

EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee: Licensing Committee

Date: 8 October 2014

Place: Council Chamber, Civic Offices,
High Street, Epping

Time: 2.30 - 4.15 pm

Members Present: K Angold-Stephens (Chairman), A Boyce, K Chana, D Dorrell, J Hart, P Keska, R Morgan, B Rolfe, Mrs M Sartin, Mrs G Shiell and K Adams

**Other
Councillors:** G Waller

Apologies: A Lion, H Mann, Mrs T Thomas and Mrs J H Whitehouse

Officers Present: J Nolan (Assistant Director (Neighbourhood Services)), K Tuckey (Licensing Manager), N Clarke (Licensing Officer) and G J Woodhall (Democratic Services Officer)

1. APOLOGIES FOR ABSENCE

The Committee noted that Councillor Adams was substituting for Councillor J H Whitehouse, and that Councillor Adams would join the Committee in place of Councillor J H Whitehouse once the requisite training had been undertaken and the change reported to the Council.

2. DECLARATIONS OF INTEREST

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

3. ANY OTHER BUSINESS

It was noted that there was no other urgent business for consideration by the Committee.

4. MINUTES OF THE LICENSING COMMITTEE

Resolved:

(1) That the minutes of the meeting held on 9 April 2014 be taken as read and signed by the Chairman as a correct record.

5. MINUTES OF THE LICENSING SUB-COMMITTEES

Resolved:

(1) That the minutes of the following meetings of the Licensing Sub-Committee be taken as read and signed by their Chairmen as a correct record:

- (a) 8 April 2014;
- (b) 13 May 2014;
- (c) 15 May 2014;
- (d) 28 May 2014;
- (e) 17 June 2014;
- (f) 26 June 2014;
- (g) 15 July 2014;
- (h) 12 August 2014; and
- (i) 9 September 2014.

6. APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003 AND GAMBLING ACT 2005

The Senior Licensing Officer reported that in respect of Premises License Applications or Variations, there had been 5 new applications, 149 renewals, 38 Change of Designated Premises Supervisor or variation applications received. Of these, 4 applications had been considered by the Sub-Committee and granted subject to conditions. 45 (EU) Temporary Event Notices, 131 Temporary Event Notices and 26 late Temporary Event Notices had also been granted. 66 Personal Licence applications had been received and granted under delegated authority. There had been no appeals to the Magistrates Court during the period.

In respect of the Gambling Act 2005, the Senior Licensing Officer stated that there had been no Betting Office applications or Club gaming permits granted, and two notifications had been received for two gaming machines.

In response to questions from the Committee, the Senior Licensing Officer explained that a late Temporary Event Notice was defined as one where the application was received between five and nine days before the event, and the figures quoted for the last six months did not appear unduly exceptional.

Resolved:

- (1) That the report to the Licensing Committee regarding the applications received under both the Licensing Act 2003 and the Gambling Act 2005 be noted.

7. STREET TRADING - CONSULTATION ON AMENDMENTS TO THE COUNCIL'S STREET TRADING POLICY

The Assistant Director of Neighbourhoods (Environment & Neighbourhoods) presented a report concerning the public consultation on amendments to the Council's Street Trading Policy.

The Assistant Director reminded the Committee that it had considered an amended Policy at its previous meeting in April 2014 and agreed that a public consultation should be carried out. The consultation began in July 2014 and a total of six responses were received; these were summarised at Appendix 1 of the report. Some

of the comments had suggested further amendments, and the Committee was requested to consider these and whether the Policy should be further amended.

The first potential amendment concerned the distance that members of the public were away from the site to qualify as a consultee. The current policy stated "...in the vicinity" but it was suggested that the Council should be more prescriptive and use a 150 metre radius as per applications under the Licensing Act 2003. The Assistant Director was of the opinion that a 150 metre radius for public consultation was reasonable and could be defended in court. The Committee agreed the amendment.

The second potential amendment concerned consulting with neighbouring authorities if the application site was situated close to a border. The Committee interpreted this comment to be referring to Town and Parish Councils within the Epping Forest District and felt that this suggestion was sensible. The Assistant Director also agreed that section 3, paragraph (d) of the proposed Policy could be more explicit about the types of photographs required, including one with the number plate in full view. The Senior Licensing Officer confirmed that physical documents would still need to be inspected if an application was received on-line; it was felt that this should be made clear in the Policy.

