

PUBLIC PROTECTION LICENSING COMMITTEE

Minutes of a Remote meeting held on 30th July, 2020.

Present: Councillor J.W. Thomas (Chairman); Councillors: Ms. J. Aviet, Mrs. J.E. Charles, R. Crowley, Mrs. P. Drake, K.F. McCaffer, Mrs. A. Moore, M.J.G. Morgan, Mrs. J.M. Norman, Mrs. R. Nugent-Finn, L.O. Rowlands, S.T. Wiliam, Mrs. M.R. Wilkinson and Ms. M. Wright.

759 ANNOUNCEMENTS –

At the start of the meeting the Democratic Services Officer advised all present of a few housekeeping issues, in view of the remote nature of the meeting, as follows:

- the meeting would be recorded and uploaded to the Council’s website following the meeting,
- if there were any connection issues during the meeting it was suggested that cameras be switched off, in the first instance, to ease strain on connections, it being noted that Welsh Government Regulations referred to those present being able to hear and be heard,
- Within the software there was a platform for those taking part in the meeting to obtain the Chairman’s attention by using the “chat” facility whereas for attendees observing there was a question facility,
- All were reminded to mute their microphones when they were not speaking, again to assist with connection availability and the limitation of feedback noise,
- With regard Agenda Items 4 and 5, the Chairman, following consideration of the items would seek the views of each elected Member present on the Committee as to whether they be for or against, any recommendations put forward.

The Chairman subsequently took the opportunity to ask all those present to introduce themselves, including Elected Members, officers and the speakers for Agenda Item 5, who had indicated, prior to the meeting, that they wished to speak on the matter.

760 APOLOGY FOR ABSENCE –

This was received from Councillor O. Griffiths.

761 MINUTES –

RESOLVED – T H A T the minutes of the meeting held on 12th February, 2020 be approved as a correct record.

762 DECLARATIONS OF INTEREST –

Councillor Mrs. M.R. Wilkinson declared an interest in Agenda Item 4 advising of a conflict of interest in respect of the Application in her role as Cabinet Member for Housing and Building Services. Councillor Mrs. Wilkinson therefore vacated the meeting when the application was considered.

763 APPLICATION 1/2019 – TO REGISTER LAND AT MAES Y FFYNNON, ST. NICHOLAS AS A TOWN OR VILLAGE GREEN UNDER S15 OF THE COMMONS ACT 2006 (OMLS) –

Prior to the commencement of consideration of the matter, the Chairman advised that although the report stated the site was located in St. Nicholas. this should read Bonvilston.

The Operational Manager for Legal Services, in referring to the report, advised that the report sought the authority of the Committee to convene a non-statutory public inquiry and appoint an independent legally qualified and experienced inspector to hold a non-statutory public inquiry to consider the Application relating to an area of land at Maes y Ffynnon, St. Nicholas. The Inspector would be asked to produce a report considering the evidence for and against the Application and to make a recommendation whether the land subject to the Application should be registered as a Town and Village Green for determination by the Committee.

The report noted that the Vale of Glamorgan Council was the Registration Authority for the administrative area by virtue of the Commons Act 2006 (“The Act”). On 22nd May 2019, an Application had been received by the Registration Authority to register an area of land at Maes Y Ffynnon, St. Nicholas, Vale of Glamorgan (“the Application”). Due to the fact that the land was owned by the Council it was recommended that a non-statutory public inquiry be convened to consider the Application. The Council, as Commons Registration Authority, was under a duty to maintain registers of Town and Village Greens, and the Council as Commons Registration Authority, would hereafter be referred to as “the Registration Authority”. There was no legal difference between a Town and Village Green, the terms merely indicated the physical setting of the green.

The Application had been made on the basis of 20 years use by local inhabitants before the date of the Application and was in respect of the land shown on the plan at Appendix 1 to the report.

