



Licensing Committee

Mon 17 Jul
2023
7.00 pm

Council Chamber
Town Hall
Redditch

REDDITCH BOROUGH COUNCIL

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If you have any queries on this Agenda please contact

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The total maximum time permitted for public speaking is 15 minutes and the time limit for individual speakers is 3 minutes.

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Notes:

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Licensing

Monday, 17th July, 2023

7.00 pm

Council Chamber Town Hall

Agenda

Membership:

Cllrs:

Karen Ashley (Chair)
Timothy Pearman (Vice-Chair)
Salman Akbar
Joe Baker
Juma Begum
Sharon Harvey

Chris Holz
Anthony Lovell
Emma Marshall
Kerrie Miles
Monica Stringfellow

1. Apologies

2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests and / or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

3. Minutes (Pages 5 - 12)

4. Public Speaking

5. Street Trading - Review of Designation of Streets (Pages 13 - 40)

6. Hackney Carriage and Private Hire Vehicle Testing at Crossgates Depot (Pages 41 - 46)

7. Work Programme (Pages 47 - 48)

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Licensing Committee

Monday, 20 March 2023

MINUTES

Present:

Councillor Salman Akbar (Chair), Councillor Tom Baker-Price (Vice-Chair) and Councillors Karen Ashley, Joanne Beecham, Michael Chalk, Brandon Clayton, Sharon Harvey, Sid Khan and Emma Marshall

Also Present:

Councillor Imran Altaf

Officers:

Vanessa Brown and Dave Etheridge

Committee Services Officer:

Gavin Day

14. APOLOGIES

Apologies for absence were received from Councillors Andy Fry and Timothy Pearman.

15. DECLARATIONS OF INTEREST

There were no declarations of interest.

16. MINUTES

The minutes of the Licensing Committee of 9th January 2023 were presented to Members.

RESOLVED that

The minutes of the Licensing Committee held on the 9th January 2023 were approved as a true and accurate record and signed by the Chair.

.....
Chair

17. PUBLIC SPEAKING

At the invitation of the Chair a statement was read out from Mr Asim Nazir, Redditch Taxi Association (RTA) with regard to agenda item 5 (minute No 18).

18. DELEGATING OUT OF AGE CRITERIA TO OFFICERS - CONSIDERATION OF CONSULTATION RESPONSES.

At the invitation of the Chair, the Principal Officer (Licensing) Worcestershire Regulatory Services (WRS) presented their report.

Officers informed the Committee that on 17th October 2022 Members had directed Officers to undertake a consultation with the relevant stakeholders regarding delegating decisions for age criteria applications to WRS Licensing Officers.

The consultation period was conducted between 21st October 2022 and 16th December 2022, and was undertaken using an online survey tool. In total 121 responses were received, the replies and other comments received were detailed on pages 97 to 105 of the Public Reports pack.

The results of the consultation were originally due to be considered by the Licensing Committee on 9th January 2023. However, shortly before that meeting was due to begin, concerns were raised with Officers that some respondents to the survey may have purposefully submitted multiple responses. After an initial inspection, it was decided that further analysis of the responses received was required and with the approval of the Chair the item was deferred.

On further analysis of the responses received, it was identified that of the 122 responses, 82 had come from IP addresses which had submitted multiple responses, with 42 coming from a single IP address. There were further concerns raised regarding the period of time in which the responses were submitted with all the 42 replies from the single IP address being submitted during a 90-minute period.

Officers drew Members' attention to Appendix 4 on page 107 of the Public Reports pack which detailed to Members where multiple responses were received from a single IP address.

Finally, Officers highlighted that after further discussion with Crossgates Depot, it was confirmed that a member of the safety inspection team would be available to assist with the age criteria extension vehicle examination should Members be minded to delegate the process to Officers.

