

AGENDA ITEM NO. 3

Minutes of a meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday 15 June 2011 at 9am

P R E S E N T

Councillor Allen Alderson
Councillor Michael Allan (Vice Chairman)
Councillor Ian Allen
Councillor Sue Austen
Councillor Lavinia Edwards
Councillor Tony Goodge (Chairman)
Councillor Bill Hunt
Councillor Tom Kerby
Councillor Charles Roberts
Councillor John Palmer
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
Stephen Carrington - Licensing Officer (Enforcement)
Liz Knox – Head of Environmental Services
Melanie Sage – Democratic Services Officer
Jeanette Thompson – Head of Legal and Democratic Services

3 members of the public attended the meeting.

Prior to the commencement of formal business, Cllr Goodge welcomed both new and returning Members to the Licensing Committee. Cllr Goodge stated that the Licensing Committee was a regulatory Committee that should not be politically motivated and explained that a main aim of the Committee was to protect the health and safety of those living within the district.

3. APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs Harris and Willows.

4. DECLARATIONS OF INTEREST

A personal interest was declared by Cllr Austen in respect of agenda item no. 7 – Outcome of Consultation Exercise with Trade Regarding Hackney Carriage and Private Hire Vehicle Conditions and

Resolutions made by Licensing Committee on 12 January 2011 – as she regularly used taxis.

Councillor Hunt also declared a personal interest on the same agenda item (no.7) 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.

5. **MINUTES**

It was resolved:

That the minutes of the meetings held on 13 April 2011 and 24 May 2011 be confirmed as correct records and signed by the Chairman.

6. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman suggested that due to the distance that some Members had to travel, that all future Licensing Committee meetings commence at a slightly later time of 9.30am.

The Licensing Committee considered this proposal and agreed that all future Licensing Committee meetings commence at 9.30am.

7. **OUTCOME OF CONSULTATION EXERCISE WITH TRADE REGARDING HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE CONDITIONS AND RESOLUTIONS MADE BY LICENSING COMMITTEE ON 12 JANUARY 2011**

The Principal Environmental Health Officer presented a report, (L17), previously circulated, to enable the Licensing Committee to consider the results of the consultation exercise relating to the proposed vehicle licence conditions agreed by Members for consultation at its meeting on 12 January 2011.

A total of 57 consultation responses were received within the consultation period, which ended on 26 April 2011 and were appended to the officer's report as Appendix 3 and 4.

The Principal Environmental Health Officer referred Members to the recommendations contained within the report, which were to approve the proposed licence conditions as detailed in Appendix 1 of the officer's report and to consider those points raised in paragraph and sub paragraphs 4.7 of the officer's report relating to the size of the Hackney Carriage front door stickers.

The Principal Environmental Health Officer reminded Members that it was important that licence conditions were clear, unambiguous, enforceable and were not open to interpretation. It was also important

that Hackney Carriage and Private Hire vehicles were easily distinguishable.

The Principal Environmental Health Officer highlighted that the following conditions were proposed regarding Private Hire vehicles:

- Roof signs are not permissible on Private Hire vehicles. This condition was already extant and also complied with The Department for Transport Best Practice Guidance.
- That a sticker be applied to the front driver and passenger doors stating that the vehicle was a private hire vehicle and for 'advance booking only'.
- That the private hire vehicle licence plate/disc be attached to the rear of the vehicle.
- That the private hire vehicle licence number be displayed on the vehicle dashboard.
- That any private hire vehicle will not be permitted to display third party advertising.
- That a private hire vehicle should not display any identification other than the Local Authority licence plate or disc as per The Department for Transport Taxi and Private Hire Vehicle Licensing Guide Best Practice Guidance.

The Principal Environmental Health Officer highlighted that the following conditions were proposed regarding Hackney Carriage vehicles:

- That Hackney Carriage Vehicles be required to have a roof sign to a specified standard and that standardised roof signs be introduced for new and replacement vehicles.
- That the Hackney Carriage Vehicle licence plate/disc be attached to the rear of the vehicle.
- That the Hackney Carriage Vehicle licence number be displayed on the vehicle dashboard.
- Third Party Advertisements are currently permitted and would remain so provided the advertisement met the relevant criteria of not relating to alcohol, tobacco or gambling and should be positioned on the rear side passenger doors only.
- That licensed Hackney Carriage vehicles should display the Council's Crest sticker on both front doors for ease of identification for enforcement purposes.

The Principal Environmental Health Officer requested that Members consider the size of the Hackney Carriage vehicle sticker as the suggested addition of a 75mm cordon sanitaire around the sticker was not necessarily practical for those vehicles with a door trim. For illustrative purposes two photos were circulated at the meeting depicting a sticker fixed to a vehicle with the suggested 75mm cordon

sanitaire and the sticker originally suggested that did not include a cordon sanitaire.