The procedure for dealing with the Application was set down in the Regulations. The original Application and supporting documentation had been forwarded to those interested in the land for consideration of objections. A notice had also been placed in local newspapers and on site providing a six-week period for objections to be received, a copy of the Notice was included at Appendix 4 to the report. One letter of objection had been received in respect of this Application from the Landowner and the applicant was subsequently invited to provide further comments on these objections. Further representations had now been received from the Applicant as a result. All of the documentation received by the Registration Authority from the

Applicant was set out and attached as Appendix 2 to the Report and the documentation received from the Landowner was set out attached as Appendix 3, for reference.

The Application was made on the basis that residents in the locality had used the land for local sports and pastimes “as of right” for more than 20 years from the date of the Application. The original Application and supporting documentation and further representations by the Applicant were provided in full in Appendix 2 and the Objection and further representations by the Landowner were provided in full in Appendix 3.

The Courts had emphasised on a number of occasions the importance of the Registration Authority adopting a fair procedure. Due to the Council’s role as both Landowner and Registration Authority and the complex nature of the law relating to this subject, it was recommended that a non-statutory public inquiry be held to test the evidence and to see if the requirements for registration had been met. The use of a public inquiry for such an Application had been approved of by the Courts as being in the interests of openness and fairness. A public inquiry would provide the opportunity for the Applicant and the Landowner to submit further evidence, call witnesses and cross examine the other party’s witnesses. A legally qualified independent chairperson who had experience in town and village green applications would be appointed to hear the public inquiry and submit a report on their findings to the Registration Authority together with a recommendation as to whether to register the whole or any part of the land comprised in the Application as a town or village green.

Following a query from a Member with regard to the cost of such an inquiry, the Operational Manager advised that this would approximately be in the region of £10,500.

The Chairman, referring to the fact that should a non-statutory public inquiry be held, advised that a further report would be presented to the Licensing Committee in due course and sought the views of the Members of the Committee with regard to the recommendations contained within the report.

Following consideration of the report, it was subsequently unanimously

RESOLVED –

- (1) T H A T, due to the fact that the Land was owned by the Council, a non-statutory public inquiry be convened to consider the Application.
- (2) T H A T delegated powers be granted to the Operational Manager for Legal Services to appoint a legally qualified and suitably experienced independent Chairperson to hold a non-statutory public inquiry to consider the Application.
- (3) T H A T the cost of appointing Counsel to chair the non-statutory public inquiry, and his costs ancillary thereto, being met from the Legal Services budget be accepted.

(4) T H A T at the conclusion of the non-statutory public inquiry, the Chairperson be requested to produce a report for the Registration Authority which considers the evidence submitted in support and against the Application together with the evidence heard at the inquiry and to provide a recommendation to the Licensing Committee whether or not to register the Land as Town or Village Green under the Act.

(5) T H A T a further report be presented to the Licensing Committee upon receipt of the Chairperson's report, following the non-statutory public inquiry, in order to determine the Application.

Reason for decisions

(1-5) In order for the Council, as Registration Authority, to discharge its obligation to adopt a fair and transparent procedure and to determine the Application in accordance with the relevant legislation.

764 POLICY ON DETERMINING THE SUITABILITY OF TEMPORARY SCREENS IN TAXI OR PRIVATE HIRE VEHICLES (DEH) –

The Chairman, prior to the Committee's consideration of the report, took the opportunity to advise that Mr. M. Moore and Ms. M. Ewington, were present at the meeting having, prior to the meeting, expressed to the Licensing Officer their wish to speak on the matter. At this point the Democratic Services Officer also advised that Councillor R. Crowley had joined the Committee meeting and that a further representation had been received from Mr. S. Thomas of the Taxi Association which together, with additional supplementary information being Cardiff Council's Covid 19 agreed policy, had been circulated to all present prior to the meeting and uploaded to the Council's website.

The Licensing Officer, in presenting the report, advised that the purpose of the report was to seek approval for the adoption and publication of a policy on "Temporary Screens in Taxis and Private Hire Vehicles" following consultation with the trade. A draft policy document had been produced, based on the policy approved by the Directors of Public Protection in Wales (DPPW) which detailed the requirements and approval procedure for the use of screens in vehicles. A copy of the draft policy was attached at Appendix A to the report.

