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Simon Young, Solicitor
Head of Legal and Democratic Services



LICENSING AND PLANNING POLICY COMMITTEE

Thursday 19 May 2016 at 7.30 pm

Council Chamber - Epsom Town Hall

The members listed below are summoned to attend the Licensing and Planning Policy Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Graham Dudley (Chairman)
Councillor David Wood (Vice-Chairman)
Councillor Michael Arthur
Councillor Tony Axelrod
Councillor Rob Geleit

Councillor Tina Mountain
Councillor Martin Olney
Councillor David Reeve
Councillor Humphrey Reynolds
Councillor Clive Smitheram

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Young'.

Head of Legal and Democratic Services

For further information, please contact Sandra Dessent, tel: 01372 732121 or sdessent@epsom-ewell.gov.uk

AGENDA

1. QUESTION TIME

To take any questions from members of the the Public

Please note: Members of the Public are requested to inform the Democratic Services Officer before the meeting begins if they wish to ask a verbal question to the Committee.

2. DECLARATIONS OF INTEREST

Members are asked to declare the existence and nature of any Disclosable Pecuniary Interests in respect of any item of business to be considered at the meeting.

3. MINUTES OF PREVIOUS MEETING (Pages 3 - 6)

The Committee is asked to confirm as a true record the Minutes of the Meeting of the Committee held on 21 April 2016 (attached) and to authorise the Chairman to sign them.

4. APPOINTMENT OF LICENSING PANEL CHAIRMEN (Pages 7 - 8)

This report asks the Committee to select four Members from the pool of Licensing Panel members to be available to Chair as required any Panels held during the 2016/17 Municipal Year.

5. AMENDMENT TO THE HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME (Pages 9 - 16)

The Committee is asked to agree to an amendment to the Hackney Carriage and Private Hire Penalty Points Scheme.

**Minutes of the Meeting of the LICENSING AND PLANNING POLICY COMMITTEE
held on 21 April 2016**

PRESENT -

Councillor Graham Dudley (Chairman); Councillor David Wood (Vice-Chairman);
Councillors Michael Arthur, Tony Axelrod, Rob Geleit, Tina Mountain, Martin Olney,
David Reeve, Humphrey Reynolds and Clive Smitheram

Officers present: Rachel Jackson (Licensing, Grants and HIA Manager Regulatory
Services), Karol Jakubczyk (Planning Policy Manager) and Fiona Cotter (Democratic
Services Manager)

46 QUESTION TIME

No questions were asked or had been submitted by members of the public.

47 DECLARATIONS OF INTEREST

No declarations of interest were made by councillors regarding items on the
Agenda.

48 MINUTES OF PREVIOUS MEETING

The Minutes of the Meeting held on 18 February 2016 were agreed as a true
record and signed by the Chairman.

**49 HACKNEY CARRIAGE FARE TARIFF/ACCEPTANCE OF CARD PAYMENTS
IN TAXIS**

The Committee received and considered a report in response to Transport for
London's (TfL) announcement that, from October 2016, every licenced London
Hackney Carriage would be required to accept card payments. This was
relevant to this Authority because of the dual licensing arrangement with TfL
which had been introduced to allow transition from the metropolitan area. The
Committee was being asked to consider whether or not to require all Epsom &
Ewell licensed Hackney Carriages to be fitted with a credit/debit card other
cashless payment facility in line with TfL requirements.

The Committee was informed that there were currently 13 dual licenced vehicles.
The Authority had ceased issuing dual licences with effect from 1 January 2014
with the exception of licences issued to existing Hackney Carriage Drivers
licenced with the Authority no later than 1 January 2013.

After taking into account the responses received from the consultation and the advice of the Licensing, Grants and Home Improvements Agency Manager, the Committee agreed not to mandate all Epsom and Ewell licenced Hackney Carriages to be fitted with a credit/debit card payment or other cashless payment facility in line with TfL requirements and requested that a report reviewing the implications of this decision be brought back to this Committee in 12 months' time.

50 CANDIDATE ASSESSMENT OF CONSERVATION AREA - LINKS ROAD, EPSOM

The Committee received and considered the conclusion and recommendation of an Assessment as to whether Alexandra Road, Links Road, Ashdown Road, Kingsdown Road and Longdown Road should be designated as a Conservation Area. The area had originally been assessed in 2009. This assessment had been carried out, at the Committee's request, in response to a question from a member of the public at its February 2015 meeting regarding the designation of this area as such.