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During the course of a lengthy round of questions from Members, Officers clarified the following points:

- That Local Authorities across the country were evenly split with Officers and Members making decisions with regard to age criteria applications. Officers further highlighted that in the 5 other districts that Worcester Regulatory Services (WRS) covered, Worcester City Council and Wyre Forest District Council (DC) delegated this to Officers, and that Bromsgrove DC, Wychavon DC and Malvern Hills DC retained Member decisions referring applications to Sub-Committee meetings.
- The overall workload impact for Licencing Officers would be negligible, but there could be a time (and therefore cost implication) saving for Officers in the Legal and Democratic Services Departments, although this cost had not been calculated.
- That drivers would have their 6 monthly safety check and age criteria examination on the same day.
- Attempts would be made to alternate the decision-making Officer, in order to ensure one Licensing Officer did not make decisions on all the drivers in the Borough. To facilitate this the eight Licencing Officers employed by WRS would be utilised in rotation.
- The two Principal Licencing Officers would perform regular audits to ensure impartiality and that the process was being followed.
- To mitigate the risk to future consultations, Officers intended to restrict IPs to one submission each. However, it was highlighted that this would not be a fool proof method and that it was still possible for determined individuals to cause undue influence on any future consultations.
- A legal advisor would act in an advisory role for the process to ensure suitability of templates etc. However, they would not have any involvement on a case-by-case basis.
- An appeal against the decision would go to the Magistrates Court and there would be no mechanism for appeals to go before Members.
- If there were issues with the process or impartiality, WRS could then refer these applications to Members of the Sub-Committee on an individual or short-term basis immediately. To permanently return the decision-making process to the Sub-Committee, a further report would have to be presented to the Licencing (Parent) Committee for determination.
- Part of the review process during the Covid-19 pandemic had involved Officers taking pictures of the vehicle in order to support the decision made regarding any application which

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was not approved, that process would be retained to further support a robust decision-making process with evidence for any refusals in the case of an appeal.

- That the Licensing Officer and mechanic would deliberate and come to a decision together, however, if there was a disagreement, the Licensing Officer would make the final decision.

Members then debated the results of the consultation.

Members supported a streamlined process which enabled Applicants to have a decision quicker, with less anxiety and less disruption to their work.

Members commented on the number of delegations that the Council gave to Officers and that Members were elected to make decisions and should be available to do so as that was part of their elected role.

Concerns were also raised regarding the impartiality of the Licensing Officers conducting the inspection if they had also processed the application. Members also expressed concern regarding one Officer essentially making the decision, as they would hold the overriding vote during a differing of opinion.

After comments from Members in regard to the impartiality of the proposed process, Officers agreed to report back to the Licensing Committee regularly with data on the number of decisions made, the outcomes (especially refusals) and the Officers involved. This would allow Members the opportunity to review the process and to ensure that there was a sufficient level of impartiality from WRS.

Members queried the possibility of having a more robust consultation process and raised ideas, which included a drop-in centre, approaching drivers on the ranks, inviting drivers to sit on a panel and sending a letter out to all drivers. However, Officers highlighted to Members that this might not be appropriate for a policy amendment and a reserved approach was advised, as historically responses to such consultations had not generated a large amount of interest.

Members raised their concerns with the corruption of the consultation data and were unhappy with the impact to the results. Members questioned the possibility of requiring respondents to include their name on future consultations, however, Officers advised Members to express caution as that could limit those wishing to submit responses to consultations.

In consideration of the above preamble Councillor Baker-Price proposed an Alternative Recommendation that the consultation be repeated with the proposed restriction of IPs to a single response, this was seconded by Councillor Khan. On being put to a vote the Alternative Recommendation was lost.

On being put to a vote it was

RESOLVED that

Officers proceed with the actions required to delegate authority to determine applications for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's required criteria in respect of the age of the vehicle.

19. REVIEW OF SEX ESTABLISHMENT LICENSING POLICY - CONSIDERATION OF CONSULTATION RESPONSES.

At the invitation of the Chair, the Principal Officer (Licensing) WRS, (WRS) presented their report, as detailed on pages 109 to 113 of the Public Reports Pack.

Officers highlighted to Members that they had updated the policy as it had not been reviewed since 2015. Officers further clarified that there were no sex establishments in the Borough and that there had not been any enquiries.

