



EAST  
CAMBRIDGESHIRE  
DISTRICT COUNCIL

Minutes of a meeting of the Licensing  
Committee held in the Council Chamber,  
The Grange, Nutholt Lane, Ely on  
Wednesday 14 December 2011 at 9.30am

### **P R E S E N T**

Councillor Allen Alderson  
Councillor Ian Allen  
Councillor Sue Austen  
Councillor Lavinia Edwards  
Councillor Tony Goodge (Chairman)  
Councillor Lindsey Harris  
Councillor Bill Hunt  
Councillor Tom Kerby  
Councillor Charles Roberts  
Councillor Sue Willows  
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  
Sarah Burns – Senior Legal Assistant (part)  
Liz Knox – Head of Environmental Services  
Melanie Sage – Democratic Services Officer  
Jeanette Thompson – Head of Legal and Democratic  
Services (part)

6 members of the public attended the meeting.

#### 42. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs John Palmer  
and Michael Allan.

#### 43. **DECLARATIONS OF INTEREST**

At the Licensing Committee Meeting in July 2011, Cllr Goodge  
had vacated the chair in respect of 'Review of Home Boarding of Dogs  
Licence Conditions'. Cllr Goodge stated that he no longer considered  
himself to have an interest in this matter that prevented his involvement  
and would therefore chair the entire meeting including agenda item  
no. 5 – Home Boarding of Dogs Consultation Responses and  
Recommendation for Approval of Licence Conditions.

Cllr Hunt declared a personal interest, as previously minuted on  
any taxi related discussion, as he was a non-executive director of a

garage group that supplied vehicles to the taxi trade, although he noted that there were no customers within East Cambridgeshire.

44. **MINUTES**

The Chairman referred to a typographical error regarding minute no. 34 – Minutes, that the word 'accurately' should be 'accuracy'. The Chairman informed the Committee that this had been corrected on the minutes for signature.

Cllr Alderson referred to minute no. 39 – Taxi Licensing Sub-Committee Minutes and enquired whether the system used for naming the applicant/licence holder within the public minutes/on the agenda front sheet had been resolved. The Head of Legal and Democratic Services explained that the matter had been considered, including the issued raised by Cllr Wright that using the format of 'Driver 1' 'Driver 2' would not be appropriate as Hackney Carriage and Private Hire Licences were numerical, and it had been decided to use roman numerals up to (x). Once (x) had been used the system would revert to (i) and so forth.

It was resolved:

That the Minutes of the Licensing Committee meeting held on 19 October 2011 be confirmed as a correct record and signed by the Chairman, subject to the following typographical amendment to:

Minute 34 – Minutes - second paragraph

*'... Minutes are presented to a Committee for approval to ensure that the minutes accurately reflect the proceedings of the meeting and if Members are not satisfied with the ~~accurately~~ **accuracy** they should express this at the time the minutes are presented for approval...'*

45. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman did not make any announcements.

The Head of Legal and Democratic Services informed the Licensing Committee that she would vacate the Council Chamber for the following agenda item - Home Boarding of Dogs Consultation Responses and Recommendation for Approval of Licence Conditions as she used the services of one of the boarding establishments contained within the report and that the Senior Legal Assistant would be providing legal advice in her absence.

46. **HOME BOARDING OF DOGS CONSULTATION RESPONSES AND RECOMMENDATION FOR APPROVAL OF LICENCE CONDITIONS**

The Principal Environmental Health Officer presented a report, (L225), previously circulated, to enable the Licensing Committee to consider the responses to the Home Boarding of Dogs Consultation exercise and to adopt the licence conditions as attached as Appendix 1 of the officer's report.

Circulated at the meeting was a table indicating the proposed licence conditions that had been consulted on for the home boarding of dogs from different families further to the Licensing Committee meeting on 13 July 2011, the consultation responses and any amendments to the proposed conditions as a result of the consultation exercise, with justifications. The Principal Environmental Health Officer explained that this had been devised for further clarity following the Chairman/Vice-Chairman Pre-Meeting.

