

Minutes of a meeting of the Licensing Committee held in the Council Chamber, The Grange, Nutholt Lane, Ely on Wednesday 18 July 2012 at 9.30am

PRESENT

Councillor Michael Allan
Councillor David Ambrose Smith
Councillor Sue Austen
Councillor Tony Cornell
Councillor Tony Goodge (Chairman)
Councillor Chris Morris
Councillor John Palmer
Councillor Andy Wright

IN ATTENDANCE

Lin Bagwell – Licensing Officer (Enforcement)
Elizabeth Bailey – Principal Environmental Health Officer
Maggie Camp – Senior Legal Assistant
Liz Knox – Head of Environmental Services
Melanie Sage – Democratic Services Officer

ALSO IN ATTENDANCE

Mr Derrick Howlett – Senior Traffic Examiner, VOSA

2 members of the public attended the meeting.

13. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs Alderson, Edwards, Harris and Willows.

14. **DECLARATIONS OF INTEREST**

There were no interests declared.

15. **MINUTES**

Cllr Allan referred to minute no. 12 – Taxi Licensing Sub-Committee – Exempt Minutes. At the last meeting of the Licensing Committee Members had enquired whether it was necessary for the Licensing Committee to receive the exempt Taxi Licensing Sub-Committee minutes and, also enquired whether the name of the Driver/Applicant could appear in the public Taxi Licensing Sub-

Committee minutes. Cllr Allan noted that the minutes of the previous Licensing Committee meeting stated that officers would seek advice and report back to the Licensing Committee and he enquired when this was likely to occur. The Head of Environmental Services stated that this would be reported back to the next meeting as she wished to clarify an issue with the Legal team.

It was resolved:

That the Minutes of the Licensing Committee meeting held on 13 June 2012 be confirmed as a correct record and signed by the Chairman.

16. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman did not make any announcements.

17. **STRETCHED LIMOUSINES SAFETY, LICENSING AND CONDITIONS**

a. **Presentation by Mr Derek Howlett, Senior Traffic Examiner, VOSA on Stretched Limousines Safety and Licensing**

The Licensing Committee received a presentation on Limousine Compliance from Mr Derek Howlett, Senior Traffic Examiner, Vehicle and Operator Services Agency (VOSA). A summary of the presentation is as follows:

- Photographs of various types of limousines were displayed including the American-style stretch sport utility vehicle (SUV) limousines and a novelty vehicle.
- The number of seatbelts and the seat width determined the number of seats in a limousine.
- The hire of novelty vehicles were becoming popular, such as adapted fire engines where the water tank of the fire engine is often converted into a seating area for passengers. These were a problem as it was difficult to determine the type of vehicle.
- The older American-style SUV limousines were a problem as due to the extreme length of the vehicles the chassis fractures in the middle.
- Engagement, Education, Enforcement, Engineering and Evaluation was used by VOSA to encourage people to comply with legislation. VOSA had the power to impound and crush the vehicles of those that chose not to comply.
- A Joint Working Group had been formed between the Association of Chief Police Officers; Local Authorities; Traffic Commissioners and VOSA to coordinate education and enforcement. The Group also shared intelligence and coordinated enforcement checks. Some of the enforcement

checks conducted in the area had identified defective vehicles and prohibition notices had been served.

- If a limousine is imported into the country, before the vehicle is registered with the DVLA, it must be presented to a VOSA approved test station. If the vehicle meets requirements it will be issued with a Single Vehicle Approval (SVA) Certificate. Without this certificate the vehicle is not an approved vehicle. Eventually in the future all limousines will have been inspected.
- A class 4 vehicle only requires a standard MOT. However, only a limited number of garages can MOT a stretched limousine due to the length of the vehicle.
- To drive a vehicle with 9 or more seats requires a Public Service Vehicle (PSV) driving licence. The applicant must hold a driving licence that includes at least D1 use, pass a successful medical test and a driving test.
- A limousine must achieve GB requirements in terms of how it is constructed and used, including 'E' markings on the vehicles lights, have a Certificate of Initial Fitness, must be roadworthy, insured and used under an Operators Licence.
- The actions and sanctions available to VOSA are; advice and guidance; prohibition; investigation; prosecution; revoke or curtail a licence; fixed penalties; immobilise vehicles by placing a steel cable tie around the vehicle; seize and impound and to make results public.

