

MINUTES OF THE
REGULATORY COMMITTEE

held on 5 September 2024 at 7pm

Present:

Councillor R.J. Lee (Chair)

Councillors D. Clark, H. Clark, A. Davidson, S. Davis, J. Frasca, A. John, L. Mascot, S. Scott, and P. Wilson

Also in attendance – Cllrs Bugbee, Eley and Lardge

1. **Apologies for Absence**

Apologies for absence were received from Councillors Chambers and Pappa.

2. **Minutes**

The minutes of the meeting held on 11 July 2024 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**

No public questions had been submitted in advance of the meeting.

5. **Consultation Re Increase in Taxi (Hackney Carriage) Fares - Tariff**

The Committee considered a report providing them with feedback from Private Hire Operators and other Local Councils about the proposal made by the CDTA, to introduce a Call out/Booking fee for fares charged in respect of Hackney Carriages (Tariff Charges) which had been considered on 11th July 2024.

The Committee were asked to further consider the petition, along with the feedback received and if they were in agreement, it was noted that the proposal would be advertised for 14 days and if any objections were submitted the matter would be considered at a future meeting or the proposals would be put in place if no objections were received.

The Committee heard that officers sought feedback on the below areas;

- How do you currently manage bookings that are subcontracted out to Hackney carriage drivers?

- How is the radius/zone for these bookings determined, and what criteria are used?
- What fees are associated with these subcontracted bookings?
- How are jobs passed over to Hackney Carriages?
- How do you work out your current fees for Private hire Bookings?
- We would appreciate your feedback on how such a change to the tariff could impact your business. Specifically:
- How would the introduction of a booking fee or call-out fee benefit your operations?
- Are there any concerns or reasons why you might oppose this change to the tariff?

The Committee heard that officers received feedback, from Brentwood and Southend Councils, two private hire operators and Andy Ashton who had calibrated all of the Council's meters in the past. It was noted that the feedback was detailed in Appendices D to G of the report.

The Committee also heard from the CDTA representative, who had submitted the initial petition. In addition to the points, they raised at the first meeting they informed the Committee that;

- They were glad to see the responses to the request for further information, but felt they may have confused and overcomplicated the proposals.
- The initial proposal was a simple one to give the public further choice and to provide work to the ample numbers of hackney carriages sitting on city centre ranks.
- The call out fees would be on a minority of bookings, but would allow greater choice in a competitive market, and a larger opportunity for Wheelchair accessible vehicles to be available to those requiring them.
- Many requested jobs were simply not commercially viable currently, due to the dead miles, but if the proposal was granted, then there would be opportunities for the jobs to be priced fairly for customers and to become viable for the driver and operator too.
- Prices would remain competitive as drivers would essentially be competing with each other for the jobs with call out fees, therefore the fee would remain reasonable due to the competition between drivers or operators.
- The proposal would improve the service offered to Chelmsford residents.

In response to questions from members on the proposals, the CDTA representative stated that;

- The zoned area was not part of their initial proposal, but they were happy for it to be included if necessary.
- Call out fees would be set appropriately by the driver or operator depending on the dead miles included in the journey.

- Prices would have to be set competitively as otherwise customers would simply not make the bookings.
- They were not strongly supporting the zoned areas as it would be difficult to manage and could still lead to some fares not being commercially viable in certain areas.
- A percentage based booking fee would not be adequate compared to the up to £30 fee as on some smaller journeys, it would not be sufficient to cover the dead miles.
- A maximum fee of £30 had been set to cover call out fees for journeys at the edge of the Council area, in South Woodham Ferrers for example.

In response to questions from members on the proposals, officers stated that;

- No complaints had been made in writing about a lack of available vehicles, but one phone call had been made around 18 months ago.
- If there was no set zone, then drivers or operators could under the proposals legitimately charge the £30 call out fee on any journey, respective of if there were any dead miles or not.
- There were not other incentives available to encourage more drivers or operators of private hire vehicles to use wheelchair accessible vehicles and it was a choice for drivers.

Members of the Committee appreciated the theory behind the call out fees and why it had been requested by members of the trade. They also expressed various concerns however, about how the call out fee would be managed or regulated. It was noted that, the proposal could lead to members of the public being charged too much, the possibility of surge related pricing and the possibility of price fixing. The Committee felt there were too many unknowns with the proposal and did not see how complaints could be easily investigated, if there were issues with the call out fees.

