



**THE LICENSING AND HEALTH AND SAFETY
ENFORCEMENT SUB-COMMITTEE**

**TUESDAY 24 JULY 2012
FOLLOWING FULL COMMITTEE**

COUNCIL CHAMBER, CIVIC CENTRE, HEMEL HEMPSTEAD

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr G Chapman

Cllr Conway

Cllr Fantham

Cllr Mrs Green (Vice-Chairman)

Cllr Lawson (Chairman)

Cllr Link

Cllr Sutton

Substitutes: Councillors Bhinder, R Hollinghurst, Mrs Rance and Ryan

(Please note Members may only be appointed as substitutes if they have been trained for Licensing Committee).

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1. INTRODUCTION

2. MINUTES

To confirm the minutes of the meeting of the Licensing, Health and Safety Enforcement Sub-Committee held on 24 April 2012.

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence

4. DECLARATIONS OF INTEREST

To receive any declarations of interest

5. PUBLIC PARTICIPATION

An opportunity for members of the public to make statements and ask questions in accordance with the rules on Public Participation

6. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the item in Part II of the Agenda for the meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to an individual which would be likely to reveal their identity (Items 7, 8 and 9).

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE

24 APRIL 2012

Present-

MEMBERS:

Councillor Lawson (Chairman), Conway, Mrs Green, Hearn, Link and Sutton

OFFICERS:

B Lisgarten	Legal Governance Team Leader
M Brookes	Group Manager (Legal Governance)
S Taylor	Licensing Enforcement Officer
R Mabbitt	Licensing Enforcement Officer
P Bowles	Member Support Officer, Democratic Services
T Coston	Member Support Officer, Democratic Services

Other Persons Present:

Ms C Eames, from Poppleston Allen Solicitors – Item 6.

Mr D Lewis – Item 6

Mrs D Blennerhassett– Item 6

Mrs M Taverner - Item 6

Mr M Blennerhassett– Item 6

Mr J McIlvaney – Item 7

Mr T Carrington – Item 7

Mr M – Item 9 (Part 2)

The meeting began at 7:30 pm

1. MINUTES

Minutes of the meeting held on 27 March 2012 were confirmed by the Members present and were then signed by the Chairman.

2. APOLOGIES FOR ABSENCE

Apologies of absence were received from Councillor Fantham.

3. DECLARATIONS OF INTEREST:

There were no Declarations of Interest.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1982, AS AMENDED BY POLICING AND CRIME ACT 2009 – APPLICATION FOR SEXUAL ENTERTAINMENT VENUE - IMAGES, 25 HIGH STREET,

HEMEL HEMPSTEAD, HERTFORDSHIRE, HP1 3AA

Representations received in respect of an application for a Licence for a Sexual Entertainment Venue were considered.

The Chairman asked the officers if all legal requirements had been met, and was informed by R Mabbitt (Licensing Enforcement Officer) that they had.

Mr Lewis made representations as to why he wished to speak in objection of the application for a Sexual Entertainment Venue. Mr Lewis said he felt that the application for a Sexual Entertainment Venue would be inappropriate due to the location of the premises, the nature of the neighbourhood and the surrounding facilities. He explained that the premises' was within a short distance of St Marys Church, St Marys Hall, Society of Friends meeting house and a local school. He added it was also very close to the Old Town Hall which provides entertainment to adults and children, and Gadebridge Park which is used by people of all ages. He said he was aware that change needs to happen, and it had happened over the years. He said the Old Town had been modified drastically over the last 30 years and had gained various shops and restaurants, but he felt the character had been maintained. He said he doesn't believe that granting a licence for this establishment in the Old Town would help meet the Councils objectives for a Heritage area.

Ms C Eames (Solicitor) introduced herself and her clients Mrs D Blennerhassett and Mrs M Tavener. Also present was Mr Blennerhassett, husband to Mrs Blennerhassett, and brother of Mrs Tavener.

Ms Eames informed the Committee that the premises located on the High Street had limited frontage with only one entrance via the High Street. She explained that the premises had been a nightclub on and off since the 1980's and her clients had owned the premises since December 2004. She said her clients had opened the nightclub in August 2010 which was trading under the name Images. She said Images nightclub had closed down in September 2011 and is currently not trading. She explained her clients had a 999 year lease on the premises and they had invested over £200k in the business, and moving forward with the modifications, they would need to invest further in the future. The premises' is in a basement and holds a capacity of 110 people although this will probably not be met and is likely to be 60. She informed the Committee that her clients wish to retain the name of Images, and would like to the mirror the hours of trade under their current licence. The applicants intend to be the operators of the business and had been researching and plan to recruit someone with direct managerial experience to work alongside them. They had run the current club without complaint or incident.

Ms Eames said her clients are mindful of the local residents concerns regarding additional advertisement, and reassured the Committee that no further signage will be added to the premises. They will have a website for advertisement and hoped word of mouth from customers would also be a source of publicity. The premises will have extensive CCTV and noise limiters. The staff to customer ratio was high. They are also good members of the pub watch scheme. She said the locality of the premises had been a major concern as it was near a playgroup and a school, but there will be no trade during school hours. They are a family run business and as such they want and need to get it right; they have children to support, and want to maintain a good reputation. Her clients are sympathetic towards the residents and wish to trade in a modest form. She said because of the nature of the business, customers will not leave en masse, and therefore are less likely to cause trouble or create noise disturbance. The premises will not be up and running until 10pm in

reality. They intended to trade 'high end' attracting corporate business, therefore a low number of people with a high spend.

They would operate sympathetically and will have a high level of control over the running of the business.

