

- (v) 4 September 2008; and
- (vi) 2 October 2008.

5. APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003

The Assistant Director Legal Services reported that in respect of Premises License Applications or Variations, there had been 7 new applications, 340 renewals, 53 Change of Designated Premises Supervisor applications, and 3 applications for variation received. Of these, 9 applications were granted under delegated authority, whilst 1 was considered by the Sub-Committee and none were granted subject to conditions. Two applications had been reviewed and refused. In addition, 130 Temporary Event Notices had also been granted, and 42 Personal Licence applications had been received and granted under delegated authority.

The Assistant Director Legal Services further advised the Committee that two appeals had been outstanding when the agenda had been published, of which one had been refused whilst the other had yet to be heard. It was explained to the Committee that if a licence was revoked then it was temporarily extended if an appeal was launched until the appeal was heard.

RESOLVED:

That the report to the Licensing Committee regarding the current situation in respect of the applications received under the Licensing Act 2003 be noted.

6. APPLICATIONS RECEIVED UNDER THE GAMBLING ACT 2005

The Assistant Director Legal Services reported upon the applications received under the Gambling Act 2005. The Committee were informed that one club gaming permit had been granted, and two notifications had been received for two gaming machines. The Committee were informed that any licences issued were notified to the Gambling Commission, Customs and Excise and the Police.

RESOLVED:

That the report to the Licensing Committee regarding the current situation in respect of the applications received under the Licensing Act 2005 be noted.

7. MISCELLANEOUS LICENSING APPLICATIONS RECEIVED

The Assistant Director Legal Services reported upon the miscellaneous Licensing applications that had been received in the period up to 29 September 2008. An application for a Street Trader's Licence for Rebel's Diner in Honey Lane, Waltham Abbey had been revoked. The Committee were advised that there was no minimum period before a new application could be made if the material facts of the case had changed. The possibility of bestowing prohibited street status upon a number of streets within the District, including Honey Lane, was currently under investigation but it was unlikely that such an order would be made on streets with established markets.

RESOLVED:

That the report to the Licensing Committee regarding the miscellaneous Licensing applications received be noted.

8. REVIEW OF LICENSING SUB-COMMITTEE PROCEDURES

The Committee expressed concern that DVLA Licences for prospective Hackney Carriage and Private Hire Driver's Licence applications were not always printed on the agenda in advance of the meeting and that Sub-Committees were often not receiving details of an applicant's convictions until the meeting itself. The Committee were informed that an applicant's DVLA Licence would not be included on an agenda if the offences were not traffic related and the Criminal Records Bureau would not permit earlier disclosure of an applicant's offences. These procedures had been imposed by the Bureau, not Legal and Licensing Officers, and as this was a very valuable check, Officers were loathe to risk the loss of this facility. The Committee did feel that such applicants should be instructed to bring their full DVLA Licences with them to the meeting.

RESOLVED:

That Hackney Carriage and Private Hire Driver Licence applicants be instructed to bring their full DVLA Licences with them to the meeting.

9. REVIEW OF CURRENT AND FUTURE TRAINING NEEDS FOR THE COMMITTEE

In reviewing the current and future training needs for Members, the Committee felt that the previous training session on the requirements of the Gambling Act 2005 had been extremely beneficial.

10. HACKNEY CARRIAGE AND PRIVATE HIRE REVIEW

The Assistant Director Legal Services presented a report following a review of the various Driver and Vehicle Licence conditions for Hackney Carriage and Private Hire applications, primarily to incorporate changes in legislation. In respect of the conditions for Hackney Carriage and Private Hire Vehicle Licences, the primary amendments were highlighted to the Committee. The Committee also felt that additional conditions should be added to ensure that all vehicle doors should be either front hinged or sliding; that central locking of the doors should not be applied when carrying adult passengers; and that vehicles should not be driven unless the Drivers badge was clearly displayed.

