

Regulatory Committee

9.30am, Monday 21 October 2019

Present

Councillors Fullerton (Convener), Dixon (Vice-Convener), Howie, Mitchell, Rae, Rose, Neil Ross and Watt (substituting for Councillor Arthur).

1. Licensing Policy Development – Street Trading Update

(a) Deputation – High Street and Playfair Steps Street Traders Association

The deputation welcomed the progress made over the last year regarding the changes to the application and allocation process for street trader licence applications for the High Street and Hunter Square. The Association were keen to work with the Council towards moving forward in a positive way.

The Association also wanted to improve the quality and standards of street trading stalls on the High Street and had had meetings with organisations such as Edinburgh World Heritage to seek input and advice on operating within a World Heritage area.

The deputation was concerned about the recommendations in the Executive Director of Place's report that no further street trader licences should be granted outside the building at 329 High Street and the impact this would have on the livelihoods of local independent traders.

(b) Report by the Executive Director of Place

The Committee had previously agreed to adopt new conditions for street trading and market operator licensing.

Following adoption of the Public Spaces Protocol which was now in operation throughout the city, a number of proposed changes to the Street Trading Policy were submitted for consideration.

Decision

- 1) To note the report.
- 2) To affirm the terms of the existing street trading policy as set out in Appendix 2 of the report.

- 3) To note the commitment that further work would be undertaken by Council officers in relation to the wider plans for the use of Mound Precinct and Playfair Steps following the completion of the construction work.
- 4) To agree that, in the meantime, no changes would be made to the High Street (with the exception of the area outside 329 High Street) and Playfair Steps/Mound Precinct as set out in paragraph 4.12 of the report.
- 5) To agree that no further licences would be granted for the area outside 329 High Street as set out in paragraph 4.13 of the report.
- 6) To agree to introduce a daily rate for charitable organisations as set out in paragraph 4.20 of the report.
- 7) To support, in principle, the proposals and changes to policy detailed in paragraphs 4.6, 4.7, 4.8, 4.9, 4.11 and 4.17 of the report and to include a review of options for the management of Hunter Square during the August festivals, the report to be brought back to Committee in three cycles.
- 8) To instruct the Executive Director of Place to engage with Visit Scotland in relation to any objections they might have to four stalls being sited at 249 High Street.

(References – Regulatory Committee 1 February 2016 (item 1) and 7 May 2018 (item 2); report by the Executive Director of Place, submitted)

2. Minutes

Decision

To approve the minute of the Regulatory Committee of 19 August 2019 as a correct record.

3. Rolling Actions Log

The Regulatory Committee Rolling Actions Log for 21 October 2019 was submitted.

Decision

To note the remaining outstanding actions.

(Reference – Regulatory Committee Rolling Actions Log 21 October 2019, submitted)

4. Business Bulletin

The Regulatory Committee Business Bulletin for 21 October 2019 was submitted.

Decision

To note the Business Bulletin.

(Reference – Business Bulletin 21 October 2019, submitted)

5. Licensing Fees (Market Operators)

The Council, on 21 February 2019, agreed as part of the final budget that increasing Council income was a priority for the Change Strategy and that the focus should be on increasing existing or creating new income streams.

The current application fee for a temporary outdoor market in Ward 11 (City Centre) operating less than once per calendar month was £84 per stall subject to a maximum of £5,000.

Taking into account concerns previously expressed by members of the committee and the requirement for full cost recovery for major events in the city, the following three options were submitted for consideration:

- **Option A** – No change to the current fee structure of £84 fee per stall for up to 28 days subject to a maximum fee of £5,000.
- **Option B** - No change to the current fee structure of £84 fee per stall for up to 28 days subject to the maximum fee being capped at £1000 for community based events provided there was no commercial element.
- **Option C** - To exclude the Meadows from the Market Operator fee structure for Ward 11 (City Centre).

Motion

- 1) To note the report.
- 2) To agree to Option A and make no change to the current fee structure.
- moved by Councillor Fullerton, seconded by Councillor Dixon

Amendment

- 1) To note the report.
- 2) To note that, at its meeting of 2nd February 2015, the Regulatory Committee DID NOT include any part of the Meadows in its higher pricing regime for City Centre Ward 11 (para 3.3 and Appendix 2).
- 3) To note that the subsequent inclusion of the Meadows west of Middle Meadow Walk within the boundary of City Centre ward 11, only occurred due to the external event of a change made by the Boundary Commission (Scotland) which took effect in May 2017.
- 4) To note the singular history of the Meadows Festival as a volunteer-run charity and community event and stretching back to 1974.
- 5) To note the Council desire to recharge what are described as full cost recovery rates.
- 6) To resolve to adopt Option C.
- moved by Councillor Rose, seconded by Councillor Mitchell

Voting

For the motion - 5
For the amendment - 3

(For the motion – Councillors Dixon, Fullerton, Howie, Rae and Watt.
For the amendment – Councillors Mitchell, Rose and Neil Ross.)

