows:-

- (i) To add both a Penalty Points Scheme and a Driver Code of Conduct as set out in Appendix A to report PES/225; and
- (ii) To delegate jointly to the Chair of Licensing and the Environmental Health Manager (or the Head of Economic and Environmental Services) the authority to make minor revisions to the Hackney Carriage and Private Hire Vehicle Licensing Policy.

*NOTE by Head of Legal and Democratic Services.*

*The Equality Impact Assessment for the Hackney Carriage and Private Hire Licensing Policy, as finalised, post consultation, has been included as Appendix A to these Minutes*

## **8. Closure of Meeting**

The meeting ended at 8.02 pm.

**M PICKETT**  
**Chair**

**EQUALITY IMPACT ASSESSMENT**

<b>Name of activity:</b>	<b>Licensing Hackney Carriages and Private Hire Vehicles</b>	<b>Date Completed:</b>	<b>14/01/2017</b>		
<b>Directorate / Division responsible for activity:</b>	<b>Economic and Environmental Services</b>	<b>Lead Officer:</b>	<b>Tony Baldock</b>		
<b>Existing Activity</b>	<b>X</b>	<b>New / Proposed Activity</b>		<b>Changing / Updated Activity</b>	<b>X</b>

**What are the aims / main purposes of the activity? (Why is it needed? What are the main intended outcomes?)**

How will this support our commitment to promote equality and meet our legal responsibilities?

Reminder of our legal duties:

- Eliminating unlawful discrimination & harassment
- Promoting equality of opportunity
- Promoting good relations between people from different groups
- Promoting positive attitudes towards disabled people and taking account of someone’s disability, even where that involves treating them more favourably than other people
- Involving people, particularly disabled people, in public life and decision making

Hackney carriage and private hire vehicles have a specific role to play in an integrated transport system. They are able to provide services in situations where other forms of public transport are not available in rural areas and for those with mobility difficulties. The council recognises it is important that hackney carriage and private hire licensing powers are used appropriately to ensure that licensed vehicles of the council are safe, comfortable, properly insured and available where and when required.

The Hackney Carriage and Private Hire Vehicle Policy will help the Council as follows.

- To ensure that safe, comfortable, reliable and accessible hackney carriage and private hire vehicles are available for all who require them
- To ensure that all licensed drivers and private hire operators are fit and proper persons
- To provide clarity for licensees with respect to the Council’s requirements and the decision making process

- To promote a professional and respected hackney carriage and private hire trade. These objectives will be taken into account by the Council when making decisions.
- Setting the standards for the licensing of drivers, vehicles and operators
- The licensing and routine inspections of vehicles, with appropriate follow up action
- Routine inspection of insurance policies, with appropriate follow up action
- The assessment of applicants to ensure they are 'fit and proper' persons and thereby entitled to hold a licence. This may include consideration of the persons medical suitability, criminal record (if any), driving standards and knowledge of the relevant law and locations in Crawley.
- Investigation of complaints with appropriate follow up action
- Liaison with the Police and other agencies regarding issues of mutual concern in relation to offences or the conduct of licensees
- Taking enforcement and / or disciplinary action including prosecution proceedings, verbal and written warnings, written cautions, notices, suspension or revocation of licences for breaches of legislation or conditions

When considering applications and taking enforcement action the Council as the Licensing Authority will have regard to Crawley Borough Council's Enforcement Policy.

The Hackney Carriage and Private Hire Licensing Policy has been produced in accordance with the powers conferred by the Town Police Clauses Act 1847, the Local Government (Miscellaneous Provisions) Act 1976 and the Transport Act 1985, as amended, which places on the Council the duty to carry out its licensing functions in respect of hackney carriage and private hire licensing and also in accordance with relevant government guidance.

In formulating this policy the Licensing Authority has had regard to the provisions of the European Convention on Human Rights, Human Rights Act 1998, Crime and Disorder Act 1998, and the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 and the Equality Act 2010.

#### Definitions:

- Hackney carriage (more commonly known as a taxi or cab) - is a public transport vehicle for no more than eight passengers which is licensed to 'ply for hire'. This means it can stand at ranks or hailed / flagged down by members of the public. Fares are regulated by the council and must be displayed on a meter fitted in the vehicle.
- Private hire vehicle - is a public transport vehicle for no more than eight passengers but must be 'pre-booked' in advance through an

operator and cannot 'ply for hire'. Fares for private hire vehicles are not regulated by the council - the cost of a journey will normally be based on a rate per mile or should be agreed with the company before the journey.

Crawley Borough Council didn't have a licensing policy and are responsible for Hackney Carriage and Private Hire Licensing in the Borough of Crawley. After consultation with interested parties including members of the hackney carriage and private hire licensing trade, the council adopted a Hackney Carriage and Private Hire Licensing Policy, which came into effect in part September 2015 and fully in April 2016

The policy is designed to be living document and will be amended and updated on a regular basis. A review of the EIA has therefore been undertaken to take account of 2 new proposed additions to the existant policy brining into effect a penalty points scheme and a code of conduct for drivers.

