

Licensing and Health and Safety Committee

Minutes of a Meeting of the Licensing and Health and Safety Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **20th January 2014**.

Present:

Cllr. Feacey (Chairman);
Cllr. Galpin (Vice-Chairman);
Cllrs. Adby, Apps, Mrs Bell, Davey, Marriott, Miss Martin, Shorter, Sims.

In accordance with Procedure Rule 1.2 (iii) Councillor Miss Martin attended as a Substitute Member for Councillor Mrs Martin.

Apologies:

Cllrs. Hodgkinson, Mrs Martin.

Also Present:

Assistant Health, Parking & Community Safety Manager, Legal Advisor, Senior Member Services & Scrutiny Support Officer.

292 Declarations of Interest

| Councillor | Interest | Minute No. |
|------------|---|------------|
| Adby | Announced an 'Other Interest' as he knew Ms Singer from a previous job. | 294 |
| Feacey | Announced an 'Other Interest' as he was the Managing Director of Energyshift who worked with members of the taxi trade. | 295, 296 |
| Galpin | Announced an 'Other Interest' as he knew Ms Singer through her involvement in the Portas Pilot consultation. | 294 |

293 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 7th January 2013 be approved and confirmed as a correct record.

294 Xanadu at 32 High Street, Ashford, TN24 8TE – Application for the Variation of a Condition of a Sex Shop Licence

The Chairman opened the meeting and welcomed all those present. He explained the procedure to be followed at the meeting and confirmed that Members had read the papers relating to the application.

The Assistant Health, Parking & Community Safety Manager then gave a brief summary of the report. He said Members were asked to consider the application to vary a sex shop licence and at the conclusion of the hearing to either allow or refuse the application. A sex establishment licence for Xanadu, 32 High Street, Ashford had first been issued in September 2010 and had been renewed annually. A copy of the current licence and conditions were attached at Appendix A to the report. An application had been received from Ms Singer to vary her licence by seeking to remove Condition 20 which stated; “Windows and openings to the premises other than entrances shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council, so as to prevent the interior of the premises being seen by passers-by.” Ms Singer wished to remove the screen restricting the view of the interior of the premises from the left hand window. The removal of this screen would allow the passing public an unrestricted view to the front part of the premises. Ms Singer had stated that this area would only contain lingerie and all toys and R18 DVDs would be positioned behind a wall at the rear of the shop which would have restricted access. The Assistant Health, Parking & Community Safety Manager advised that the Committee could either: - allow the variation, refuse the variation or allow the variation with conditions as Members saw fit. The licences were granted for 12 months and reviewed annually. If there were no objections at that stage the Officers had delegated authority to permit. He further clarified that the photographs in the report had been taken by Licensing Officers.

Ms Singer spoke in support of the application. She said that the variation had been sought to help develop her business. She said she had previously been involved in the business known as Pillow Talk in Castle Street, Ashford which had operated under a sex establishment licence for 14 years with no complaints. In September 2010 they had moved to 32 High Street and made a new application for a sex establishment licence. This had been granted and the business name changed to Xanadu with herself as the sole owner. The economy in the High Street was difficult. There was poor footfall and arrangements for traffic and coupled with the impact of internet sales this had made the business very different. The spilt in her sales from 2000 – 2014 had changed greatly and moved much more towards lingerie and away from the R18 DVDs. General attitudes towards sex and adult entertainment had also changed greatly over that time as had her clientele. She wanted to move away from the more ‘seedy and behind closed doors image’ that such shops had and embrace the lingerie aspects as shops such as Ann Summers had been able to do. Xanadu had a look and feel more like an Ann Summers shop, but was also licenced to sell extra items. There was no intention to open up the whole shop to view as she wanted to remain sensitive, but she did want potential customers to be able to see her range of lingerie. The simple change she was asking for would not cause complaints and would show potential customers that they had nothing to fear by entering her shop. She would be careful and mindful about what was displayed in the

windows and she would welcome an annual review from the Council to keep the matter in check.

In response to questions from Members, Ms Singer clarified the following points: - the R18 DVDs would be in a separate partitioned part of the shop and could not be seen from the outside of the shop or from the windows. Customers would have to make a conscious decision to go to this part of the shop and it would be made clear what was there; Under 18s were never allowed in to any part of the shop; she did not currently have TVs or LCD screens in the shop to display moving images; and the accessories mentioned to be displayed in the window included hen night novelties such as tiaras, banners etc. She said that if granted, the variation would make a difference to her custom and living. It was important that more people felt comfortable coming into the shop. It was obviously her livelihood at stake, but she wanted people to see the shop as a lingerie store that they could use without stigma.

