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23 March 2009

To: Chairman – Councillor RE Barrett
Vice-Chairman – Councillor R Hall
Members of the Licensing Committee – Councillors Mrs VM Barrett,
Mrs PM Bear, Mrs JM Guest, Mrs EM Heazell, MB Loynes, RB Martlew,
RM Matthews, DC McCraith, Mrs CAED Murfitt, CR Nightingale, A Riley,
NJ Scarr and JF Williams

Quorum: 3

Dear Councillor

You are invited to attend the next meeting of **LICENSING COMMITTEE**, which will be held in **MONKFIELD ROOM, FIRST FLOOR** at South Cambridgeshire Hall on **TUESDAY, 31 MARCH 2009** at **10.00 a.m.**

Yours faithfully
GJ HARLOCK
Chief Executive

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AGENDA

	PAGES
1. APOLOGIES FOR ABSENCE To receive apologies for absence from committee members.	
2. DECLARATIONS OF INTEREST	
3. MINUTES OF PREVIOUS MEETING That the Chairman be authorised to sign the minutes of the meeting held on 26 June 2008 as a correct record.	1 - 2
4. ESTABLISHMENT OF LICENSING APPEALS SUB-COMMITTEE	3 - 8
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6. DESIGNATION OF CONSENT STREET FOR THE WHOLE OF SOUTH CAMBRIDGESHIRE	11 - 18

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a joint meeting of the Licensing Committee
and Environmental Services Portfolio Holder held on
Thursday, 26 June 2008 at 9:30am

Councillors:	RE Barrett	Mrs VM Barrett
	Mrs PM Bear	Mrs JM Guest
	R Hall	Mrs EM Heazell
	MB Loynes	RM Matthews
	Mrs CAED Murfitt	A Riley
	JF Williams	
Officers:	Myles Bebbington	Licensing Officer
	Catrina Dunnett	Principal Solicitor
	Maggie Jennings	Democratic Services Officer
	Dale Robinson	Corporate Manager, Health & Environmental Services

Also in attendance was Councillor Mrs SM Ellington, Environmental Services Portfolio Holder.

Apologies for absence were received from Councillors Mrs CA Hunt, RB Martlew and DC McCraith.

Councillor TD Bygott was in attendance as substitute for Councillor DC McCraith and Councillor RJ Turner was in attendance as substitute for Councillor Mrs CA Hunt.

1. DECLARATIONS OF INTEREST

1.1 None.

2. ELECTION OF CHAIRMAN

2.1 Councillors RE Barrett and Mrs CAED Murfitt were nominated and seconded and, following a show of hands of those Committee members present, it was

RESOLVED that Councillor RE Barrett be elected Chairman of the Licensing Committee for the year 2008/09.

3. APPOINTMENT OF VICE-CHAIRMAN

3.1 Councillors R Hall and Mrs CAED Murfitt were nominated and seconded and, following a show of hands of those Committee members present, it was

RESOLVED that Councillor R Hall be appointed Vice-Chairman of the Licensing Committee for the year 2008/09.

4. MINUTES OF PREVIOUS MEETING

4.1 The Committee authorised the Chairman to sign, as a correct record, the Minutes of the meeting held on 25 April 2008.

5. REVIEW OF HACKNEY CARRIAGE FEES

5.1 Under the powers of the Town Police Clauses Act 1847, a request for a review of Hackney Carriage Tariffs can be made to the District Council. Such a request to this Council was

made by one of the five Hackney Carriage operators in the District for consideration to be given to bringing the charges in line with those of other authorities and in particular those of Cambridge City Council. The fares agreed by the City Council were attached as Appendix B to the agenda and related only to journeys taken within the South Cambridgeshire district.