#### **What are the main actions and processes involved?**

The licensing and regulation of the hackney carriage and private hire trade.

The legislation, guidance and policy are for the benefit of all taxi licence applications that meet the statutory and policy criteria. The licensing authority holds a neutral stance in relation to all matters providing the application criteria are met by the applicant. The only reasons for rejecting an application stem from the statutory and policy requirements of the application process. The only objections that may be considered by the licensing authority that may lead to a decision not to grant a licence relate exclusively to aspects associated with the applicant being a fit and proper person in law. Due to the complexities surrounding hackney carriage and Private Hire policy it was nevertheless decided to proceed to a full assessment.

#### **Who is intended to benefit & who are the main stakeholders? (e.g. tenants, residents, customers or staff. How will they benefit?)**

A full consultation on the updates to policy has been undertaken with the trade. The Council has also taken into account the views of the following when preparing this policy and the amendments:

Service users  
Current licence holders

Elected members of the Council  
Sussex Police  
Local businesses and their representatives (trade associations)  
Residents and their representative bodies  
Local transport providers  
Disability Groups including Crawley Town Access Group

A full list of those consulted in preparing this Policy is available from the Licensing Section.

**Have you already consulted on / researched the activity?** (What consultation has taken place & what were the key findings?  
What evidence already exists? Are there any gaps that need further investigation? What still needs to be done?)

Crawley Borough Council consulted extensively in 2016 and conducted an initial EIA in connection with the Policy for the Licensing of Hackney Carriage and Private Hire Licensing in the Borough of Crawley. After consultation with interested parties including members of the hackney carriage and private hire licensing trade, the council adopted a Hackney Carriage and Private Hire Licensing Policy, which came into effect partially in September 2015 and fully in April 2016

The Hackney Carriage and Private Hire Licensing Policy was created to allow for transparency and guidance for the trade and the Council. This policy applies throughout the administrative area of Crawley Borough Council from the dates of adoption and overrides and supersedes any existing policy in relation to hackney carriage and private hire licensing in respect of applications, renewals, transfers and other areas connected to the following licences types:

- Private Hire Vehicle
- Hackney Carriage Vehicle
- Private Hire Operator
- Hackney Carriage Driver
- Private Hire Driver



In 2016 the Council consulted with all relevant stakeholders to gain their views on plans to amend the existing policy to add a penalty points scheme and a code of conduct. The consultation revealed a high level of support and approval from the general public and representatives of the taxi trade were also supportive of the scheme.

<b>Impact on people with a protected characteristic</b> (What is the potential impact of the activity? Are the impacts high, medium or low?)		
<b>Protected characteristics / groups</b>	<b>Is there an impact (Yes / No)</b>	<b>If Yes, what is it and identify whether it is positive or negative</b>
<b>Age</b> (older / younger people, children)	<u>Yes</u> / No	<u>Positive Impact</u> ✓  <u>Negative Impact</u>
<b>Disability</b> (people with physical / sensory impairment or mental disability)	<u>Yes</u> / No	<u>Positive Impact</u> ✓  <u>Negative Impact</u>
<b>Gender reassignment</b> (the process of transitioning from one gender to another.)	Yes / <u>No</u>	<u>Positive Impact</u>  <u>Negative Impact</u>
<b>Marriage &amp; civil partnership</b> (Marriage is defined as a 'union between a man and a woman'. Civil partnerships are legally recognised for same-sex couples)	Yes / <u>No</u>	<u>Positive Impact</u>  <u>Negative Impact</u>

<b>Pregnancy &amp; maternity</b> (Pregnancy is the condition of being pregnant & maternity refers to the period after the birth)	Yes / <u>No</u>	<u>Positive Impact</u>  <u>Negative Impact</u>
<b>Race</b> (ethnicity, colour, nationality or national origins & including gypsies, travellers, refugees & asylum seekers)	<u>Yes</u> / No	<u>Positive Impact</u> ✓  <u>Negative Impact</u>
<b>Religion &amp; belief</b> (religious faith or other group with a recognised belief system)	<u>Yes</u> / No	<u>Positive Impact</u> ✓  <u>Negative Impact</u>
<b>Sex</b> (male / female)	<u>Yes</u> / No	<u>Positive Impact</u> ✓  <u>Negative Impact</u>
<b>Sexual orientation</b> (lesbian, gay, bisexual, heterosexual)	Yes / <u>No</u>	<u>Positive Impact</u>  <u>Negative Impact</u>
Whilst <b>Socio economic</b> disadvantage that people may face is not a protected characteristic; the potential impact on this group should be also considered	Yes / <u>No</u>	<u>Positive Impact</u>  <u>Negative Impact</u>

**What evidence has been used to assess the likely impacts?** (e.g. demographic profiles, research reports, academic research, benchmarking reports, consultation activities, staff surveys, customer surveys, public surveys, complaints, grievances, disciplinary cases, employment tribunal cases, ombudsman cases, media reports)

No overall impacts have been identified across the equality strands.