The Principal Environmental Health Officer explained that it was the intention for the original sized sticker to be placed on the front driver and passenger doors, with a prohibition of any other vehicle marking, lettering, symbols or numbers on the front doors, so as to not detract from the Hackney Carriage vehicle sticker. However, this was amended at a subsequent Licensing Committee meeting, to permit vehicle marking, lettering, symbols or numbers on the front doors, around the sticker, with the 75 mm cordon sanitaire acting as a border.

The Principal Environmental Health Officer explained that the hackney carriage vehicle sticker condition was only proposed on new and replacement vehicles and it was officer's opinion that new and replacement vehicles were unlikely to have any marking, lettering, symbols or numbers on the front doors of the bodywork. Therefore a condition to keep the front doors clear of anything other than the original sized sticker, without the cordon sanitaire was suggested.

Cllr Allen referred to paragraph 2.6 of Appendix 1 of the officer's report that stated that 'Private Hire vehicles are to carry the Council Approved sticker on the front passenger and driver doors at all times, in a central position, which includes the wording 'Advanced bookings only'...'. However, in Appendix 2 of the officer's report the sticker stated 'advance bookings only'. Cllr Allen queried, for the purposes of clarification, which wording was correct. The Principal Environmental Health Officer explained that the wording contained in Appendix 2, which had been submitted for consultation and was a statutory national sticker, was the correct wording.

Referring to paragraph 4.5.1 of the officer's report, Cllr Hunt did not agree that the vehicle plate number needed to be positioned in the centre of the dashboard and suggested that it would be sufficient to state that Hackney Carriage and Private Hire vehicles must display the vehicle plate number so that 'it was clearly visible to passengers'. In response the Principal Environmental Health Officer explained that for the purposes of inspection and enforcement such wording was open to interpretation.

Cllr Hunt also suggested that increasingly, for safety reasons, hackney carriage and private hire vehicles were using partitions to segregate the driver and the passenger/s, which was another reason to not specify the centre of the dashboard, as the partitions could prevent the passenger/s being able to view the centre of the dashboard.

Cllr Wright stated that officers must be cautious when suggesting anything should be placed on the dashboard as this could be construed as obscuring the view of the driver and therefore lead to MOT failures.

The Licensing Officer (Enforcement) (SC) explained that the vehicle plate number did not need to be ungainly and suggested that a sticker format would suffice.

It was therefore proposed that condition 3.4 of Appendix 1 of the officer's report be actioned in a sticker format and be amended as follows:

- 3.4 Hackney carriage vehicles must at all times clearly display by firmly affixing on the ~~centre of their~~ dashboard the vehicle licence number issued by the Council.

The Principal Environmental Health Officer stated that for the purposes of transparency that the following wording should be included at the end of the condition '... and it must be able to be seen by passengers.' This was accepted by the Licensing Committee.

The Principal Environmental Health Officer stated these amendments would also need to be applied to condition 2.7, which was accepted by the Licensing Committee.

Referring to the two photos that had been circulated at the meeting depicting a Hackney Carriage vehicle sticker fixed to a vehicle, Cllr Hunt proposed that the Licensing Committee approve the sticker without the 75mm cordon sanitaire, and that no markings, lettering, symbols or numbers encroach within 75mm of the blue boundary of the sticker. The Licensing Committee agreed with this proposal, therefore the Head of Legal and Democratic Services proposed that the following wording be included at the end of condition 3.1 '... with no advertisement (or any other vehicle markings) within 75mm of the surround of the sticker.' This was agreed by the Licensing Committee.

The Licensing Committee was then requested to consider the date that this condition should take effect from regarding new and replacement vehicles. On consideration 1 January 2012 was proposed which the Licensing Committee accepted.

Cllr Hunt noted that some Hackney Carriages were older vehicles and suggested that the condition should apply from 1 January 2012 to all Hackney Carriages vehicles. Cllr Allan stated that some Hackney Carriage vehicles already have advertising on the front doors and enquired in such instances of what would happen should the condition apply to those vehicles.

Cllr Wright suggested that a compromise should be achieved for a date that the condition should apply to all remaining Hackney Carriage Vehicles. Cllr Hunt therefore suggested 1 January 2013. Discussion ensued amongst the Licensing Committee of how this condition should be applied, during which the Committee was reminded

that the date that the condition would take effect regarding new and replacement vehicles had already been resolved. It was subsequently proposed that the date that the condition would take effect regarding all remaining Hackney Carriage Vehicles should be 1 January 2013. The majority of the Licensing Committee accepted this.

