

Minutes

Licensing Committee

15th July 2009



Present:

Councillors	Present	Councillors	Present
M J Banthorpe (Chairman)	Yes	M Lynch	Yes
J C Collar	Yes	T McArdle	Yes
J G J Elliott	Yes	A M Meyer	Yes
R Elliston	Yes	Mrs J A Pell	Yes
J H G Finbow	Yes	A F Shelton	Yes
Mrs S A Howell	Apologies	Mrs J A Smith	Yes
P J Hughes	Yes (from 8.00pm)	F Swallow	Yes
E R Lynch	Yes		

11 **DECLARATIONS OF INTEREST**

INFORMATION: There were no interests declared.

12 **MINUTES**

DECISION: That the Minutes of the meeting of the Licensing Committee held on 20th May 2009 be approved as a correct record and signed by the Chairman.

13 **QUESTION TIME**

INFORMATION: In view of the number of people attending the meeting for the consideration of Agenda Item 5 – Hackney Carriage Vehicles Unmet Demand Survey, the Chairman announced that he would invite people to speak whilst the item was being considered.

There were no questions asked or statements made on any other matters.

14 **HACKNEY CARRIAGE VEHICLES UNMET DEMAND SURVEY**

INFORMATION: Consideration was given to a report on the service provided by Hackney Carriage vehicles in the Braintree District.

Ms E Eccles representing Halcrow Group Limited attended the meeting and presented the findings of the unmet demand survey.

Following the presentation of this item by Mrs R Crouch, Licensing Officer and Ms E Eccles of Halcrow Group Limited, the Chairman invited members of the public who were representing the taxi trade to put forward their views on the matter. Members of the public agreed that there was no unmet demand and they indicated that in the current economic climate work was limited. They requested the Committee not to

support deregulation.

Under Section 16 of the Transport Act 1985 the Council was required to defend its policy of regulating the number of Hackney Carriages in the District and it had been agreed that an external survey should be carried out once every two years to ascertain whether there were sufficient licensed Hackney Carriage vehicles in the District. Members were reminded that following the last survey in 2006 the Council had accepted the findings that there was no unmet demand and no additional plates had been issued. The number of licensed Hackney Carriage vehicles was currently restricted to 84. In order to ensure the provision of adequate licensed transport for people with disabilities, the Council had agreed that any new Hackney Carriage vehicle licences should be allocated to wheelchair accessible vehicles only and that these licences must be retained by the licensee for a period of no less than two years before being transferred. It was noted that the proposed implementation of the Disability Discrimination Act 1995 through which the Government was seeking the provision of a mix of vehicle types had been delayed.

Halcrow Group Limited had been selected to carry out the survey and a copy of their comprehensive report was attached to the Agenda. This concluded that there was no significant unmet demand in the Braintree District. Halcrow had recommended that the Council had discretion to maintain the limit of 84 licences; to issue any number of new licences that it considered appropriate, either in one allocation or in a series of allocations; or to remove the limit on the number of licences.

In considering this item, Members attention was drawn to the Government's approach towards the deregulation of Hackney Carriage vehicles and to the Department for Transport's Taxi and Private Hire Vehicle Licensing: Best Practice Guidance which provided guidance in respect of the restriction of vehicle licences.

Members wished to ensure that there were sufficient wheelchair accessible Hackney Carriage vehicles in the District for use by people with disabilities. Whilst it was acknowledged that the Council's policy required any new vehicle licences to be issued to wheelchair accessible vehicles, there was no requirement on the owners of existing licensed vehicles to purchase wheelchair accessible vehicles when renewing them. Members expressed concern also that when Hackney Carriage vehicle licences were no longer required they were 'traded' between operators and not handed back to the Council. Members were advised that neither of these matters could be considered as part of the Committee's decision on the unmet demand survey, but it was suggested that they might be discussed as part of a future report to the Committee.

It was moved and seconded that the conclusions of the unmet demand survey prepared by Halcrow Group Limited be accepted and that four new Hackney Carriage vehicle licences be issued, subject to these being allocated to wheelchair accessible vehicles in accordance with the Council's policy. However, on being put to the vote this motion was declared LOST. It was subsequently moved and seconded that the conclusions of the unmet demand survey prepared by Halcrow Group Limited be accepted and that no additional Hackney Carriage vehicle licences be issued. This motion was declared CARRIED.

DECISION: That the conclusions of the unmet demand survey prepared by Halcrow Group Limited be accepted and that no additional Hackney Carriage vehicle licences be issued.

15 **DEPARTMENT FOR TRANSPORT CONSULTATION DOCUMENT – BEST PRACTICE GUIDANCE FOR TAXI AND PRIVATE HIRE VEHICLE LICENSING**

INFORMATION: The Committee was advised that the Department for Transport had reviewed its Taxi and Private Hire Vehicle Licensing Best Practice Guidance and that a revised document had been issued for the purpose of consultation. Comments on the revised Guidance and proposed changes were required by 28th July 2009.

The Best Practice Guidance, which had originally been published in October 2006, had been a valuable source of advice for local authorities seeking to review their licensing policies and had provided assistance to trade representatives. The consultation process had invited comments on the usefulness of the Guidance; comments on the proposed revisions; and suggestions for further changes.

DECISION: That the Department for Transport's consultation document on proposed revisions to the Taxi and Private Hire Vehicle Licensing Best Practice Guidance be noted and the Licensing Officer authorised to respond appropriately.