The policy applies to all regardless of gender, age, disability, religious belief, race or ethnic minority or sexual orientation. However there are implications for the following strands but these have been explained and addressed within the policy and the full impact assessment.

- Gender
  - Gender of applicants is not considered a barrier to the issuing of taxi licenses and Crawley Borough Council.
- Age
  - Age restrictions are included in applications for taxi drivers however these follow national guidelines. All members of the community can use taxis and no one should be refused.
- Disability
  - It is a condition of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment to be able to transport passengers in wheelchairs at all times. The Council also requires all licensed drivers to undergo disability training as a part of the licence requirements. (The licence for a vehicle may be suspended until such time as the Council considers the vehicle is fit for purpose).
- Race/Ethnicity
  - Applicants from outside the United Kingdom must obtain a certificate of good conduct from the relevant Embassy and will be required to pass the Council's knowledge and locality test. (as will all applicants)
- Sex (Male/Female)
  - There is a national shortage of licensed female drivers, The Council will seek to work with the local trade to increase the numbers of lady drivers in Crawley.

**What resource implications are there to deliver actions from this EIA?** (Quantify: people, time, budget, etc.)

There are no identified additional resources arising from the EIA

Outcome following initial assessment		
Does the activity have a <b>positive</b> impact on any of the protected groups or contribute to promoting equality, equal opportunities and improving relations within target groups?	<u>Yes</u> / No	If yes, record the evidence below. If no STOP and re-examine the activity. <ul style="list-style-type: none"> <li>• Provision of wheel chair accessible vehicles</li> <li>• Large scale print for service users</li> <li>• Increase in lady drivers</li> </ul>
Does the activity have a <b>negative impact</b> on any of the protected groups, i.e. disadvantage them in any way.	Yes / <u>No</u>	If yes, identify necessary changes and record appropriate actions below. If no, record the evidence and assessment is complete.

Decision following initial assessment			
<b>Continue with existing or introduce new / planned activity</b>	<u>Yes</u> / No	<b>Amend activity based on identified actions</b>	Yes / <u>No</u>

<b>Action Plan</b> (Has the EIA identified any positive or negative impact on any of the protected groups which requires action? E.g. adjustments to the approach or documents, changes to terminology, broadening parameters of policy, etc. If so record any actions to be undertaken and monitored)			
Impact identified	Action required	Lead Officer	Deadline
<ul style="list-style-type: none"> <li>• Age</li> </ul>	No negative impact identified on issuing of taxi licenses Age restrictions are included in applications for taxi drivers however these follow national advice (The House of Commons Transport Select Committee on taxis and private hire vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before a licence could be granted) and Guidelines: "Fitness to Drive: A Guide for Health Professionals"	Senior Licensing Officer	Ongoing

	<p>published on behalf of the Department by The Royal Society of Medicine Press Limited (RSM) in 2006.</p> <p>Following the receipt of a complete application the council will issue a driver's licence to an applicant provided he or she has held a full driving licence for at least 12 months and is considered to be a fit and proper person</p> <p>When renewing a license applicants are expected to produce a valid medical certificate:</p> <ul style="list-style-type: none"> <li>• Upon first application</li> <li>• Upon reasonable request</li> <li>• Every three years</li> <li>• On their 60 birthday and then annually</li> </ul> <p>When approving applications the council will consider, amongst other things: the applicant's relevant skills, knowledge, experience, qualification, medical fitness, criminal record and previous history as a licence holder in accordance with Appendix 1 and Appendix 2. This is in accordance with the Local Government Miscellaneous Provisions Act 1982 and current best practice advice "</p> <p>It is recommended that the group 2 medical standards applied by DVLA in relation to bus and lorry drivers should also be applied by local authorities to taxi drivers.</p> <p>No negative impact identified for taxi users.</p>		
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	<p>There is no age restriction on passengers however their differing needs will need to be considered. For example older people may need assistance in both accessing the taxi and reading and understanding the tariff whilst for the safety of younger people, child locks will be used and children will not be carried as front seat passengers.</p>		
<ul style="list-style-type: none"> <li>• Disability</li> </ul>	<p>It is a condition of a vehicle licence that wheelchair accessible vehicles have the appropriate equipment to be able to transport passengers in wheelchairs at all times. (The licence for a vehicle may be suspended until such time as the Council considers the vehicle is fit for purpose).</p> <p>New legislation contained in the Equalities Act 2010 reinforces access for disabled people and regulates the specification of vehicles used as taxis to ensure that it is possible for disabled persons:</p> <ul style="list-style-type: none"> <li>• to get into and out of taxis in safety;</li> <li>• to do so while in wheelchairs;</li> <li>• to travel in taxis in safety and reasonable comfort;</li> <li>• to do so while in wheelchairs</li> </ul> <p>It also states in the Policy that licensed drivers are under a duty to carry a passenger's guide, hearing and other prescribed assistance dog in their vehicles without additional charge.</p> <p>To encourage best practice the Licensing team will consider preparing a database of disabled access taxis to be made</p>	<p>Senior Licensing Officer</p>	<p>Ongoing</p>