RESOLVED that the proposed implementation of a booking fee to the current tariff not be approved.

(7.02pm to 8pm)

6. [Application to appeal the decision of a refusal of a Pavement Licence \(Black Sheep Coffee\)](#)

The Committee were requested to consider an application to appeal the decision made by the Licensing Authority in relation to the refusal of a pavement licence. The Committee heard that the initial application had been refused in accordance with the Council's Pavement licence policy, after receiving representations from Chelmsford City Council's Town Centre Management and Planning Departments and Essex County Council as the Highways authority.

The Committee heard that the main reason that the application had been rejected, was that the proposed furniture would restrict emergency vehicle access and pedestrian flow. It was noted that the Licensing Authority had informally approached those who had objected to the initial application to ask for views on the proposed amendments to the plans, the responses were detailed in Appendix H, which in summary re emphasised the initial concerns that had been raised. It was noted that

there was no set appeal process in the relevant legislation, but Council's could undertake an internal review process, which the Regulatory Committee had been asked to do by Black Sheep Coffee.

The Committee heard from a representative of Black Sheep Coffee who stated that they now only wanted a licence on non-market days, therefore Mondays, Wednesdays and Thursdays, therefore not creating a pinch point for emergency vehicles. They also stated the area for tables and chairs would only extend 1 metre from the premises rather than the original 2 metres.

Members of the Committee noted the change in application, but felt that a new application should be submitted to allow consultees to respond. Officers clarified that as detailed in the report consultees had been informally asked for views on a reduced application but they had still submitted concerns on this. Members of the Committee also detailed the importance of a clear emergency access route and the experience of the officers that had developed the policy. The Committee held a vote and agreed to uphold the refusal for the same reasons as detailed by officers.

RESOLVED that the decision to refuse the licence be upheld, for the same reasons as set in the officer's original refusal decision.

(8.01pm to 8.16pm)

7. [Application to appeal the decision of a refusal of a Pavement Licence \(Queenies\)](#)

The Committee were requested to consider an application to appeal the decision made by the Licensing Authority in relation to the refusal of a pavement licence. The Committee heard that the initial application had been refused in accordance with the Council's Pavement licence policy, after receiving representations from Chelmsford City Council's Town Centre Management and Planning departments, Essex County Council and Environmental Services.

The Committee heard that the main reason that the application had been rejected was because the proposed furniture and plans went against the Council's Pavement policy. The Committee also heard that the applicant's were at the same time asked to remove the furniture already placed on the High Street and this was followed up with a further request, which was also ignored, leading to the safe removal of the furniture by the Council. It was noted that there was no set appeal process in the relevant legislation, but Council's could undertake an internal review process, which the Regulatory Committee had been asked to do by Queenies.

A member of the Committee expressed their support for the appeal and detailed that the premises provided an important service for disabled customers and was very welcoming. They felt that the outside seating provided an extra option for customers who may not wish to be inside the premises and that the tables and chairs would be a valuable addition to the High Street. Other members of the Committee expressed their view that they were being asked to consider the tables and chairs appeal and that it was not a value judgment of whether certain premises should be allowed or not allowed outside seating.

The Council heard from the representative for Queenies. They informed the Committee that there were two obstacles to granting the application, safety, and the policy. They felt that there were valid reasons to overcome both obstacles and emphasised that their application should be judged on its own merit. They stated that as a matter of law the policy did not have to be strictly followed and it was within the Committees remit to make exceptions to the policy where it was felt necessary.

They also informed the Committee that, they did not believe there were safety issues and there were ample examples of obstacles on the high street, from other businesses or events that occasionally took place. They emphasised their view that their application was not different to the tables and chairs at nearby premises such as Pret and would not lead to any safety concerns. The Committee also heard that independent businesses should be valued and that an exception to the policy could be made. They stated that Queenies should be an exception, due to the service they provide, and that the Council should be proud of a successful local business. They also highlighted to the Committee, two benches near to the premises that essentially caused a narrower gap than their application would.

The Committee were also informed that Queenies, were willing to halve their application to one row of tables with chairs and also to accept a shorter licence of six months or a year, rather than the normal two years to demonstrate that there was no adverse impact to their application.