The Principal Environmental Health Officer explained that the Animal Boarding Establishments Act 1963 provided local authorities the power to licence home boarding premises. The principal difference between the model conditions for dogs cared for at animal boarding premises and home boarding premises is that home-boarded dogs must be housed inside the home and not a kennel. It was also noted that home boarding applied irrespective of whether a dog stayed over night or only during the day.

It was explained that in January 2010 the Licensing Committee adopted the set of model conditions produced by the Local Authorities Coordinators of Regulatory Services (LACORS) for the home boarding of dogs. However, these did not consider the home boarding of dogs from different families. Subsequently LACORS amended these conditions in response to a number of queries from various Councils. On 20 September 2010 the Licensing Committee adopted the LACORS revised model conditions to allow home boarding of dogs from different families.

The Principal Environmental Health Officer explained that since adoption of the revised model licence conditions to allow dogs from different families to be boarded together, concern had been expressed to the Council from the Commercial Dog Boarding Sector regarding the safety issues that can result from boarding dogs from different families within a home environment. In turn the Council liaised with LACORS on their decision to revise the model conditions and to question their perception of the risk that the boarding of dogs from different families in a domestic environment could create. The letter to LACORS and the response was attached as Appendix 4 to the officer's report. As a result a revised set of conditions were drafted and considered at the Licensing Committee meeting on the 13 July 2011, which subject to certain amendments, were approved for public consultation.

The consultation exercise was conducted for a 12 week period - the document was posted on the Council's web site, circulated to the commercial and home boarders in the district, as well as other relevant organisations. The consultation responses were appended to the officer's report as Appendix 6.

The Principal Environmental Health Officer summarised a number of revisions to the licence conditions as follows:

- A report from a Veterinary Inspector appointed by the Council would be required as part of the initial application. The Veterinary Inspector would assess and recommend the maximum number of dogs it considered suitable for the particular premises, in line with the environment, licensee and number and type of resident dogs.
- A detailed layout plan of the premises would need to be submitted with a home boarding application to indicate the rooms intended to be used for boarding and segregation.
- Entire males are only to be boarded with members of the same household unless express written consent from other dog owners is obtained.
- Initially it had been proposed that bitches in season should not be home boarded. However, the consultation responses had noted that this could be difficult to determine. Therefore this condition had been removed as other proposed conditions could remedy this, for instance in the condition listed above and also that resident dogs are castrated.
- Staff and licensees would need to demonstrate knowledge and training in line with licence conditions, including for example, knowledge of canine body language, recognition of signs of stress in dogs, first aid and recognition of early signs of ill health.
- A licence would not be granted where children under the age of 16 reside in the home boarding of dogs premises. The original LACORS model licence conditions stated that homes where children under 5 years were resident would not be licensed.
- A minimum age of 18 years to be able to walk dogs.

The Principal Environmental Health Officer explained that any licence conditions must be fair, appropriate and reasonable and should not be designed to curb or limit such activities simply because the home boarding of dogs from different families is not wanted in the area, to limit operations, or to have limiting conditions in place where there are perceived risks without any evidence.

As explained one of the revisions to the licence conditions was the introduction a Veterinary Inspector's report, which would have financial implications for the applicant/licensee. On investigation the

fee for a Veterinary Inspector's report would cost approximately £140 - £150.

The Principal Environmental Health Officer requested that the Licensing Committee adopt the revised licence conditions to come into effect immediately for any new applications and from 1 January 2013 for existing licensees.

Cllr Wright requested that the meeting be adjourned for 5 minutes to enable Members to read the document that had been circulated at the meeting. Cllr Wright stated that it was very difficult to read the document at the same time as listening to the officer's presentation and he would have preferred receiving the document prior to the meeting.