The Chairman thanked Ms Singer for her comments. Ms Singer and the Assistant Health, Parking & Community Safety Manager then left the Council Chamber whilst the Committee retired to make its decision.

On return the Legal Advisor read out the decision.

Resolved:

- That (i) the Committee reminds the Licence Holder that Condition 15 on the licence applies in full and that the showing of any film or video, even a clip, would be in breach of this condition.**
- (ii) the Committee also reminds the Licence Holder that the Council will use Condition 17 on the licence to ensure that nothing is visible from outside the premises that could be deemed inappropriate.**
- (iii) in order to achieve a fair balance between the Licence Holder's right to trade and the protection of Under 18s, the Committee approve the application to remove Condition 20 from the licence, based in particular on the Licence Holder's assurance that only lingerie and accessories will be visible to passers-by.**

295 Proposed Fee Levels for 2014/15 Applications

The Assistant Health, Parking & Community Safety Manager introduced the report which recommended the proposed fees for licences for the financial year 2014/15. It covered: - Gambling Related Fees; Sex Establishment Fees; Hackney Carriage and Private Hire Fees; Scrap Metal Dealers Fees; as well as summary of licences and permissions issued between 1st December 2012 and 30th November 2013.

Gambling Related Fees

The report recommended an average increase of 2.5% be made to the fees, which was in line with inflation. There had been no fee increase since 2007 when the fees were first set. The Assistant Health, Parking & Community Safety Manager reiterated that there were no plans for a casino in the Borough.

In response to questions from Members, the Assistant Health, Parking & Community Safety Manager advised that the Gambling Act allowed Licensing Authorities to set their fees upon a cost recovery basis only.

Sex Establishment Fees

A recent High Court case had confirmed that it was unlawful for a Local Authority to charge lawful licensees for the cost of enforcement action against unlicensed operators. In addition the judgment contained an important decision relating to the setting of sex establishment application fees, stating that licensing authorities cannot simply roll over its licensing fees. It was proposed that an average increase of 2.5% be made to the fees, which was in line with inflation.

Hackney Carriage and Private Hire Fees

In 2007/8 and 2008/9 fees were increased by 3%, which was below the relevant rate of inflation. The fees for 2009/10, 2010/11 and 2011/12 were unchanged due to an increase in the number of drivers ensuring that inflationary costs were covered by increased income. In 2013/14 most of the fees remained unchanged, with some minor exceptions that saw a slight fall. Licenced drivers and proprietors now had up to five additional costs to pay in relation to the annual licensing process; Disclosure and Barring Service checks; vehicle compliance checks; medicals; the knowledge test for hackney carriage drivers and the Driver Standards Agency Taxi Test. It was proposed to increase the overall fees by an average of 2.5% (the first increase in since 2008/9). The report also recommended that the hackney carriage drivers test be increased from £30 to £45, the fee for transfer of licence and replacement internal and external plate be increased from £20 to £25; and replacement badge/licence fees be reduced from £15 to £10.50.

In response to questions from Members, the Assistant Health, Parking & Community Safety Manager advised that the proposal to reduce the fee to increase the number of vehicles licenced during the duration of a licence had been taken so as to not disadvantage a company wishing to expand their business and there was no charge for vehicle inspection missed appointments as these were set by contract and the contractor made no charge for this.

Scrap Metal Dealers Fees

As a result of their timing part way through a year, the initial fees for a three year licence under the new Scrap Metal Dealers Act 2013 were set by the Council in October 2013 and these were based on estimated costs as it was a new licensing regime. As a result of the processes involved and time taken, these had been recalculated and set out in the report.

