

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COUNCIL OFFICES LONDON ROAD SAFFRON WALDEN at 7.30pm on 12
OCTOBER 2011**

Present: Councillor E Hicks – Chairman.
Councillors H Asker, J Davey, J Loughlin, M Lemon, V Ranger,
J Salmon and A Walters.

Officers in attendance: M Hardy (Licensing Officer), A Lee-Moore (Principal
Environmental Health Officer), M Perry (Assistant Chief Executive-
Legal) and R Procter (Democratic Services Officer).

LEH17 PUBLIC QUESTION AND ANSWER SESSION

A statement was made by Barry Drinkwater, president of the Uttlesford
Licensed Operators and Drivers Association.

Mr Drinkwater said regarding the annual review of the table of fares, that
consultation had taken place and that Cabinet had raised no objections to the
proposals, which had come into effect on 1 October.

The Association's annual budget for 2011/12 had been set and discussions
were taking place with the Assistant Chief Executive-Legal regarding the
2012/13 budget.

Regarding the Quality Taxi Partnership, Mr Drinkwater said he wished to record
his thanks to the Licensing Officer, Murray Hardy, for his work with the Steering
Group on planned provision of CCTV in selected vehicles. The steering group
would meet again on 21 October when it was hoped to finalise police and
contract proposals prior to launch and equipment installation.

Mr Drinkwater said arrangements were being finalised for Members to
participate in a tour of trade operations.

In reply to a question by Councillor Walters Mr Drinkwater confirmed the police
had been actively involved in the consultation on CCTV installation and had
participated in the work of the Steering Group on the proposals.

The Chairman thanked Mr Drinkwater for his statement.

LEH18 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors D Morson and D Perry.

LEH19 **MINUTES**

The Minutes of the meeting held on 13 July 2011, and of the extraordinary meetings held on 22 August and 23 September 2011 were received, confirmed and signed by the Chairman as a correct record.

LEH20 **BUSINESS ARISING**

(i) LC13 – noise audibility conditions

The Assistant Chief Executive-Legal said the Council had adopted the amendment to the licensing policy set out in the Minute.

(ii) LC14 – determination of a matter relating to a private hire driver's licence

The Assistant Chief Executive-Legal said no appeal had been received from Mr Haynes.

(iii) LC16 – determination of a hackney carriage/private hire driver's licence

The Assistant Chief Executive-Legal said the time for appeal had not elapsed but that indications were that Mr Walton would not be lodging an appeal.

LEH21 **CONSULTATION ON PROPOSAL FOR DEREGULATION OF SCHEDULE 1 OF THE LICENSING ACT 2003**

The Committee received a report on a consultation by the Department for Culture, Media and Sport on a proposal to remove licensing requirements in England and Wales for most activities currently defined as 'regulated entertainment' in Schedule 1 to the Licensing Act 2003. The Committee was requested to consider the consultation proposal and make a decision as to whether it wished formally to respond before the close of consultation on 3 December.

Members considered draft answers to questions posed in the consultation document. Members felt the proposals comprised a major change, and expressed concern that under the revised law an event such as a carnival could be held without a licence, which without regulation could result in significant problems.

The Assistant Chief Executive-Legal said the proposals would enable premises which were not licensed to stage an event. However, alcohol could be sold if Temporary Event Notices were served, which in the context of a large event could mean for example separate marquees having Temporary Event Notices. In the Uttlesford area there were very few venues for large numbers of people, therefore there was the potential for open-air events to take place.

The Chairman summarised the discussion, saying that it was apparent Members wished to highlight their concerns regarding health and safety, and that officers should submit a response indicating that this Committee's view was that this was taking deregulation a step too far.

Councillor Asker asked about the impact of the proposals on funding. The Assistant Chief Executive-Legal said the difference in terms of income would be marginal because this licensing authority authorised very few licences for entertainment only. Where premises which were not licensed were being used, the licensing authority had less control.

The Assistant Chief Executive-Legal said costs of policing or enforcing environmental health implications arising from the proposed deregulation were difficult to estimate.

RESOLVED that the Committee instruct officers to respond to the Government's consultation in the terms suggested, whilst emphasising concern that the proposed changes would lead to increased difficulties and costs for licensing authorities, particularly those in rural areas such as Uttlesford.

LEH22

POLICE REFORM AND SOCIAL RESPONSIBILITY BILL

The committee received a report on amendments to the licensing legislation arising from the Police Reform and Social Responsibility Bill. The Assistant Chief Executive-Legal said the bill had now received royal assent and the statutory instrument would come into effect in November 2011. The report set out the main areas of reform, notably the extension of the definition of responsible authorities and interested parties to make representations in relation to a review of a licence. Responsible authorities would include primary care trusts and local health boards. More controversially the licensing authority itself would become a responsible authority. In the consultation on the bill, this provision had been the subject of the committee's disapproval as Members considered it desirable that the licensing committee should remain independent. In any event as all councillors were now interested parties in their own right, a member of the licensing committee could therefore make representations or apply for a review, the only restriction in those cases then being that such a member would not be able to take part in the decision making process when the matter came to be considered by the committee. ** Please refer to post-meeting note below.*

Members expressed concern that in future a person from outside the district would be able to apply for a review or make representations (although such applications could be rejected if such an application was vexatious or frivolous), but noted that this provision was now law.

