

NORTH HERTFORDSHIRE DISTRICT COUNCIL

LICENSING AND APPEALS COMMITTEE

**Minutes of a meeting held in the Council Offices, Gernon Road, Letchworth Garden City
on Tuesday, 2 October 2007 at 7.30p.m.**

MINUTES

PRESENT: *Councillors: P.C.W. Burt (Chairman), A. Bardett, Tom Brindley, Paul Clark, J.M. Cunningham, Gary Grindal, Lorna Kercher and Mrs J.I. Kirby.*

IN ATTENDANCE: *Head of Housing & Environmental Health, Licensing & Enforcement Manager, Licensing & Enforcement Officer (East), Taxi Licensing & Enforcement Officer, Senior Lawyer and Senior Committee & Member Services Officer and 2 members of the public (taxi representatives).*

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D.J. Barnard and Marilyn Kirkland.

2. MINUTES

RESOLVED: That the Minutes of the Committee held on 24 October 2006 be approved as a true record of the proceedings and signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

4. LICENSING ACT 2003 – UPDATE ON IMPACT IN NORTH HERTFORDSHIRE

The Licensing & Enforcement Officer (East) provided an oral update on the impact of the Licensing Act 2003 in North Hertfordshire.

The Licensing & Enforcement Officer (East) supplied the following statistics, in relation to the commencement of the Licensing regime in November 2005:

Premises Licences granted	445
Personal Licences granted	765
Temporary Events	1,170
Gaming Permits	31
Variations	45
Transfers	46
DPS variations	156
Hearings	119
Reviews	3
Appeals	6

Of the 6 appeals lodged, the Committee was informed that 2 were won with costs awarded; 1 was drawn; 1 was lost with no costs awarded; 1 was withdrawn; and 1 was negotiated before going to court. There had been 1 prosecution, which had resulted in a Personal Licence Holder having their licence withdrawn.

The Licensing & Enforcement Officer (East) paid compliment to the work and professionalism of the Members of the Committee who had served on the Sub-Committees that had dealt with the 119 hearings. This had been recognised in other quarters, and was a sign that the licensing regime in North Hertfordshire was working well and was held in good regard.

In terms of enforcement, the Licensing & Enforcement Officer (East) advised Members that the minimum activity was for monthly Police and Licensing Authority operations, including out of hours inspections. Special projects, such as drink awareness, Halloween, underage drinking, etc. were also undertaken. All premises were risk rated and inspected accordingly.

The Committee noted that the Licensing Team offered both a proactive and reactive response service to enforcement matters. Numerous warnings had been issued over the past three years, both verbal and written.

RESOLVED: That the oral update be noted, and the information supplied be forwarded to all Members of the Council via the Members' Information Service (MIS).

REASON FOR DECISION: To keep all Members updated with progress in respect of the impact in North Hertfordshire of the Licensing Act 2003.

5. LICENSING ACT 2003 – PROPOSED STATEMENT OF LICENSING POLICY 2008-2010

The Licensing & Enforcement Officer (East) presented a report seeking the Committee's endorsement of the Council's proposed Statement of Licensing Policy 2008-2010 in respect of powers its under the Licensing Act 2003, prior to consideration of the Statement by Council on 29 November 2007. The following appendices were submitted with the report:

Appendix A – Schedule of comments received during the consultation, including recommendations;
Appendix B – Proposed Statement of Licensing Policy.

The Committee was reminded that the Council had adopted its first Statement of Licensing Policy in respect of the Licensing Act 2003 in November 2004, and that it was a requirement of the Act that the Policy be kept under regular review and be published formally every three years.

The Licensing & Enforcement Officer (East) advised the Committee that the public consultation period in respect of the Policy had taken place from 18 June 2007 to 7 September 2007.

The Licensing & Enforcement Officer (East) referred to two documents which he had tabled at the meeting, namely a number of suggested grammatical amendments to the Policy submitted by Councillor Tom Brindley and a number of more substantive amendments prepared by the Corporate Legal Manager.

The Committee acknowledged that there were a number of grammatical and typographical errors in the document, and instructed officers to ensure that these were corrected prior to submission of the final document to Full Council.

In response to a Member question regarding a matter raised by the Baldock & District Committee in respect of the cumulative impact of licensed premises in Baldock, the Licensing & Enforcement Officer (East) explained that two of the premises which had been a cause of problems in Baldock were now closed. However, recent Guidance had stated that Licensing Authorities could now consider potential cumulative impact when considering each application, and therefore there was no need for a specific Cumulative Impact Policy.

In response to a further Member question in relation to the increase in the length of the proposed policy from the version approved in November 2004, the Licensing & Enforcement Officer (East) advised that certain sections had been expanded to take into account new Guidance from the Department of Culture, Media and Sport, and that sections had been added in respect of Temporary Event Notices, Community Events, Reviews and Adult Entertainment.