Decision

- 1) To note the report.
- 2) To agree to Option A and make no change to the current fee structure.

(References – Regulatory Committee 2 February 2015 (item 4); Act of Council No. 1 of 21 February 2019; Licensing Sub-Committee 23 April 2019 (item 3); report by the Executive Director of Place, submitted)

6. Taxi Stance Appointment – East Market Street

Proposals to relocate the taxi stance currently situated at Market Street to East Market Street were submitted.

The Executive Director of Place had carried out a statutory consultation on the proposals between 17 September 2019 and 15 October 2019 as required by the Civic Government (Scotland) Act 1982.

Responses to the consultation were set out in the appendix to the Executive Director's report.

Motion

- 1) To note the report.
- 2) To note that a temporary Traffic Regulation Order had been introduced by the Roads Authority for this proposed taxi stance.
- 3) To note that officers had carried out statutory consultation on the appointment of the proposed taxi stance.
- 4) To agree to the appointment of the proposed taxi stance.
- moved by Councillor Fullerton, seconded by Councillor Dixon

Amendment

- 1) To note the report.
- 2) To note that a temporary Traffic Regulation Order had been introduced by the Roads Authority for this proposed taxi stance.
- 3) To note that officers had carried out statutory consultation on the appointment of the proposed taxi stance.
- 4) To delete recommendation 1.1.4 and replace with the following:
1.1.4 Notes the proposed new rank would require intending taxi passengers to walk twice as far as at present from the station entrance.

- 1.1.5 Notes intending taxi passengers would be required to cross Market Street/East Market Street and, in some cases Jeffrey Street, whereas at present they could access taxis without crossing a road.
 - 1.1.6 Notes the report contained no disabilities assessment.
 - 1.1.7 Notes the report contained no detail of the precise location, duration, impact and access requirements of the building operations referred to in paragraph 4.1.
 - 1.1.8 Notes the report contained no collision or casualty data.
 - 1.1.9 Notes the report contained no detailed analysis of reasons for removing the current temporary traffic rank in relation to the alternatives.
 - 1.1.10 Notes the report contained no exploration of other options considered such as making better use of the area under Waverley Bridge or the south side of Market Street.
 - 1.1.11 Notes the overwhelming rejection of the proposals by respondents to the consultation.
 - 1.1.12 Instructs the report be brought back as soon as possible with an evaluation of points noted in 1.1.4 to 1.1.10.
- moved by Councillor Rose, seconded by Councillor Mitchell

In terms of Standing Order 21(11), the amendment by Councillor Rose was accepted as an addendum to the motion.

Decision

To approve the following adjusted motion by Councillor Fullerton:

- 1) To note the report.
- 2) To note that a temporary Traffic Regulation Order had been introduced by the Roads Authority for this proposed taxi stance.
- 3) To note that officers had carried out statutory consultation on the appointment of the proposed taxi stance.
- 4) To continue consideration of the report to the next meeting of the Committee on 9 January 2020 for further information on the following points:
 - i) To note the proposed new rank required intending taxi passengers to walk twice as far as at present from the station entrance.
 - ii) To note intending taxi passengers would be required to cross Market Street/East Market Street and, in some cases Jeffrey Street, whereas at present they could access taxis without crossing a road.
 - iii) To note the report contained no disabilities assessment.
 - iv) To note the report contained no detail of the precise location, duration, impact and access requirements of the building operations referred to in paragraph 4.1.
 - v) To note the report contained no collision or casualty data.

- vi) To note the report contained no detailed analysis of reasons for removing the current temporary traffic rank in relation to the alternatives.
- vii) To note the report contained no exploration of other options considered such as making better use of the area under Waverley Bridge or the south side of Market Street.
- viii) To note the overwhelming rejection of the proposals by respondents to the consultation.

(References – Regulatory Committee 19 August 2019 (item 6); report by the Executive Director of Place, submitted)

7. Demand for Taxis – Six Monthly Update

On 16 March 2018 the Regulatory Committee had agreed to maintain the limitation policy and to fix the number of available taxi licences at 1,316.