*At 9.44am the meeting was adjourned and was resumed at 9.51am.*

Following the short adjournment, at the invitation of the Chairman, Mr Bridges addressed the Committee and his presentation is summarised as follows:

- The table that had been circulated at the meeting should have been included in the officer's report.
- It had always been recognised that there were benefits to the home boarding of dogs as in some cases dogs find it less stressful.
- The main concern was whether dogs from different families should be home boarded.
- Public consultation should have occurred before the initial LACORS home boarding of dogs model conditions had been adopted by the Licensing Committee in January 2010.
- Local authorities did not have to adopt the LACORS model conditions in their entirety as they could be amended to suit the individual authority.
- The decision on whether to grant a licence for dogs boarded from different families relied heavily on a veterinary inspectors report.
- Concerns regarding the home boarding of dogs from different families had been expressed to the Council since 2009 and the matter had still not been resolved. Introduction of the revised licence conditions should therefore not be delayed until 2013.
- When mixing dogs from different family's familiarisation is required in order to assess any potential risks. A resident dog can create additional stress for visiting dogs and a dog's behaviour is different when humans are not present. Cats can also exacerbate potential problems.

- It is impossible to permanently segregate dogs in a home boarding environment.
- As with other businesses, proper fire safety systems should be in place within home boarding schemes.
- There was conflict with the proposed licence conditions.
- A minimum number of three people should be required within a home boarding establishment in order to operate safely and effectively. A minimum of two people should permanently be onsite in the event of a dog-fighting incident.
- Operating a home boarding business should mean a change of use and therefore business rates should apply.

Cllr Hunt noted that home boarding establishments were mainly operated as small businesses. However, it appeared that it was mostly commercial businesses that had responded to the consultation. The Principal Environmental Health Officer explained that two consultation responses had been received from commercial boarders; two from home boarders and one response from a person who provides animal training courses.

Cllr Hunt stated that the revised licence conditions for home boarding establishments were over regulated and it appeared that the commercial sector, which operated differently, was governing the conditions. Cllr Hunt also noted that the current LACORS conditions stated that home boarding establishments where children under 5 years were resident would not be licensed. However, it was proposed to increase the age limit of this condition so that a licence would not be granted where children under the age of 16 resided in a home boarding establishment. The Principal Environmental Health Officer noted that Members at the July Licensing Committee meeting had proposed the age increase.

Cllr Hunt further noted that the proposed conditions did not allow for a person less than 18 years to walk a dog. However, someone under 18 years could become a parent. Cllr Hunt enquired how the age of residents within a home boarding establishment could be monitored. Cllr Hunt referred to the proposed condition 5.9.4 that stated if a pond was present that it should be covered to avoid drowning. However, Cllr Hunt noted that dogs could swim. Cllr Hunt accepted that home boarding establishments should be regulated and the dogs properly cared for, but felt that the proposed conditions were against and the condition regarding the pond was unrealistic.

Cllr Allen agreed that a home boarding establishment constituted a partial change of use. Cllr Allen also noted that multiple dogs could create a noise nuisance and enquired who would be responsible for enforcement action regarding noise nuisance complaints. Cllr Allen suggested that there should be some form of neighbour notification if a home boarding of dogs application was

received. The Principal Environmental Health Officer noted that the Council's Planning Department had confirmed that home boarding of dogs did not constitute a change of use that required planning permission and that noise nuisance could be limited via conditions imposed on the licence, and if necessary there was statutory noise nuisance provisions available.

Cllr Allen stated that before a licence was issued neighbours should be consulted and their responses considered. The Principal Environmental Health Officer did not know how a licence could be refused on the basis of a neighbours objection as there would need to be legal provision within the Animal Boarding Establishments Act 1963 to refuse an application on this basis. Cllr Allen stated that it would be preferable to control the noise nuisance issue before it became a problem.

Cllr Alderson sought clarification that a home boarding of dogs licence would not apply on an informal basis and enquired where within the report it referred to the fee for a Veterinary Inspector's report. The Principal Environmental Health Officer confirmed that a home boarding of dogs licence would not apply to someone that cared for a dog that belonged to a friend or family whilst they were on holiday which was not operated as a business for financial gain. The Principal Environmental Health Officer explained that the fee for a Veterinary Inspector's report had been established subsequent to the agenda dispatch and £140 - £150 seemed to be an average fee for this service.