The Committee considered the Policy, and made the following further comments/suggested amendments:

- (a) Paragraph 6.5 – Cumulative Impact – update the section on other measures to control cumulative impact to accord with those listed in the Guidance issued in 2007:
- Planning controls;
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - The confiscation of alcohol from adults and children in designated areas;
 - Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
 - The power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question; and
 - Other local initiatives that similarly address these problems.
- (b) Paragraph 8.1 – Children and Licensed Premises – deletion of the words “will not be limited”;
- (c) Paragraph 8.8 – Children and Licensed Premises – amend the reference to the Portman Group to “The Council supports voluntary Codes of Practice such as Challenge 21 or PASS or other similar accredited systems as relevant at any given time. A copy of these can be found at (*insert web address*).”;
- (d) Paragraph 13 – Drugs – amend heading and all references to “drugs” to “controlled substances” and alter the word “control” to “prevent” in second line;
- (e) Paragraph 14.3 – Enforcement – insertion of the words “by the Licensing Authority” in the first and second lines;
- (f) Paragraph 18.2 – Community Events – insertion of the word “existing” in the first sentence after the word “licences” and replacement throughout of the word “expected” to “encouraged”;
- (g) Paragraph 19.2 – Reviews – insertion of the words “whether an application is” before “frivolous”, and addition of a new sentence to read “An objection by a responsible Authority cannot be deemed as frivolous, vexatious or repetitious”;
- (h) Paragraph 20.3 – Adult Entertainment – insertion of the words “in public” at the end of item (i);

The Committee referred to the Financial and Human Resources Implications (Section 6) of the covering report submitted with the agenda, particularly the statement “The Government has indicated that they expect the centrally set fees for the Licensing Act 2003 to cover the cost to the Council of administering the licensing regime.” The Committee considered that this had not been the case, and requested the Head of Housing & Environmental Health, in consultation with the Cabinet appropriate Portfolio Holder(s), to write to the Government to point out that this statement was incorrect and that further financial support was required to enable the licensing regime to operate on a cost even basis.

RESOLVED:

- (1) That the proposed Statement of Licensing Policy in respect of the Licensing Act 2003, as attached at Appendix B to the report, incorporating the results of the public consultation exercise, be supported;
- (2) That the Head of Housing & Environmental Health, in consultation with appropriate Cabinet Portfolio Holder(s), be requested to write a letter to the relevant Government Department pointing out that the centrally set fees for administering the licensing regime were inadequate to cover the cost to the Council, and stating that further financial support was required to enable the licensing regime to operate on a cost even basis.

RECOMMENDED TO COUNCIL: That the proposed Statement of Licensing Policy in respect of the Licensing Act 2003, as attached at Appendix B to the report, as amended, be adopted.

REASON FOR DECISION: To comply with the statutory requirement that the Licensing Policy be reviewed every three years.

6. PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY 2008-2010

The Licensing & Enforcement Officer (East) presented a report seeking the Committee's endorsement of the Council's proposed Hackney Carriage and Private Hire Licensing Policy 2008-2010, prior to consideration of the Policy by Cabinet on 16 October 2007 and Council on 29 November 2007. The following appendices were submitted with the report:

Appendix A – Schedule of comments received during consultation, including recommendations;

Appendix B – Proposed Hackney Carriage and Private Hire Licensing Policy.

The Licensing & Enforcement Officer (East) advised that the Council had traditionally exercised the responsibility of licensing hackney carriages and private hire vehicles through a number of different policies, conditions and procedures that had been developed over a number of years. Whilst these policies and conditions had been approved by Councillors, they had been introduced independently in a piecemeal format. Given the age of the regulating legislation and the piecemeal format of policies and conditions, it had been considered necessary to re-evaluate the whole licensing process in relation to hackney carriages and private hire vehicles.

The Licensing & Enforcement Officer (East) advised the Committee that the public consultation period in respect of the Policy had taken place from 18 July 2007 to 14 September 2007.

The Licensing & Enforcement Officer (East) referred to two documents which he had tabled at the meeting, namely a number of suggested amendments to the Policy prepared by the Corporate Legal Manager and a suggested amendment to Section 2.18 – Ambulance and Other Patient Transport – as a result of correspondence with the Public Carriage Office and the National Private Hire Association.

The Committee acknowledged that there were a number of grammatical and typographical errors in the document, and instructed officers to ensure that these were corrected prior to submission of the final document to Cabinet.

Upon the Chairman's invitation, the Committee was addressed by Mr Melvyn Day, one of the representatives of the taxi trade. Mr Day circulated a document detailing a number of suggested amendments to the Policy. These were dealt with, in turn, by the Committee as follows:

