

Paul Hartley (VOSA) – Presentation to Environment and Planning Standing Scrutiny Panel 28 February 2008

A licence is needed for vehicles over 3.5 tonnes (ie maximum permitted total weight when loaded – 1 tonne is 1000kg and about 0.984 of an imperial ton).

There are 6 Traffic Commissioners (TCs) in England, and the one for the Eastern Region has only recently been appointed. In considering licence applications, Commissioners have to be satisfied that the operator can afford to run the vehicle (costs estimated at £3 - £6,000/annum), and that satisfactory maintenance regimes are in place (a licence can be revoked if maintenance standards are considered to be unsatisfactory). The operator needs to be “of good repute” and fit to run a business requiring vehicles over the minimum weight. A certificate of Professional Competence is needed if goods are being carried for a third party.

The application has to be advertised in a local paper circulating in the area, but there is no stipulation about the “quality” of the circulation, so it does not have to be the most widely read publication. This has raised, and continues to raise, problems with local residents who can reasonably claim that they were unaware of the application. The TC for the north-west of England is currently looking at this part of the legislation to see if the rules can be “tightened”.

Applications are published in the “Applications and Decisions” booklet – a fortnightly publication of which EFDC receives three copies. If the application is judged to be straightforward, licenses should be issued within 9 weeks. The Council, as a statutory objector, and local residents have 3 weeks in which to lodge an objection.

The powers of the Commissioners to consider planning and environmental issues are weaker than those addressing maintenance/suitability (above). Environmental objections can address issues such as noise, dust, pollution, smell, vibration, visual impact etc where these are causing problems from or on the site, but the same issues cannot be objected to if they occur on the public highway. Residents have to be prejudiced by operations from the site if the Commissioners are going to consider any sort of appropriate action. The Commissioners take into consideration issues such as hours of operation, ambient noise, distance from operating site etc. 500 yards is generally taken as the maximum distance beyond which on-site activities should not be causing a significant nuisance to residents.

TCs can only encourage consideration of environmental issues such as emissions controls – they do not have the powers to enforce complying with any such statutes.

Local authorities can make “statutory” objections to applications, on the same environmental grounds as above, and on “road safety” grounds, but the latter applies only up to the point where vehicles enter, or from the point where they leave, the public highway. TCs are not bound by locally adopted specific measures such as sight lines. Traffic “examiners” are employed to investigate individual cases, and they will take into account issues such as speed limits, whether the site can be accessed in forward gear etc, but rule of thumb is used rather than locally adopted standards.

Objections from Councils must be made by the “administrative arm” of the Council and not by individual Councillors.

TCs try to find the “middle ground” between applicants and objectors, and will propose conditions to both the operators and the Council (but not to residents as they have no statutory right of appeal). If there is no agreement, both parties can be

offered a Public Inquiry where the TC will formally hear both sides. But the Inquiry outcome is not necessarily the end, as there is the right of appeal against the Inquiry decision.

If objections are received too late (eg because of inadequate advertising) there is nothing much that can be done because of the limits of the legislation. TCs will again try and come to a compromise if at all possible, but the potential lack of adequate notification of new applications remains a real problem.

It is very rare for TCs to grant licenses for operating sites in residential areas, but it does occasionally happen.

The situation regarding planning is complex. TCs must be satisfied that an operating centre is available and ready for use. This is taken to mean that there is no current enforcement action against activities on the site. There is no statutory requirement to impose conditions which would be in line with, or complementary to, planning conditions applying to the site. So, while they try to take "local repute" into account, TCs do not take the existence or otherwise of planning permission into account, as this is not mentioned in the relevant Act – they therefore feel they have no jurisdiction in relation to planning. There is no political pressure for TCs to extend their powers to incorporate planning issues, but changes to Regulations are being sought so that this issue can be better addressed. This is expected to take about a year – the more fundamental changes to primary legislation could take up to 3 years to introduce.

Paul suggested that when Councils lodge objections to licence applications, they should give the reasons behind the planning restrictions rather than the restrictions themselves – it is factors like location in mainly residential areas that TCs are more likely to be sympathetic to.

A licence generally applies for 5 years, and the TCs then review it. VOSA can supply data on the review dates for operators, but depending on the potential area of coverage, this can be a fairly major task.

Goods vehicles being used under a licence cannot be parked in residential streets – they must have off-street parking. Exceptions will be made for the odd occasion, but if on-street parking occurs regularly, the operator must apply for that area to be licensed as part of the site. The legislation theoretically permits operators to have any number of such sites. A licence can be revoked if parking becomes a problem.

A particular problem for this area is that TCs have no jurisdiction over non-UK registered vehicles (the same applies to ECC's Trading Standards) – issues raised by continental HGVs serving eg glasshouses and packhouses will therefore require other solutions.

Operators who wish to increase the number of vehicles on a licensed site need to go through the same procedures as for the original licence. This does not change the 5 –year review period for the original licence.

Paul assured members that there is regular checking and monitoring of sites and vehicles, although there are something like 2,000 trained staff, at least 25,000 licensed sites with an overall average of 10 vehicles per site.

Paul agreed to consider re-drafting a standard letter from the TCs which, in particular circumstances, can be taken as inferring that Councils, by not making objections to

applications, are not fully carrying out their duties especially in terms of environmental health.