Under the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach any conditions to the grant of taxi (hackney carriage) and private hire vehicle licences that they considered reasonably necessary. Furthermore, a Licensing Authority should not grant a licence unless they were satisfied that a vehicle was safe. The duties of the Council as Licensing Authority were set out in the report.

The report advised that the Licensing Authority had received requests from the trade urging the Licensing Department to push through greater in-car safety measures to guard against Covid-19 including the use of safety screens. According to the Office of National Statistics taxi drivers had one of the highest mortality rates of any other occupation in the UK. The Vale of Glamorgan Council's conditions of licence for taxi and private hire vehicles state:

"No alteration or change to the vehicle shall be made without the approval of the Licensing Authority at any time".

This condition required licence holders who wished to install screens or partitions in their vehicles to first get approval from the Licensing Authority.

It was understandable that licence holders would want to put measures in place in order to protect themselves from the transmission of Covid-19. However, the report advised that this must not impact the safety or integrity of the vehicle and would be a post manufacture modification.

With the restrictions starting to ease, more and more taxi and private hire drivers were looking to return to work attempting to ensure that they did their utmost to protect themselves and their passengers. Temporary screens in vehicles had been at the forefront of enquiries from the trade in the hope that a physical separation between drivers and passengers may reduce the transmission of Covid-19.

In response to the request from the trade to install screens in licensed vehicles, the Licensing Expert Panel, made up of representatives from the 22 Welsh Local Authority Licensing Departments, set up a working group in order to produce guidance for Licensing Authorities to adopt, with the intention of harmonising the approach to the approval of screen installations in Wales. It should be noted that there was no evidence available that demonstrated that partitions in taxis or private hire vehicles reduced the risk of transmission of Covid-19 infection. Partitions in taxis or private hire vehicles did not provide a fully sealed compartment which completely separated the driver from the passenger. Therefore, whilst it was possible that partitions may reduce the risk of transmission of infection, the risk would not be eliminated entirely.

The proposed policy was intended to provide guiding principles on how the Licensing Authority would deal with such requests from licence holders who wished to install a screen in their vehicle. It also looked to deal with a number of safety concerns associated with screens for example; the potential to interfere with original features of the vehicle principally the side airbags and the movement of the driver's seat and looked to set out specific requirements to satisfy these concerns.

The aim of the research conducted had been to ensure that installing screens did not compromise the safety of the vehicle. Officers contacted leading agencies and safety experts in the field of vehicle safety and testing including the Driver and Vehicle Standards Agency (DVSA) and MIRA HORIBA who provided engineering, research and test services to the automotive industry. In relation to safety concerns. DVSA had stated "the installation of safety screens/barriers in a taxi or private hire vehicle was not part of the MOT test. However, such installations should be safely installed and made from suitable materials". "In respect of the airbags, there was no suitable reason for rejection for an airbag not being able to deploy correctly because of a modification or obstruction, so this could not fail the MOT test. However, no modification should be made to a vehicle that was going to adversely affect road safety or the crash worthiness of the vehicle." MIRA stated that as part of their test, if a vehicle was fitted with curtain airbags, vehicle proprietors "must provide details of

the curtain airbag deployment pattern, and its expected interaction with the partition. The screen must not impact on airbag deployment or performance. You may need to contact the vehicle manufacturer or the company who supplied your screen to obtain this". The full responses could be found at Appendices B and C to the report. The Licensing Officer, in conclusion, advised that the policy had been approved as outlined within the report by Bridgend County Borough Council whilst Cardiff Council had made some amendments as outlined in the supplementary information.

Prior to consideration of the matter by the Committee the Chairman asked the Democratic Services Officer to read out the email comments submitted by Mr. S. Thomas of the Vale of Glamorgan Taxi Association as follows:

"I am still shielding at the moment, and as my computer is very dated and has no web cam and I won't be able to go over to the A2B Taxi office, we at the VOG Taxi Association have decided that Committee Members, Mike Moore and Amanda Ewington will represent the trade at the meeting. Just in case there are any problems with the connections at the meeting the Association would request that the Vale adopt the same conditions that have been accepted in Cardiff, and that Vale Taxi drivers are allowed to put temporary screens in their cars if they so desire, not only for their safety, but also for the safety of the travelling public, we would ask that you adopt this policy with immediate effect.