The only response to the consultation was from the Office for the Director of Public Health who had requested that they be consulted with on any applications received for a sex establishment licence. Officers saw no problem with this request. The relevant stakeholders list was detailed on page 112 of the Public Reports pack and had been updated to reflect this.

Members were all in agreement with the updated policy and the need to periodically review policies.

On being put to a vote it was

RESOLVED that

the revised Sex Establishment Licensing Policy, as detailed on pages 109 to 113 of the Public Reports pack be approved and to take effect on 1st April 2023.

20. HACKNEY CARRIAGE TABLE OF FARES - ANNUAL REVIEW

The Principal Officer (Licensing) WRS, presented their report and in doing so drew Members' attention to pages 148 to 153 of the Public Reports pack.

Officers highlighted that RTA were consulted with prior to the report and that they had confirmed they did not want a further increase in the table of fares, due to concerns that the cost of living had already impacted on the number of customers.

Taking into account the latest fuel price, the current rate of inflation and the views expressed by RTA, Officers had recommended that no changes were made to the table of fares.

Officers clarified the following after questions from Members:

- That in the general countryside league table of fares, Redditch sat in the lower middle portion.
- That the table of fares indicated the maximum fare, a driver could choose to charge less.
- There were costs incurred in calibrating the fare machines, it may not be cost effective for drivers to increase fares by small incremental amounts due to this charge.

Members sympathised with the drivers and the competitive market against UBER, Members therefore respected the trades desire to keep the maximum fare low now that fuel costs were on a steady decline.

On being put to a vote it was

RESOLVED that

the Licensing Committee note the contents of the report and that no further action was required.

21. VERBAL UPDATE - BLEED CONTROL KITS IN LICENSED PREMISES

The Principal Officer (Licensing) WRS, provided a verbal update on bleed control kits in licensed premises.

Officers informed Members that WRS would only be able to mandate having bleed control kits by attaching a condition to a license and that would only be possible at the application or review stage process, so unfortunately WRS could not put a blanket requirement for all licensed premises to have a bleed control kit.

Officers further informed the Committee of the work being done by WRS in conjunction with Inspector Field of the Safer Neighbourhood Team, West Mercia Police and Mr Pete Martin who was a local anti-knife campaigner.

Through the efforts of Inspector Field and Mr Martin, more venues were agreeing to purchase bleed control kits. Mr Martin was also keeping a track of where kits were being adopted and updated WRS with any new establishments regularly.

To further combat knife crime, premises owners were being encouraged to use handheld metal detectors and a portable knife arch owned by West Mercia Police, the uptake of these measures varied between different establishments.

Officers from WRS and West Mercia Police have worked together to produce a letter to urge venues to purchase bleed control kits, this letter was being hand delivered by uniformed Police Officers to each venue. It was further highlighted by Officers that there was legislation which would be coming into place, that would impose a legal duty upon owners to mitigate terrorism risks for any publicly accessible place, therefore, premises owners were being urged to become compliant prior to this legislation coming into place.

RESOLVED that

the Verbal update on bleed control kits in licenced premises be noted.

22. WORK PROGRAMME

The Chair requested that the table of fares be added to the work programme for the coming Municipal year.

The Chair further requested that a report be presented to a future meeting of the Committee on the MOT provision/process at Crossgate Depot, as there had been some reports of difficulty getting an MOT timeslot by drivers.

Members asked that the start time of the meeting be discussed with the Chair in the next Municipal year as they expressed the opinion that an earlier time of 18:00 hours would be more suitable.

RESOLVED that

the Licensing Committee Work Programme 2023/2024 be updated to include the items discussed, as detailed in the preamble above.

Licensing
Committee

Monday, 20 March 2023

The Meeting commenced at 7.00 pm
and closed at 9.37 pm

**LICENSING
COMMITTEE**17th July 2023**STREET TRADING – REVIEW OF DESIGNATION OF STREETS**

Relevant Portfolio Holder	Councillor L Harrison
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Licensing Committee are asked to approve the advertisement of a proposal to designate all streets in the Borough as consent streets for the purposes of controlling street trading.