Referring to the converted fire engine, Cllr Allan enquired whether there was sufficient air to circulate within the converted water tank. Mr Howlett expected that there would be provided that the air conditioning was working and that quite often the vehicles were required to carry two fire extinguishers, even though passengers were not allowed to smoke in such vehicles.

Mr Howlett noted that the Committee had previously discussed the use of the front seat in a limousine as an additional seat. Mr Howlett explained that if a vehicle was being licensed as an 8-seat vehicle, the use of the front seat would reduce the number of seats available in the rear of the vehicle to 7 seats and that the majority of people did not wish to be separated from the rest of their party.

Cllr Wright enquired of the length of time VOSA had been inspecting limousines that were imported into the country. Mr Howlett explained that VOSA had been inspecting limousines that were imported into the country since 2008 and that the inspection considered the construction of the vehicle and ensured that the vehicle was safe to use. Mr Howlett explained that Members would need to consider conditions that would ensure the vehicles maintenance thereafter its initial inspection.

Cllr Wright stated that he had difficulty with the proposed condition that all vehicles must be less than 10 years old when registered in the UK or when first used in the Country of origin, particularly when there were Public Service

Vehicles (PSV) and School buses currently being used that were over 10 years old. Mr Howlett explained that PSVs were inspected more regularly, every 6 – 12 weeks.

If the conditions were suitable to ensure the appropriate maintenance of any registered limousine vehicle, Cllr Wright questioned whether the proposed condition that all vehicles must be less than 10 years old when registered in the UK or when first used in the Country of origin, was necessary, especially when all limousines imported into the country must first be presented to a VOSA approved test station, which ensured that the vehicle was safe to use. Mr Howlett informed Members that some authorities stated that limousine vehicles must be less than 5 years old when registered in the UK or when first used in the Country of origin and some authorities even stated 2 years. Mr Howlett also informed Members that some County Councils would not award school bus contracts to companies that used buses that were more than 10 years old.

The Chairman enquired how the metal work on a limousine is stress tested and how it was known if metal was fatigued. Mr Howlett explained that it was possible to stress test metal. However, it was expensive to do and metal tended not to corrode at the stress point. Mr Howlett explained that to test metal for fatigue the metal was tapped with a hammer to see what sound it generated and noted that corrosion was part of an MOT as once corrosion began there will often be various corrosion points around the vehicle. Mr Howlett stated that some authorities required a vehicle to undergo a MOT every 6 months, rather than yearly.

Cllr Palmer enquired why the testing of a PSV differed to a stretched limousine, when they were both used to carry passengers. Mr Howlett explained that the MOT regulations dictated how a vehicle was tested and that a PSV only required an MOT once a year. However, depending on the vehicles mileage, it is inspected every 6 – 12 weeks. If a driver or an operator does not comply with the requirements VOSA can issue a warning or revoke the licence.

b. Report on Stretched Limousine Vehicle Licence Conditions Consultation Proposal

Following the presentation by Mr Howlett, the Principal Environmental Health Officer presented a report, (M57), previously circulated, for the Licensing Committee to consider the proposed Vehicle Licence Conditions for Stretched Limousines prior to a consultation exercise being carried out.

The Principal Environmental Health Officer explained that proposed Vehicle Licence Conditions for Stretched Limousines within East Cambridgeshire had previously been consulted upon and the consultation results presented to the Licensing Committee on 19 October 2011. At the meeting the Licensing Committee rejected the proposed Stretched Limousine licence conditions and instructed officers to present revised Stretched

Limousine licence conditions to a future meeting of the Licensing Committee for reconsideration.

The Principal Environmental Health Officer explained that the proposed Stretched Limousine licence conditions had been amended, taking into consideration comments made during the Committee meeting. Attached, as Appendix 1 of the officer's report was the proposed Vehicle Licence Conditions for Stretched Limousines for consultation, including comments to justify why certain conditions were still recommended.

