

Minutes of a meeting of the Licensing
Committee held in the Council Chamber,
The Grange, Nutholt Lane, Ely on
Wednesday, 12th January 2011 at 9.00am

P R E S E N T

Councillor Ron Bradney (Chairman)
Councillor Michael Allan
Councillor Sue Austen
Councillor Tony Cornell
Councillor Lavinia Edwards
Councillor Tony Goodge
Councillor Bill Hunt
Councillor Tony Parramint
Councillor Jackie Petts
Councillor Robert Stevens
Councillor Andy Wright

I N A T T E N D A N C E

Lin Bagwell – Licensing Officer (Enforcement)
Elizabeth Bailey – Principal Environmental
Health Officer (Commercial)
Stephen Carrington – Licensing Officer (Enforcement)
Liz Knox – Head of Environmental Services
Janis Murfet – Democratic Services Officer
Jeanette Thompson – Head of Legal &
Democratic Services
(6 members of the public/Taxi Trade)

A P O L O G I E S

Councillor Allen Alderson
Councillor Hazel Williams, MBE

It was noted that the Chairman would arrive late, and therefore the Vice-Chairman, Councillor Jackie Petts, opened the meeting in his absence.

45. **DECLARATIONS OF INTEREST**

Councillor Wright declared a personal interest in Agenda Item No 6 (Amendment to Taxi and Private Hire Vehicle Conditions in line with those resolutions made by the Licensing Committee on 9th December 2009), having a trading relationship with, and being a user of taxis.

Councillor Parramint declared a personal interest in Agenda Item No 6, having previously made comments regarding taxis during a radio interview.

Councillor Hunt declared a personal interest in Agenda Item No 6, being an executive director of a garage which supplies vehicles to the taxi trade. He reiterated that he did not have any customers in East Cambridgeshire.

Councillor Sue Austen declared a personal interest in Agenda Item No 6, having previously participated in an interview with Radio Cambridgeshire, having been involved in a press release and also being a taxi user.

Councillor Bradney joined the meeting at 9.05am, and having apologised for his lateness, assumed the chair for the remainder of the meeting.

46. **MINUTES**

The Committee was reminded that at the last meeting, Councillor Wright had raised a query arising from an exempt item regarding some missing records. It had been suggested that when all the paperwork was transferred over to the Licensing Section some of the taxi records were missing or incomplete.

The Chairman said that the matter had been investigated by the Licensing Section and he then read out the following prepared statement:

“Each driver licensed by the Council has their own file. When a driver decides to cease being licensed, or their licence is revoked, the file is retained and kept in storage for a period of 7 years. Records relating to drivers licensed by the Council are also kept on a computer system.

An unlicensed driver who was stopped by the police claims to have been licensed by the Council. The Council has no record of this driver having been licensed.

A visit was made to an Operator to carry out an inspection, and the officers were aware of the licensed drivers that normally work for that Operator. On inspection of the Operator's records it was noted that drivers' details (files) that should be retained by the Operator were missing.”

The Head of Environmental Services reiterated that all the records were complete, and there was nothing to substantiate otherwise. Whereupon:

It was resolved:

That the minutes of the meeting held on 8th December 2010 be confirmed as a correct record and signed by the Chairman.

47. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman did not make any announcements.

48. **APPROVAL OF THE DRAFT SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES LICENSING POLICY AND PROPOSED LICENSING FEES**

The Committee received a report from which Members were asked to consider the following issues:

- A draft East Cambridgeshire District Council Sex Establishment and Sexual Entertainment Venues Licensing Policy and approve it for the purposes of consultation with relevant stakeholders and the general public.
- A proposal for application fees for the licensing of sex establishments and sexual entertainment venues within the East Cambridgeshire district.

At the invitation of the Chairman, the Licensing Officer (Enforcement) introduced her report by reminding Members that the Council had not yet adopted a policy concerning the regulation of sex establishments, and there was no legal requirement to do so. However, it was considered best practice for the Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions are carried out.

It was noted that if the draft policy was approved a thorough twelve week consultation exercise would be undertaken with relevant stakeholders and the general public. All responses would need to be considered by the Licensing Committee before a finalised draft policy was recommended to full Council for adoption. Should Council decide not to adopt the policy and instead treat each application received on its own merits, this could lead to inconsistency in decision making and a lack of transparency in the way licensing functions were carried out, which could give rise to legal challenge.

Referring to the proposed tables of fees, Members noted that they had been set at an average charged by neighbouring local authorities in Cambridgeshire and Suffolk. The Licensing Officer reiterated that only justifiable costs covering the administration and enforcement relating solely to these licences could be recovered. A "reasonable" fee had to be set to reflect this, and fees could not be used as a means of discouraging applications. There was no requirement to advertise the proposed fees.