Cllr Allan referred to a consultation response regarding third party advertising that suggested that advertisements should not be political or offensive and enquired whether this should be included in the condition. The Head of Legal and Democratic Services explained that such wording was open to interpretation, for instance what offended one individual would not offend another. The Head of Legal and Democratic Services also noted that some material would also be subject to criminal proceedings, for instance, any advertisement that was deemed to be racist. The Principal Environmental Health Officer also noted that a further safeguard was included in the condition as 'the fixing of full colour third party advertisements on the rear doors of hackney carriages is allowed, subject to the approval of the Council'.

Referring to condition 4.1 regarding third party advertising on Hackney Carriage vehicles Cllr Wright was of the impression that the Licensing Committee had previously agreed that the size of such adverts would not be restricted, particularly as the size included in the condition was not sufficient to encourage a third party to buy the advertising space.

Cllr Hunt agreed with Cllr Wright and also stated that there was no need to restrict third party advertising to the rear doors of Hackney Carriage vehicles, especially now that condition 3.1 included that no advertisement (or any other vehicle markings) should encroach within 75mm of the surround of the Council Crest sticker. Cllr Hunt suggested that restricting third party advertising to the rear doors of Hackney Carriage vehicles would also be impossible to police.

It was therefore proposed that condition 4.1 be amended as follows, which was agreed by the Licensing Committee:

- 4.1 The fixing of full colour third party advertisements on ~~the rear doors of~~ hackney carriages is allowed, subject to the approval of the Council. ~~Such advertisements must not be greater than 28" x 12".~~ ...

Referring to condition 3.3 regarding roof signage on Hackney Carriage Vehicles, Cllr Hunt suggested that for the purposes of uniformity that officers should investigate the potential to supply roof signs for hackney carriages. Cllr Hunt stated that if the Council were able to sell roof signs for hackney carriages that this should be on a not for profit basis, which Cllr Hunt did not envisage given the minimal cost to the trade for the Hackney Carriage or Private Hire vehicle sticker.

The Principal Environmental Health Officer agreed that this was a good idea and that officer's very much liked the idea of uniformity.

Cllr Alderson suggested that the Licensing Committee instruct officer's to present a report to a future Licensing Committee meeting regarding the options for purchasing of Council Approved Vehicle roof signs for hackney carriages, which was supported by the Committee.

Cllr Hunt suggested that the condition 3.3 relating to roof signage on Hackney Carriage Vehicles should not be approved until the Licensing Committee has received the officer's report. The Principal Environmental Health Officer advised the Licensing Committee to approve all conditions including 3.3 and that the detail of the roof signage can be considered at a later date. Subsequently the following amended condition regarding 3.3 was proposed. The Principal Environmental Health Officer advised that the wording 'the Council approved' would also need to be incorporated into the condition. The following amended condition was approved by the Licensing Committee.

- 3.3 A Hackney carriage vehicles shall carry a **the Council approved** roof sign on the roof, which is illuminated when available for hire. ~~The roof sign will carry the single word 'TAXI' in black capital letters which will be visible at the front and rear of the roof sign. No other lettering, numbers or symbols are to be allowed on the roof sign. The sign is to be red at the rear and white at the front.~~

Cllr Roberts noted that Members would need to bear in mind that some of the trade already had roof signage which some would consider adequate.

It was resolved:

- a) To approve the proposed licence conditions as detailed in Appendix 1 of the officer's report, as amended as follows:

2.7 Private Hire vehicles must at all times clearly display by firmly affixing on the ~~centre of the~~ dashboard the vehicle licence number issued by the Council **and it must be able to be seen by passengers.**

3.1 Hackney Carriage vehicles are to carry the Council Approved sticker on the front passenger and driver doors at all times, in a central position. The stickers must not be defaced, altered or damaged in any way and must be replaced immediately if they become damaged, defaced or altered **with no advertisement (or any other vehicle markings) within 75mm of the surround of the sticker.**

Applies to those newly **licensed** vehicles or replaced **replacement/ transferred** vehicles from **1 January 2012** date **and all remaining vehicles from 1 January 2013.**

- 3.3 A Hackney carriage vehicles shall carry a **the Council approved** roof sign on the roof, which is illuminated when available for hire. ~~The roof sign will carry the single word 'TAXI' in black capital letters which will be visible at the front and rear of the roof sign. No other lettering, numbers or symbols are to be allowed on the roof sign. The sign is to be red at the rear and white at the front.~~
- 3.4 Hackney carriage vehicles must at all times clearly display by firmly affixing on the ~~centre of their dashboard~~ the vehicle licence number issued by the Council **and it must be able to be seen by passengers.**
- 4.1 The fixing of full colour third party advertisements on ~~the rear doors of~~ hackney carriages is allowed, subject to the approval of the Council. ~~Such advertisements must not be greater than 28" x 12".~~ Proprietors are permitted to choose their own suppliers provided there are no advertisements relating to alcohol, tobacco or gambling. Should the application be refused and the applicant disagrees with the council decision, he/she may request a Hearing by Committee.