In respect of some of the other comments received, the Assistant Director stated that Town and Parish Councils were already included in the list of consultees for Street Trading Licence applications, and the issue of advertising materials being placed on the Highway was covered by other legislation already. In respect of the comments received from the Neighbourhoods Manager at the Council, the Assistant Director stated that new applications were subject to the same requirements as renewal applications, however it was implied rather than explicitly stated in the Policy; this could be remedied within the new Policy. And any trading outside of the permitted hours would be enforced against.

Resolved:

- (1) That the comments received from the consultation on the new Street Trading Policy be noted; and
- (2) That the proposed Street Trading Policy be agreed, subject to the following amendments:
 - (a) members of the public which lived within 150 metres of the application site would be consulted upon the application;
 - (b) an adjacent Town or Parish Council would be consulted upon an application if the site was close to its Local Council boundary;
 - (c) to explicitly state within the Policy that new applications were subject to the same requirements as renewal applications;
 - (d) the Policy to be more explicit about the type of photographs required for an application, including a photograph with the number plate of the vehicle in clear view; and
 - (e) physical documents would still need to be inspected for on-line applications.

8. ROAD CLOSURES - WAIVER OF FEE FOR CHARITABLE EVENTS NOT FROM TOWN OR PARISH COUNCILS

The Assistant Director of Neighbourhoods (Environment & Neighbourhoods) presented a report on the waiving of fees for road closures for charitable events that were not organised by Town or Parish Councils.

The Assistant Director reminded the Committee that The Town & Police Clauses Act 1847 gave local authorities powers for preventing obstruction of the streets in time of public procession and the such like. These powers had been interpreted to include making a temporary road closure, for both commercial and non-commercial events. In July 2014, the Council agreed to waive the fee for road closure applications for Town or Parish Councils if the closure was for a charitable event. Subsequently, the Licensing Committee was asked to consider if a fee should be levied to other applicants if they could demonstrate that their event was for a charitable purpose.

The Chairman also enquired whether the road closure fee for community events for the promotion of a particular area should also be waived. The Assistant Director felt that 'community event' was too wide a definition. However, it was suggested that 'entirely non-profit making' could be used as a definition, as this could also include non-charitable events run by a Town or Parish Council. The Committee agreed this should be included as waiver for road closure fees in the future.

Resolved:

- (1) That the road closure fee be waived for charitable events not run by Town and Parish Councils; and
- (2) That the road closure fee also be waived for non-charity events that could be demonstrated as being entirely non-profit making for any non-charitable organisation involved.

9. IMPLEMENTATION OF THE TAXI TARIFF SCHEME

The Assistant Director of Neighbourhoods (Environment & Neighbourhoods) introduced a report on the implementation of the Taxi Tariff Scheme.

The Assistant Director reported that the Scheme was implemented in June 2014, and was generally welcomed, although there was a little resistance from some of the operators. The main complaint had been that the tariff was too high after 10pm on Sundays. Some operators had changed from being Hackney Carriages to Private Hire Vehicles to avoid the installation of a meter.

The Assistant Director added that exhaustive consultation was undertaken prior to the implementation of the scheme, but some comments had only now been received following the implementations. These had been attached at the Appendix of the report. There was a review of the Scheme planned for 2015. The Committee was reminded that the Scheme regularised Hackney Carriages and the meter indicated the maximum fare to be charged. Other Councils had implemented schemes and some operators were routinely charging less than the meter fare. The Senior Licensing Officer stated that a lot of research was carried out before the implementation of the scheme, and that the final tariff agreed upon was neither the most expensive nor least expensive in Essex.

The Committee noted that the majority of comments received had been positive in nature and if any amendments were proposed then the public consultation exercise would have to be repeated. It was also emphasised that the scheme combatted the 'taxi touts' which picked up fares from nightclubs in the early hours of the morning.

Therefore, it was felt that the current scheme should continue until the scheduled review in 2015.

Resolved:

- (1) That the implementation of the current Taxi Tariff Scheme be noted; and
- (2) That the current Taxi Tariff be allowed to run without amendment until the scheduled review in October 2015.