16 **HOME OFFICE CONSULTATION DOCUMENT – SAFE, SENSIBLE, SOCIAL – SELLING ALCOHOL RESPONSIBLY: A CONSULTATION ON THE NEW CODE OF PRACTICE FOR ALCOHOL RETAILERS**

INFORMATION: Members were advised that the Home Office had published a consultation document on a proposed Code of Practice for Alcohol Retailers. The document set out a proposed mandatory national code and a proposed discretionary local code, which were likely to be implemented if Parliament approved the Policing and Crime Bill currently in the Commons. Comments on the consultation document were required by 5th August 2009.

The Code had followed an independent review by KPMG of the effectiveness of the alcoholic drinks industry's Social Responsibility Standards in contributing to a reduction in alcohol harm in England. In particular, KPMG had investigated the extent to which the on-licence and off-licence trade had adhered to the Standards and whether the Standards had contributed to a reduction in alcohol related harm. KPMG had concluded that the Standards were not being consistently adopted and applied across the whole of the alcohol industry. Information compiled by the Home Office from the British crime survey had also illustrated some of the bad effects of alcohol consumption when considered in the context of the four licensing objectives of crime and disorder; public safety; public nuisance; and the protection of children from harm.

It was proposed that all alcohol-licensed premises would be subject to the mandatory code and that local licensing authorities should be able to apply parts of the discretionary code to two or more licensed premises in an area where alcohol-related nuisance, or disorder was causing problems for local residents. Additional measures requiring the display of alcohol unit content and health related information were proposed also. Details of the proposals to be included in the mandatory and discretionary codes were set out in the report. The breach of either code would, in effect, be a breach of licence conditions with the possibility of the licence being reviewed by the licensing authority or, on summary conviction, a possible maximum fine of £20,000 and/or six months imprisonment.

In discussing this item, Members noted that there did not appear to be a formal route

of appeal against the application of additional, retrospective licence conditions; it was not clear whether any additional resources would be available to licensing authorities to implement the measures particularly if all licences had to be re-issued with the new mandatory conditions; and the Bill did not appear to provide a straightforward route for the removal of discretionary conditions when the circumstances that led to their imposition were no longer relevant. In discussing the proposed mandatory code, Members supported the requirement that 'still' wine must be made available and offered for sale in a 125ml size glass as well as a 250ml glass. With regard to the proposed discretionary code, it was suggested that the condition requiring adoption of the 'Challenge 21' scheme should be changed to 'Challenge 25'.

DECISION: That the consultation document published by the Home Office on a proposed Code of Practice for Alcohol Retailers be noted and the Licensing Officer authorised to respond appropriately, including the comments set out in the final paragraph above.

17 **GAMBLING ACT 2005 – DRAFT REVISED STATEMENT OF POLICY**

INFORMATION: The Committee was advised that the Gambling Act 2005 placed a statutory responsibility on local authorities to issue permissions, permits and notices relating to the use of premises for various gambling activities.

Under the Gambling Act 2005, each local authority was legally required to formulate a gambling licensing – statement of policy setting out the principles that the authority proposed to apply in exercising their functions under the Act, and to review and republish this statement every three years. The statement of policy had to be based on the three licensing objectives. The existing statement of policy had come into force on 31st January 2007 and was due for renewal. Consultation on, confirmation of and publication of the revised policy was required by 31st December 2009.

A draft of the revised statement of policy was attached to the Agenda for approval and this had been prepared based on the requirements of the Gambling Act 2005; recently revised Gambling Commission Guidance; and the Essex local authorities' generic framework. The main changes related to enforcement; the splitting of premises; provisional statements; temporary use notices; and the application process. It was proposed that consultation on the revised statement should commence on 16th July 2009 for a period of nine weeks, with a further report being presented to the Licensing Committee on 7th October 2009 prior to formal adoption of the policy by full Council.

DECISION: That the draft revised gambling licensing – statement of policy be approved and the proposed consultation arrangements endorsed.

Urgent Item

The Chairman agreed to consider the following matter as an urgent item of business in view of the need to allow sufficient time to agree a procedure.

18 **ANNUAL MEETING WITH ESSEX POLICE**

INFORMATION: Mrs E Wisbey, Governance Lawyer, advised Members that Essex Police had suggested holding a meeting with the licensing authority in January of each year to discuss licensing matters. This would be similar to an annual meeting

which had taken place previously between the Police and the Licensing Magistrates. The intention of the meeting would be to discuss licensing matters in general and to receive statistical information, but not to consider specific premises, or applicants.

Members supported this suggestion in principle, although they were keen to ensure that their ability to consider and determine future applications and reviews should not be compromised. It was felt important that an Agenda for the meeting should be agreed in advance with the Police and that consideration should be given as to whether other responsible authorities should be invited to attend, whether or not representatives of the licensed trade should be involved, whether the meeting should be held in public or private, or whether there should simply be a presentation by the Police to a Licensing Committee meeting, rather than a separate meeting being held.

Members were asked to forward their views on this matter to Mrs E Wisbey to enable her to prepare and present a report to the next meeting of the Committee for approval, setting out the proposed Terms of Reference for the review.

DECISION: That a report be submitted to the next meeting of the Licensing Committee for approval setting out the proposed Terms of Reference for a possible licensing review meeting/presentation with Essex Police and/or other responsible authorities/groups.

The meeting closed at 9.00pm.

M J BANTHORPE
(Chairman)