Councillor Parramint asked if the draft policy was similar to those of other local authorities. The Licensing Officer replied that it was; much research had been carried out and the findings incorporated into the document, and many of the conditions were standard.

Councillor Allan raised a couple of points. He suggested that a fourth bullet point should be added to paragraph 1.6 of the draft policy to include those involved in the sex industry. The Chairman agreed that this was a valid point as the policy would have a significant effect on those involved and the Licensing Officer said that she would look into this issue.

Councillor Allan next observed that the second bullet point of paragraph 3.2 contained a double negative and he asked for clarification of the wording “...*but does not include a dwelling house to which the public are not admitted*”. The Licensing Officer informed him that it meant an individual could privately do what they wished in their own house as long as they did not charge for it.

Councillor Parramint proposed that the recommendations contained within the report be accepted, and he complimented the Licensing Officer for the manner in which she had handled what was a complicated and sometimes embarrassing matter.

Councillor Goodge proposed that paragraph 4.3 of the draft document be amended to include the requirement to consult with the Chairman of the Licensing Committee, as this would be in keeping with the wording in paragraph 12.4. Councillor Wright seconded the motion and when put to the vote, it was declared carried.

The Committee then discussed the proposed licence fees. Councillor Goodge noted that Forest Heath District Council’s application fee was considerably higher than that of the other local authorities mentioned, and he suggested that it should be removed from the equation.

Councillor Wright said that he would like to see justification of the proposed costs and asked if the Council would be able to defend them. He also sought clarification of the term “significant degree” in paragraph 3.3 of the draft document, believing it to be quite ambiguous. The Licensing Officer responded by saying that she could only go on previous experience; at her previous authority one application had generated 198 objections. The work involved dealing with them had greatly impacted on staff and had been very costly. If this Council did not set its fees at an appropriate level, it could potentially be out of pocket. With regard to the term “significant degree”, Members noted that this was set in the 1982 Act and would be for a court to determine.

The Chairman reminded everyone that the document before them would go out to consultation, and he added that he felt the fees should be midway between the highest and lowest figures shown.

Councillor Goodge proposed that the Forest Heath fee should be discounted and the ECDC fee recalculated taking an average of the application fees charged by the other authorities listed in the comparison guide; this would give a figure of £2758. The motion was seconded by Councillor Wright and when put to the vote, an equality was declared, there being 5 votes for and 5 votes against. The Chairman therefore used his casting vote against the motion, which was duly declared lost.

It was proposed by the Chairman and seconded by Councillor Petts that the ECDC fee should be set at a level midway between the highest and lowest fees shown in Appendix 2 to the report; this would equate to a figure of £4003. When put to the vote the motion was declared defeated, there being 2 votes for and 9 votes against.

It was proposed by Councillor Parramint and seconded by Councillor Stevens that the recommendations, as set out in the report, be accepted. When put to the vote, an equality was declared, there being 5 votes for and 5 votes against. The Chairman duly used his casting vote to support the motion, which was declared carried. Whereupon,

It was resolved:

- 1) That Members approve the draft Sex Establishments and Sexual Entertainment Venues Licensing Policy (as amended) at Appendix 1 to the report for the purpose of consultation with relevant stakeholders and members of the general public.
- 2) That Members agree to public consultation taking place on the draft Sex Establishments and Sexual Entertainment Venues Licensing Policy for a minimum of twelve weeks in accordance with best practice recommended by the Government.
- 3) That Members approve the chosen methods for consultation. In addition to the statutory consultees, this should include the display of a copy of the draft Sex Establishments and Sexual Entertainment Venues Licensing Policy on the Council's website and public notice board in the Council reception, with copies made available for viewing in the public libraries within the district.
- 4) That Members approve the proposed application fees for the licensing of sex establishments and sexual entertainment venues within the East Cambridgeshire district to come into force at the end of March 2011 on the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions).

(At this point the Committee adjourned for a comfort break between 10.00am – 10.05am).

49. **AMENDMENT TO TAXI AND PRIVATE HIRE VEHICLE CONDITIONS IN LINE WITH THOSE RESOLUTIONS MADE BY THE LICENSING COMMITTEE ON 9TH DECEMBER 2009**

The Committee received a report from which Members were asked to consider the proposed amendments to the Council's Taxi and Private Hire Guide, in line with those resolutions agreed by Members at the Licensing Committee meetings held on 9th December 2009 and 19th October 2010, prior to the revised document being circulated to the trade.

The Principal Environmental Health Officer introduced her report by drawing Members' attention to a tabled paper which advised of an amendment to paragraph 4.10 on page 3 of the report.