Licensing Authorities all over the Country are giving Taxi companies permission to put these screens into their cars, some Authorities are actually paying for them to be put in their licenced cars, this means that the companies that produce these screens are inundated with orders, and as such the Vale Drivers will be well back in the queue, SO TIME IS OF THE ESSENCE, we request you allow these in our cars immediately."

The Chairman then asked Mr. Mike Moore to make his representations to the Committee.

Mr. Moore stated that he had been campaigning for screens since early April and advised that the Association took its responsibility seriously. The Association stopped all passengers travelling in the front seat of the cars very early on during the pandemic, all drivers wore masks and also provided masks to their passengers. All also sanitised their vehicles before and after every single journey with the same sanitiser used by Transport for Wales. All were taking their responsibility seriously and he stated that "its extra protection to save lives that we are talking about". The taxi driver income had suffered considerably due to Covid and the Association had a large Asian population who were in his view quite vulnerable. Cardiff, he stated, had taken a sympathetic approach as well as understanding the need to protect people. Yes, he advised there were risks, but bearing in mind that the situation with the pandemic had never been before, the taxi service desperately needed screens in the cars. Mr. Moore, in conclusion, asked the Committee to consider the circulated policy that had been recently been agreed by Cardiff Council advising that at that meeting there had been three times as many members, including Unite members, than those present today and urged the Committee to adopt the same policy as Cardiff.

Ms. Ewington, who was then afforded the opportunity to make her representations, stated that her comments would be made in the same vein as Mr. Moore, although she would also advise that there had appeared to be some confusion since the consultation had been sent out, in that she had only received the report the Friday before. Ms. Ewington noted that Bridgend Council had adopted the policy attached to the report, however, enquired as to how many traders were present at that meeting and how many responses to the consultation had been received? The Licensing Officer advised that there no traders had been present at the meeting and one response to the consultation had been received. Ms. Ewington advised that there was not a trade association in Bridgend, she also commented that in Cardiff there had been a significant response to the consultation.

At this point Ms. Ewington suggested that the Committee consider going through the policy that Cardiff had agreed, following the Committee's agreement, the policy was subsequently displayed on the remote screen so that all could be aware of the changes that had been made, which had been highlighted in red and which were subsequently read out by the Chairman of the Committee.

Ms. Ewington took the opportunity to thank the Chairman for reading the document in detail and advised that the changes put forward by Cardiff would make it possible for drivers to fit screens into vehicles. This was, in her view, a more streamlined approach and was not as onerous as the document detailed within the agenda. Again, in her view, if the Committee decided to adopt the policy that was attached to the report, that would have a detrimental effect for taxi drivers in the Vale and put them at a disadvantage. It was important to note she stated that these were unprecedented times and yes, all safety measures would be adhered to, but it would put Vale taxi drivers on a level playing field with those in Cardiff if Cardiff's policy was adopted.

In conclusion, Ms. Ewington advised that the amount of work that Mr. Moore had done to enforce safety screens had been incredible. Mr. Moore further advised that he had also worked with a company regarding the provision of screens and ensured the Committee that they would do everything within their power to ensure the protection of the public.

There being no further representations, the Chairman then asked the Committee Members for their views.

A Member queried with the Legal Officer what would be the implications if the Committee went against the recommendations within the report. The Legal Officer stated that it was a matter for the Committee, Cardiff Council had itself considered the policy on its own merit, and that the Cardiff policy was a slightly more relaxed policy. However, the Chairman in accepting that the policy agreed by Cardiff was slightly relaxed more relaxed than the policy at Appendix A to the report would still, in his view, afford members of the public a lot of protection if screens were fitted.

A number of Members stated that the fitting of screens and the wearing of masks in their view was also more than adequate.