The assessment was a technical exercise supported by Paragraph 127 of the National Planning Policy Framework and detailed guidance issued by Historic England. It had been carried out by an independent historic buildings expert who had concluded that, having regard to the advice and guidance issued by Historic England, the area did not display the qualities, attributes and special values which would warrant designation as a Conservation Area under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Committee was informed that it was not unusual for areas surrounded by or in close proximity to other Conservation Areas not to be designated as such themselves. Whilst local residents might support its designation, there was currently no evidence to support this and there was a risk that such a designation could be challenged. However, the Urban Design and Heritage Advisor who had undertaken the assessment had indicated that there were buildings within the area which might merit further consideration for designation as Locally Listed buildings (a non-statutory designation).

It was noted that concerns regarding development pressures were more properly addressed as part of the planning process. The Council had recently adopted a Development Management Policy document, which included policies that addressed all of the concerns expressed by residents, and was in the process of finalising Supplementary Guidance which would address issues such as development density and design quality.

Accordingly, the Committee agreed that no further action should be taken with regard to the designation of the area as a Conservation Area but that Officers should investigate which buildings in the area might be considered for Local Listing. The Planning Policy Manager indicated that he anticipated that it would be possible to report back on the matter in September or October this year and undertook to investigate whether any of the candidate buildings could not be viewed from the public realm and would therefore require a site visit.

51 PERFORMANCE MANAGEMENT: PROVISIONAL TARGETS FOR 2016/17

The Committee received and considered a report which set out its provisional Performance Management Targets for 2016/17.

A revised Annexe was tabled at the meeting which had been amended as follows:

- *Supporting developers to bring forward the development of town centre sites:* the number of *minor* applications received had been amended to the number of *business* applications received, to demonstrate the Council's desire to support local businesses. This tied into the performance indicator relating to at least 80% of business applications processed within 8 weeks.
- *Ensuring licenced premises, businesses and individuals and taxi and private hire vehicles remain safe for residents and visitors:* this objective had been amended to read "*promoting our borough as an excellent place to do business*" and the target had been amended to focus on the timescales for processing premises licences.

The following points were noted:

- Each major planning application ought to be supported by a project plan to facilitate its determination within the 13 week timescale;
- The Council was required to carry out a Green Belt Study in accordance with established methodologies;
- There was a logic to the order in which targets in relation to accommodating sustainable development whilst protecting the green belt in accordance with policy had been listed which mirrored the process map for the work;
- The Strategic Housing Market Assessment was a key piece of work
- Members considered that the word "*processed*" in regard to business and licensing applications was not measurable and should be changed to "*determined*"

Having considered the revised targets tabled at the meeting, the Committee approved these revised targets subject to amending the word "*processed*" to read "*determined*" in regard to business applications and licensing applications.

The meeting began at 7.34 pm and ended at 9.17 pm

COUNCILLOR GRAHAM DUDLEY (CHAIRMAN)

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APPOINTMENT OF LICENSING PANEL CHAIRMEN

Report of the: Head of Housing and Environmental Services

Contact: Rachel Jackson

Urgent Decision?(yes/no) No

If yes, reason urgent decision required: N/A

Annexes/Appendices (attached): None

Other available papers (not attached): None

REPORT SUMMARY

This report asks the Committee to select four Members from the pool of Licensing Panel members to be available to Chair as required any Panels held during the 2016/17 Municipal Year.

RECOMMENDATION (S)

The Committee is asked to select four Members from the pool of Licensing Panel members to be available to Chair as required any Panels held during the 2016/17 Municipal Year.

Notes

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 None for the purposes of this report.

2 Background

2.1 Licensing hearings are required to determine contested licensing applications, including applications made under the Licensing Act 2003, Gambling Act 2005 and Taxi and Private Hire applications.

2.2 In April 2014 Council agreed that licensing and planning policy matters could be dealt with by a single, fifth policy committee. The Committee was to continue to appoint a pool of Chairmen from those trained in licensing matters for the purposes of chairing hearings as required. A pool of Chairmen was agreed for 2015/16, and it is now necessary to agree new membership for 2016/17.

- 2.3 It is stressed that the requirement for training in licensing matters would still remain.

3 Proposals

- 3.1 It is proposed that the Licensing Policy and Planning Committee select four Members as Licensing Hearing Panel Chairmen for the 2016/17 municipal year.

4 Financial and Manpower Implications

- 4.1 None for the purposes of this report.

