

Minutes of a meeting of the Licensing Committee held in the Council Chamber, City of Ely Council, Market Street, Ely on Wednesday 16 May 2012 at 9.30am

P R E S E N T

Councillor Michael Allan
Councillor Sue Austen
Councillor Tony Goodge (Chairman)
Councillor Lindsey Harris
Councillor Tom Kerby
Councillor John Palmer
Councillor Charles Roberts
Councillor Sue Willows

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

Elizabeth Bailey – Principal Environmental Health Officer
Sarah Burns – Senior Legal Assistant
Stephen Carrington - Licensing Officer (Enforcement)
Liz Knox – Head of Environmental Services
Melanie Sage – Democratic Services Officer

2 members of the public and 1 member of the press attended the meeting.

54. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs Alderson, Allen, Edwards, Hunt and Wright.

55. **DECLARATIONS OF INTEREST**

Cllr Austen declared a personal interest as she used taxis and also used the services of Amberlea Country Kennels and Cattery.

56. **MINUTES**

It was resolved:

That the Minutes of the Licensing Committee meeting held on 14 December 2011 be confirmed as a correct record and signed by the Chairman.

57. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman noted that this was the final Licensing Committee meeting of the municipal year and thanked Members and officers.

The Chairman reminded Members that at the conclusion of the Licensing Committee Meeting officers would be delivering a presentation on Stretched Limousines and changes to the Licensing Act 2003, which Members were encouraged to remain in attendance for.

58. **MEMBER REQUEST TO INVESTIGATE NEIGHBOUR CONSULTATION AND NOTIFICATION MECHANISM AS PART OF APPLICATION PROCESS FOR THE HOME BOARDING OF DOGS**

The Principal Environmental Health Officer presented a report, (L373), previously circulated, to enable the Licensing Committee to consider the advice received regarding the possibility of introducing a neighbour consultation and notification scheme as part of the application process for a Home Boarding Establishment Licence.

The Principal Environmental Health Officer explained that at the Licensing Committee meeting in December officers were instructed 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.

It was explained that within the Animal Boarding Act 1963 there are no specific provisions for neighbour notification as part of the application process for both commercial and home boarding. The legal advice received states that although a neighbourhood consultation exercise could be introduced under the new general power of competence within the Localism Act 2011, this would not be compatible with the EU Services Directive which aims to make processes more transparent and simplified.

The issue of neighbourhood consultation was also raised with the Local Government Regulation (LGR, formerly LACORS) National Companion Animal Focus Group, who stated that local authorities should not consult with neighbours as part of a home boarding application process as it is felt that this could lead to unsubstantiated objections being raised and risk neighbours becoming over sensitised. The Group suggested that noise issues could be considered at the time of inspection by the local authority and licence conditions amended to suit individual premises, which could help to minimise the likelihood of a noise issue initially arising.

It was noted that there had not been any noise complaints received in connection with any of the current licensed home boarding establishments. Should allegations of noise disturbance be received, existing legislative provisions relating to noise could be used to deal

with such issues. Where a noise problem is noted, the Council could take this into consideration should a renewal application be received.

The Council's Planning Department had confirmed that home boarding establishments do not require planning permission where a material change of use does not occur. Home boarding differs to commercial boarding as home boarding does not permit structures to house dogs, which is a major factor in determining whether there is a material change to the property. It is recommended that on receipt of an application by the Licensing Department for a home boarding establishment that the Licensing Department refer detail of the application to the Council's Planning Department for assessment as to whether planning permission is required, due to a material change of use.

Members were reminded that if an application was refused the Applicant could exercise their right of appeal to the Magistrates Court to challenge the decision of the District Council. There would be financial implications for the Council if an Applicant exercised their right of appeal to challenge the decision of the District Council to withhold a licence on the basis of perceived noise concerns raised during a neighbourhood consultation process, particularly if there was no evidence to support this decision. This District Council would be at risk of having costs awarded against it should the Magistrates Court not uphold the decision of the District Council and grant a licence.

It was resolved:

- i. That a neighbourhood consultation process is not introduced at the application stage for Home Boarding Establishments for the reasons set out in the officer's report at paragraphs 3.4 and 3.5 and in Appendix 2.
- ii. That the Licensing Committee note the advice provided by the Local Government Regulation Companion Animal Focus Group, a specialist branch of LACORS, at paragraph 3.13 of the officer's report and in Appendix 3, concerning the request to investigate whether a neighbourhood consultation process at the application stage for Home Boarding establishments could be established.
- iii. That on receipt of an application for the home boarding of dogs by the Licensing Department, that as a matter of course, the Licensing Department notify the Council's Planning Department.

59. **BOARDING ESTABLISHMENTS ACT 1963 AND HOME BOARDING.
APPROVAL OF PROPOSED AMENDMENTS TO LICENCE
CONDITIONS FOLLOWING PUBLIC CONSULTATION**

The Principal Environmental Health Officer presented a report, (L374), previously circulated, to enable the Licensing Committee to consider and approve the proposed amendments to the Council's current home boarding licence conditions following a 12-week consultation carried out between 25 July 2011 and 17 October 2011.