The Chairman also advised that in his view there needed to be a level playing field with Cardiff and having heard the representations, he stated that he would be supporting the amendments as agreed by Cardiff, although paragraph 18 needed to be reworded slightly as it did not read correctly.

Ms. Ewington, with the permission of the Committee, also enquired of the legal interpretation with regard to the fitting of screens, and whether the Association had any recourse to what the Vale would recommend. The Legal Officer advised that the policy ultimately was a matter for the Licensing Officer to approve and work with and his understanding of the regulations was that it was Licensing Officer's decision to determine. The ultimate challenge of any decision by the Local Authority would be by way of judicial review.

There being no further discussion, the Chairman thanked Ms. Ewington and Mr. Moore for their representations and subsequently sought the Committee's view with regard to any recommendations. It was subsequently, and unanimously,

RESOLVED –

(1) T H A T the Vale of Glamorgan Council Licensing Authority adopt the following Policy, taking in the amendments as agreed by Cardiff Council, together with the rewording of paragraph 18, as follows:

“Temporary Screens in Taxis and Private Hire Vehicles Policy

Summary

1. The Council's conditions of licence require any modifications to the vehicle to be approved by the licensing authority. If a driver/operator wants to fit a temporary screen they should follow the Approval Procedure below.
2. It is the responsibility of the driver/operator to ensure that the device installed is compliant with government and industry regulations, is fit for purpose and does not compromise public safety.
3. Screens need to be regularly cleaned and appropriately maintained
4. The Council reserves the right to require the removal of any screens if concerns as to their safety, fitness for purpose or compliance with health and safety legislation exist.

Introduction

5. Due to the Coronavirus pandemic, we have recently received enquiries from drivers regarding the installation of protective screens in their vehicles between the front and rear seats.
6. Partitions or safety screens provide a physical barrier between drivers and passengers in the vehicle. They are commonly installed as a safety feature to protect the driver from physical attacks or theft. There has been an increase in

interest of the use of screens as a way of providing physical separation between drivers and passengers in order to reduce the transmission of COVID-19.

7. There is no evidence available that demonstrates that partitions in taxis or PHVs reduce the risk of transmission of COVID-19 infection. Partitions in taxis or PHVs do not provide a fully sealed compartment which completely separates the driver from the passenger. Therefore, whilst it is possible that partitions may reduce the risk of transmission of infection, the risk would not be eliminated entirely.
8. The Licensing Team appreciates that anything which helps to protect drivers and passengers from the spread of coronavirus is to be welcomed, but it is important that the installation of any aftermarket equipment is safe and doesn't introduce new and unintended safety hazards.
9. Following comprehensive safety testing, vehicles will have achieved European Whole Vehicle Type Approval and changing or adding to the interior of the vehicle can potentially alter the 'type approval' of the vehicle. Additionally, badly fitted, inappropriately constructed units, or products made using unsafe materials, could have a catastrophic impact in the event of a vehicle being involved in a road traffic accident.
10. The Council is aware that there are companies advertising the installations *'that have been fully risk assessed'*, which do not conform to legal requirements. Drivers should also be aware that screen installation may also affect the vehicle's ability to pass an MOT, such as where they restrict the movement of the front seats. Drivers are advised to contact the Licensing authority *before* incurring the expense of installing a screen which may not be compliant and may be unsafe.
11. The Council's conditions of licence state:

“No alteration or change to the vehicle shall be made without the approval of the Licensing Authority at any time.”
12. For these reasons, prior to voluntarily installing any screening device in your vehicle you must apply for approval to install a temporary screen following the procedure below.