5 Legal Implications (including implications for matters relating to equality)

- 5.1 Codes of Conduct and Practice have been drawn up to assist Members in the discharge of their functions in this regard.

- 5.2 *Monitoring Officer's comments: None in addition to the above.*

6 Sustainability Policy and Community Safety Implications; Partnerships

- 6.1 There are no implications for the purposes of this report.

7 Risk Assessment

- 7.1 By their nature, Licensing Panel hearings cannot be scheduled and are called as and when required. A pool of members and Chairmen who can be called upon as and when required to form a Panel mitigates the risk of a hearing not being held within the specified timescale.

8 Conclusion and Recommendations

- 8.1 The Committee is asked to select four Members to act as Chairmen of the Licensing Panel for the 2016/17 municipal year.

WARD(S) AFFECTED: All

AMENDMENT TO THE HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME

<u>Report of the:</u>	Head of Housing and Environmental Services
<u>Contact:</u>	Rachel Jackson
<u>Urgent Decision?(yes/no)</u>	No
<u>If yes, reason urgent decision required:</u>	N/A
<u>Annexes/Appendices (attached):</u>	Proposed revised Penalty Points Scheme
<u>Other available papers (not attached):</u>	None

REPORT SUMMARY

This report seeks the Committee approval to amend the Hackney Carriage and Private Hire Penalty Points scheme which is annexed to the Policy.

RECOMMENDATION

The Committee is asked to agree to an amendment to the Hackney Carriage and Private Hire Penalty Points scheme.

Notes

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

1.1 None for the purposes of this report.

2 Background

2.1 The Licensing Authority has operated a penalty points scheme for Hackney Carriage and Private Hire Drivers, Vehicle proprietors and Operators since 2008. The scheme has been subject to minor amendments as part of the Policy review process. All drivers, operators and vehicle proprietors are required to agree to be bound by the scheme on grant and renewal of their licence.

- 2.2 Under the scheme, where breaches of the law, Policy or Licence Conditions are witnessed by an Authorised Officer, Police Officer or Councillor and/or admitted by the Licence Holder, then Points will be added to the Licence. When an individual has accrued twelve points within a 2 year rolling period, or commits the same offence/breach twice in a twelve month period then the individual will be referred to the Licensing Panel.
- 2.3 The Scheme will not bar the Authority from administering a caution or initiating legal proceedings following an offence or breach of condition or Byelaw, and Points may also be issued following a prosecution in appropriate cases. The scheme is intended to act as a quicker mechanism to deal with breaches/offences and as a deterrent to stop offences being committed in the first instance.
- 2.4 In April 2016 a request was received from Councillors following concerns from local residents about irresponsible parking by a small number of individuals who were contravening yellow line markings. It has been requested that the following 3 additions are made to the Penalty Points scheme:
 - 2.4.1 Cause or permit the vehicle to be stationary on double yellow lines, other than to allow passengers to board or alight from your vehicle.
 - 2.4.2 Cause or permit the vehicle to be stationary on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight from your vehicle.
 - 2.4.3 Contravention of any traffic laws, regulations, orders or guidance outlined in the current Highway Code.
- 2.5 Licensing Officers will not be undertaking the role of parking officers enforcing highways legislation, but will use the amendments to support routine enforcement campaigns, and the points used as a deterrent as opposed to punishment.

3 Proposals

- 3.1 It is proposed that the Licensing Policy and Planning Committee agree to amend the existing Penalty Points Scheme.

4 Financial and Manpower Implications

- 4.1 None for the purposes of this report.

5 Legal Implications (including implications for matters relating to equality)

5.1 Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 empowers a Borough Council to attach to the grant of a licence of a Hackney Carriage under the Town Police Clauses Act 1847 such conditions as the Borough Council may consider reasonably necessary. Section 47(3) of the Act provides that any person aggrieved by any conditions attached to such a licence may appeal to a magistrates' court. There are no implications for matters relating to equality.

5.2 **Monitoring Officer's comments:** None in addition to the above.

6 Sustainability Policy and Community Safety Implications

6.1 None for the purposes of this report.

7 Partnerships

7.1 None for the purposes of this report.

8 Risk Assessment

8.1 Not applicable.

9 Conclusion and Recommendations

9.1 The Committee is asked to agree to amend the existing Penalty Points scheme as detailed in paragraph 2.4.

WARD(S) AFFECTED: All

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**PENALTY POINT SYSTEM
FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS,
VEHICLE PROPRIETORS AND OPERATORS
LICENSED BY EPSOM & EWELL BOROUGH COUNCIL**

Where an offence or breach has been witnessed by a Council Officer, Police Officer or Councillor and/or admitted, then points will be endorsed against an individual or Operator. When an individual has accrued 12 points within a two year rolling period, or commits the same offence/breach twice in a 12 month period then the individual will be referred to the Licensing Panel.