10. PRIVATE HIRE VEHICLE LICENCE CONDITIONS

The Assistant Director of Neighbourhoods (Environment & Neighbourhoods) presented a report on possible amendments to Public Hire Vehicle Licence Conditions.

The Assistant Director reminded the Committee that it had requested a report at its last meeting in April 2014 on new vehicles and technologies associated with the Taxi trade, including the use of people carriers, three door vehicles and electric vehicles. The Committee was also requested to consider whether additional advertising on vehicles should be permitted.

The Assistant Director stated that people carriers were vehicles designed to carry between five and eight people and typically had an extra row of seats behind the driver (see diagram on page 36 of the agenda). Currently, these vehicles did not comply with the Council's licensing conditions for vehicles as they did not have "...a minimum of four doors, each adjacent to a seat...". The use of such vehicles had increased in the public hire trade but there were safety concerns; e.g. passengers in the rear row having to move a seat in front before being able to exit the vehicle.

The Assistant Director highlighted that opinions within the public hire and safety communities were mixed. Some local authorities felt that the risk was acceptable, whilst others felt that these vehicles should be adapted by the removal of one of the seats. The Department of Transport had stated that it might be too restrictive to outlaw the use of people carriers, or to licence them for fewer passengers than seats. The Royal Society for the Prevention of Accidents supported the policy to limit the number of seats in a people carrier that were used as a Private Hire vehicle to provide passengers in the rear with safe access to and from the vehicle. In any event, it was considered essential that there was a door on each side of the passenger compartment to allow exit in the event of a side impact collision. The Committee was requested to consider the suitability of such vehicles and any conditions to be attached to their use if permitted.

The Assistant Director added, in response to questions from the Committee, that people carriers were defined as having eight seats or less, whereas mini buses were defined as having more than eight seats. There was one people carrier currently licensed within the District; this was allowed on appeal to the Sub-Committee after it had been refused by Officers.

The Chairman of that particular Sub-Committee informed the Committee that people carriers were safe vehicles in his opinion and there were usually less impact collisions on the nearside passenger door. Most people carriers had a sliding door on each side, and there was usually a catch to release the rear facing door from the inside in an emergency. It was suggested that a gap should be maintained in the middle of the vehicle to ensure exit from the rear in an emergency.

It was highlighted that the space from a seat being removed could be filled with luggage instead, hampering attempts to escape the vehicle in an emergency, especially if the customer was travelling to Stansted Airport to catch a flight. It was also acknowledged that the Department of Transport had stringent requirements for vehicles before they were permitted to be used on the roads.

The Committee felt that further consultation with other local authorities was required before a decision could be taken; in particular Uttlesford District Council, who would be the licencing authority for the private hire vehicles that operated from Stansted Airport, and some of the London Borough Councils as many people carriers were used as private hire vehicles in the metropolis. The Committee also wanted to see accident statistics for people carriers from the Police to assist in determining how safe such vehicles were. Therefore, the Committee agreed to defer a decision regarding people carriers until the next meeting.

The Assistant Director reported that there were now a number of vehicles which were designed to carry less than four passengers. Currently, these vehicles did not comply with the Council's licencing conditions as vehicles had to have "...*accommodation for not less than four passengers...*". A recent application for such a vehicle had been refused by Officers, but was allowed on appeal when considered by Members at a Sub-Committee meeting. There were no reasonable safety concerns associated with such vehicles, and the taxi trade had intimated there was a niche for them as many were electrically powered. It was highlighted that the removal of the current condition above would permit two or three seat vehicles to be used and the Committee was requested to consider the implications from this possible change.

The Chairman stated that these vehicles were mainly electric vehicles. Taxi firms often received requests to transport one person, and using this type of vehicle would reduce operator costs and provide greater flexibility for the operators. Indeed, one operator had declared their intention to run this type of vehicle if permitted. The Assistant Director added that the current vogue was to use one seat sports cars as one passenger taxis, and there was no particular reason to prohibit sports cars from being used in this fashion. Therefore, the Committee was requested to consider a minimum number of passengers that a private hire vehicle could be licenced to carry.