Cllr Alderson referred to paragraph 3.1 of Appendix 1 of the officer's report and enquired why the symbol 'X' was not represented by a figure. The Principal Environmental Health Officer explained that on granting the licence this would be completed as it referred to the maximum number of dogs that could be accommodated within the establishment, which was determined by the veterinary inspectors report.

Referring to Appendix 1 of the officer's, which listed the proposed conditions to be attached to a home boarding scheme, Cllr Alderson stated that to comply with the conditions would be expensive, that the conditions seemed bureaucratic and would deter a person from applying for a licence.

Referring to the age limits proposed, Cllr Willows noted that a child of 6 years could enter a ring to show a dog and that the age limits would prevent a person with younger children establishing a home boarding business.

The Chairman explained that home boarding dogs, particularly from different families could be risky and as home boarding establishments were regulated by the Council, if an incident occurred it could reflect badly on the Council.

Cllr Roberts enquired when the legislation applied and the number of current or anticipated businesses that the revised conditions would apply to. Cllr Roberts was concerned that the conditions were bureaucratic and it was important to encourage people to apply for a licence. The Principal Environmental Health Officer explained that the Animal Boarding Establishments Act 1963 made it a legal requirement for persons boarding dogs to be licensed. This included persons boarding dogs in a home environment, whether it was during the day or overnight. However, a person who cared for a dog on behalf of a relative was exempt from the legislation. The Head of Environmental Services further added that a premises run as a business where there was financial gain involved would be considered as a home boarding establishment. The Head of Environmental Services reminded Members that the Licensing Committee had already adopted licence conditions for the home boarding of dogs and that the report was proposing amendments to these. The Head of Environmental Services informed the Committee that there are currently two licensed home boarding premises in the district and that unlicensed premises are usually identified by the Council from means such as adverts or word of mouth and dealt with accordingly.

Cllr Allen stated that as an individual could not be a licensee until the age of 18 years, then some one should not be able to walk dogs from a home boarding establishment until 18 years old and was concerned that neighbours were not consulted on applications received for home boarding establishments. The Head of Environmental Services reiterated that the Council's Planning Department had advised that home boarding premises did not require planning permission and that there was a process for dealing with noise nuisance. The Head of Environmental Services also noted that there was always the potential that an individual could live next to a neighbour that owned a number of dogs, which did not require neighbour notification.

Cllr Wright stated that a home boarding establishment was clearly a change of use and it was not satisfactory that the only recourse for neighbours was a complaints procedure. Cllr Wright noted that neighbours were notified and able to comment regarding applications for liquor licences. Cllr Wright further noted that the Council employed a Dog Warden and enquired why the Dog Warden did not appear to be part of the process for home boarding applications. Cllr Wright was aware of the issues that can occur when dogs from different families mixed together and for the sake of animal welfare, neighbours and everyone involved and affected by a home boarding establishment it was important that the establishment was controlled.

The Head of Environmental Services confirmed that the Council's Dog Warden was not involved in home boarding licences. Following a restructure within the department the job had been reduced to part time and the role now involves dealing with stray dogs and investigating noise nuisance created by dogs.



Cllr Allen stated that neighbour notification was also part of the planning process and requested that this also form part of the home boarding of dogs licence process. Cllr Allen explained that he was not suggesting that the responses from neighbours should veto an application. However, the responses should be considered as part of the licence process, as they are when liquor licences are considered. The Head of Environmental Services explained that the planning and licensing processes are different and that legal advice would be required as to whether this was feasible.

The Licensing Officer explained that The Licensing Act 2003 governed the sale and supply of alcohol and that this Act determined the process for such applications. The Licensing Officer explained that the Animal Boarding Establishments Act 1963 was the legislation that determined the process for licensing home boarding establishments and whatever the provision was within the Act was what the Council had to follow. The Licensing Officer noted that it was important that both applicants and consultees had a process that could be followed and was clear.