2. RECOMMENDATIONS

- 2.1 That Members **RESOLVE** to authorise officers to publish notice of the Council's intention to pass resolutions which will take effect on 1st September 2024 and will rescind all existing designations of streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and designate all streets in the Borough (as existing at the time of the making of the resolution and in the future) as consent streets.
- 2.2 That Members **RESOLVE** to authorise officers to serve a copy of this notice on the Chief Officer of Police and the highway authority for the area.

3. KEY ISSUES**Financial Implications**

- 3.1 The costs associated with publishing the required notices will be met from existing budgets held by Worcestershire Regulatory Services.

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Legal Implications

- 3.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale of any article (including a living thing) in a street.
- 3.3 Schedule 4 also defines street as including:
- (a) any road, footway, beach or other area to which the public have access without payment; and
 - (b) a service area as defined in section 329 of the Highways Act 1980,
- 3.4 Paragraph 2 of Schedule 4 states that a district council may by resolution designate any street in their district as—
- (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- 3.5 “Prohibited street” means a street in which street trading is prohibited.
- 3.6 “Licence street” means a street in which street trading is prohibited without a licence granted by the district council.
- 3.7 “Consent street” means a street in which street trading is prohibited without the consent of the district council.

Service / Operational Implications

- 3.8 Council’s usually control street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications that the street trading creates. Controlling street trading also allows Councils to manage the impact street trading has on the local economy.
- 3.9 The control of street trading can also be of benefit to traders who can obtain greater security over their “pitch” if they are the only person who has the Council’s consent to trade there.

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- 3.10 The Council has adopted a Street Trading Policy which took effect on 1st September 2018. Chapter 2 of the Policy sets out which streets have been designated as consent streets and which have been designated as prohibited streets. A copy of the Council's current Street Trading Policy can be seen at **Appendix 1**.
- 3.11 Under the current designations there are a number of named "prohibited streets" with all other streets in the Borough being designated by the Council as "consent streets."
- 3.12 Officers consider that within the next twelve months work should commence to review the Street Trading Policy and adopt a revised version of it. However, prior to commencing this piece of work, officers believe the Council should revisit its current designation of streets so that all streets in the Borough are designated as "consent streets" and that "prohibited streets" are removed.
- 3.13 The rationale behind this is that such a change would allow every application to be considered on its merits and would enable street trading to be permitted in what are currently the prohibited streets, where it was felt appropriate to allow it. This could be for example to facilitate a short-term community event or other similar event where the ability to allow street trading would enhance the event and provide a benefit to the wider community.
- 3.14 Officers also believe that the Council's Street Trading Policy puts in place a robust framework for consultation on and consideration of all applications received on their individual merits.
- 3.15 There is a detailed and lengthy legal procedure to follow to properly designate streets as consent streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The process to be undertaken can be summarised as follows:
- Council publishes notice of its intention to pass a resolution to designate all streets as consent streets
 - Minimum of 28 days given for people to make representations relating to this intention
 - Any representations received are considered
 - Council passes a resolution to designate streets as consent streets
 - Notices published to advertise the making of the resolution (at least 28 days before resolution takes effect).
 - Resolution takes effect

REDDITCH BOROUGH COUNCIL**LICENSING
COMMITTEE****17th July 2023**

- 3.16 At this stage Members are asked to authorise officers to publish notice of the Council's intention to pass resolutions which will take effect on 1st September 2024 and will rescind all existing designations of streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and designate all streets in the Borough (as existing at the time of the making of the resolution and in the future) as consent streets.
- 3.17 Members are also asked to authorise officers to serve a copy of this notice on the Chief Officer of Police and the highway authority for the area.
- 3.18 Any representations received in relation to this notice of intent would be brought back for consideration by the Licensing Committee after the period given for the making of representations expires.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