The Assistant Chief Executive-Legal drew to Members' attention a further provision which in his view was helpful, a change to the law relating to Temporary Event Notices. Where a TEN was served in respect of premises

which had the benefit of a premises licence or club premises certificate, the licensing authority would have power to transpose conditions attached to such licence or certificate to the TEN if it considered it appropriate to do so. However, it should also be noted that the bill introduced provisions for extending the number of hours over which a TEN could be conducted and the number of days in a calendar year for which TENs could be held.

RESOLVED that the Committee note the report.

**[Post meeting note – it has now been ascertained that the legislation is unlikely to be effective until April 2012.]*

LEH23

POSSIBLE REFORM OF THE LAW RELATING TO HACKNEY CARRIAGES/PRIVATE HIRE VEHICLES

The committee received a report informing members of the Commons Select Transport Committee on possible reforms to the law relating to taxis and private hire vehicles. The report concluded that there should be a thorough overhaul of the relevant legislation and recommended that government should provide a timetable for such reform before the end of 2011, although nothing had been published to date. The Select Committee had recommended that the government should commit to reform the law within the lifetime of this parliament.

The Assistant Chief Executive-Legal said that at present local authorities adopted different standards with regard to licensing, but that the Select Committee had indicated its view was that issues regarding public safety should be dealt with in future by way of national standards. This authority had very high standards regarding safety, and the Assistant Chief Executive-Legal said he had concerns regarding the removal of local discretion. However in areas not relating to public safety the Select Committee appeared to have favoured a degree of local discretion.

Councillor Loughlin questioned what would happen where the authorities in another European Union country confiscated a driver's licence for speeding. The Assistant Chief Executive-Legal said he was not specifically aware of whether other countries' police would have the power to endorse a UK driving licence, but that it was certainly likely there were cross-country powers.

RESOLVED that the Committee note the report.

LEH24

EXERCISE OF DELEGATED POWERS

The committee received the report of the Assistant Chief Executive-Legal on the exercise of his delegated powers since the committee had last met.

He said that since the report had been written, he had interviewed a further two drivers for breaches of conditions attached to their licence, both of whom had been suspended for 2 days.

RESOLVED to note the report.

LEH25 APPEALS

The committee received a report setting out the outcome of appeals dealt with since the last meeting.

In relation to the appeal of the review of the premises licence for Costcutters in Saffron Walden, the Assistant Chief Executive-Legal said the matter had been delayed due to the timing of a hearing listed by the court, but that following a period of compliance with conditions put in place, the appeal had eventually been dealt with by consent with the conditions remaining and the period of suspension being reduced to 1 week.

Regarding the matter of Mr Burgon, the court had upheld the committee's decision and ordered Mr Burgon to pay the Council's costs in the sum of £1,750. Mr Burgon had not appealed against that decision.

LEH26 ANY OTHER BUSINESS

Date of extraordinary meeting

The Chairman said a panel of Members would be required to attend an extraordinary meeting of the Committee on Thursday 3 November at 2pm and it was agreed that the following Members would form the panel: Councillors Hicks, Lemon, Ranger and Salmon.

LEH27 EXCLUSION OF PUBLIC

The Chairman asked all those present to depart other than those who were involved in the hearing of the following business. Councillors Hicks, Ranger and Salmon remained. The driver was present, and was represented by Mr Barry Drinkwater.

RESOLVED that under section 100 I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of part 1 of schedule 12A of the Local Government Act 1972.

LEH28 DETERMINATION OF A PRIVATE HIRE VEHICLE DRIVER'S LICENCE

Members considered the report of the Licensing Officer regarding an application to renew a private hire driver's licence.

Mr Drinkwater addressed questions to the Licensing Officer, following which the Chairman invited him to make representations on behalf of the driver. Mr Drinkwater addressed a number of aspects, and asked the driver to clarify several points for members.

The Licensing Officer then put questions to the driver. There were no questions from Members.

The Assistant Chief Executive-Legal advised that a licensing committee could not look behind a caution and that the driver met the committee's standards, but that the committee had to consider on a factual basis whether he was a fit and proper person. The issue was a failure to declare a caution within 7 days. The driver confirmed he had not driven since 30 September 2011, when his licence had been due for renewal.

At 9.25pm the committee withdrew to consider its decision, and at 9.33pm gave its decision as follows:

DECISION

Having heard the evidence the committee are satisfied that the driver remains a fit and proper person and the licence will therefore be renewed.

The committee would have suspended the licence for breach of the conditions requiring cautions to be notified within 7 days but in view of the fact that the driver has not driven since his licence expired have decided that no further action is required.

LE29

URGENT BUSINESS – DETERMINATION OF A PRIVATE HIRE DRIVER'S LICENCE

The Assistant Chief Executive-Legal referred the committee to the report. The driver had asked that consideration of the report be deferred as he wished to obtain legal advice. The Assistant Chief Executive-Legal explained that the reason why the driver had been suspended with immediate effect was that he had declined to attend an interview and in the light of the allegation he felt he had no choice other than to issue such a suspension. The suspension was due to expire at midnight, If members were minded to defer consideration of the report it could extend the suspension with immediate effect in the interests of public safety until after the meeting to consider whether or not to revoke the licence.

RESOLVED to suspend the licence with immediate effect in the interests of public safety until midnight on 3 November 2011.

The meeting ended at 9.40pm.