

**LICENSING COMMITTEE held at COUNCIL OFFICES LONDON
ROAD SAFFRON WALDEN on 10 MARCH 2010**

Present: Councillor E W Hicks - Chairman
Councillors E Bellingham-Smith, J E Hudson, R M
Lemon, J I Loughlin, D J Morson and D G Perry.

Officers in attendance: W Cockerell (Principal Environmental
Health Officer), M Perry (Assistant Chief Executive), M
Hardy (Licensing Officer) and C Roberts (Democratic
Services Officer).

LC63

PUBLIC QUESTION AND ANSWER SESSION

The Chairman welcomed all present and invited members of the public present to speak.

Statements were then made by Mr B Drinkwater and Mr A Mahoney about agenda item 6 regarding CRB checks. Mr Mahoney emphasised difficulties he thought would ensue due to the length of time taken to process CRB checks. They asked for another meeting of the Licensing Task Group to discuss this issue.

As regards hackney carriage fares (agenda item 4) Mr Drinkwater referred to the letter to the Committee from seven non-ULODA taxi operators presenting a different view on the question of increasing the tariff flag rate. He said it was the first time such an objection had been received and it would be nice to meet to discuss the matter.

Mr M Ott referred to agenda item no 5 (Vehicle types for private hire vehicles) and spoke in favour of approving the Smart car as a private hire vehicle because:-

- 1 it was the "greenest" conventionally powered vehicle, achieving 85 mpg using a diesel engine; Mr Ott would expect to pass on savings to customers;
- 2 he worked in social care and knew that low income people spent a disproportionate amount of their resources on transport;he therefore saw use of Smart private hire cars as a way to "rural-proof" such people;
- 3 to protect the driver from the customer and vice versa he suggested CCTV could be carried.

The Chairman thanked all speakers and congratulated Mr Ott on the clarity with which he had set out his points.

LC64

APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors K R Artus, H J Asker, J A Redfern and A D Walters. There were no declarations of interest.

LC65

MINUTES

The Minutes of the scheduled meeting of the Committee held on 20 January 2010 and the extraordinary meetings held on 27 January 2010 and 1 March 2010 were received, confirmed and signed by the Chairman as a correct record.

Minute LC58 – Review of licence – One stop store Elsenham

In answer to a question from Councillor Morson, the Chairman suggested that the group who wished to use bus passes as proof of age should approach the One Stop Store and suggest that it applies to vary the licence.

The Assistant Chief Executive informed Members of Police views on the Committee's decision.

LC66

GOVERNMENT CONSULTATION ON PROPOSED AMENDMENTS TO THE LICENSING ACT 2003

Members considered the report of the Assistant Chief Executive on proposed amendments to the Licensing Act 2003 and heard the views of the Principal Environmental Health Officer on the proposed new exemption for live music events.

The Principal Environmental Health Officer was concerned in particular about the grant of exemption from regulation to small live music events which would be unmonitored if the proposed changes were to be undertaken, even though they often incorporated amplified music which generated many noise complaints. The new exemption from the requirements of the Act was to apply generally without the need for any application process.

The Principal Environmental Health Officer thought the exemption would give rise to many complaints whilst removing a most important method of dealing with such complaints, imposition of a condition eg to close windows and doors. The proposed exemption appeared to assume that in the hours before 11.00 pm ambient noise levels would negate the possibility of public nuisance from live music. In his experience this was not the case.

The Assistant Chief Executive added that whilst licensed premises were subject to noise nuisance restrictions contained in their licences, the exemption would include unlicensed premises. Moreover, there

was already an exemption under the Act for live unamplified music for up to 200 attendees.

In answer to a question from Councillor Perry, the Assistant Chief Executive explained that the proposals did not impose age limits.

RECOMMENDED that the Council replies to the consultation on the proposed new exemption for live music events by conveying to the Government the views of the Principal Environmental Officer as set out in paragraph 21 of the report.

LC67

HACKNEY CARRIAGE FARES

Members considered the report of the Licensing Officer detailing proposals submitted by the Uttlesford Licensed Operators and Drivers Association (ULODA) for a change to the current table of fares for the hiring of Hackney Carriage Vehicles. This followed the agreed protocol for an annual review of fares which had been agreed at a meeting between the Licensing Committee and Members of the Trade Associations in 2004.

The Licensing Officer explained the procedure which had to take place following the ULODA request for a tariff increase. He also drew to the attention of the Committee the request of ULODA for a condition that the meters display only the maximum permitted charge, not charges being applied by the individual driver. He added that of the 47 hackney carriage vehicles in the District nine were operated by proprietors who were against the requested 6% fares increase.

The Assistant Chief Executive continued that the application for 6% had been made on the basis of rising costs eg of fuels. However fuel prices were broadly the same as they were at the same time during the previous year and significantly lower than the July 2008 peak upon which the last increase had been based. There had also been reduction in the licensing fees and savings to the Trade arising from outsourcing of taxi testing.

Members were concerned about the possibility of losing customers by charging too much. They asked how many Hackney Carriage drivers were members of ULODA but this was not known.

Councillor Perry said that ULODA had had no chance to answer the propositions put to them by Mr J Walton and Councillor Loughlin thought that since someone felt they had a grievance it would be best to defer consideration of the matter of fares.