- 5.2 Consultation, outlining two sets of proposals, subsequently took place with all the operators. Four responses were received and all requested that South Cambs tariffs be in line with those of the City Council. Members noted that the proposed tariffs would benefit the public, apart from those undertaking single, short journeys and that confusion had, historically arose relating to the different charges made by the City and SCDC. That particular issue was now being addressed.
- 5.3 The Licensing Officer informed Members that the Licensing Officers Group, of which he was a member, had been tasked to investigate the possibility of standardising conditions to find a formula that would be effective across the county.
- 5.4 Members expressed concern relating to rising fuel costs and how that would impact on the charges. In response, Members were informed that Private Hire drivers set their own charges and that the charges under consideration by the Committee were those for Hackney Carriage drivers only. A review of the charges would be undertaken again if requested to do so by those drivers.
- 5.5 Members maintained their concern regarding fluctuating fuel prices, particularly for Hackney Carriage drivers and in response were informed that there was a cost associated with the re-setting of their meters. The Committee, could however request Cabinet to consider delegating authority to the Portfolio Holder to review this particular policy; this suggestion was met with a favourable response, subject to maintaining full consultation with the trade. If that course of action was agreed by Cabinet, the fares could be considered on an annual basis as was the practice of the City Council.
- 5.6 In conclusion, the Licensing Committee **RECOMMENDED** to the Environmental Services Portfolio Holder that Cabinet:
- (a) approves the new tariff structure and fees for advertising as set out in Appendix B to the covering report,
 - (b) agrees to future fee increases being in line with that of Cambridge City Council, ie follow the Public Carriage Office (London Cabs) formulation,
 - (c) that if, after advertising the proposed tariffs, no objections are received, then the Corporate Manager for Health and Environmental Services be delegated to set an implementation date as soon as possible with the trade and meter manufacturers, and
 - (d) considers delegating authority to the Environmental Services Portfolio Holder to change tariffs relating to Hackney Carriage Drivers, if and when required.

The Housing and Environmental Services Portfolio Holder,

RECOMMENDS to Cabinet the above recommendations of the Licensing Committee.

The Meeting ended at 10.15 a.m.

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Licensing Committee

31 March 2009

AUTHOR/S: Chief Executive / Democratic Services Manager

CLARIFICATION OF ARRANGEMENTS FOR HEARING LICENSING APPEALS**Purpose and background**

1. This report proposes clarification of the procedures under which Members hear appeals against the determination of the Licensing Officer. In the vast majority of cases, such appeals will relate to taxi licensing activities, however there are other determinations against which appeals are allowed but are seldom put forward in practice.

Considerations

2. The relevant section of the Constitution presently provides for licensing appeals to be heard by 'one or more sub-committees or Panels', such sub-committees or panels to comprise no more than five councillors. The current procedure provides for sub-committees to be appointed by the parent committee and *ad hoc* panels by its Chairman.
3. The procedures currently set out in the Constitution are considered to be ambiguous as they fail to which Member body will hear appeals and do not reflect current practice, which is the hearing of appeals by a body entitled the Licensing Committee (Taxi Hearings), a committee not recognised in the Constitution. The decision notices arising from such appeal hearings are signed by the 'Chairman of the Licensing Review Panel', which may be compatible with the requirement for a panel set out in the Constitution but is not consistent with the Agenda convening a Committee meeting.
4. There is no evidence that the inconsistencies and lack of clarity with current procedures, identified above, have adversely affected the speed and quality of decision-making in respect of licensing appeals, however it is considered that the Council may be at greater risk of a decision being challenged if it is not in a position to describe the legal and constitutional basis on which such decisions are made.
5. In order to address these concerns, it is recommended that the Committee establish a single body to hear appeals from the determination of the licensing committee entitled the 'Licensing Appeals Sub-Committee'. The Sub-Committee will comprise not more than five councillors from the Licensing Committee who have undertaken the appropriate training to be appointed by the Democratic Services Manager. It would be chaired by the Chairman of the Licensing Committee, in his/her absence the Vice-Chairman and, in the absence of both, by a member elected at the start of each meeting.
6. The Licensing Committee should agree the detailed hearing procedures as required, based on existing procedures (**Appendix A**).

Options

7. The Committee could support a continuation of the current arrangements; however, this will not overcome the inconsistencies referred to above. It may wish to explore alternative options for membership and chairmanship to those recommended in paragraph 5 above, for example in terms of the size, appointments to and Chairmanship, of the sub-committee.

Implications

8.	Financial	None specific
	Legal	As described in paragraph 4 above, it is considered that a failure to clarify its procedures will put the Council at greater risk of a subsequent decision being successfully challenged on the grounds that the decision-making body has not been properly constituted.
	Staffing	None specific
	Risk Management	The risk of challenge identified in the 'legal implications' section above is low, however can be eliminated altogether through the agreement of a revised procedure.
	Equal Opportunities	None specific.

Consultations

9. The issues arising have been discussed with the Licensing Officer and Principal Solicitor.

Effect on Corporate Objectives and Service Priorities

10.	Work in partnership to manage growth to benefit everyone in South Cambridgeshire now and in the future
	None specific
	Deliver high quality services that represent best value and are accessible to all our community
	The clarification of procedures for the hearing of licensing appeals will improve understanding of the process by officers, members, applicants and other interested parties.
	Enhance quality of life and build a sustainable South Cambridgeshire where everyone is proud to live and work
	None specific.