Members were requested to note the proposed Stretched Limousine Licence Conditions; agree for a 12-week consultation to be carried out with relevant bodies and organisations and that the results of the consultation be presented to a future Licensing Committee, recommending the proposed final licence conditions be adopted, having considered any responses received as a result of consultation.

Cllr Wright anticipated that Members could have a full discussion following the outcome of the consultation and could then consider the condition regarding that all vehicles must be less than 10 years old when registered in the UK or when first used in the Country of origin. Referring to Appendix 1 of the officer's report, Conditions 1 and 12, Cllr Wright suggested that this was 'having your cake and eating it' as the proposed conditions were designed to allow only new vehicles. However, the vehicles were also required to undergo a mechanical inspection twice yearly. Cllr Wright noted that in a few years time all limousines that had been imported into the country will have been presented to a VOSA approved test station, to ensure that the vehicle was safe to use. Cllr Wright stated that if a vehicle had been certified as safe then its age should not be relevant.

Referring to Appendix 1 of the officer's report, Conditions 21, that all replacement parts must be manufacturer approved, Cllr Wright noted that he had recently read an article regarding competition laws to prevent anti-competitive practices, and enquired that if a part was fit for purpose, whether the proposed condition was legally enforceable. Mr Howlett explained that the 1976 Act was so wide that the authority could impose whatever conditions it requires. VOSA could impose certain requirements and in the past there had been incidents where replacement components that were not to manufacturer specification had failed. Cllr Wright understood that, but queried whether the condition was legally enforceable. Mr Howlett explained that the specification and quality of a replacement part must be as good as an approved part. Cllr Wright stated that an approved part and specification were two different things and therefore the condition required clarification, particularly in the event that a manufacturer went out of business. However, further discussion on this issue could take place after the consultation period.

The Chairman referred to a typographical error in Appendix 1 of the officer's report, Condition 3, which should read 'The interior and exterior ...' not 'The exterior and exterior ...'.

Referring to Appendix 1 of the officer's report, Condition 17, that limousines will meet the QVM (Quality Vehicle Modifier) issued by the Ford Motor Company or the CMC (Cadillac Mastercoach Builder), Cllr Ambrose Smith stated that he did not agree with this condition as this restricted the type of vehicle. Cllr Wright agreed, and noted that EU requirements were much higher than in the USA, for instance, the glass used in the vehicles in this country was much tougher than in the USA.

Cllr Wright referred to the officer's recommendations and enquired who the relevant bodies and organisations were that would be consulted regarding the proposed Vehicle Licence Conditions for Stretched Limousines. The Principal Environmental Health Officer explained that organisations such as VOSA, Private Hire Operators and other interested parties would be consulted as well as the consultation being advertised on the Council's website and in the press. The Head of Environmental Services clarified that the consultation would be advertised via a press release, not via an advertisement as this had cost implications. The Principal Environmental Health Officer explained that the Council had a corporate bank of people that would be notified of the consultation. Cllr Wright stated that a press release may not be published and if the consultation was not properly advertised the public would not be aware. Cllr Wright therefore proposed an amendment that a 12-week consultation to be conducted with relevant bodies and organisations including an advertisement in the press. This amendment was seconded and accepted by the Committee.

It was resolved:

That the Licensing Committee:

- i. Note the proposed Stretched Limousine Licence Conditions, attached as Appendix 1 of the officer's report.
- ii. Agree for a 12-week consultation to be conducted with relevant bodies and organisations including an advertisement in the press.
- iii. That the results of the consultation be presented to a future Licensing Committee, recommending the proposed final licence conditions be adopted, having considered any responses received as a result of consultation.

18. **SURVEY PROPOSAL FOR HACKNEY CARRIAGE ROOF SIGNS**

The Principal Environmental Health Officer presented a report, (M58), previously circulated, to enable the Licensing Committee to consider and approve that a survey be conducted of the roof signs currently displayed on Hackney Carriage Vehicles licensed by East Cambridgeshire District Council, and that the findings be presented to a future Licensing Committee for discussion in terms of the Council's current Hackney Carriage Roof Sign Licence Condition.