- (i) Advertising on vehicles – following debate, the Committee agreed to the deletion of Paragraphs 2.7.6 and 2.7.7 of the Policy; deletion of the words “In addition” at the start of A19.6 in Appendix A to the Policy; and the revision of the Policy to permit the advertising of the taxi company (including logos) on the rear of the vehicles;
- (ii) Driving Proficiency and Qualifications – Paragraph 3.4.3 – despite the suggestion from Mr Day that other forms of advanced driving tests should be acceptable for taxi drivers, the Committee agreed that the nationally recognised Driving Standards Agency (DSA) test should be the only standard recommended in the Policy;
- (iii) Driving Proficiency and Qualifications – Paragraph 3.4.4 – to enable applicants an additional period of time in which to pass the DSA test without having to apply as a new applicant, the Committee agreed that the words “if they do not pass the DSA test within 12 months” be added to the end of this paragraph;
- (iv) Fare Tariffs – Paragraphs 8.1.4 and 8.2.1 and A21.1.4 (in Appendix A) – despite Mr Day’s suggestion that the Fare Tariff Card should not be displayed in vehicles, but should be available on request from the driver, the Committee felt that the Card should be displayed in each vehicle. However, Members asked officers to consider a re-sign of the card to make it clearer and to publish the fare tariffs on the Council’s website;
- (v) Taxi Forum – Section 11 – the Committee agreed that this Section be deleted and replaced with a statement recognising that the Council had a Taxi Forum; furthermore, the Committee supported Mr Day’s request that, rather than the minutes of Taxi Forum meetings being distributed to all licence holders, the minutes be made available electronically on the Council’s website.

The Committee considered the Policy, and made the following further comments/suggested amendments:

- (a) Paragraph 1.3.1 – Objectives – this paragraph should be expanded to reflect the fact that taxis were also provided to enable a safe, secure and comfortable form of door to door transport;
- (b) Paragraph 1.7 – Departure from the Policy – the Head of Housing & Environmental Health undertook to ensure that, if he chose to exercise his discretion to depart from the Policy, full details of any such departure would be conveyed to Members through the Members’ Information Service (MIS);
- (c) Paragraph 2.2.3 – Limitation of Numbers – insertion of the word “no” between “be” and “unmet demand”;
- (d) A new Paragraph beneath 2.2.3 – Limitation of Numbers – stating “No hackney carriage can be licensed to ply for hire in more than one zone”;
- (e) Paragraph 2.4 – Accessibility – a cross-reference be added referring to A23 of Appendix A – Disability Access;
- (f) Paragraph 2.12.2 – Environmental Considerations – the cross-reference in this paragraph should be to paragraph 2.5 not 2.4;
- (g) Paragraph 2.18 – Ambulances and Other Patient Transport – the deletion of 2.18.1, 2.18.2 and 2.18.3, and its replacement with:

“2.18.1 Ambulances

All ambulances meeting the following requirements will be exempt from private hire vehicle licensing:

Vehicles constructed to original manufacturer's specification and equipped and used for the carriage of sick, injured or disabled people with a permanent rear compartment and means of conveying passengers in a recumbent position together with an attendant seat for use by accompanying medical professionals, readily identifiable as a vehicle used for the carriage of such people by being marked 'Ambulance' on both sides.

2.18.2 Other Patient Transport

Other patient transport services provided by either:

- i) Primary Care Trusts, or
- ii) voluntary services,

that do not qualify for the exemption in 2.18.1 will require licensing as a private hire vehicle.”;

- (h) Paragraph 2.24 – a re-wording to ensure that a “maximum” of one national flag be permitted to be flown on each licensed vehicle;
- (i) Paragraph 3.2 – Age and Experience – deletion of 3.2.1 and consequent amendment to 3.2.4;
- (j) Paragraph 9.1.3 – Fee Structure – an amendment to reflect the fact that the fees are set by the Head of Housing & Environmental Health, in consultation with the Cabinet Portfolio Holder for Planning & Transport;
- (k) Paragraph 14 – Definitions – insertion of two additional terms to provide explanations of “Disability Impact Assessment” (including reference to the date of the Best Practice Guidance) and “Authorised Council Officers”;
- (l) Appendix A – Vehicle Specification – deletion of the third bullet point in A1.3;
- (m) Appendix A – Vehicle Specification – Paragraph A1.4 - amend to metric measurements only (also applied to elsewhere throughout the document where imperial measurements were used);
- (n) Appendix A – Vehicle Specification – deletion of A1.8 and A4.2;
- (o) Appendix A – Vehicle Specification – A12.1 (First Aid Kit) – addition of appropriate wording to ensure that the kit complied with an agreed British and/or Health Standard
- (p) Appendix A – Vehicle Specification – A12.3 (First Aid Kit) – insertion of the words “or plate number” between “registration number” and “of the vehicle”;
- (q) Appendix A – Vehicle Specification – A12.4 (First Aid Kit) – deletion of the whole of this paragraph;
- (r) Appendix A – Vehicle Specification – A15 (Maintenance and Condition of the Vehicle) – deletion of the second and third paragraphs of A15.3;
- (s) Appendix A – Vehicle Specification – A16 (Modifications) – deletion of the final sentence in A16.1;
- (t) Appendix G – Dress Code for Licensed Drivers – following debate, it was agreed that officers review the whole appendix.

RESOLVED: That the proposed Hackney Carriage and Private Hire Licensing Policy, as attached at Appendix B to the report, as amended, incorporating the results of the public consultation exercise, be supported.

RECOMMENDED TO CABINET: That the proposed Hackney Carriage and Private Hire Licensing Policy, as attached at Appendix B to the report, as amended, be recommended to Council for adoption.

REASON FOR DECISION: To ensure that the taxi trade and the public have a document which fully explains the licensing process, and to ensure consistency of approach by officers enabling fairness to the trade.

The meeting closed at 10.50pm.

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Chairman