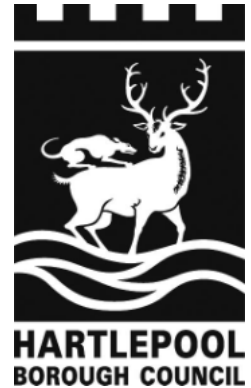


LICENSING COMMITTEE AGENDA



Wednesday, 18 January 2012

at 2.00 pm

in Committee Room B

MEMBERS: LICENSING COMMITTEE:

Councillors Barclay, Brash, Fleet, Fleming, Griffin, Hall, Jackson, Lawton, A Lilley, G Lilley, Morris, Shields, Sutheran, Tempest and Wells.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 12 October 2011

4. ITEMS REQUIRING DECISION

No items

5. ITEMS FOR INFORMATION

5.1 Street Trading - *Assistant Director (Regeneration and Planning)*

5.2 Hackney carriage/Private Hire Drivers - *Assistant Director (Regeneration and Planning)*

6. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

LICENSING COMMITTEE

18th January 2012



Report of: Assistant Director (Regeneration & Planning)

Subject: STREET TRADING

1. PURPOSE OF REPORT

1.1 To inform Members of potentially significant changes to national legislation that will impact upon the Council's ability to control and licence street trading.

2. BACKGROUND

2.1 On 2nd March 2005 it was resolved that parts of the Local Government (Miscellaneous Provisions) Act 1982 (LGMP) be adopted to have the effect of requiring permissions to be obtained for street trading in Hartlepool.

2.2 Anyone wishing to trade on any street, except a prohibited street, is required to obtain from the Council a street trading licence or a street trading consent by submitting a formal application to the Council.

2.3 Street trading licences and consents are available for any period ranging from one day to one year with an annual permission currently costing around £1100.

2.4 In 2011 the Council issued 31 licences and consents generating a total income of £17,000.

2.5 In December 2009 the EU Services Directive was implemented in the UK. The purpose of the Directive was to make it easier for service businesses to set up or sell their services anywhere in Europe.

2.6 One of the impacts of the Directive was to require Local Authorities to examine their procedures, including licensing procedures, to ensure that they did not, intentionally or unintentionally, create artificial barriers to trade through unnecessary, disproportionate or restrictive processes or requirements.

- 2.7 In December 2009 the Government's opinion was that street trading was not affected by the Directive and, therefore, no changes to the Council's street trading procedures were considered necessary.
- 2.8 However, the Government Department for Business, Innovation & Skills (BIS) has now indicated that additional activities, specifically street trading and peddling, that were at first thought not to be affected by the Service Directive are, in fact, affected.
- 2.9 BIS has stated that there are a number of elements to the LGMP that potentially place the UK in breach of the Services Directive and that as a result significant changes to the LGMP must be made.

3. ISSUES

- 3.1 The Department for Business, Innovation & Skills has indicated that the primary legislation (LGMP) that permits Local Authorities to licence street trading activities is likely to significantly change in 2012 to ensure compliance with the EU Services Directive.
- 3.2 As the purpose of the Directive is to ensure and encourage fair trading and competition the changes to the LGMP will remove those terms which, in some way, allowed or permitted Local Authorities to operate in a way which could be perceived as being anti-competitive or in some other way restricted trade i.e. by the adoption of procedures that favoured or protected existing or local traders.
- 3.3 Whilst there is no stated timescale for amendments to the LGMP BIS has indicated that changes are likely in 2012 and, as such, Local Authorities should be prepared to respond to the national changes as quickly as possible.
- 3.4 With respect to the licensing of street traders in Hartlepool it is likely that a number of allowances or requirements currently placed upon applicants or licence holders may be considered in breach of the principles of the Services Directive and would therefore require change. For example: -
- At present, the Council will not issue a licence or consent to sell goods of a similar nature to those sold by any fixed site trader already based in the vicinity. For example, a licence would not be issued to a burger van allowing it to trade directly outside a food premises. BIS has indicated that this may be anti-competitive as it protects the interests of an existing trader over the legitimate rights of a new one.
 - At present, the Council limits the number of licences or consents it issues for any particular location so as to not adversely affect the appearance of the location and to provide the trader with the greatest opportunity of trading success. BIS believes this practice may be anti-competitive and should not therefore be continued.