Recommendations

11. It is recommended that:
- (a) A Licensing Appeals Sub-Committee be established to consider all appeals from the determination of the Licensing Officer where in-house procedures allow appeals;
 - (b) The Sub-Committee comprise not more than five councillors from the Licensing Committee who have undertaken the appropriate training;
 - (c) The Democratic Services Manager be authorised to make appointments to the Sub-Committee when it is required to meet;

- (d) Sub-Committee meetings be chaired by the Chairman of the Licensing Committee, in his/her absence the Vice-Chairman of the Licensing Committee, and in the absence of both by a member elected at the start of the hearing;
- (e) The Chief Executive be authorised to make the necessary amendments to Table One of Part Three of the Constitution.
- (f) The Licensing Appeals Sub-Committee procedure be agreed

Background Papers: the following background papers were used in the preparation of this report:

The Council's Constitution: [link to the Council's website \(www.scambs.gov.uk\)](http://www.scambs.gov.uk)

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL LICENSING ~~REVIEW PANEL~~APPEALS
SUB-COMMITTEE**

Hackney Carriage and Private Hire Drivers / Vehicles / Operators

Procedure to be followed when dealing with appeals to the Sub-Committee

NB: At any point in this procedure the Panel-Sub-Committee may pass a resolution excluding the press and public from the meeting on the basis that, if they were to remain, there may be disclosure of exempt information (information relating to the private or business affairs of a particular person)

1. The Chairman of the Panel-Sub-Committee will welcome those present and introduce himself and the members of the Panel-Sub-Committee, the Council's Legal Officer, Democratic Services Officer and any other officer present. The applicant should be asked to confirm his/her name and address and if they have a representative, they should also introduce themselves.
2. The Council's Licensing Officer will open proceedings by outlining the nature of the matter which is to be considered and whether the proceedings concern a vehicle, drivers' or operators' licence. If the hearing concerns the granting of a licence to a driver (either hackney carriage or private hire) or a private hire operator, the grounds for objecting to the application should be made clear.
3. If the grounds for objection concern previous convictions which may prevent the applicant being considered a "fit and proper person", the Chairman should ask the applicant if he/she agrees with the list of previous convictions and if the answer is in the negative, the matter should be adjourned to clarify the position. If the applicant agrees that the list is accurate the Licensing Officer should explain why these convictions have led to the refusal of the application under delegated powers. The Panel-Sub-Committee may ask the officer for clarification of any points.
4. The Chairman will then give the applicant the opportunity to make representations to the Panel-Sub-Committee and where relevant explain the circumstances surrounding any previous convictions. The applicant or licence holder may make his/her representations personally or through a representative. Representations should not generally exceed 10 minutes
5. The Chairman and other members of the Panel-Sub-Committee may ask the applicant or licence holder questions and points of clarification. The Chairman will then ask the applicant if there is anything else he/she wishes to add.
6. ~~The Chairman will then ask the applicant or licence holder, his/her representative (if any) and any officer present to remain in the room and the Panel will withdraw from the room to make its decision~~Sub-Committee will consider its decision in private. The Legal Officer will accompany remain with the Panel to advise them on any legal issues but will not take part in the decision ~~or any other discussion and the Democratic Services Officer will also remain with the Panel to take notes of the discussion and~~minute the decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled.
7. ~~The members of the Panel consider their decision. If any further clarification or information is required from the applicant or licence holder or any officer, all parties will be recalled.~~
8. All parties will be recalled for the announcement by the Chairman of the Panel's-Sub-Committee's decision or they can request that they are notified of the decision by telephone or e-mail if they do not wish to stay.
9. The Panel's-Sub-Committee's decision will be confirmed in writing by the Licensing Officer. The time frame for appealing to the Magistrates Court will be suspended pending the outcome of ~~the review~~the appeal to the Sub-Committee.

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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO:	Licensing Committee	31 March 2009
AUTHOR/S:	Executive Director / Corporate Manager Health & Environmental Services	

REQUEST FOR DESIGNATION OF CONSENT STREETS – DUXFORD

Purpose

1. To consider a request from Duxford Parish Council for all streets in the village to be designated Consent Streets under the Local Government (Miscellaneous Provisions) Act 1982.