General requirements

13. The decision to install a safety screen is for the driver, proprietor and/or operator to make, after carrying out your own risk assessment. Due to the wide and diverse variety of vehicles and different types of safety partition screens available, it is not possible to offer specific purchase or installation advice in respect of these devices, however the following minimum requirements need to be satisfied:

- a. The device must be manufactured as a safety screen within a vehicle and must be suitable for the specific make and model of vehicle.
 - b. The installation and / or design of the device must not adversely influence or interfere with the structural integrity or driver and passenger safety systems (including airbags) in the vehicle. In particular the installation must:
 - i. Not put passengers and/or the driver at any unnecessary risk during a collision and/or when in use generally as a taxi or private hire vehicle;
 - ii. Not interfere with the safe operation of the vehicle and/or the vehicles safety features at any time;
 - iii. Not obscure or interfere with the view of the driver and/or passengers in any way.
 - c. Screens must be securely fitted and maintained in accordance with the manufacturer's specifications and recommendations.
 - d. Devices should remain free of scratches, clouding or stickers which would impede the drivers or passengers' visibility.
 - e. Screens should not impede the driver's movement or communication with passengers.
 - f. Screens should not impede driver or passenger entry or egress to the vehicle or present a trip hazard.
14. If you have installed an approved safety screen in your vehicle you must ensure that you clean the screen after each passenger journey, along with other hard surfaces such as door handles, window winders, seat belts, car payment devices, the rear or the front seats and other surfaces passengers may have touched using normal household disinfectant. Drivers should then wash/sanitise their own hands. A thorough clean of the vehicle with normal cleaning products should be completed at the end of each shift/working day.
15. The proprietor shall ensure that the safety screen is properly and regularly maintained and serviced in accordance with the manufacturer's instructions by a suitably qualified person. Written records of all maintenance and servicing shall be made and retained by the proprietor for a minimum of 12 months. Such written records shall be made available on demand by an authorised officer of the Council, or a Police officer.

Approval Procedure

16. If you wish to fit a protective screen you will need to apply to the Council at licensing@valeofglamorgan.gov.uk providing confirmation that:

- a. The installation will be conducted in accordance with the requirements of this policy.
- b. Your insurance will still be valid if you fit the protective screen.

The product to be installed is compliant with government and industry regulations, will not compromise the safety of the vehicle. In circumstances where the Licensing Authority has safety concerns with the installation, you may be required to subject the screen installation to further testing by a relevant independent vehicle testing body (that is recognised and approved by the Licensing Authority), who can test the safety and suitability of the screen and installation process for your specific model of vehicle. Please note that an MOT test is not a relevant independent test

17. Upon the Authority being satisfied that the proposed installation meets the criteria outlined above you will be permitted to install a safety screen in your vehicle.

18. Once the partition or screen is installed the vehicle owner must email the Licensing Section with the following:

- a. Certification from the installer or other evidence to prove that the installation is compliant with:
 - i. Government and industry regulations, for example the Road Vehicle (Construction and Use) Regulations and relevant safety, UK and European Community (EC) legislation;

The relevant UN ECE/EU standard for an original equipment type approval test covering interior fittings. Any screen installation that has been fixed to the vehicle in such a way that it may affect the vehicle's structural integrity or the safe operation of the vehicle's Supplementary Restraint System (airbags) should be approved by a relevant independent vehicle testing body (that is recognised and approved by the Licensing Authority), who can test the safety and suitability of the screen and installation process for your specific model of vehicle. Please note that an MOT test is not a relevant independent test.

- b. Photograph(s) of the partition or screen installed in the vehicle.
- c. A copy of the vehicle owner/operators email to the insurance company and the insurance company's acknowledgment that the insurance cover remains valid.

19. The Council reserves the right to require the screen to be removed if not satisfied that it is safe, fit for purpose and legally compliant.
20. The Council may mandate the removal of screens at a later date. Any decision to remove screens will be considered at a future Public Protection Committee meeting and will be subject to consultation with the trade before a decision is made.”

(2) T H A T the decision to approve a screen for use in taxi (hackney carriage) or private hire vehicles is delegated to the Head of Shared Regulatory Services.

Reasons for decisions

- (1) To detail an approval procedure which allows drivers / proprietors / operators to install temporary screens in taxi (hackney carriage) and private hire vehicles whilst ensuring that the vehicle remains safe for the driver and passengers.
- (2) To ensure that requests for screens are processed efficiently in accordance with the policy.