The Assistant Director summarised the main amendments proposed to the Hackney Carriage and Private Hire Driver's Licences, and highlighted the requirement for prospective Drivers to undertake knowledge tests. The Committee felt that an additional condition stating that the vehicle should not be driven unless it was properly plated should be added. The conditions that had been suggested for the Operator's Licence were similar to those that were in operation at other Councils and the Taxi Inspection Report had also been attached.

RESOLVED:

(1) That, as attached to the report, the proposed Private Hire and Hackney Carriage Vehicle Licence Conditions be agreed with the following amendments:

(a) that all vehicle doors be either front hinged or sliding;

(b) that centralised locking of the doors should not be applied when carrying adult passengers; and

- (c) that vehicles should not be driven unless the Driver's badge was clearly displayed;
- (2) That, as attached to the report, the proposed Private Hire and Hackney Carriage Driver's Licence conditions be agreed, subject to the following amendment:
 - (a) that vehicles should not be driven unless they are properly plated;
 - (3) That, as attached to the report, the Operator's Licence Conditions be agreed; and
 - (4) That the Private Hire/Hackney Carriage Taxi Inspection Report be noted.

11. HACKNEY CARRIAGE AND PRIVATE HIRE CONSULTATION

The Assistant Director Legal Services presented a report concerning possible consultation exercises for Hackney Carriage and Private Hire licensing. A review had been undertaken of the conditions imposed by neighbouring authorities. Members had also previously asked that the introduction of incentives for the use of 'green' vehicles and those adapted for use by the disabled should be considered. Officers had felt that a simple knowledge test could be introduced at no extra cost to the Council for new applicants, which could lead to an improvement in the service offered to the public. However, it was acknowledged that there could be a language issue in administering the test. Other possible consultation exercises that had been considered but not proposed were a Driver's test, liveried vehicles, fixed fares and limiting the number of licensed drivers within the District.

The Committee were informed that the most likely form of the test would be for Officers to maintain a pool of approximately 400 questions, periodically updated, of which a random selection of 20 would be made for each test. The Committee hoped that this measure would reduce the number of applications received from applicants living outside the District. The Assistant Director Legal Services was of the opinion that the Council could defend any appeal from an applicant that had only failed the knowledge test if the margin was decisive.

The Committee acknowledged that incentives for the use of 'green' vehicles could incur a loss of income for the Council, but requested that other possible incentives be investigated. On the subject of fixed fares, occasional complaints were received about alleged overcharging but Officers felt that market forces generally stopped the fares within the District from becoming too expensive. Similarly, it was also felt that the Council should not limit the number of licensed Drivers within the District.

The Committee were informed that the consultations would be sent out to existing Drivers, Operators, the Police, Local Councils and Transport Bodies; the results would be reported back at the next scheduled meeting of the Committee on 15 April 2009.

RESOLVED:

- (1) That consultation exercises be authorised with a view to the introduction of:
 - (a) a knowledge test prior to the issue of a Hackney Carriage or Private Hire Driver's Licence;
 - (b) incentives for the use of environmentally friendly vehicles; and

- (c) incentives for the use of vehicles adapted for use by disabled people.

12. HACKNEY CARRIAGE AND PRIVATE HIRE DELEGATED AUTHORITY

The Assistant Director Legal Services presented a report concerning the review of delegated authority for the granting of Hackney Carriage and Private Hire Driver's Licences. The proposed delegation of authority would maintain the position whereby any applicants with relevant driving offences or convictions that were not spent would be referred to the Sub-Committee for a decision. Subject to the correction of some typographical errors and job titles, the Committee felt that the condition regarding disqualification from driving for referral to the Sub-Committee should be extended from five years to ten years.