Background

2. A request from the Parish Council was received on 20 January 2009 to designate Duxford Consent Street Status in order to control street trading in the village.
3. If the request is approved, the process involves listing all the relevant streets in the village, in a Public Notice of Intention, consulting the Local Member(s), Police and Highways Authorities that then allows twenty-eight days for representations. The Licensing Committee will then consider such representations and may resolve or refuse the designation request. If the decision is to confirm the designation, then the resolution will be advertised by Public Notice on two further occasions.

Considerations

4. If the village of Duxford was granted Consent Street Status, consultations would be made by the District Council on any application made to trade within the village. The advantage to having Consent Street status would be that the Parish Council has an input into the consultation process and final decision. Also the trader would hold a licence and be bound by conditions set by the Licensing Authority. If a village does not have Consent Street status, any trader could lawfully trade without requiring permission or being licensed.
5. The introduction of The Licensing Act 2003 will have an effect on mobile food traders that wish to serve hot food after 11.00pm at night, as they will be classed as late night refreshment premises and therefore also require licensing under the above Act.

Options

6. The Licensing Committee can either approve or refuse the request from the Parish Council.

Implications

7.

Financial	Fees and charges would form part of the application process for street traders, therefore generating revenue for the Council to recover its administration costs.
Legal	As included in the report
Staffing	There are no additional staffing implications

Risk Management	None
Equal Opportunities	None

Consultations

- 8. None

Effect on Corporate Objectives and Service Priorities

9.	Work in partnership to manage growth to benefit everyone in South Cambridgeshire now and in the future
	N/A
	Deliver high quality services that represent best value and are accessible to all our community
	N/A
	Enhance quality of life and build a sustainable South Cambridgeshire where everyone is proud to live and work
	The introduction of Street Trading Consent in Duxford would enable the Council to control the types of trade operating in the village

Conclusions/Summary

- 10. The Licensing Committee are requested to consider the application for Consent Street Status for the village of Duxford.

Recommendation

- 11. It is recommended that the Licensing Committee agree to the request from Duxford Parish Council for all streets in the village to be designated as Consent Streets and proceed to the next stage of the process.

Background Papers: the following background papers were used in the preparation of this report:

None

Contact Officer: Juli Stallabrass – Assistant Licensing Officer
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SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO:	Licensing Committee	31 March 2009
AUTHOR/S:	Executive Director / Corporate Manager Health & Environmental Services	

DESIGNATION OF CONSENT STREETS FOR WHOLE OF SOUTH CAMBRIDGESHIRE**Purpose**

1. To advise Members of the results of a survey to all Parish Councils on whether to designate the whole of South Cambridgeshire District as Consent Street status.
2. This is not a key decision.

Background

3. Street trading legislation is covered under the Local Government (Miscellaneous Provisions) Act 1982. This Act was never adopted district wide by South Cambridgeshire District Council (SCDC) and historically has been left to Parish Councils to individually determine whether they request that SCDC adopt the legislation within their villages. Since the introduction of the legislation a total of 22 villages out of 102 have adopted consent street status, list attached as **Appendix A**.
4. A request was made by the previous Portfolio Holder for Housing & Environmental Services as part of the forward plan to consult with Parish Councils on whether there was any support to designate the whole of SCDC as a consent street trading area.
5. The last consultation on the adoption of street trading legislation was carried out in 2001/2002 and the view then was that Parish Councils did not wish to change the current procedures.
6. During 2008 the Licensing section conducted a further survey asking whether Parish Councils wished to see the adoption of the legislation across the entire District. In total 48 Parish Councils replied out of 92, of the 48 replies 28 were not currently covered by the consent status. Of the 28 not covered by consent status, 16 were against adoption, 10 were in favour and 2 were undecided. Comments made during the consultation exercise are attached, as **Appendix B**. The consultation provided that the majority of the Parishes appear to wish to retain the status quo.
7. The adoption of a district wide consent street status would place a statutory onus on SCDC to consider applications for licences which may affect local small scale trades, such as private individuals who sell goods at the front of houses, farms etc on a regular basis. There would also be a requirement to commence with enforcement action where necessary.
8. The procedures for adoption are broadly similar whether SCDC adopts an individual Parish or adopts the legislation district wide, however there would be a significant cost difference due to the requirements to advertise publicly (See financial implications).