The Principal Environmental Health Officer explained that the proposed amendments and outcome following the consultation were previously presented to Licensing Committee at its meeting in December 2011. However, no decision was made as the Licensing Committee instructed 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.

It was explained that since the adoption of the revised model conditions produced by the Local Authorities Coordinators of Regulatory Services (LACORS) for the home boarding of dogs, concerns had been expressed by the commercial dog boarding sector regarding safety implications that it considered could arise from boarding dogs from different families within a home environment. Concern was also expressed by the commercial boarding sector about the age of persons walking dogs, mixing of dogs from different families, the safety of persons within the household environment, and setting of a maximum number of dogs to be boarded at any one time.

Having taken into consideration the commercial boarding sector's concerns and consulted LACORS, amendments to the Council's existing home boarding conditions were proposed and consulted upon for 12 weeks.

The Principal Environmental Health Officer referred Members to Appendix 1 of her report, where the proposed amendments to the Council's current licence conditions for home boarding were highlighted in bold font. The Principal Environmental Health Officer explained that amendments to the Council's current licence conditions included:

- When boarding dogs from different families a veterinary inspection report would be required. The inspection would assess and recommend the number of dogs it considered suitable for that particular premise. Where necessary, the Veterinary Inspector could make recommendations for specific licence conditions unique to that business that the Council would consider. A Veterinary Inspectors report would not be required where an application is being made to board 3 or less dogs from the same family.
- Resident dogs must be castrated.
- A licence would not be granted where children under the age of 16 years reside in a property to be used for the home boarding of dogs. It was noted that the original LACORS

Model Licence Conditions stated that homes where children under 5 years were resident would not be licensed.

- A person should be a minimum age of 18 years to be able to walk dogs. It was noted that this was not included in the original LACORS conditions, but alleviates fears of young persons being in charge of dog walking duties.
- A declaration from the owner as to whether their dog has been castrated/neutered and a declaration that the owner consents to their dog to be boarded with entire dogs.
- Staff and licensees would need to demonstrate sufficient knowledge and attend relevant training.

The Principal Environmental Health Officer concluded by stating that the proposed revisions to the Council's current home boarding licence conditions amalgamated the original licence conditions for home boarding establishments, produced by LACORS, which the Council adopted; the points raised by the commercial boarding sector prior to consultation in July; as well as the points made by Members at the Licensing Committee meeting in July 2011.

It was resolved:

That the Licensing Committee approve the proposed amendments to the Council's current licence conditions for home boarding as illustrated in Appendix 1 of the officer's report, highlighted in bold font, having taken into consideration the justifications in relation to those amendments as detailed in Appendix 2 of the officer's report.

60. **ACTION TAKEN BY THE HEAD OF ENVIRONMENTAL SERVICES ON THE GROUNDS OF URGENCY – MEDICALS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS**

The Head of Environmental Services presented a report, (L375), previously circulated, for the Licensing Committee to note the action taken by the Head of Environmental Services in consultation with the Chairman of the Licensing Committee on the grounds of urgency regarding reimbursement to Hackney Carriage and Private Hire drivers who had undergone a medical test, as directed by the Council, when during 2011 they had reached 45 or 50 years of age.

The Head of Environmental Services explained that the Council had been informed of an issue relating to medical checks for those who had reached 45 or 50 years of age. This had necessitated the Head of Environmental Services exercising her delegated authority on an emergency basis, which was detailed within the officer's report.

It was resolved:

That the Licensing Committee notes the report.

61. **FORWARD AGENDA PLAN**

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

The Head of Environmental Services apologised that a number of meetings had been cancelled. Unfortunately some of the business on the agenda had been dependant on obtaining information from other agencies, which had been delayed.

The Head of Environmental Services informed Members that the Adoption of Stretched Limousine License Conditions report would not be ready for the meeting on 13 June and would therefore be deferred to the Licensing Committee Meeting on 18 July 2012.

The Head of Environmental Services also informed Members of an additional report regarding Roof Signs which would be considered by the Licensing Committee at its meeting on 18 July 2012.

It was resolved:

That the Licensing Committee forward agenda plan be noted, subject to the following amendments/additions:

- Adoption of Stretched Limousine License Conditions – moved to Licensing Committee Meeting on 18 July 2012.
- Roof Signs – added to the forward agenda for Licensing Committee Meeting on 18 July 2012.

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

The Licensing Committee received the minutes of the two Taxi Licensing Sub-Committee meetings held on 20 January 2012.

It was resolved:

That the minutes of the two Taxi Licensing Sub-Committee meetings held on 20 January 2012 be received and noted.

63. **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).

64. **EXEMPT MINUTES OF 14 DECEMBER 2011**

It was resolved:

That the Exempt Minutes of the Licensing Committee meeting held on 14 December 2011 be confirmed as a correct record and signed by the Chairman.

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

The Licensing Committee received the exempt minutes of the two Taxi Licensing Sub-Committee meetings held on 20 January 2012.

It was resolved:

That the two Taxi Licensing Sub-Committee meetings held on 20 January 2012 be received and noted.

The meeting concluded at 9.48am