Cllr Allen reiterated that he was not suggesting that the responses from neighbours should veto an application and proposed that officers investigate a mechanism for neighbour consultation and notification regarding Home Boarding of Dogs Licence applications. The proposal was seconded by Cllr Roberts who added that a report be presented to a future Licensing Committee meeting.

The Senior Legal Assistant reminded Members that if they were to amend any of the proposed licence conditions that reasons must be provided and that conditions must be proportionate and necessary. The Senior Legal Assistant further added that there was already a process in place to deal with noise nuisance complaints. The Head of Environmental Services noted that the Council had not received any complaints regarding the two licensed home boarding premises.

Cllr Wright explained that the proposal was as a result of concern for neighbour consultation and also whether it was possible for a public notice could be published to advertise that an application had been received. Cllr Roberts explained that officers had been tasked to investigate a mechanism for neighbour consultation and notification regarding Home Boarding of Dogs Licence applications and to report back to a future Licensing Committee meeting. Cllr Allen suggested a similar method to the planning process would be suitable. The Principal Environmental Health Officer emphasised that there was little recourse if a neighbour did submit an objection.

It was resolved:

That the Licensing Committee instructs officers to investigate a mechanism for neighbour consultation and notification regarding

Home Boarding of Dogs Licence applications and to report back to a future Licensing Committee meeting.

*At 10.31am the meeting was adjourned to enable the Senior Legal Assistant to leave the Council Chamber and for the Head of Legal and Democratic Services to return to the meeting. The meeting resumed at 10.34am.*

47. **ACTION TAKEN BY THE HEAD OF ENVIRONMENTAL SERVICES ON THE GROUNDS OF URGENCY – IMPLEMENTATION DATES FOR REVISED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

The Head of Environmental Services presented a report, (L226), previously circulated, for the Licensing Committee to note the action taken in consultation with the Chairman and Vice Chairman of the Licensing Committee on the grounds of urgency regarding implementation dates for revised Hackney Carriage and Private Hire Vehicle Licence conditions, as detailed within the officer's report.

Cllr Wright enquired why the report had been necessary, as the Licensing Committee had agreed implementation dates. The Head of Environmental Services explained that implementation dates had not been agreed for all of the agreed licence conditions. Cllr Wright noted that the report also detailed the implementation dates that had been agreed by the Licensing Committee. The Head of Environmental Services explained that these had been included in the report for the purposes of clarity.

It was resolved:

That the Licensing Committee notes the report.

48. **FORWARD AGENDA PLAN**

The Committee received and considered the Licensing Committee forward agenda plan.

The Chairman informed the Committee that due to the limited volume of business on the agenda for the Licensing Committee meeting scheduled on 11 January 2012, that the meeting would be cancelled. However, it would be necessary to convene a number of Taxi Licensing Sub-Committee meetings that would be held on Friday 20 January.

Cllr Wright explained that following the earlier debate on the Home Boarding of Dogs Licence Conditions that this item would need to be put onto the forward agenda plan. The Chairman stated that he would discuss the matter with officers as to when this item would be

presented, particularly as there were already a number of items scheduled on the agenda plan for the February Licensing Committee.

It was resolved:

That the Licensing Committee forward agenda plan be noted.

49. **TAXI LICENSING SUB-COMMITTEE MINUTES**

The Licensing Committee received the minutes of the Taxi Licensing Sub-Committee meeting held on 19 October 2011.

It was resolved:

That the minutes of the Taxi Licensing Sub-Committee meeting held on 19 October 2011 be received and noted.

Prior to the meeting entering exempt session, Cllr Wright stated that he had an issue with a title listed on the agenda front sheet – Licensing Matter – Legal Advice. Cllr Wright stated that the Council should be as transparent as possible and the title should be more specific. Cllr Wright explained that he had already discussed the matter with the Head of Legal and Democratic Services and that she had explained why the matter should be exempt. However, Cllr Wright noted that the Head of Legal and Democratic Services duty was to represent the Council and that he was elected to represent his constituents.