- 5.1 None

AUTHOR OF REPORT

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Street Trading Policy



Approved to take effect on 1st September 2018

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1.0 INTRODUCTION

1.1 Redditch Borough

- 1.1.1 Redditch Borough Council is situated in the County of Worcestershire, which contains six District Councils in total. The Borough of Redditch is approximately 15 miles south of Birmingham. The Borough has a population of 84,500 with a higher percentage of young people (age 0-15 years) compared with the rest of the County.
- 1.1.2 There is a very diverse population within the Borough and there are four areas that are within in the top 10% most deprived in England.
- 1.1.3 Redditch Borough has many open spaces; there are six Sites of Special Scientific Interest, 24 Special Wildlife Sites and numerous local nature reserves.
- 1.1.4 There are a number of international companies established in the Borough and the Kingfisher Shopping Centre boasts many big name department stores.
- 1.1.5 Through North Worcestershire Economic Development and Regeneration and the Local Enterprise Partnership, the Council continues to support new and established businesses within the Borough to grow.
- 1.1.6 Through considering what really matters to residents, the Council has produced a set of six strategic purposes to guide us; they are based on customer demands and data and evidence about the needs of and issues affecting the people of Redditch Borough. The strategic purposes are:
- Keep my place safe & looking good.
 - Help me run a successful business
 - Help me to be financially independent
 - Help me to live my life independently
 - Help me find somewhere to live in my locality
 - Provide good things for me to see, do & visit
- 1.1.7 This policy statement aims to help further these strategic purposes.



1.2 The Policy

- 1.2.1 This document states Redditch Borough Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.2.1 In exercising its discretion in carrying out its regulatory functions, Redditch Borough Council will have regard to this Policy document and the principles set out therein.
- 1.2.2 Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

1.3 The Objectives of this Policy

- 1.3.1 This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.3.2 The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.3.3 The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.3.4 This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.3.5 The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Regulator's Code.

1.4 The Law

- 1.4.1 The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.4.2 The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.3 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.4 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

1.5 Licensing Act 2003

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING

2.1 Consent Streets

- 2.1.1 The Council has designated all streets within the Borough as consent streets except those that it has designated as prohibited streets and the Town Centre used for Market purposes.

2.2 Prohibited Streets

- 2.2.1 The following streets have been designated by the Council as prohibited streets:

Alders Drive	Lower Common Lane
Alvechurch Highway	Middle Piece Drive
Alcester Highway	Moons Moat Drive
Battens Drive	Old Forge Drive
Birmingham Road	Papermill Drive
Birchfield Road	Redditch Ringway
Bromsgrove Highway	Rough Hill Drive
Callow Hill Lane	Salters Lane/Hewell Road
Coldfield Drive	Warwick Highway
Coventry Highway	Washford Drive
Claybrook Drive	Windsor Road/Middle House Lane
Dagnell End Road	Woodrow Drive
Evesham Road	Windmill Drive
Far Moor Lane	
Greenlands Drive	Droitwich Road, Feckenham
Headless Cross Drive	Alcester Road, Feckenham
Holloway Drive	Saltway, Feckenham
Icknield Street	High Street , Feckenham
Icknield Street Drive	Church Road, Astwood Bank.

3.0 APPLICATIONS FOR A STREET TRADING CONSENT

3.1 Advice for New Applicants

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

3.2 Applications

- 3.2.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council’s prescribed application form.
- 3.2.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.
- 3.2.3 The following will also be required to be submitted with the application form:-
- Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
 - Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.
 - Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.
 - Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
 - Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.
 - A colour photograph of any trailer, stall or other vehicle from which the street trading activities are proposed to take place.

- Food hygiene certificates (where relevant)
- Proof of registration as a food business (where applicable)
- Satisfactory certificates confirming the safety of any gas or electrical installations within the trailer, stall or vehicle from which the street trading activities are proposed to take place.
- Certificates to confirm that any fire fighting equipment within the trailer, stall or vehicle from which the street trading activities are proposed to take place have been appropriately serviced and maintained.
- If a vehicle is to be used as part of the street trading activities, registration details of the vehicle including confirmation of the registered keeper of the vehicle and their address.
- Proof of the applicant's address and of their right to live and work in the United Kingdom.

