

**LICENSING COMMITTEE held at 7.30 pm at COUNCIL OFFICES
LONDON ROAD SAFFRON WALDEN on 12 SEPTEMBER 2007**

Present:- Councillor E W Hicks – Chairman.
Councillors E L Bellingham-Smith, R M Lemon, J I Loughlin,
H J Mason, D J Morson, D G Perry, J A Redfern and
A D Walters.

Officers in attendance:- M Hardy, C Nicholson, M Perry and C Roberts.

LC17 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors K R Artus and
R M Lemon.

LC18 MINUTES

The Minutes of the meetings held on 27 June 2007, 23 July 2007 and
31 July 2007 were received and signed by the Chairman as a correct record.

LC19 BUSINESS ARISING

(i) Minute LC10 Refusal of a Driver's Licence – Conviction

The Assistant Chief Executive informed the meeting that the driver in this
case had now appealed to the Crown Court.

**LC20 CONSIDERATION OF REVOKING A HACKNEY CARRIAGE DRIVER'S
LICENCE/GRANTING A COMBINED HACKNEY CARRIAGE/PRIVATE
HIRE VEHICLE DRIVER'S LICENCE**

The Assistant Chief Executive referred to the practice of providing a small
panel of Members to hear this sort of application. The driver was not going to
be present for the hearing and he suggested that the matter could
conveniently be deferred to the end of the meeting to be heard with the other
applications by a small panel.

RESOLVED that this course of action be accepted.

LC21 LEAD OFFICER'S REPORT

The Assistant Chief Executive submitted a written Lead Officer's report
covering exercise of delegated powers, appeals against decisions of the
Licensing Committee, liaison with the Trade and Trade concern about an
exclusive arrangement between One Railway and HCDA for permit control of
access of taxis to the station.

RESOLVED that the report be noted.

LC22

CHANGES TO THE COUNCIL'S LICENSING POLICY UNDER THE LICENSING ACT 2003

Mrs Nicholson, the Council's Non Contentious Solicitor, outlined the history to date of the policy developed by the Council under the provisions of the Licensing Act 2003.

Licensing authorities were required to determine and publish their licensing policy for every three year period. It was therefore necessary to review the existing policy, identify necessary changes and consult before publishing the new policy by February 2008.

The Essex Joint Licensing Officers' Forum had again tackled the drafting of the reviewed policy taking into account the revised guidance of the Secretary of State for Culture Media and Sport. The Committee's approval was needed to the suggested changes and to use of the revised policy as a basis for consultation.

Mrs Nicholson described in detail the improvements which were suggested to the policy as set out in paragraphs 1.24 – 1.30 of the Revised Statement of the Licensing Policy. In answer to questions, she explained that "in the vicinity" would be interpreted broadly.

The Assistant Chief Executive added that decisions on this topic would be taken by officers in the first instance and in the light of the possible judicial review/appeal proceedings, it would only be in the very clearest case that an objector would be held not to be within the vicinity.

The Assistant Chief Executive also clarified for Members the policy distinctions between licensing legislation and gambling legislation and why the same provisions in respect of vicinity cannot be copied from the Gambling Act policy.

He informed the Committee that requests for review of premises licence would come to the Committee and that there would be a right for the applicant to know who the objectors were.

Councillor D Morson reminded Members that the Council's licensing policy had been given commendations. The Assistant Chief Executive added that, as with the Highway Code, not following the provisions of the Licensing Policy was not an offence, but could be used as evidence to demonstrate an offence had been committed.

In answer to questions from Members, he confirmed that it was possible for a person under 18 to serve behind a bar provided that the sales were authorised by the personal licence holder and supervised by an adult. He continued that the licensee was not responsible for the behaviour of persons who were off the premises, but that the fact of bad behaviour could possibly be taken into consideration on the review of the premises licence.

RESOLVED that the draft revised licensing policy be approved for the purposes of carrying out a full consultation exercise with statutory consultees, the public licensees in the District, recognised Trade bodies and town and parish councils with a report back to the Committee on the outcome of such consultation and, if appropriate, adoption of the Revised Statement of Policy by 7 January 2008.

LC23

CONSULTATION ON PROPOSAL TO REMOVE REQUIREMENT FOR DESIGNATED PREMISES SUPERVISOR FROM COMMUNITY PREMISES

The Committee received Government consultation on a proposal that the requirement for designated premises supervisors and personal licence holders to authorise all alcohol sales be dis-applied in relation to premise licences held by village halls, church halls, chapel halls, community halls and similar community premises.