The Head of Legal and Democratic Services confirmed that she had already discussed the matter with Cllr Wright and explained that the categories to determine whether a report contained exempt information was listed within Part 1 of Schedule 12A of the Local Government Act 1972 (as amended). The Head of Legal and Democratic Services was satisfied that the title listed on the agenda front sheet did not contravene the legislation and that to provide a more specific title could compromise the position of the Council.

50. **EXCLUSION OF THE PRESS AND PUBLIC**

It was resolved:

That the press and public be excluded during the consideration of the remaining item because it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item there would be disclosure to them of exempt information of Category 1 - 7, Part 1 Schedule 12A to the Local Government Act 1972 (as amended).

The Chairman announced that the order of the remaining agenda would be amended to so that agenda item 11 – Exempt Minutes of the Licensing Committee Meeting, would be the first exempt item of business to be considered by the Sub-Committee. Consequently, the remaining agenda was dealt with in the following order (numbers refer to the number listed on the agenda): 11, 12 and 10.

51. **EXEMPT MINUTES OF 19 OCTOBER 2011**

It was resolved:

That the Exempt Minutes of the Licensing Committee meeting held on 19 October 2011 be confirmed as a correct record and signed by the Chairman.

52. **TAXI LICENSING SUB-COMMITTEE - EXEMPT MINUTES**

It was resolved:

That the Exempt Minutes of the Taxi Licensing Sub-Committee meeting held on 19 October 2011 be received and noted.

53. **LICENSING MATTER – LEGAL ADVICE**

The Committee received a report, (L227), previously circulated, to inform the Licensing Committee of legal advice regarding a licensing matter.

Prior to Members considering the report, the Head of Legal and Democratic Services offered Members an opportunity to ask further questions as to why it was necessary to consider the matter in exempt session. However, the Committee were satisfied with the earlier explanation provided.

Cllr Roberts proposed the recommendations as per the officer's report and that they should all be voted upon as one, not individually. This was seconded by Cllr Kerby.

Cllr Wright proposed an amendment that the Licensing Committee rescind the decision to introduce a Council Approved Hackney Carriage roof sign, which had an implementation date of 1 January 2012 and that the Licensing Committee reconsiders the matter in 6 months. This amendment was accepted by Cllrs Roberts and Kerby.

The Head of Legal and Democratic Services noted that by rescinding the decision to introduce a Council Approved Hackney Carriage roof sign, the original condition as per the Taxi and Private Hire blue book would remain.

The Chairman stated that ultimately what the Licensing Committee decided had been for the safety of all Hackney Carriage Vehicle users in the district.

A discussion ensued regarding the roof signs already supplied and the Committee instructed officers to proceed as directed by the Committee.

It was resolved:

That the Licensing Committee:

- i. Notes the legal advice attached as Appendix A of the officer's report;
- ii. Rescinds the decision to introduce a Council Approved Hackney Carriage roof sign, which had an implementation date from 1 January 2012, attached as Appendix B of the officer's report (the reasons were based on the legal advice detailed in (i) above);
- iii. Reconsiders the matter in 6 months;
- iv. Instruct officers to proceed as directed by the Committee regarding the supplied roof signs.<sup>1</sup>

The meeting concluded at 11am

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<sup>1</sup> Subsequent to the Licensing Committee meeting the Monitoring Officer, in consultation with the Head of Environmental Services, considered that the Licensing Committee's resolutions determined in exempt session under Category 1 - 7, Part 1 Schedule 12A of the Local Government Act 1972 (as amended) now could be disclosed under the Local Government (Access to Information) Act 1985. The resolutions are as follows:

*iv. Instruct officers to contact the roof sign suppliers to ascertain the number of Council Approved roof signs purchased by Hackney Carriage drivers within the district with a view to reimbursing those drivers that have already purchased those signs.*

**v. RECOMMENDATION TO STRATEGIC POLICY AND RESOURCES COMMITTEE**

*Dependant on the outcome of such investigations, that the Strategic Policy and Resources Committee be requested to consider any additional financial implications that cannot be met from within existing budgets.*