RESOLVED:

That the delegated authority to grant and renew Hackney Carriage and Private Hire Drivers' Licences be amended as follows:

“(1) All applications for Hackney Carriage and Private Hire Vehicle Driver's licences will be determined by the Director of Corporate Support Services, the Assistant Director Legal Services and the Senior Licensing Officer or suitably qualified officers authorised by them to exercise this function except in the following circumstances when the application will be referred to the Sub-Committee:

(a) where there have been breaches of condition of a previous driver's licence or related law in the preceding twelve months;

(b) an applicant fails to comply with the Council's licensing procedure or meet the experience or medical fitness requirements;

(c) where in the opinion of the Council's medical advisor (or doctor nominated by them), an applicant is not medically fit to hold a driver's licence;

(d) an applicant for a driver's licence has any unspent criminal convictions;

(e) an applicant has motoring convictions listed below:

(i) disqualification from driving by a court for any reason within the preceding ten years;

(ii) an accumulation of a total of 10 or more penalty points from endorsable motoring offences in any of the preceding five years; or

(iii) any unspent conviction for an offence or offences within the following categories:

- CD10 Driving without due care and attention;*
- CD20 Driving without reasonable consideration for other road users;*
- CD30 Driving without due care and attention or without reasonable consideration for other road users;*
- CD40 Causing death through careless driving when unfit through drink;*
- CD50 Causing death by careless driving when unfit through drugs;*
- CD60 Causing death by careless driving with alcohol level above the limit;*
- CD70 Causing death by careless driving then failing to supply a specimen for analysis; or*

- *DD30 Reckless driving;*
- *DD40 Dangerous driving; or*

- *IN10 Using a vehicle uninsured against third party risks; or*

- *SP60 Undefined speed limit offence;*

(2) Where the Director of Corporate Support Services, the Assistant Director Legal Services or the Senior Licensing Officer consider it appropriate to exercise their discretion by reason of their concern as to the suitability of the applicant they may refer the application to the licensing sub-committee; and

(3) The Director of Corporate Support Services, the Assistant Director (Legal) and the Senior Licensing Officer may grant at their discretion a licence for a short period until the next meeting of the licensing sub-committee if a driver wishing to renew his or her licence has committed an offence such that there is no delegated authority to renew the licence.”

13. MATTERS ARISING

Councillor Cohen informed the Committee that he had met with Chief Inspector Baldwin and discussed various issues concerned with the implementation of the Licensing Act 2003 within the District. It was believed that the Council would be receiving more representations from the Divisional Licensing Officer for establishments within the District, and that the Chief Inspector had requested to be informed of all applications. The Chief Inspector had also suggested the following:

- (i) the imposition of a standard condition on all new licensees to co-operate with the Police at any time;

- (ii) requesting existing licensees to voluntarily add (i) above as a new condition to their licence;

- (iii) using anti-social behaviour legislation to proscribe areas within the District as alcohol exclusion zones; and

- (iv) the possible implementation of a Behave or Be Banned (BoBB) scheme within the District.

The Assistant Director Legal Services asserted that ,for any condition to be added to a licence, a representation by the Police would have to be made which would automatically schedule the application for consideration by a Sub-Committee. The Police would then be requested to attend the meeting and explain the reason for the imposition of the requested condition. The implementation of schemes such as BoBB should not be considered as a blanket condition.

The Committee requested that such measures within the District be investigated further by Officers, and agreed that Chief Inspector Baldwin should be invited to a special meeting of the Licensing Committee, to be held in November 2008.

In response to a question, the Senior Licensing Officer informed the Committee that petrol stations could apply for licences to sell alcohol under the Licensing Act 2003, and that such applications would be granted under delegated authority if no representations were received, until such time as the licence was surrendered or reviewed by request.

RESOLVED:

- (1) That the following measures be investigated further:
 - (a) a standard condition on all new licences to cooperate with the Police when requested;
 - (b) a similar condition to be voluntarily added to all existing licences;
 - (c) the use of anti-social behaviour legislation to proscribe areas within the District as alcohol exclusion zones; and
 - (d) the implementation of a Behave or Be Banned scheme within the District; and
- (2) That Chief Inspector Baldwin be invited to attend and address a special meeting of the Licensing Committee in November 2008.

14. DATE OF NEXT MEETING

The Committee noted that the next regular meeting had been scheduled for 15 April 2009 at 2.00pm in the Council Chamber. A special meeting would be arranged in November 2008 to receive Chief Inspector Baldwin.

CHAIRMAN

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