3.2.4 Applications cannot be considered from anyone under the age of 17.

3.3 Processing an Application

3.3.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- West Mercia Police
- Worcestershire County Council (Highways)
- Highways England
- Any relevant Parish Council
- The Borough Councillor(s) for the Ward(s) concerned
- Environmental Health Officers at Worcestershire Regulatory Services
- The Planning Authority
- Safer Redditch
- Redditch Borough Council Environmental Services
- North Worcestershire Economic Development and Regeneration (NWEDR) team
- Trading Standards
- The owners / occupiers of any residential and/or business properties in the vicinity of the proposed location of any static trading site.
- Any other relevant organisation

3.3.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 21 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex A** to this Policy.

3.3.3 The Council will allow 28 days from the date that the application is received and confirmed as valid, for people to make representations or objections in relation to the application.

3.3.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

3.4 Determining Applications with no Representations or Objections

3.4.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

3.5 Determining Applications through Mediation

3.5.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.

3.5.2 For example, it may be possible to find a compromise position in one of the following ways:-

- amending the times during which trading will take place;
- amending the days on which trading will take place;
- adding conditions to the Consent to address specific concerns;
- granting Consent for a trial period to assess the impact; or
- amending the list of articles to be sold.

3.5.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

3.6 Determining Applications Where Mediation Is Not Possible

3.6.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to the next available Licensing Sub-Committee for determination.

3.6.2 The Licensing Sub-Committee will be conducted in accordance with the Council's standard procedure.

3.7 Key Considerations

3.7.1 Each application will be considered on its own merits.

3.7.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,:-

- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
- there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
- there is a conflict with Traffic Orders such as waiting restrictions; or
- the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or
- the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or
- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.
- the proposed consent holder is not considered to be a suitable person to be granted a street trading consent for any reason.

3.8 Options Available to Licensing Sub-Committee

3.8.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
 - (i) the days on which trading can take place;
 - (ii) the times during which trading can take place;
 - (iii) the location(s) where trading can take place;
 - (iv) the articles that can be traded;
 - (v) the conditions attached to the Consent;
 - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.8.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.

3.9 Grant of Consent

3.9.1 The grant of a street trading consent does not guarantee the holder of the Street Trading Consent unimpeded access to the location(s) where they are permitted to trade.

3.9.2 There may be occasions where the trading location(s) specified on the Street Trading Consent may be unavailable to the holder of the Street Trading Consent for reasons beyond the control of the Council.

4.0 DURATION OF STREET TRADING CONSENTS

4.1 Duration

- 4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid
- 4.1.3 A Street Trading Consent will normally be granted for 12 months and will then expire.
- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 12 months on application.
- 4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 12 months may be granted to provide a “trial period” during which any adverse impact of the trading can be assessed.

4.2 Renewal

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

5.0 CONDITIONS ATTACHED TO CONSENTS

5.1 Standard Conditions

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex B** to this Policy.

5.2 Additional Conditions

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

6.0 APPEALS**6.1 Refusals / Attached Conditions**

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

7.0 COMPLAINTS AND ENFORCEMENT

7.1 General Principles

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.
- 7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be taken in accordance with the Regulator's Code.

7.2 Offences

- 7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without Consent;
- contravention of a condition in relation to trading location; and
- contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

7.3 Complaints

- 7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.
- 7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-
- verbal warning;
 - written warning;
 - simple caution;
 - prosecution; or
 - referral of the Consent Holder to a Licensing Sub-Committee.
- 7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-
- take no further action;
 - give a warning to the Consent Holder;
 - amend the days on which trading can take place;
 - amend the times during which trading can take place;
 - amend the location(s) where trading can take place;
 - amend the articles that can be traded;
 - amend the conditions attached to the Consent;
 - amend the duration of the Consent; or
 - revoke the Consent.