The Committee felt that there was no valid reason for not licensing vehicles for less than four passengers. The Assistant Director pointed out that the use of motorcycles to carry fare paying passengers did not comply with the Council's current licensing conditions. The Committee was concerned that some sports cars had rear seats for occasional use and that these should not be used. It was acknowledged that electric cars were also environmentally friendly.

The Assistant Director introduced the final issue for consideration, namely that of advertising on private hire vehicles. It had come to the attention of the Council that some drivers were placing advertisements on the roof of their vehicle, which contravened the Council's current licencing conditions. These stated that private hire vehicles were not to have any signs on their roof, and that advertising was only permitted on the doors of the vehicle and internally on the back of the headrests for the front seats, provided the Council was satisfied that the advertisements were not unsuitable or offensive. Some taxis were also beginning to advertise on the bonnet of the vehicle, which was common practice in London.

The Committee had concerns about the erection of advertising signs on the roof of private hire vehicles. The potential health and safety issue was highlighted regarding roof signs, especially on windy days, and the Committee was content to leave the current rules unchanged.

Resolved:

- (1) That consent to use people carriers as private hire vehicles within the District be deferred until the next meeting of the Committee on 8 April 2015, pending further information concerning:
 - (a) the conditions attached to such vehicles used at Stansted Airport by Uttlesford District Council;
 - (b) the conditions attached to such vehicles used in London by London Borough Councils; and
 - (c) the accident statistics for such vehicles from the Police;
- (2) That vehicles with accommodation for less than four people be permitted for use as private hire vehicles;
- (3) That the minimum number of passengers such a vehicle could be licenced to carry be one;
- (4) That sports cars with occasional seating in the rear of the vehicle not be permitted to carry fare paying passengers in such seating; and
- (5) That the current conditions concerning advertisements on private hire vehicles be retained without amendment.

11. REVIEW OF LICENSING SUB-COMMITTEE PROCEDURES

The Committee reviewed the proceedings of the Licensing Sub-Committee meetings held during the preceding six-month period and considered whether the procedure, policy and organisation of the Sub-Committees required review.

The only issue noted by the Committee was the holding of pre-meeting briefings. The Assistant Director of Neighbourhoods (Environment & Neighbourhoods) informed the Committee that legal advice had been received stating that pre-meeting briefings should not be held, otherwise there could be the perception that information was being given to the Members to the detriment of applicants.

The Committee were in favour of continuing with pre-meeting briefings as it was an opportunity to ask technical and procedural questions before the meeting. Pre-meeting briefings were held before the Council's Planning meetings, and they had been held before the Licensing Sub-Committee meetings for many years. Pre-meeting briefings were also held before Housing Appeal Panel meetings. It was felt that such briefings introduced an element of common sense to the proceedings and were an important tool in trying to reach the right decision for a particular application.

The Assistant Director responded that the perception was the Applicant had no knowledge of the discussions in the pre-meeting briefing. However, the Assistant Director would raise these points with the Monitoring Officer and report back to the Committee. The Assistant Director also added that the Licensing and Legal sections had been separated in different Directorates as part of the restructure, and that care needed to be exercised when making comments straight after a meeting; there had been instances at other local authorities where a comment directly after a meeting had generated an instant appeal.

Resolved:

(1) That the Monitoring Officer be consulted on the legality of holding pre-meeting briefings and the outcome of those discussions be reported back to the Committee at its next scheduled meeting on 8 April 2015.

12. REVIEW OF CURRENT AND FUTURE TRAINING NEEDS FOR THE COMMITTEE

The Committee considered the current and future training needs for the members tasked with discharging the Council's Licensing function.

The Assistant Director (Environment & Neighbourhoods) reported that training would be arranged for Councillor Adams so that he could replace Councillor J H Whitehouse on the Committee and participate in Sub-Committee meetings. In addition, new guidance had been issued in advance of the Legislative Reform (Entertainment Licensing) Order 2014 being enacted on 6 April 2015, and it might be useful to hold a training session on this for the members of the Committee.

13. MATTERS ARISING

The Committee noted that there were no matters arising for discussion.

14. DATE OF NEXT MEETING

The Committee noted that its next meeting was scheduled for 8 April 2014 at 2.00pm in the Council Chamber.

CHAIRMAN