Considerations

- 9. Consideration should be given to the views of the Parish Councils in respect of their villages and the fact that less than half of the Parish Councils expressed any opinion. Of those that did express an opinion the majority wish to keep with the status quo. Those in favour of adoption could still apply for their village under the current adoption arrangements.
- 10. Should a district wide scheme be considered then a further consultation would be required with as many of the traders that can be identified as potentially being affected, before any resolution is passed.

Options

- 11. Members may:
 - (a) Take note of the views of the Parish Councils and agree to continue with the current procedures for adoption of street trading consents within South Cambridgeshire.
 - (b) Take note of the comments of the Parish Councils but pursue further consultations with a view to adopting district wide consent street trading status within the district of South Cambridgeshire.

Implications

12. Financial	The income generated from any licenses must be for covering the cost of administering the service only. The cost of advertising a district wide resolution would be £5225.60 (Inc VAT)
Legal	Any adoption of the legislation district wide may be subject to legal challenge. Under the EU Services Directive consent scheme policies cannot be used to restrict trade alone unless there are environmental, safety or other reasons for doing so.
Staffing	There may be an increase in enforcement costs
Risk Management	There is no risk assessment required
Equal Opportunities	None arising from this report.

Consultations

- 13. Contained in the body of the report.

Effect on Annual Priorities and Corporate Objectives

14.	Work in partnership to manage growth to benefit everyone in South Cambridgeshire now and in the future
	N/A
	Deliver high quality services that represent best value and are accessible to all our community

It is not thought that any tariff change will adversely affect this objective
Enhance quality of life and build a sustainable South Cambridgeshire where everyone is proud to live and work
The introduction of controls would enable SCDC to better control the types and standards of trade operating within currently uncontrolled areas

Conclusions/Summary

- 15. The current procedures for controlling street trading within South Cambridgeshire appear to be working satisfactorily and Parishes are quite able to approach South Cambridgeshire District Council should they wish the legislation to be enforced within any given village or area. The majority of Parishes responding wished to retain the status quo.

Recommendation

- 16. It is recommended that the Licensing Committee requests that the Portfolio Holder for Environmental Services does not seek Cabinet's approval for a district wide consent street trading scheme and that the current procedures for adoption of street trading consents with the district of South Cambridgeshire is retained.

Background Papers: the following background papers were used in the preparation of this report: Town Police Clauses Act 1847

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APPENDIX A

CONSENT STREETS OF SOUTH CAMBRIDGESHIRE
March 2009

All County 'A' Roads in South Cambridgeshire District Council, Except A11 and A14.

All roads in Bar Hill

All roads in Balsham

All roads in Caldecote

All roads in Comberton

All roads in Cottenham

All roads in Fulbourn

All roads in Gamlingay

All roads in Girton

All roads in Graveley

All roads in Great Shelford

All roads in Hardwick

All roads in Histon and Impington

All roads in Linton

All roads in Longstanton

Melbourn Car Park

All roads in Oakington

All roads in Pampisford

All roads in Papworth Everard

All roads in Sawston

All roads in Great Shelford

All roads in Waterbeach

All roads in Willingham

C282 (Cambridge Road, Ely Road, High Street) Milton

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APPENDIX B

Parish Council comments

"We have a man selling fresh fish once a week for about an half an hour", We would not wish to lose this facility. – Barrington

We have a hot dog stall on the A603, we do not see the need for other traders to operate within the village. - Barton

Parish Council members felt that licenses should be considered on an individual basis and not just have blanket coverage. – Croydon

This feels like the addition of extra beaurocracy on small traders and therefore it unnecessary. – Grantchester

Market potential not great enough. Not useful to adopt. – Great & Little Eversden

Street trading can cause problems and needs to be regulated. – Guilden Morden

We are happy with the way things are so why change it. – Castle Camps

If adopted Parish councils must still be a consultee. – Histon

We would have concerns over the dilution of enforcement if whole of SCDC were covered. – Impington

The parish Council could potentially welcome additional traders but would like to retain the existing system of controls over location. – Melbourn

Wherever street trading takes place there is a tendency for litter to increase in and around the immediate area, also dependant on times and position of the trader there can be a problem with anti social behaviour.

Traders currently compete unfairly with the village shops, parking of their customer vehicles often obstruct the cycle track. – Milton

Consent street through the whole district should happen. – Papworth

Street trading would add life to villages and offer the opportunity for very small ventures. – Meldreth/Shepreth

I would want street trading to be regulated with litter collection, road safety etc, I am not generally happy with the idea of blanket consent.

We are happy - Swavesey

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