8.0 AMENDMENTS TO THIS POLICY

- 8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

9.0 FEES AND CHARGES

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

10.0 DEFINITIONS

TERM	DEFINITION
Authorised Officer	An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	The person or company to whom the consent to trade has been granted by the Council.
Consent Street	A street in which street trading is prohibited without the consent of the Council.
Council	Redditch Borough Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
Street	Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.
Street Trading	<p>The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-</p> <ul style="list-style-type: none"> • a pedlar with a Pedlar's Certificate; • anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order; • trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980; • trading as a newsvendor selling only newspapers/magazines; • trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop; • selling things, or offering or exposing them for sale, as a roundsman;

- the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway;
- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.

Street Trading
Assistant

A person engaged by the Consent Holder to assist them with their trading.

A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.

ANNEX A

NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold, etc):	
<p>NOTICE IS HEREBY GIVEN that an application has been made to Redditch Borough Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at the Town Hall, Walter Stranz Square, Redditch, B98 8AH between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p>	

ANNEX B**STREET TRADING CONSENT
STANDARD CONDITIONS****LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time, including as a result of a breach of these conditions.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide details and proof of the name, address, date of birth and a photograph of any person assisting them with their trading on a regular basis.
- The Consent Holder must notify the Council of any change to their address or the address of any person assisting them with their trading on a regular basis.
- Any person assisting a Consent Holder on a regular basis must be at least 17 years of age.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.

- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder or their assistants must allow Council officers to inspect their trading facilities and should offer all reasonable assistance to them.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.
- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.
- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner and produce evidence of any relevant trade waste agreement when required by an Authorised Officer or the Council.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 75 metres from the trading unit.

NOTE: The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all

reasonable requirements of the Council, the Police, Fire Officer and Highway Authorities as to its construction, safety and appearance and any changes to vehicles used in the course of trading must be notified to the Council.

- The Consent holder or his employee must move his trailer, vehicle, stall or any signage associate with their trading or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder must ensure any gas and electrical installations are properly maintained and the relevant safety certificates must be produced on request from an Authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Redditch Borough Council.

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REDDITCH BOROUGH COUNCIL**LICENSING
COMMITTEE**17th July 2023**HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE TESTING AT
CROSSGATES DEPOT**

Relevant Portfolio Holder	Councillor L Harrison
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The previous Chair of the Licensing Committee has requested that officers prepare a report for the Committee regarding the process and provision for the testing of licensed hackney carriage and private hire vehicles at the Council's Crossgates Depot.

2. RECOMMENDATIONS

- 2.1 **That the Licensing Committee note the contents of the report.**

3. KEY ISSUES**Financial Implications**

- 3.1 The costs incurred in conducting inspections on licensed vehicles are met by the charging of fees to those whose vehicles are subject to inspections.

Legal Implications

- 3.2 Section 50 (1) of the Local Government (Miscellaneous Provisions) Act 1976 states that:

Without prejudice to the provisions of section 68 of this Act, the proprietor of any hackney carriage or of any private hire vehicle licensed by a district council shall present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the

REDDITCH BOROUGH COUNCIL**LICENSING
COMMITTEE**17th July 2023

~~_____ council within such period and at such place within the area of the council as they may by notice reasonably require:~~

Provided that a district council shall not under the provisions of this subsection require a proprietor to present the same hackney carriage or private hire vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.

- 3.3 Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 states that:

Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council, or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied:

Provided that, if the authorised officer or constable is not so satisfied before the expiration of a period of two months, the said licence shall, by virtue of this section, be deemed to have been revoked and subsections (2) and (3) of section 60 of this Act shall apply with any necessary modifications.

Service / Operational Implications

- 3.4 The Council is responsible for the issuing of licences to authorise people to use vehicles as hackney carriages or private hire vehicles. Vehicles that are licensed need to be inspected to ensure that they are:
- suitable in type, size and design
 - in a suitable mechanical condition
 - safe
 - comfortable
- 3.5 The Council currently licences around 425 vehicles to be used as either a hackney carriage or private hire vehicle.