	<p>available upon request. However will not promote or recommend any one driver above another.</p> <p>They are also considering creating an 'excellence rating for taxi drivers' to be published on the website.</p>		
<ul style="list-style-type: none"> <li>Sex</li> </ul>	<p>No negative impacts identified Gender of applicants is not considered a barrier to the issuing of taxi licenses and Crawley Borough Council is aware of the need for fair and equal employment opportunities, however numbers of female taxi drivers is still low but this is a national trend. Safety, lone working and traveling at night for both female drivers and female passengers have been identified as an issue. Some female passengers request female drivers and taxi companies do accommodate this demand.</p> <p>Licensing team have access to details of female drivers and can make this available to customers. Licensing team to consider preparing database of female drivers to be made available upon request. However will not promote or recommend any one driver above another</p>	Senior Licensing Officer	April 2017
<ul style="list-style-type: none"> <li>Race/Ethnicity</li> </ul>	<p>No negative impact identified</p> <p>All applicants need a DBS check and applicants from outside the United Kingdom must obtain a certificate of good conduct from the relevant Embassy. The council requires all such applicants who have resided in the country for less than five years to obtain a DBS or equivalent and a Certificate of Good Conduct from their relevant Embassy or Consulate, at the applicant's</p>	Senior Licensing Officer	Ongoing

	<p>expense, authenticated, translated and sealed by the Embassy or Consulate. Additional information will be considered as appropriate. The applicant will be required to pass the Council's knowledge and locality test.</p> <p>Applicants who request additional help and advice with reading and writing are guided by members of staff; this includes help understanding the policy, procedures, completion of application forms and relevant documentation but not the actual test itself. Every applicant is treated equally and must complete this test themselves. If an applicant fails the test they are allowed to re-sit at a reduced fee and the number of re-sits is not limited.</p>		
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<b>Monitoring &amp; Review</b>	
<b>Date of last review or Impact Assessment:</b>	January 2017
<b>Date of next 12 month review:</b>	January 2018
<b>Date of next 3 year Impact Assessment (from the date of this EIA):</b>	January 2020

<b>Date EIA completed:</b>	January 2017
<b>Signed by Person Completing:</b>	<i>afh Bullock</i>
<b>Date Sent to HR and Equalities Team:</b>	.....



<b>Approved by Head of Service:</b>	..... .....
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NB – The original signed hard copy & an electronic copy should be kept within your Department for audit purposes. Send an electronic copy to the OD Officer in HR & Development. Also, please complete the summary document overleaf. This will be included on the Council’s website.

The EIA Toolkit provides guidance on completing EIAs & HR&D can provide further advice.



## Crawley Borough Council Equality Impact Assessment

Completed Equality Impact Assessment	Key findings	Future actions
<p><b>Directorate / Division:</b> Economic and Environmental</p> <p><b>Function or policy name:</b> Licensing Taxis</p> <p><b>Officer completing assessment (Job title):</b>  Environmental Health Manager</p> <p><b>Date of assessment:</b>  January 2017</p>	<p>Positive impacts of following protected groups</p> <p>Age Disability Sex Race/Ethnicity</p>	<p>Proactive encourage for female drivers</p>

# Crawley Borough Council



## Minutes of Licensing Sub Committee 6 March 2017 at 7.30pm

### Present:

Councillors B J Burgess, C J Mullins and M Pickett

### Officers Present:

Tony Baldock	Environmental Health Manager
Heather Girling	Democratic Services Officer
Mike Lyons	Senior Licensing Officer
Iain Pocknell	Principal Environmental Health Practitioner (Observing)
Astrid Williams	Legal Clerk

### Also in Attendance:

Councillors	T G Belben (Observing)
	K McCarthy (Observing)
Applicant	Alpesh Patel (Applicant)
	Jay Patel (Licensing Consultant for Applicant)

### 1. Appointment of Chair

#### RESOLVED

That Councillor M Pickett be appointed Chair for the meeting.

### 2. Members' Disclosure of Interests

No disclosures of interests were made.

### 3. Application for the Grant of a Premises Licence to 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley, RH10 1FF

The Sub Committee considered an application to grant a premises licence in respect of 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF.

Following the introduction of those present at the meeting, the Chair advised that the Sub Committee would follow the hearing procedure, a copy of which had accompanied the letters of invitation.