The Scheme will not bar the Authority from administering a Caution or initiating legal proceedings following an offence or breach of condition or Byelaw. Points may also be issued following a prosecution in appropriate cases. If more than one offence takes place the points will be added consecutively to the individual's file.

The Scheme shows the maximum points for an offence. Officers will have discretion to decide on the points given based on circumstances. If more than one offence takes place the points will be added consecutively to the individual's file.

Vehicle	Points
Failure to keep the interior and exterior in a clean and tidy condition, free from damage.	6
Failure to keep vehicle in roadworthy condition.	12
Failure to display internal identification plate and/or securely fix the external identification plate to the rear of the vehicle as instructed by an Authorised Officer, or failure to keep exemption notice in vehicle.	6
Failure to carry a fully serviceable fire extinguisher or first aid kit.	6
Failure to present vehicle for inspection at time appointed by an Authorised Officer.	6
Failure to return plate after notice given after expiry, revocation or suspension of private hire vehicle licence (except dual licensed vehicles).	6
Evidence of smoking in a vehicle ascertained by officers whilst carrying out vehicle checks or smoking in a vehicle.	6
Carrying an offensive weapon in the vehicle.	12
Carrying more passengers than stated on the vehicle licence plate	6
Conduct, Demeanour and Driving Standards	Points
Failure to be clean and presentable whilst working (clothing to be clean, smart casual and secure footwear suitable for driving must be worn i.e. no vests or flip flops).	6
Obstruction of an authorised officer or police officer wishing to examine a licensed vehicle.	12
Failure to observe rank discipline, queue jumping, not moving down rank.	6

Conduct, Demeanour and Driving Standards (cont.)	Points
Failure to carry an assistance dog without requisite exemption.	12
Making false statements or withholding information to obtain a licence.	12
Operating a private hire vehicle without a private hire operator's licence.	12
Knowingly allowing drivers to operate in breach of penalty points system.	6
Plying for hire, unlawful touting or soliciting customers.	12
Refusal to take a passenger without good cause.	6
Charging more than the metered fare or agreed fare.	6
Using an unlicensed or uninsured vehicle for hire or reward.	12
Stationary hackney carriage vehicle plying for hire whilst parked other than on a designated rank.	6
Failure to reasonably assist passengers without good cause or exemption certificate.	6
Driving a licensed vehicle without a valid hackney or private hire driving licence.	12
Driver leaving a hackney carriage unattended, or obstructing other hackney carriages.	6
Failure to wear drivers badge in prominent position without exemption.	6
Admitting to unnecessarily prolonging a journey.	6
Failure to attend a time appointed by an authorised officer.	6
Driving in a careless and inconsiderate manner in accordance with the Road Traffic Act.	12
Using threatening or offensive language or behaviour.	6
Officer observing a licensed driver sleeping on a taxi rank.	6
Using a mobile phone whilst driving or stationary with engine running.	6
Cause or permit the vehicle to be stationary on double yellow lines, other than to allow passengers to board or alight from your vehicle.	6
Cause or permit the vehicle to be stationary on a single yellow line, in contravention of the notices displayed, other than to allow passengers to board or alight from your vehicle.	6
Contravention of any traffic laws, regulations, orders or guidance outlined in the current Highway Code.	6
Administration	Points
Operator failing to keep accurate, current records of bookings, or failure to present records to an authorised officer upon request at an appointed time.	6
Failure to keep records of private hire vehicles/drivers operated by operator.	6
Failure to notify the Local Authority of convictions within a seven day period.	6

Administration (cont.)	Points
Failure to follow the Local Authority's conditions on signage.	6
Failure to notify change of name, address, telephone number or operator, medical condition (which may impact I on driving) within seven days of change	6
Failure to notify transfer of ownership for private hire or hackney carriage.	6
Failure to return private hire driver licence after notice given after revocation or suspension.	6
Failure to produce DVLA drivers licence within seven days on request of the Local Authority.	6
Failure to report an accident to Local Authority.	6
Failure to provide to the Authority a DBS renewal certificate within seven days of receipt.	6

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