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- 3.6 Since September 2011, inspections of vehicles licensed by the Council have taken place at the Council's Crossgates Depot, which is a DVSA approved MOT testing station.
- 3.7 Prior to this the inspections had been undertaken by two external approved garages. However, following serious concerns raised after spot checks on licensed vehicles undertaken in 2009, a decision was taken in January 2010 to return the inspections "in-house." This decision was ultimately implemented in September 2011.
- 3.8 Under the Council's Hackney Carriage and Private Hire Licensing Policy, vehicle inspections are required before a licence to use a vehicle as a hackney carriage or private hire vehicle is granted.
- 3.9 Standard conditions attached to all hackney carriage and private hire vehicle licences go on to say:

Subject to the condition below, the licence holder must present the vehicle for inspection within a four-week period beginning on the date six months after the licence issue date.

Where a decision has been taken by the Council to grant a licence to use a vehicle of an exceptional standard beyond the normal upper age limits set out in its hackney carriage and private hire licensing policy, the licence holder must present the vehicle for inspection within a four week period beginning on the date four months after the licence issue date and again within a four week period beginning on the date eight months after the licence issue date.

- 3.10 A further standard condition states:

The vehicle must be presented for inspection in accordance with any reasonable direction properly made by an authorised officer of the Council.

- 3.11 Vehicle examiners and staff at Crossgates Depot assist Licensing Officers to undertake ad-hoc enforcement exercises in order to enable spot-checks to be undertaken on vehicles to ensure they are mechanically safe and fit for use.
- 3.12 At the Licensing Committee meeting on 20th March 2023, the Chair of the Committee made a request that officers present a report to a future meeting of the Committee regarding the process and provision for the

REDDITCH BOROUGH COUNCIL**LICENSING
COMMITTEE****17th July 2023**

~~testing of licensed hackney carriage and private hire vehicles at the Council's Crossgates Depot.~~

3.13 Enquiries have been made with staff at Crossgates Depot to obtain information on the appointment slots that are made available each week for hackney carriage and private hire vehicle proprietors to book in their vehicles for inspection.

3.14 There are currently 35 appointment slots made available each week with seven inspection appointments available each day (Monday to Friday) at the following times:

Full Tests: 08:30, 09:45, 11:00, 12:15, 14:00

Re-tests: 15:15 and 15:45

3.15 Staff at Crossgates Depot have advised that from 3rd July 2023, one of the re-test appointments available each day will be made available for a full test instead.

3.16 Staff at Crossgates Depot have indicated that the wait for an appointment can vary at different times of the year but in general, appointments are available within a period of ten working days from the point the vehicle proprietor contacts the Depot to book their vehicle in for an inspection.

3.17 Staff at Crossgates Depot have also provided information on the number of appointment slots that have been available but were not been booked in the past six months:

January:	25
February:	20
March:	18
April:	28
May:	20
June:	22

3.18 Current fees charged to vehicle proprietors for inspection of their vehicle at Crossgates Depot are as follows:

Safety Check	£54.85
Safety Check with MOT	£54.85
Re-test (within 24 hours)	FREE
Re-test (after 24 hours)	£27.42
Hackney Carriage Meter Test	£12.00

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3.19 Members are asked to note the contents of this report.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

5.1 None

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**LICENSING
COMMITTEE****17th July 2023****LICENSING COMMITTEE WORK PROGRAMME 2023/24****17th July 2023**

Street Trading – Review of Designation of Streets

Hackney Carriage and Private Hire Vehicle Testing at Crossgates Depot

11th September 2023

Review of Statement of Licensing Policy under Licensing Act 2003 –
Approval to Consult on a Revised Statement of Policy

Impact of Public Space Improvement Works in Unicorn Hill and Church Green
West on the Taxi Rank at Unicorn Hill

27th November 2023

CCTV in Hackney Carriage and Private Hire Vehicles – Call for Evidence

18th March 2024

Review of Statement of Licensing Policy under Licensing Act 2003 –
Consideration of Responses to Consultation on Revised Statement of Policy

Review of Statement of Principles under the Gambling Act 2005–
Approval to Consult on a Revised Statement of Principles

Annual Review of Hackney Carriage Table of Fares

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