The Legal Clerk then asked all parties present, if they wished to make any relevant applications, for example additional information or to cross-examine any party. No applications were made, however Mr Jay Patel stated that he wished to highlight section 2.3.1 of the report, which would be addressed further as part of the presentation to the Sub Committee.

The Chair informed all parties that the Sub Committee had requested a briefing meeting with the Legal Clerk and Democratic Services Officer prior to the commencement of the Sub Committee, to confirm the procedure that would be followed during the meeting.

Report [PES/232](#) of the Council's Environmental Health Manager was presented by Mr Lyons, a Senior Licensing Officer for Crawley Borough Council.

### **The Application**

The Senior Licensing Officer, Mr Lyons, informed the Sub Committee that on 11 January 2017 Mr Alpesh Patel submitted an application to the Council as the Licensing Authority for the Borough of Crawley for the grant of premises licence in respect of the premises known as 'County Mall News' at 53A County Mall, Station Way, Northgate, Crawley. The application was detailed in Appendix 1 to the report and sought the retail supply of alcohol 'OFF' the premises (only). The Applicant had stated in the application that the premises intended to promote the four licensing objectives with the steps set out in the operating schedule.

It was confirmed that the application had been advertised in accordance with legislation. Sussex Police had notified the Council that they had proposed to the applicant the following two minor amendments to the Operating Schedule thus negating the need for any representation. The changes proposed were as follows:

- i. Please change the wording on CCTV condition offered in the application from "Met Police Standards" to "UK Police Requirements for digital CCTV (PSDB 09/05)".*
- ii. Please add the wording on Refusal Incident register condition offered in the application to also include " and the register will be kept for a minimum of 12 months"*

The applicant agreed to accept both proposed amendments.

The Licensing Authority had received a relevant representation raising objection to the application, from Henry Smith and Family (attached as Appendix 3 to the report).

The Sub Committee was then guided through the remainder of the report which set out the reasons for the Hearing and the matters which the Sub Committee should take into consideration when determining the application, including the relevant sections of the Guidance issued by Government pursuant of Section 182 of the Licensing Act 2003, and the Council's policy considerations. It was emphasised that all licensing determinations should be considered on a case-by-case basis, be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

The Sub Committee's attention was drawn to section 4.36 in the report which detailed the necessary fine available on failure to comply with any conditions attached to a licence or certificate, which on conviction would be punishable by a fine or up to six months imprisonment or both. The Sub Committee was informed this fine is now unlimited.

Mr Lyons lastly informed the Hearing of the options available to it in respect of the application, and reminded the Sub Committee that any decision must be appropriate for the promotion of the four licensing objectives. The options were to:

1. Grant the application subject to:
  - (i) Conditions which are consistent with the operating schedule modified to such extent as the authority considered appropriate for the promotion of the licensing objectives, and
  - (ii) Any relevant mandatory conditions.
2. Exclude from the scope of the licence any of the licensable activities to which the application relates.
3. Refuse to specify a person in the licence as the premises supervisor.
4. Reject the application.

#### **Questions asked by the Sub Committee of the Senior Licensing Officer**

The Sub Committee then asked the following questions of the Senior Licensing Officer:

<b>Questions by the Sub Committee</b>	<b>Response</b> <i>(respondent in brackets)</i>
If we grant the licence what is the timescale for an appeal?	Timescale for an appeal is 21 days. We allow 2 days for postage of decision notice so the 21 days commences on the day of receipt of decision notice. The decision notice would state the expiry date for the appeal. <i>(Mike Lyons)</i>
Would the selling of alcohol be in abeyance during those 21 days?	The licence would be granted throughout those 21 days. <i>(Mike Lyons)</i>

#### **The Applicant**

Mr Jay Patel on behalf of the applicant, addressed the Sub Committee and made the following submissions:

- The applicant had applied for a premises licence for the retail supply of alcohol 'OFF' the premises (only).
- Applicant had been running a successful small business since 2012.
- The premises covers approximately 27 square metres with other much larger businesses within the vicinity open for longer hours. There was now a wish to add alcohol to complement the business.

- The Secretary of State S182 Statutory Guidelines states that licensing authorities should look to the police as the main source of advice on crime and disorder matters.
- The letter issued by Mr Smith and family does not explicitly link the objection to the application with the licensing objections in the Licensing Act 2003.
- Unfortunately there had been no response from Mr Smith and family to a letter issued 27 February 2017 providing an opportunity for mediation.
- The residential address of the objector is just over half a mile away from the applicant's premises and is outside the Crawley Town Centre boundary.
- Section 2.4 of the Crawley Borough Council Statement of Licensing Policy refers to reasonable control of individual licensees and others. Whilst Section 2.5 indicates that the licensing law is not a mechanism for the general control of anti-social behaviour once individuals are beyond the reasonable control of those holding a licence.
- The issue of homelessness within Crawley was not perceived to be directly linked to alcohol and there were other factors affecting homelessness such as short term tenancies terminating.
- The Sub Committee was referred to Appendix 2 that in order to address the licensing objections the applicant had stipulated various conditions. These included
  - the selling of multiple packs of 4 cans
  - no beer, lager or cider to be sold in cans with alcohol by volume in excess of 6.5%
  - operating challenge 25 policy
  - operating hours for retail of alcohol applied
  - alert system connected to County Mall security