- Although not an issue in Hartlepool, BIS has stated that licences and consents must be time limited so as to allow for new traders to enter the market from time to time. In some areas of the Country, permissions have been granted ‘for life’ and, when combined with restrictions on numbers, this has the effect of preventing any new traders becoming established. BIS considers this practice to be anti-competitive.
 - It is also likely that rules to maintain a ‘mix’ of traders at a market may be deemed illegal as, once again, it may be seen as anti-competitive and a restriction on trade. Controversially, it would appear that Local Authorities may be able to maintain a mix for UK traders but the same rules could not be imposed on those arriving from elsewhere in Europe.
- 3.5 The opportunity to apply for a licence/consent to trade will continue to be restricted to streets that have not been designated as ‘prohibited’ and the Council will remain at liberty to determine which streets should be designated as such.
- 3.6 If a street is not designated as ‘prohibited’ it is likely that a permission would have to be granted irrespective of the number of traders already at the site or the impact that it may have on the local economy/amenities.
- 3.7 These changes to legislation will require Local Authorities to amend their licensing processes and, because it will become more difficult to refuse licences/consents in future Members may wish to consider what the Council’s general approach to street trading should be i.e. to encourage and facilitate competition everywhere or to protect existing shops/infrastructure through the creation of prohibited streets where street trading should not be permitted.

4. RECOMMENDATION

Members note the report.

5. BACKGROUND PAPERS

- 5.1 There are no background papers.

6. CONTACT OFFICER

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LICENSING COMMITTEE

18th January 2012



Report of: Assistant Director (Regeneration and Planning)

Subject: HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS

1. PURPOSE OF REPORT

- 1.1 To update Members about the ongoing impact of the implementation of the requirement for new private hire/hackney carriage drivers to pass the Driving Standards Agency Taxi Test.

2. BACKGROUND

- 2.1 At a meeting of this Committee on 19th January 2011 Members were asked to consider whether new applicants for hackney carriage and private hire drivers licences should be required to pass the Driving Standards Agency Taxi Test.
- 2.2 Members were advised that the DSA test was already a requirement in other Tees Valley licensing areas and was a common feature amongst licensing policies across the Country. Tests currently cost £79 and take the form of a practical driving test with theory – examining the applicant's ability to transport fare paying passengers in safety and comfort.
- 2.3 Members were informed that a consultation exercise had been carried out with the taxi trade and that 54 responses were received from the 650 drivers, owners and operators that had been contacted.
- 2.4 The results of the consultation highlighted that: -
- a) 33 respondents believed that new driver applicants should be required to pass the DSA test. 18 believed they should not.
 - b) When asked what the impact would be if there were fewer licensed drivers, 38 thought it would result in a better wage for existing drivers whilst 14 thought it would mean there would not be enough drivers to meet public demand.

- c) 33 respondents thought there were currently too many licensed hackney carriage vehicles. Only one thought there were too few with 17 feeling the number was 'about right'.
- 2.5 Members determined to amend the hackney carriage and private hire licensing policy so as to require all new driver applicants to pass the DSA Taxi Test with effect from 1st April 2011.
- 2.6 In July 2011 a further report was submitted to the Licensing Committee advising that there had been a significant reduction in new driver applications since the implementation of the new requirement.
- 2.7 Members were advised that the introduction of the DSA test had coincided with the withdrawal of much of the grant funding that had been available to help the unemployed get back into work.
- 2.8 The Licensing Committee also heard representations from two members of the Taxi Owners Working Group who informed the Committee that the reduction in new drivers was having a detrimental impact on their ability to operate their taxi business and that a fall in driver numbers would adversely affect service to the general public.
- 2.9 At its meeting in July 2011 the Licensing Committee determined that the requirement for new drivers to pass the DSA Taxi Test should continue but that details of the impact of the Test be reported back to committee in January 2012.

3. ISSUES

- 3.1 In July 2011 Members were advised that the number of driver applications for the period of April to June had fallen from 38 in 2010 to just 1 in 2011.
- 3.2 An analysis of applications received between July 2011 and November 2011 has identified a steady increase in numbers with applications now returning to pre-DSA Test levels as can be seen below: -

New Driver applications

	<u>2011</u>	<u>(2010)</u>
July	2	4
August	2	6
September	4	7
October	8	9
November	9	8

- 3.3 Whilst it is not possible to speculate as to exactly why the number of applications is returning to previous higher levels Members may wish to note that sources of funding are once again being made available from agencies such as Job Centre Plus.

- 3.4 Feedback from those drivers who have successfully passed the DSA test has been mixed with some believing it was useful and relevant whilst one considered it to be too simple and unnecessary. However, as can be seen from the number of applications being received as detailed in paragraph 3.2 above the actual requirement to undertake the test no longer appears, in itself, to be barrier to applying for a licence.

4. RECOMMENDATIONS

- 4.1 That Members note the contents of this report.

5. BACKGROUND PAPERS

- 5.1 The following background papers were used in the preparation of this report: -
- i. Agenda & Minutes - Licensing Committee 19th January 2011
 - ii. Agenda & Minutes – Licensing Committee 20th July 2011

6. CONTACT OFFICER

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