Mr Walton asked to speak but was not allowed to.

It was decided that the Uttlesford Taxi Drivers Association (UTDA) meeting to be held on 23 March would be an appropriate forum in which to discuss the issues of fares.

RESOLVED that the report be considered at the next scheduled Committee meeting after the UTDA meeting to be held on 23 March 2010.

LC68

VEHICLE TYPES FOR PRIVATE HIRE VEHICLES

Members considered the report of the Assistant Chief Executive about an approach received by the Council to vary the licensing conditions to permit the licensing of one-passenger vehicles, namely Smart Cars, as private hire vehicles.

The report explained that the relevant legislation gave local authorities a wide range of discretion.

As regards the particular model of car, the applicant had given information that there was much passenger comfort inside and generous head and leg room. The vehicle had wide doors and high supportive seats suitable for those who were less agile. It was approved for use as a mobility vehicle.

The cars were licensed in South Oxford and Cornwall and by Arun District Council and the Public Carriage Office (Transport for London).

The applicant wished to trade under the title of "cab4one.me" but the Council's licensing conditions did not permit private hire vehicles to be termed 'cabs'. Members were advised that they could choose to remove this condition or the applicant could be encouraged to choose another trade name e.g. car4one.me.

Councillor Perry expressed concern about the proximity of the passenger to the driver, safety of the public being crucial.

Councillor Lemon commented that as the savings would reduce the fares, the costs of a journey could be lower which would benefit the elderly.

The Assistant Chief Executive informed the Committee about the safety rating of the vehicle and added that passengers had a right to refuse to travel for example, with a person of any particular gender. Transport for London licensed Smart vehicles. If Mr Ott's business was not supported by the public it would inevitably close.

Councillor Perry raised the possibility that a drunk passenger could take control in a Smart car.

RESOLVED

- 1 that the Council's taxi licensing conditions be varied to permit the licensing of one-passenger vehicles and reviews of the effects of this change take place in six months' and one year's time.
- 2 that the condition restricting the use of the term "cab" be removed from the Council's taxi licensing conditions.

LC69

CRB CHECKS

The Committee considered the report of the Assistant Chief Executive prepared at the request of the Chairman to remind Members of its policy with regard to CRB checks and inform them of a recent change in operational practice with regard to this.

The report explained the position as follows:-

The Government's guidance on best practice was for Criminal Records Bureau disclosures to be sought when a licence was first applied for and then every three years, even if the licence was renewed annually; it was the practice of the Council to follow such guidance.

Licences were backdated to commence on the first day of the month in which they had been applied for; it followed that when a driver came to renew his licence for the third time the CRB check carried out when he first applied might be slightly less than 3 years old. To renew the licence on the third anniversary without requiring a new CRB check would be contrary to the Council's policy and the Government guidance on best practice.

The Council had operated a practice of renewing the licence on the third anniversary but only requiring the CRB check to be carried out once the previous one was 3 years old. That, in the view of the Assistant Chief Executive was undesirable because it could lead to the need to revoke licences where a driver did not provide the appropriate check and also it increased the risk that unsuitable people might be driving. The Assistant Chief Executive had therefore taken an operational decision that, in future, CRB checks would be required on each third renewal of a licence.

Councillor Perry said he thought the objections of the Trade had been brought about by the way the change had been brought in.

Other Members were happy with the action, noting that everything had been reported to the Committee, and the Chairman commented that officers had to fulfil their duties and it was not practical to discuss every decision.

RESOLVED that the action of the Assistant Chief Executive be noted.

LC70 **GOVERNMENT CONSULTATION ON PROPOSED AMENDMENTS TO THE LICENSING ACT 2003**

Members continued consideration of the Assistant Chief Executive's report on proposed amendments to the Licensing Act 2003 with particular reference to the inclusion of further offences in the relevant schedule of the Act.

They were in agreement with the Government's proposals as set out in paragraphs 10 to 14 of the report save that Councillor Perry wished to add to the list the receipt of three fixed penalty tickets in a twelve months period.

As regards possession of controlled drugs, Members wished this to be limited to classes A and B only.

They wished tobacco but not food offences to be reflected in the relevant list.

RECOMMENDED that the Council replies to the consultation on the proposed inclusion of further offences in the relevant schedule of the Act by conveying to the Government the views of the Committee as set out above.

LC71 **EXERCISE OF DELEGATED POWERS**

The Assistant Chief Executive informed the meeting of an application by a driver who met licensing standards but whose history was such that the Assistant Chief Executive considered it more appropriate for a decision on the application to be taken by Members rather than under delegated powers.

LC72 **LICENSING APPEALS**

The Assistant Chief Executive informed the meeting of an application for permission to appeal due to be heard on 23 April.

LC73 **OTHER BUSINESS**

The Chairman mentioned that a Member of the Committee felt he was being selected insufficiently for service on the hearings Panel. Officers undertook to give attention to this.

Councillor Perry asked the Assistant Chief Executive to deal with taxi touts outside the kebab shop in Saffron Walden as a joint venture with Essex Police. The Assistant Chief Executive agreed to look into this.

The meeting ended at 9.30pm