**Questions asked by the Sub Committee of the Applicant**

The Sub Committee then asked the following questions of the Applicant:

<b>Questions by the Sub Committee</b>	<b>Response</b> <i>(respondent in brackets)</i>
How often will the incidents register be monitored and reviewed?	Details of incidents shall be recorded as quickly as possible within the incident register, apart from refusals which are entered in Refusals Register which records all refused sales of age restricted products. The incidents are held on the register for 12 months, but monitored and discussed regularly with staff so incidents can be learned from. <i>(Jay Patel)</i>
Would it be beneficial to share information with other licensing premises and how would this be taken forward?	It would be beneficial to share information with other premises. <i>(Jay Patel)</i>  Condition 11 within the Operating Schedule (page A28) stipulates that the premises will actively participate in the local shopwatch scheme. Further details of the scheme would subsequently be made available to the applicant. <i>(Mike Lyons)</i>

Questions by the Sub Committee	Response <i>(respondent in brackets)</i>
How will staff be trained?	Staff undertake a vigorous training programme consisting of licensing awareness, how to retail alcohol sensibly, how to enter information in the refusal register and incident log. This training is refreshed every 6 months. <i>(Jay Patel)</i>
Please can you explain and confirm the CCTV condition on page A36 'PSDB 09/05'?	PSDB 09/05 refers to the UK police requirements for digital CCTV; quality of images, storage of pictures, export (can the images be easily exported from the system) and playback (can the images be easily viewed by authorised third parties). If a certificate is required as confirmation to prove these requirements are being met this can be provided. <i>(Jay Patel)</i>

#### **Closing Statement by the Applicant**

Mr Jay Patel on behalf of the applicant made the following point in his closing statement:

- The application has been subject to thorough consultation and has been submitted with full consideration of the licensing objectives.

#### **RESOLVED**

In accordance with Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the following part of the Hearing. The Sub Committee considered that the public interest in taking such action outweighed the public interest in the Hearing taking place in public.

#### **4. Application for the Grant of a Premises Licence to 'County Mall News', 53A County Mall, Station Way, Northgate, Crawley**

The Sub Committee gave further consideration to the application and to the matters raised at the meeting. In formulating its decision, the Sub Committee took into account the options that were available to it and considered what was appropriate to ensure that the licensing objectives were promoted.

## **RESOLVED**

The Sub Committee, having considered the application and the relevant representations in detail, resolved to take the actions as detailed in **Appendix A** to these minutes, because it was considered appropriate to promote the licensing objectives.

### **5. Re-admission of the Public**

The Chair declared the meeting re-open for consideration of business in public session. The Chair read out the Sub Committee's decision as detailed in **Appendix A** to these minutes. It was also announced that all parties would receive a copy of the decision notice within five days of the Hearing.

### **6. Closure of Meeting**

With the business of the Sub Committee concluded, the Chair declared the meeting closed at 8.45pm.

COUNCILLOR M PICKETT  
**Chair**



## **Appendix A**

### **Determination of the Licensing Sub Committee sitting at Crawley Borough Council**

**6 March 2017**

#### **Decision in relation to the application for the grant of a Premises Licence to Alpesh Patel in relation to the premises, County Mall News, 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF**

The hearing of the application of Mr Alpesh Patel for the grant of a premises licence in respect of 53A County Mall, Station Way, Northgate, Crawley, West Sussex, RH10 1FF was heard by a Licensing Sub Committee of Crawley Borough Council on 6 March 2017.

At the conclusion of the hearing the Licensing Sub-Committee notified those present of their decision. Set out below the decision and the reasons for it.

The Sub Committee, in determining the application, carefully considered the following:


- The application and all the material provided in support of it by Mr Alpesh Patel, and the submissions made on his behalf during the hearing.
- The relevant representation made by the interested party.
- The guidance issued by the Secretary of State pursuant to s182 of the Licensing Act 2003.
- The Council's own Licensing Policy.

The decision of the Sub Committee was that it was appropriate for the promotion of the licensing objectives to grant the premises licence subject to the conditions consistent with the operating schedule (as set out on pages A28 and A29 of the Report PES/232 but modified as agreed with the Police as set out in 2.2.1 of the Report).