Third party advertisements are those that relate to advertisements other than the Taxi Company's own details.

- b) That the Licensing Committee instruct officer's to present a report to a future Licensing Committee meeting regarding the options for purchasing of Council Approved Vehicle roof signs for hackney carriages.

8. **APPROVAL OF THE SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES LICENSING POLICY**

The Licensing Officer (Enforcement) (LB) presented a report, (L18), previously circulated, to enable the Licensing Committee to consider approval of the proposed East Cambridgeshire District Council's Sex Establishments and Sexual Entertainment Venues Licensing Policy following the twelve-week consultation with relevant stakeholders and members of the general public.

The Local Government (Miscellaneous Provisions) Act 1982 (the Act) as amended by the Policing and Crime Act 2009 allows local authorities to adopt provisions concerning the regulation of sex establishments. Under this Act there is no legal requirement for the

Council to adopt a policy on how it proposes to licence sex establishments and sexual entertainment venues under the Act. However, it is 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.

At the meeting of the Licensing Committee on 12 January 2011 a twelve-week consultation exercise was approved on the draft East Cambridgeshire District Council's Sex Establishments and Sexual Entertainment Venues Licensing Policy with relevant stakeholders and the general public from 17 January 2011 to 10 April 2011.

A copy of the draft policy was sent to eighty-eight consultees representing stakeholders and members of the public. Four responses were received within the consultation period from Mepal, Witcham and Witchford Parish Councils and a representative of Cambridgeshire Fire and Rescue Service. No adverse comments were raised in the four consultation responses regarding the content of the proposed Sex Establishments and Sexual Entertainment Venues Licensing Policy, which were attached as Appendix 2 to the officer's report.

Cllr Wright referred to paragraph 3.3 of the East Cambridgeshire District Council's Sex Establishments and Sexual Entertainment Venues Licensing Policy that defined sex shops and included the definition 'used to a significant degree'. Cllr Wright enquired whether this could be amended as a supermarket could legitimately sell explicit DVDs as it did not fall within the definition of a sex shop. The Licensing Officer (Enforcement) (LB) stated that this phrase could not be amended as it was defined within the Act. The Licensing Officer (Enforcement) (LB) also explained that the type of DVDs referred to by Cllr Wright were categorised as R18 DVDs and could only be sold on a premises licensed as a sex shop.

It was resolved:

That Licensing Committee approves the Sex Establishments and Sexual Entertainment Venues Licensing Policy to come into force on 16 June 2011.

9. **FORWARD AGENDA PLAN**

Cllr Hunt left the Council Chamber at 9.58am and did not return to the meeting.

The Committee reviewed the Licensing Committee forward agenda plan.

The Principal Environmental Health Officer advised the Licensing Committee that the Intense Pulsed Light Treatment item listed on the 13 July 2011 agenda plan would need to be removed as

further researched was required. The Principal Environmental Health Officer explained that Intense Pulsed Light Treatment was once regulated by a independent body. However, responsibility for regulation had now been transferred to local authorities. The Principal Environmental Health Officer was aware that some authorities were now licensing the treatment, but gathering information on how these authorities were doing so required further research.

It was resolved:

That the Licensing Committee forward agenda plan be noted, subject to the removal of the 'Intense Pulsed Light Treatment' item.

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

The Committee received the minutes of the Taxi Licensing Sub-Committee meeting held on 13 April 2011.

It was resolved:

That the minutes of the Taxi Licensing Sub-Committee meeting held on 13 April 2011 be received and noted.

11. **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 the item there would be disclosure to them of exempt information of Categories 1 & 7 Part 1 Schedule 12A to the Local Government Act 1972 (as Amended).

12. **TAXI LICENSING SUB-COMMITTEE – EXEMPT MINUTES**

The Committee received the exempt minutes of the Taxi Licensing Sub-Committee meeting held on 13 April 2011.

The Head of Legal and Democratic Services provided a brief update following the Taxi Licensing Sub-Committee meeting where the Licence Holder's Joint Hackney Carriage and Private Hire Drivers Licence had been revoked.

It was resolved;

That the exempt minutes of the Taxi Licensing Sub-Committee meeting held on 13 April 2011 be received and noted.

The meeting concluded at 10.02am.