The Principal Environmental Health Officer explained that at the Licensing Committee meeting on 14 December 2011, the Committee resolved to rescind the decision to introduce a Council Approved Hackney Carriage roof sign, which had an implementation date of 1 January 2012 and to reconsider the matter in 6 months. Therefore the original Hackney Carriage Roof Sign Licence Condition remained as follows *'A vehicle roof sign will be allowed in a form to be approved by the Council'*. However, the condition did not define as to what constitutes the *'form to be approved'*.

The Principal Environmental Health Officer explained that roof signs are an important part of the make up of a Hackney Carriage Vehicle and enabled members of the public to easily distinguish between a Hackney Carriage Vehicle and Private Hire Vehicle. By conducting a survey of those roof signs currently in use on licensed Hackney Carriage Vehicles in East Cambridgeshire, it will provide a comprehensive picture as to the variety of roof signs that are currently in use and will help Members to make an informed decision regarding the condition as to what may constitute a *'form to be approved'*.

The Chairman explained that the survey would gather up-to-date information and he hoped to discuss the matter with the taxi trade in the New Year. The Head of Environmental Services explained that once the survey had been conducted the results would be presented to the Licensing Committee for Members to determine the way forward.

Cllr Austen enquired whether photographs would be taken of current roof signage. It was confirmed that the photographs would be taken of current roof signage in use.

Cllr Ambrose Smith suggested that the discussions with the taxi trade should occur simultaneously with the survey so that when the Licensing Committee next considered the matter they are also aware of their opinion, this would also avoid delaying the matter further.

Cllr Wright noted that Cllr Allen had previously submitted a question to Council on the issue of roof signage and that more information had been provided within the response to his question than had been provided to the Licensing Committee. Cllr Wright stated that the matter was becoming a saga, which did not need to be considered again at present. Cllr Wright noted that the Council used to hold annual meetings with the taxi trade, which had been useful and he suggested that the Chairman should meet with the taxi trade before the survey, as this could prove insightful and encourage co-operation with the trade. Cllr Wright stated that if it was decided that all roof signs should be uniform throughout the district that the Council should purchase and supply the Council Approved Roof Sign to Hackney Carriage Drivers, as they did for the licence plates.

Cllr Allan was confused as to what the Licensing Committee was supposed to do once it had been provided with the details of the survey. Cllr Cornell assumed that the survey would be a quick process that could be completed in time for the next meeting. The Committee could then consider the types of roof signage already in use and decide how to proceed. Cllr Cornell noted that the Licensing Committee might decide that all current forms of roof signage were acceptable.

Cllr Wright proposed an amendment to the officer's recommendations, that prior to the survey, the Chairman of the Licensing Committee meet with the taxi trade to discuss the matter. This was accepted by the Committee.

It was resolved:

That the Licensing Committee:

- i. Agree to a Hackney Carriage Roof Sign survey being conducted in relation to those Hackney Carriages licensed by East Cambridgeshire.
- ii. That prior to the survey, the Chairman of the Licensing Committee meet with the taxi trade to discuss the matter.
- iii. Agree that the findings of the Hackney Carriage Roof Sign survey be presented to a future Licensing Committee meeting for discussion in relation to the current Hackney Carriage Roof Sign Licence Condition.

19. **LICENSING AUTHORITY STATEMENT OF PRINCIPLES – GAMBLING ACT 2005 – 3 YEAR REVISION**

The Licensing Officer presented a report, (M59), previously circulated, to enable the Licensing Committee to consider and approve for statutory public and stakeholder consultation the draft revised version of the Council's Licensing Authority Statement of Principles, which must be reviewed by the Council every three years in accordance with the provisions of the Gambling Act 2005. The consultation was scheduled to commence for twelve weeks from 23 July 2012 to 14 October 2012, in line with best practice set by the Department for Business, Innovation and Skills.