Recommended:

- (i) that the fees used for gambling applications and notices as given below be approved.**

RECOMMENDED GAMBLING RELATED LICENCE FEES FOR 2014/15

| Premises Type | New Application (£) | Annual Fee (£) |
|-------------------------------------|---------------------|----------------|
| New Small Casino | 6442 | 3664 |
| New Large Casino | 7729 | 7395 |
| Regional Casino | 12177 | 11419 |
| Bingo Club | 2214 | 690 |
| Betting Premises (excluding Tracks) | 2250 | 445 |
| Tracks | 1732 | 687 |
| Family Entertainment Centres | 1732 | 687 |
| Adult Gaming Centre | 1732 | 690 |
| Temporary Use Notices | 200 | N/A |

| | Application to Vary £ | Application to Transfer £ | Application for Re-Instatement £ | Application for Provisional Statement £ | Licence Application (provisional Statement holders) £ | Copy Licence £ | Notification of Change £ |
|-------------------------------------|--------------------------|------------------------------|-------------------------------------|--|--|-------------------|-----------------------------|
| New Small Casino | 2645 | 1538 | 1295 | 6442 | 296 | 25 | 50 |
| New large Casino | 3495 | 1804 | 2035 | 7729 | 3793 | 25 | 50 |
| Regional Casino | 5709 | 4156 | 4156 | 12177 | 5930 | 25 | 50 |
| Bingo Club | 1512 | 841 | 841 | 2214 | 912 | 25 | 50 |
| Betting Premises (excluding Tracks) | 1276 | 841 | 841 | 2214 | 912 | 25 | 50 |
| Tracks | 1158 | 841 | 841 | 1732 | 912 | 25 | 50 |
| Family Entertainment Centres | 779 | 841 | 841 | 1690 | 735 | 25 | 50 |
| Adult Gaming Centre | 760 | 820 | 820 | 1732 | 753 | 25 | 50 |
| Temporary Use Notices | N/A | N/A | N/A | N/A | N/A | 25 | N/A |

(ii) that the sex establishment fees as given below be approved.

RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR 2014/15

Current Fees:

Grant: £3,095

Transfer: £565

Renewal: £565

Taking into account the above, the recommended fee levels for sex establishments for 2014/15 are as follows:

Grant: **£3,172**

Transfer: **£579**

Renewal: **£579**

(iii) that the hackney carriage, private hire and operator applications licence fees as given below be approved for the purposes of public consultation.

**PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES
2014/15**

| | CURRENT FEES | PROPOSED FEES |
|--|--|--|
| | 2013/14 | 2014/15 |
| Private Hire & Hackney Carriage Drivers Licence (for 1 year) | £49.00 | £49.00 |
| Private Hire & Hackney Carriage Drivers Licence (for 3 years) | £75.00 | £75.00 |
| Additional driver's licence (adding a licence) | £20.00 | £20.00 |
| Hackney Carriage Knowledge Test & Re-test | £30.00 | £45.00 |
| Replacement badge/Licence | £15.00 | £10.50 |
| Vehicle Licence - New or Renewal (including vehicle plate) for 1 year | £290.00 - New £270.00 - Renewal | £300.00 – New £280.00 - Renewal |
| Vehicle Plate Internal/External | £20.00 | £25.00 |
| Transfer of Vehicle Licence (with or without vehicle plate) | £20.00 | £25.00 |
| <i>Vehicle Inspection - Test Fee (set by contract)</i> | <i>Max £28.00</i> | <i>Max £28.00</i> |
| <i>Vehicle Inspection - Missed Appointment (set by contract)</i> | <i>No charge</i> | <i>No charge</i> |
| Private Hire Operators Licence - New or Renewal (for 3 years) | 1-3 vehicles : £73 4-10 vehicles : £240 11-20 vehicles : £480 | 1-3 vehicles : £75 4-10 vehicles : £250 11-20 vehicles : £500 |
| To increase number of vehicles licensed during duration of Operators Licence | 1-3 to 4-10 : £237 4-10 to 10-20: £310 | 1-3 to 4-10 : £175 4-10 to 10-20: £250 |
| Fee for Returned (Bounced) Cheques | £16.00 | £16.00 |

- (iv) that the scrap metal, site and collectors fees as given below be approved.

| | CURRENT FEES 2013/14 | PROPOSED FEES 2014/15 |
|----------------------------|-------------------------|--------------------------|
| Grant Site Licence | £240 | £300 |
| Grant Collectors Licence | £180 | £200 |
| Renewal Site Licence | N/A | £200 |
| Renewal Collectors Licence | N/A | £100 |
| Variation | £75 | £75 |
| Minor Variation | £20 | £20 |

296 Review of the Hackney Carriage Fare Scale 2014/15

The Assistant Health, Parking & Community Safety Manager introduced the report which set out a number of options for the hackney carriage fare scale for 2014/15. The recommendations had arisen following debate at the September 2013 Taxi Forum, a subsequent questionnaire of hackney carriage drivers and operators and were discussed again at the November 2013 Taxi Forum.