In response to questions from the Committee, officers stated that;

- The only exception to the policy had been the Badow Road application by Biryani Boy. The area being considered was different and the policy outlined specific requirements for the Tindal Square development, of which Pret was not part of. Therefore, different rules applied for different parts of the High Street, to assist with emergency and service vehicle access. The Committee also heard that the policy explicitly stated a 3-metre gap between tables and the shop frontage, along with demarked areas on the pavement and the red hatched areas in the policy detailing where tables could be positioned.
- When large events took place on the High Street, there would be separate Event Management plans in place to deal with emergency vehicle access and other issues.
- Benches had been deliberately placed in specific areas along with trees, to ensure adequate access gaps were still in place.
- The representation from the Council's planning department, detailed the design integrity that had been built into the policy and the extensive consultation and research that had taken place with various Council departments and disability groups. It was also noted that there had been a deliberate effort to create a throughfare at the top of the High Street, with no separation between Half Moon Square and the top of the High Street.
- Any insurance claim related to the tables and chairs would be against the business owner rather than the Council.

In response to questions from the Committee, the representative for Queenies stated that;

- They were happy for a shorter licence to demonstrate there would not be any issues with their application.
- If the tables were up against the building frontage, there would be adequate access in front of the tables.
- If they had been in business when the policy was developed, they would have been granted an area of red hatching within the policy, therefore it should be amended accordingly, now their premises was a restaurant rather than a shop.
- The High Street was constantly evolving and therefore the policy should as well.
- The owners did not look at the policy before moving into the new unit but had seen the nearby tables at Pret for example and therefore did not anticipate any issues with their own outside seating.

The Committee's legal adviser confirmed that the representative for Queenies was correct in their assertion that legally the Committee was not bound to follow the policy. The Committee was, of course, required to give due weight to the policy; the policy was a starting point for decision making and if it were otherwise there would be no point in having a policy. However, as a matter of law, the application fell to be judged on its own merits and the Committee was not called upon to slavishly follow the policy in reaching its decision. Indeed, to do would be unlawful as it would amount to a fetter on its discretion. It was therefore open to the Committee to depart from the policy (and grant the application this review) if it considered that there was a good case for doing so. The representative for Queenies had sought to make out such a case.

It was also correct that if the Committee were minded to grant a licence, then it could grant such licence for a lesser period than two years e.g. 1 year or even 6 months.

A proposal was made and seconded to grant the licence and thus allow the appeal. This was on the grounds that due regard had been given to the policy, but that it was not set in stone and could be deviated from, to grant the licence for one year, for two tables with chairs, smaller planters accordingly, with tables directly adjacent to the premises frontage. The motion was voted on and not carried.

A further proposal was made and seconded, to uphold the decision to refuse the licence, for the same reasons as detailed in the initial refusal by officers. The motion was voted on and carried.

RESOLVED that the decision to refuse the licence be upheld, for the same reasons as set in the officer's original refusal decision.

(8.22pm to 9.12pm)

8. Street Collection Policy

The Committee were asked to consider a report, which asked them to consider the draft Street Collections Policy and agree the method of consultation with the public and relevant stakeholders. The Committee heard that the policy provided guidance relating to charitable street collections on how the Council administered applications for permits, applied the law and ensured fairness to charities. It was noted that the existing policy had been published in October 2018 and was therefore, due for review. The Committee heard that if they agreed with the draft, it would then be consulted upon with the public and key stakeholders and if only minor or inconsequential amendments arose from the comments then officers would be delegated authority to adopt the policy. If, however, consequential comments were received then the policy would be brought back to the Committee for consideration.

The Committee were taken through some of the key changes to the policy, which was available at Appendix A to the report and it was noted that if approved for consultation, then that would take place over a six week period, by a combination of direct contact with stakeholders and the placing of details on the Council's website.

The Committee thanked officers for developing the new policy and agreed that it was a comprehensive policy.

RESOLVED that

- (i) The revised Street Collections Policy be agreed as a 'consultation draft', as set out in **Appendix A**;
- (ii) Officers commence the consultation process with the public and key stakeholders (as outlined in this report);
- (iii) (subject to only minor or inconsequential amendments / changes arising from comments or feedback received during the consultation process), that the Head of Service, be authorised to make such changes to the draft Policy at **Appendix A**; (consequential amendments would be brought back to Committee for consideration)
- (iv) Subject to (i) – (iii) above the revised Street Collections Policy be adopted.

(9.13pm to 9.21pm)

9. Urgent Business

There were no matters of urgent business.

The meeting closed at 9.21pm

Chair