The sub-committee's reasoning was as follows:

- The Sub Committee was impressed by the professional manner in which the application was drafted and presented, including that the proposed licence conditions more than adequately promoted the 4 licensing objectives.
- The Sub Committee found that the absence of a representation from the Police objecting to the licence to be very persuasive; as they were mindful that both the section 182 guidance issued by the Secretary of State and our own Policy indicates that this authority should look to the Police as the main source of advice in relation to crime and disorder.
- The Sub Committee considered the representation made by Mr Smith, and whilst sympathetic to his general worries, they found his conclusions as to the likely increase in crime and disorder, nuisance and risk to youths in the area to be without any evidence such that they were merely speculative in nature.

# Crawley Borough Council

	Report No: PES/250	
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## Report to the Licensing Committee

12<sup>th</sup> June 2017

### Hackney Carriage Unmet Demand Survey 2017

#### 1 Key Points

- 1.1. On 7<sup>th</sup> September 2011 Committee decided to implement a policy of limiting hackney carriage vehicle licences granted by Crawley Borough Council (such limit to be the number of current licences granted by the date of the Committee's decision), subject to any applicant demonstrating exceptional circumstances.
- 1.2. Before the Borough Council can decide to continue to restrict hackney carriage licences, the Council must first undertake an unmet demand survey to demonstrate that there is no significant unmet demand. Such surveys should be conducted at least every 3 years.
- 1.3. The required survey has been conducted and a report completed, and Members are now asked to determine whether or not to continue the policy of restricting the number of hackney carriage licences.

#### 2. Recommendations

##### 2.1. The Committee is requested to:

- (1) Give due consideration to the unmet demand survey report which was undertaken on behalf of Crawley Borough Council.
- (2) Decide if it is satisfied there is no significant unmet demand for the services of hackney carriages within the borough.
- (3) If the Committee is so satisfied, to consider whether the Council should continue to have a policy of limiting the number of hackney carriage licences issued by Crawley Borough Council, subject to any applicant demonstrating exceptional circumstances.
- (4) If the decision of the Committee is to continue to operate a policy of limiting the number of hackney carriage licences, to decide at what level (number of licences) the limit is to be set.

Clem Smith  
Head of Economic and Environmental  
Services

### **3.0 Background**

- 3.1 On 7<sup>th</sup> September 2011 the Licensing Committee decided to implement a policy of limiting hackney carriage vehicle licences issued by Crawley Borough Council.
- 3.2 Section 16 of the Transport Act 1985 permits a council to refuse an application for a hackney carriage vehicle licence for the purpose of limiting the number of hackney carriages within its area “if, but only if” the council is “satisfied that there is no significant demand for the services of hackney carriages ... which is unmet”. Therefore, to have a general policy of limiting numbers within the borough, the Council must be satisfied that there is no significant unmet demand for such services.
- 3.3 The Department for Transport 2010 Best Practice Guidance recommends that councils, if they are to have a policy of limiting numbers, should demonstrate that there is no significant unmet demand by means of a survey which is conducted sufficiently frequently. The Guidance notes that surveys conducted at intervals of 3 years is “commonly regarded as the maximum reasonable period between surveys” for this purpose.
- 3.4 The Council commissioned CTS Consultancy to undertake the unmet demand survey. A report detailing the survey conducted and analysis of the results has been prepared but it is not attached as an appendix to this report due to its length, however, hard copies are available in the Members’ Study, and further hard and electronic copies can be obtained from either Democratic Services or from the Licensing Office. Members should read the report prior to the Licensing Committee meeting on 12<sup>th</sup> June 2017.
- 3.5 CTS has been invited to the Licensing Committee to answer any questions that members wish to ask.

### **4.0 Detail (including consultation carried out)**

- 4.1 CTS Consultancy has carried out an independent survey of unmet demand of hackney carriage services on behalf of the Borough of Crawley. The survey has involved extensive consultation with the hackney carriage and private hire trade, the public and other special interest groups of hackney carriage users.
- 4.2 The report concludes that there is no evidence of any unmet demand which is significant at this point in time in the Crawley Borough licensing area. Full details of the survey and analysis are set out in the report.
- 4.3 In its 2010 Guidance, the Department for Transport is clear that it considers it is best practice for councils not place numerical restrictions on hackney carriage licences. Members are referred to paragraphs 45 to 51 of the Guidance.
- 4.4 There is, however, no current statutory prohibition on continued numerical restrictions, although the council ought show, if it does not follow the Government guidance, that it has robust reasons for so doing and has acted reasonably in making its determination.
- 4.5 Members should note that although not yet in force, section 161 of the Equality Act 2010 provides an exception to any limit on numbers with regard to Wheelchair Accessible Vehicles (WAV).

## **5.0 Decision to be made**

- 5.1 Where a council has limited the amount of hackney carriage licences, it ought to keep that policy under review and consider evidence of demand within the borough at least every 3 years, after which it may decide to retain the policy of limiting numbers or not, providing that if the decision is to retain the policy, the council must first be satisfied that there is no significant unmet demand. If a decision is made to continue to limit numbers, the decision should also specify the level at which the numbers are to be limited.