The three options proposed were: - no change to the current tariff; an increase of 10p to the starting fare (drop rate) and an additional 3% overall; and an increase of 10p to the starting fare (drop rate) and an additional 5% overall. The rough implications for the cost of a journey for various distances on the basis of each of these options were outlined in the report. The responses of the trade were set out within the papers and a majority would prefer an increase of 10p to the drop rate and an additional 5% overall.

In terms of other costs, as of October 2013, the average price per litre of unleaded fuel in the South East was 132 pence – a decrease of 7 pence on the previous year. Over the same period diesel prices had decreased by approximately 5 pence, inflation had reduced as had the cost of general car insurance.

League tables of hackney carriage fares, based on a two mile journey placed Ashford 34th highest out of 364 Districts nationally, and 34th of 103 in the South of England.

It was agreed that the price of LPG would be reflected in future reports.

In accordance with Procedure Rule 9.3, Mrs Whybrow attended and addressed the Committee. She reminded Members that any fare increase would be the maximum that drivers could charge. They could charge less if they wanted and some did. She said it was important to take into account the needs of smaller fleets and individual drivers who had very different working patterns. She also promoted the case for an increase in fares for larger vehicles (6 or more passengers). Such vehicles had much higher overheads and maintenance costs, and often only ran 6-8 people on relatively short journeys. She proposed rate and a half for 6 or more passengers.

The Committee considered there was some merit in the point about larger vehicles and asked Officers to have a further look at this and ask drivers specific questions on whether they had the larger vehicles in their fleet and if the fare for 6+ passengers

should be at 1.5 rate. Some Members said they were surprised that this was not already the case. Another Member said that it was important to encourage people to use these types of taxi rather than taking three or four cars somewhere so there was a need to be pragmatic. It was agreed that the fares should be set as proposed from 1st April 2014, but this issue was something that should be looked at during the year and perhaps an extra meeting of this Committee would be needed later in 2014 to consider this issue.

Members generally considered Ashford's fares were quite high relative to other areas and said they felt uncomfortable recommending an increase at a time when other costs for drivers were reducing.

Recommended:

- That (i) the hackney carriage licence fees structure as given in the table below be approved.**
- (ii) Officers examine the issue of charging a 1.5 rate for six or more passengers and report back to the Committee during 2014/15.**

In accordance with Procedure Rule 15.5 Councillor Apps requested that it be recorded he had voted against recommendation (i).

DELIBERATLY LEFT BLANK

PROPOSED FARES FOR 2014/15**(a) Fares for distance or time**

| | <u>£</u> |
|--|----------|
| <u>Rate 1</u> | |
| If the distance does not exceed 700 yards, for the whole distance or for the first 220.5 seconds of waiting time | 2.80 |
| For each subsequent 171.8 yards or uncompleted part thereof | 0.20 |
| Or for each subsequent period of 54.5 seconds of waiting time or uncompleted part thereof | 0.20 |

(b) Surcharges for certain times and days:-

| | |
|---|-------------|
| <u>Rate 2</u> | |
| a) For each hire commenced between 12 midnight and 7 am | 1½ x Rate 1 |
| b) For each hire undertaken on GOOD FRIDAY, EASTER MONDAY, MAY DAY, SPRING BANK HOLIDAY, SUMMER BANK HOLIDAY or any other specifically declared Bank Holiday only. | 1½ x Rate 1 |

Rate 3

| | |
|---|------------|
| c) For each hire undertaken on a CHRISTMAS DAY, BOXING DAY or NEW YEARS DAY | 2 x Rate 1 |
| Note: When the holiday charge (b) or (c) is payable the Night Charge (a) is NOT payable. | |

Extras - up to a maximum of £1.20

| | |
|--|------|
| d) for each person (excluding infants in arms) carried in excess of two persons (two children under 10 years of age count as one person) irrespective of distance. | 0.20 |
|--|------|

Note: For the purposes of counting the number of persons that the vehicle is licensed to carry, children under 10 years of age should each be counted as a person. A babe in arms should not be counted as a person.

| | |
|---|------|
| e) for each article of luggage conveyed outside the passenger compartment of the carriage | 0.05 |
| f) for perambulators | 0.05 |
| g) for dogs | 0.10 |

Queries concerning these minutes? Please contact Danny Sheppard:
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