An interim update on the most recent analysis of demand for taxis in the City carried out by Vector Transport Consultancy in July 2019 was submitted. Stance observations had indicated there was no significant unmet demand for taxi services.

Decision

- 1) To note the report from Vector Transport Consultancy as set out in Appendix 2 of the report by the Executive Director of Place.
- 2) To note that on 16 March 2018 the Regulatory Committee agreed to maintain the limitation policy and to fix the number of available licences at 1,316 and that this was last reviewed by the Committee when it considered a report on an interim survey of demand on 20 May 2019.
- 3) To agree that there was currently no evidence of significant unmet taxi demand and therefore maintain the limit of 1,316 on the number of taxis licensed in the city.
- 4) To agree to use this survey as the basis for determining demand in any future applications for a taxi licence until the next taxi stance survey was completed.

(References – Regulatory Committee 16 March 2018 (item 7); report by the Executive Director of Place, submitted)

8. Taxi Vehicle Licence Conditions (Advertising)

The Committee had previously approved a request from Dooh Smart Ltd to install “Brightmove taxi top illuminated advertising technology” on City of Edinburgh taxi vehicles. Members had also requested that a further report be submitted setting out a framework and guidance principles on types of advertising which would be permitted or not permitted.

The Advertising Standards Authority (ASA) was the UK’s independent regulator of advertising across all online and offline media. The UK advertising codes laid down rules for advertisers, agencies and media owners to follow.

The ASA proactively monitored advertising for compliance as well as responding to complaints and issued rules on its investigations.

The City of Edinburgh Council Licensing Conditions for Taxis, Private Hire Cars and their Drivers (Advertising and Personalising Marks) broadly mirrored the categories set down by ASA. This ensured that the Committee had the right to require the immediate removal of any advertising on Licensed Vehicles that were not permitted in terms of the conditions.

Since the introduction of the conditions in 2013 there had been no examples or complaints that have required action to be taken to remove adverts.

Decision

- 1) To note the report.
- 2) To discharge the outstanding remit from the Regulatory Committee on 19 August 2019.

(References – Regulatory Committee 19 August 2019 (item 5); report by the Executive Director of Place, submitted)

9. Air Weapons and Licensing (Scotland) Act 2015 – Sexual Entertainment Venues – Update After Initial Consultation

The Air Weapons and Licensing (Scotland) Act 2015 had added new sections to the Civic Government (Scotland) Act 1982 enabling local authorities to introduce a discretionary licensing system for sexual entertainment venues.

An initial public consultation had been carried out and concluded and responses received were submitted.

It was proposed that the Committee agree, in principle, to adopt a sexual entertainment venue licensing scheme. Proposed next steps to implement the scheme were submitted.

Decision

- 1) To note the report and the responses to the initial public consultation on the licensing of sexual entertainment venues.
- 2) To agree, in principle, to adopt a scheme to licence sexual entertainment venues.
- 3) To instruct that officers draft a proposed Sexual Entertainment Venue (SEVs) resolution, policy and conditions of licence for the Committee to agree.
- 4) To note that a statutory consultation on the agreed policy would then be carried out with the results and recommendations to be brought back to the Committee for final approval.
- 5) To agree that evidence sessions would be held by the Committee to inform that work.

(Reference – report by the Executive Director of Place, submitted)

10. Repairs to Privately Rented Property – Results of Consultation on Support for Tenants Referring Landlords to a Tribunal

An update was provided on the outcome of the consultation undertaken on the current support provided to tenants applying to the Housing and Property Tribunal to require improvement works. The results expressed general support for the current Council practice.

Decision

- 1) To note the report and the outcome of the consultation.
- 2) To agree to continue the current approach supporting private tenants to make application to the First Tier Tribunal for Scotland (Housing and Property Chamber) to ensure that landlords repaired and maintained accommodation to minimum physical standards.
- 3) To approve the draft policy set out in Appendix 1 of the report detailing the service offered by the Council to tenants seeking to use the Housing and Property Chamber in respect of the repairing standard.

(References – Regulatory Committee 20 May 2019 (item 7); report by the Executive Director of Place, submitted)

11. Internal Audit – HMO Licensing – referral from the Governance, Risk and Best Value Committee

The Governance, Risk and Best Value Committee had referred the HMO Licensing Audit to the Regulatory Committee for review and scrutiny.

Decision

- 1) To note the report.
- 2) To include expected completion dates of management actions identified in the Audit in the Committee's rolling actions log for ongoing monitoring of progress.

(Reference – Governance, Risk and Best Value Committee 13 August 2019 (item 7); report by the Chief Executive, submitted)