The Licensing Officer explained that the 4th edition of the Gambling Commission Guidance to Local Authorities was being finalised and was likely to be published during the consultation period. Therefore it might be necessary to amend the Statement of Principles to reflect any changes arising, which will also be reflected in the final draft to be brought back to Licensing Committee in November 2012.

The Licensing Officer explained that the Council could not wait to adopt a Statement of Principles until the 4th edition of the Gambling Commission Guidance was published as the Statement of Principles must come into effect as of 31 January 2013 and must be published at least 4 weeks before the date on which it will come into effect. The results of the consultation and any resulting amendments will be brought back to Licensing Committee in November 2012 and recommended to Full Council for adoption as its meeting on 10 December 2012.

Cllr Cornell noted that paragraphs 16.13 and 16.14 of the Statement of Principles now provided clear guidance for both the applicant and officers as to whether planning permission, building regulations, fire and health and safety risks should influence when considering whether to grant a premise licence.

Cllr Wright suggested that paragraph 21.1 of the Statement of Principles, that any future decision to pass or not to pass a casino resolution will only be taken after a full consultation process has been undertaken within the area, required more explanation as it was not unreasonable to expect an application for a casino premise licence in the future, particularly as a significant part of the district is influenced by the two racecourses in the neighbouring districts.

It was resolved:

That the Licensing Committee:

- i. Approve the draft revised version of the Statement of Principles at Appendix 1 of the officer's report. (*The main changes to the Council's current Statement of Licensing Principles are shown in italics throughout the draft revised Statement*).
- ii. Agree to statutory public and stakeholder¹ consultation taking place on the draft revised Statement of Principles in accordance with the provisions of the Gambling Act 2005, for a twelve-week period from 23 July 2012 to 14 October 2012, in line with best practice set by the Department for Business, Innovation and Skills.
- iii. That the methods for consultation include the display of a copy of the draft revised Statement of Principles on the Council's website, public notice board in the Council reception, in each of the public libraries within the district and a public notice published in a newspaper circulating in the licensing area covered by the Statement as required by the Gambling Act 2005.

¹ Statutory consultees and those prescribed by the Gambling Commission

- iv. That the Head of Environmental Services be authorised to make amendments to the policy having regard to new guidance issued by the Gambling Commission to Licensing Authorities these amendments will be highlighted to Members along with any other amendments made to the draft policy as a result of the consultation process prior to approval by Full Council.

20. **FORWARD AGENDA PLAN**

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

The Head of Environmental Services informed Members that the following three reports currently scheduled on the forward agenda plan for the Licensing Committee meeting on 21 November 2012 were to be deferred to the Licensing Committee meeting on 12 December 2012:

- Approval of the Street Collection Licensing Policy
- Approval of the House-to-House Collection Licensing Policy
- Approval of Stretched Limousine License Conditions

The Head of Environmental Services also informed Members that as there were no significant items of business scheduled for the Licensing Committee meeting on 19 September 2012 that the meeting would be cancelled. The training/information session scheduled at the conclusion of the Licensing Committee meeting on 19 September would be delivered to the next Licensing Committee meeting, provided that no Taxi Licensing Sub-Committee meetings were required.

It was noted that following Committee's approval of consultation of the Licensing Authority Statement of Principles – Gambling Act 2005, this item would need to appear on the forward agenda for the Licensing Committee meeting on 21 November 2012.

In response to a question, the Head of Environmental Services explained that it had been envisaged that the outcome following the survey of Hackney Carriage Roof Signs would be presented to the December Licensing Committee. However, dependant on how quickly the discussion with the taxi trade could be concluded this may be presented to an earlier Licensing Committee meeting.

It was resolved:

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

- 19 September 2012 Licensing Committee meeting cancelled.
- Approval of the Street Collection Licensing Policy; Approval of the House-to-House Collection Licensing Policy; Approval

of Stretched Limousine License Conditions – deferred to the Licensing Committee meeting on 12 December 2012.

- Licensing Authority Statement of Principles – Gambling Act 2005 – 3 Year Revision - added to the forward agenda for Licensing Committee meeting on 21 November 2012.

The meeting concluded at 10.40am