The Government also proposed that the responsibility for authorising sales of alcohol should fall on the premises licence holder (the management committee of the relevant premises) rather than an individual, the intention being that the premises licence holder would authorise the sale of alcohol in writing to the event organiser who could then sell under the authority of the premises licence. It was anticipated that the Committee would have the option to reinstate the requirement for a designated premises supervisor.

The Assistant Chief Executive advised the Committee that currently clubs received corporate status under the 2003 Licensing Act, and so he assumed that management committee members would be protected from personal liability in this situation in the same way.

Members discussed this matter and it was noted that the cost of temporary events licences inhibited the holding of events and precluded them from making a profit.

The Chairman of the Committee reminded Members of the Council's intention to establish better relationships with the parish councils and he urged provision of effective publicity of this proposed reform to parish councils and village hall committees.

RESOLVED that the Committee expresses a preference for option C of the Government's proposals which allows the relevant premises licence holders or prospective holders to request dis-application of the two mandatory conditions in respect of village halls, church halls, chapel halls and similar premises and where the request is granted, gives the responsibility of authorising alcohol sales to the holder of the premises licence, and, following the review of such a premises licence, gives the licensing authority discretion to re-impose conditions similar to the mandatory conditions where necessary to promote the licensing objectives.

LC24

MEDICAL STANDARDS OF FITNESS TO DRIVE

The Committee considered the report of the Licensing Officer informing Members of proposed changes to the current standards which new applicants and existing drivers needed to meet to obtain a Hackney Carriage Private Hire Driver's Licence.

The Licensing Officer described the current conditions and in answer to questions from Members, he read the wording contained in the relevant forms "Has there been any change in your medical condition?" Members expressed a preference for the wording "What changes have there been in your medical condition?"

RESOLVED that the current conditions regarding a driver's medical fitness to drive be amended to require drivers to have a medical examination at the time of first application for a licence and thereafter at three year intervals, and that the Assistant Chief Executive be empowered to require a medical examination at any other time if in his opinion circumstances suggest that there may have been a deterioration in a driver's condition so that his or her fitness to drive may be in question.

LC25

CONSIDERATION OF REVOKING A HACKNEY CARRIAGE DRIVER'S LICENCE/GRANTING A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Committee was informed by the Assistant Chief Executive that Mr Wand was not able to attend the hearing.

(At this point the Committee reduced to three Members, Councillors D Perry, E Hicks and J Hudson).

The Committee considered the report of the Licensing Department on an application by Mr Wand for a joint Private Hire/Hackney Carriage Driver's Licence. A letter from Mr Wand apologising for his absence and dated 6 September 2007 was circulated at the meeting and Mr Wand's apology to Mr Ford was noted.

The Assistant Chief Executive advised the Committee on possible methods of dealing with the case. He stressed that the applicant had no intention of deceiving, but that a question whether he was a fit and proper person had arisen due to his bad tempered reaction. In answer to a question, he confirmed that there were no antecedents.

RESOLVED that Mr Wand's licence be suspended and his application refused, but that he be informed that it is open to him to reapply if he chooses to do so.

The Chairman of the Committee added that it was most important to treat officers with proper respect and that Mr Wand should be warned as to his future conduct. He would be advised as to his rights to appeal within 21 days to take effect immediately.

LC26 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of Exempt Information within the meaning of Para 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

LC27 APPLICATION FOR RENEWAL OF A PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Committee considered the report of the Assistant Chief Executive informing them of the forthcoming application for renewal of a Private Hire Vehicle Driver's Licence in circumstances where the driver no longer met the Council's licensing standards. It was recommended that the Assistant Chief Executive be given delegated powers to examine the application when received. Members were satisfied in the light of the report that the applicant was fit to drive and that the Council's policy in the particular circumstances of the case should not be followed rigidly.

RESOLVED that the Assistant Chief Executive has delegated powers to determine the application for renewal of a private hire vehicle driver's licence by the applicant when received and to grant it.

LC28 CONSIDERATION OF A PRIVATE HIRE VEHICLE DRIVER'S LICENCE

The Committee considered the report of the Assistant Chief Executive informing Members of his exercise of delegated powers to suspend a licence with immediate effect. He requested Members to determine whether or not the suspension should be extended. It was noted that the appropriate report showed that the driver was unfit to drive.

RESOLVED that the suspension of the applicant's licence continues until the expiry of her licence or until she produces a medical report showing that she is fit to drive a private hire vehicle, whichever shall be the sooner.

The meeting ended at 9.34 pm.