## **6.0 Ward Members' Views**

- 6.1. The Council on this occasion has not consulted or sought the views of Ward Members as this matter is not ward specific.

## **7.0 Staffing, Financial and Legal Implications/Powers**

- 7.1 Section 17 Crime and Disorder Act 1998 places the council under a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- 7.2 Human Rights Act 1998 - any action undertaken by the council that could have an effect upon another person's human rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of those obligations.
- 7.3 Members are reminded that, in discharging their responsibilities, they are required to comply with the public sector equality duty as set out in section 149 of the Equality Act 2010.
- 7.4 In 2002, the Council decided to de-limit numbers and also resolved that all taxis licensed after this time would be wheelchair accessible. 6 additional hackney carriage licences were issued prior to the limit being removed and these vehicles were restricted to London Taxis type thus were wheel chair accessible by nature and at least 1 other purpose built vehicle was licensed at that time. However, the wheelchair accessible policy was never fully implemented for existing licence holders with vehicle plate numbers 1-73. This resulted in a disjointed policy creating a source of friction within the trade. Those who had to provide a wheelchair accessible vehicle felt that it was not a level playing field due to the increased costs associated with an accessible vehicle, balanced against the number of customers requiring this type of vehicle.
- 7.5 Since 2002 the number of wheelchair accessible vehicles has increased from 7 out of 79 licensed vehicles in November 2002 (8.8%) to 50 out of 123 (61.5%) licensed as of the date of this report.
- 7.6 The results of the unmet demand survey, together with test enquiries of operators and care homes indicate that there are no problems in passengers obtaining the services of an accessible vehicle. The Council's extant policy allows the matter of wheel chair accessibility to be taken into account as follows.
- 7.7 The Council is fully committed to meeting the needs of the travelling public in Crawley including those who have disabilities of any nature. In addition to the

disability awareness training drivers shall be required to undertake the number of Hackney Carriages licensed by the authority will therefore contain a sufficient number of vehicles which are capable of carrying a wheel chair as determined by an unmet demand survey which shall include a section on this matter. The Council therefore reserves the right to increase or decrease the number of wheel chair accessible vehicles based on local need. The decision as to whether any vehicle that is submitted to the Council for the purposes of being licenced as a hackney carriage, shall be capable of carrying a wheel chair will be at the discretion of the Head of Economic and Environmental Services in conjunction with the Portfolio Holder for Licensing functions and be made with reference to local need at the time of the application.

- 7.8 The suitability of accessible vehicles and service provision in the fleet was consulted on with key stake holders including Disabled Representatives in Crawley. No comment was received. However, the council has committed to review the situation on a regular basis based on the policy outlined in 7.6 above.
- 7.9 The survey revealed that a passenger had waited for a wheel chair accessible vehicle for 25 minutes at the taxi rank in Three Bridges and no vehicle was available. The passenger was provided with a telephone number for a suitable local company and a wheel chair accessible vehicle arrived with 10 minutes.
- 7.10 The Equalities Impact Assessment for taxis was reviewed and amended in 2016 and is available on request. This assessment revealed that there is no discrimination concerning users of wheel chair accessible vehicles.

## **8.0 Risk Implications**

- 8.1 None.

## **9.0 Environmental Implications**

- 9.1 None.

## **10.0 Links to the Sustainable Community Strategy and Corporate Plan**

- 10.1 The proposals contained in this report relate to the following key areas of the Sustainable Community Strategy

Community Cohesion	Community Safety	Y
Young People and Children	Health and Well Being	
Older People	The Environment	Y
The Local Economy	Social Inclusion	Y

The following key principles are applicable:-

- |       |  |   |
|-------|--|---|
| (i)   | Working together                           | y |
| (ii)  | Dignity, respect and opportunities for all | y |
| (iii) | Involving People                           | y |
| (iv)  | Making it last                             | y |

The report relates to the following areas in which the Council operates to enhance the town and the quality of life of local people:-

- |       |                 |   |
|-------|-----------------|---|
| (i)   | Prosperity      | y |
| (ii)  | Community       | y |
| (iii) | Environment     | y |
| (iv)  | Value for Money | y |

## 11.0 Reasons for the Recommendation

- 11.1. In September 2011 Members decided to implement a policy of limiting the number of licensed hackney carriage vehicles within the Borough of Crawley.
- 11.2. If the Borough Council decides to continue with a policy to restrict licensed hackney carriage vehicles, the Council must be satisfied that there is no significant unmet demand. The survey of unmet demand has been conducted and completed, so Members are now asked to determine whether or not to continue the policy of restricting the number of hackney carriage vehicle licences, subject to an applicant demonstrating exceptional circumstances.

## 12.0 Background Papers

Report: 'Crawley – Hackney Carriage Unmet Demand Study' by CTS May 2017

[Department for Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance, March 2010](#)

Report to Licensing Committee 18<sup>th</sup> June 2014 (PES/157) and minutes of the meeting.

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