*"Whilst paragraph 6(i) of the minutes of the 9th December 2009 state that all Hackney Carriages be permitted to retain their livery, it is recommended that on replacement or for a new hackney carriage, that other than an approved third party advert, the ECDC sticker/label and roof sign, that no other markings, lettering or symbols be permitted on ~~part of the vehicle~~ **the front doors**, so as not to detract from the ECDC sticker/label, and to be able to clearly distinguish Hackney Carriage vehicles from Private Hire vehicles."*

The paper also advised that, with regard to Third Party Advertisements, for the purposes of Agenda Item 6 and for clarification purposes, third party advertisements were those that related to advertisements other than the company's own firm.

The Principal Environmental Health Officer continued by saying it was important that licence conditions were clear, unambiguous and enforceable and not open to interpretation due to the way in which they were drafted. She then reminded Members of the points set out in paragraphs 4.3 - 4.11 of the report.

During the ensuing discussion Councillor Wright remarked that he still awaited an answer as to whether firms would be permitted to use the words "taxi" or "cab" when they were part of their registered name. The Licensing Officer replied that it would not be permitted, and besides which, a company did not have to use its legal name. This was the approach that had been adopted throughout the County.

At the invitation of the Chairman, Mr Cole, representative of the newly formed East Cambridgeshire Taxi Hire Association, addressed the Committee. He said that having read the report, he was concerned that many things were not as he believed they should be. With regard to roof signs, anyone (unlicensed) could buy a sign and put it on the roof of their vehicle. He thought it would be better to display the company identity on the sign, along with the telephone number and "taxi" on the back.

Mr Cole stated that door signs needed to be replaced reasonably frequently and for this reason he felt it would be a better idea to have 6

inch badges on the front and rear windows. He also highlighted the fact that whereas “ordinary” Private Hire vehicles would carry signage, exempt vehicles were not required to do so. He believed that if a significant difference was to be made there should be uniformity for all Private Hire vehicles.

The Chairman thanked Mr Cole for his suggestions and said that the taxi trade would have the opportunity to comment on the proposals as part of the consultation and these would be taken on board/ considered. The Licensing Officer reminded Members that there were very strict conditions governing the use of exempt Private Hire vehicles, one of them being that they could not undertake day to day bookings. The Head of Legal & Democratic Services stated that if any taxi driver had any concerns regarding exempt Private Hire vehicles breaching these provisions, they should notify the Licensing department and they would be investigated.

Councillor Hunt addressed the Committee regarding the issue of livery. He thought that operators should be given more flexibility on condition that the ECDC sign was clear and identifiable. He wondered whether it would be possible to amend the conditions to have a 3-inch, white cordon sanitaire around the ECDC badge, his rationale being that to do so would give flexibility to both the Council and operator as well as giving absolute prominence to the badge. The Committee agreed that this was a sensible idea and that it should be added to the draft conditions as a second opinion for consideration.

At the invitation of the Chairman, Mr Skipper, A10 Taxis, addressed the Committee, declaring Councillor Hunt’s proposal to be an excellent idea. He then enquired whether the door signs would be magnetic or in the form of a sticker, and what they were likely to cost. The Principal Environmental Health Officer confirmed that they would be stickers and the cost of them would be included in the consultation.

It was resolved:

That subject to the agreed amendments

- (i) It be confirmed that the proposed conditions as contained and highlighted in Appendix 1 (Extract from the Taxi and Private Hire Guide, November 2010, version 5 DRAFT) are in line with those resolutions made on 9th December 2009 (Appendix 2) in respect of Private Hire and Hackney Carriage standards relating to roof signs, plate display and vehicle markings; and for
- (ii) The draft conditions (with amendments to 4.8 and 4.10 as tabled) are to be circulated to the trade and relevant local interest groups for a period of 12 weeks for comment in line with the Council’s Legal Department recommendation, and that

- (iii) The results of the consultation are to be brought back to Licensing Committee meeting prior to the final conditions being published.

50. **INFORMATION REPORT TO INFORM MEMBERS OF REVISION TO DVLA GROUP 2 MEDICAL STANDARDS FOR LICENSED DRIVERS**

The Committee received a report from which Members were asked to note the revision to the national DVLA Group 2 medical check frequencies for licensed Private Hire and Hackney Carriage Drivers.

Councillor Wright questioned the need to bring this item to Committee, given the volume of the appendices and the cost of printing and postage. He suggested that the documents should be made accessible on the ECDC website. Councillor Hunt concurred, adding that hard copies should be available on request.

It was resolved:

That the content of the report be noted.

51. **FORWARD AGENDA PLAN**

The Committee reviewed the Licensing Committee forward agenda plan.

It was resolved:

That the Licensing Committee forward agenda plan be noted.

The meeting close at 10.51am.