The Chairman asked the applicants to confirm that there would be no increase in signage of the exterior of the premises.

M Tavener said she had four children and would not like them to see any signage of that nature. She said she wants to keep the same standard that she would expect as a mother.

The Chairman asked if there was disabled access in to the premises.

Ms Eames replied there is unfortunately no disabled access in to the premises. She said there is legislation regarding this but as it is a listed building they are unable to provide disabled access.

The Chairman asked if Ms Eames was suggesting the premises' was simply not viable to have disabled access.

Ms Eames replied it had the same restrictions as when it was a nightclub. She said her clients had no obligation to providing disabled access.

M Tavener said as it is a listed building they are restricted to changes they can make to the premises. She said they had to be very cautious as a major change would not be accepted.

The Chairman asked if people would be restricted from entering the premises after a specific time.

M Tavener said they would restrict people from entering the premises after 02:30am, which would be the same restrictions as they used with the nightclub.

Councillor Mrs Green asked R Mabbitt if there had been any previous noise complaints.

R Mabbitt replied there hadn't been any complaints to his knowledge.

Councillor Conway asked if there would be staff on the door, and if they would be checking the age of customers.

M Tavener replied one of their priorities is the protection of individuals. It would be a member's only club. She said customers have to be 18 years of age or over to enter the premises and they would look to introduce a system to scan customers I.D to keep on record.

Councillor Sutton said he knew the location of the premises, but asked how it would differ from the previous usage.

D Blennerhassett replied that it was presently a nightclub so they had loud music and dancing. She said they shouldn't experience some of the difficulties they had with the nightclub and believes the new licence would make it quieter and felt it will be nicer for local residents.

M Tavener added the new licence would have performing dancers to provide adult entertainment. She said that she had experience in the corporate market industry and believed Images will attract high end corporate type clientele. She said they believe it would bring in business to the Old Town and would be beneficial to local pubs and restaurants.

Councillor Sutton asked if the night club will use private membership.

M Tavener said the nightclub was open to all public and added that they always ensured that security was tight and that they were strict on the behaviour of customers. She said customers got one chance only.

S Taylor sought clarification on behalf of the Committee for the opening hours and any other or seasonal variations.

C Eames said she was not involved in drafting the original application, but the opening hours would be as stated in the application form. She said the only extension on the standard hours would be for New Years Eve, but she appreciated that there was no dispensation and Images would have to trade on the hours for whichever day it fell on.

Councillor Mrs Green said that some of the issues raised by Mr Lewis were irrelevant as the local school, church, and church hall would not be affected by the venue as it would not be operating during the day.

The Chairman asked the Committee if they had anything they wished to add.

Councillor Link said there should be less people coming in and out of the premises and therefore should be better than the previous nightclub arrangement.

Councillor Mrs Green said she had no valid reason to object the application.

Councillor Sutton expressed his apologies and said he couldn't support the idea as he felt the Old Town was not an appropriate use or location for a Sexual Entertainment Venue.

Voting:

5 for and 1 against;

whereupon it was:

Resolved:

The Sub-Committee, having given due consideration of the oral and written representations, and having heard from the applicants and their solicitor, has agreed to grant this application for a Sexual Entertainment Venue licence.

In making this decision the Sub-Committee took into account the legislation governing the granting of such licenses as well as the Council's Sex Establishment Licensing Policy and the Home Office Guidance. Furthermore, it had regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

The Sub-Committee were of the opinion that in accordance with law, policy and Guidance, the grant of the licence would be appropriate having regard to the character of the relevant locality.

The relevant locality is the area known as the "Old Town", Hemel Hempstead. The "Old Town" is considered an appropriate locality for the proposed Sexual Entertainment Venue. In Particular the Sub-Committee noted that that there are a number of premises which have existing premises licenses within the vicinity of the

site. It is not expected the premises will have an impact on trade, thoroughfares, parks and open spaces due to the proposed operating hours

The grant of the licence is subject to the Council's standard conditions without the inclusion of condition 28, which has been removed because it is a listed building and the viability of putting the entrance in to place.

5. APPLICATION FOR A VARIATION OF THE HACKNEY CARRIAGE LICENCE CONDITIONS RELATING TO WHEELCHAIR ACCESSIBLE VEHICLES

A change in the requirement for the testing of hackney carriage vehicles licensed for wheelchair use was considered.

The Chairman asked the officers if all legal requirements had been met, and was informed by R Mabbitt (Licensing Enforcement Officer) that they had.

R Mabbitt gave an outline of the proposed new procedure and reasons for the change. As the policy stands at present, DBC will only licence vehicles that have been converted for wheelchair access either at manufacture prior to 1st Registration with DVLA or after 1st registration by a VCA (Vehicle Certification Agency) approved convertor.

Both of these methods add a substantial cost to the vehicles.

Many taxis that have been converted in the past do not have type approval as mentioned above or the appropriate certificate of conformity issued by a VCA approved convertor. (some of our taxis although appearing visually to conform have been purchased 2nd hand and the appropriate certificate has not been supplied). If these certificates are not available or DVLA Swansea have not been notified of the conversion taxi drivers will not be able to continue with their current vehicles and will have to purchase new taxis. In some instances vehicles may have had their type approval carried in Europe and the approved company or manufacturer in that Country may not have notified their own registering authority or the DVLA if imported by us. This has been known to happen with Peugeot's in France.

An alternative method therefore is the IVA (Individual Vehicle Approval) Test. This will allow a taxi to be converted by a coachbuilder, motorbility company or similar. As long as the vehicle is converted appropriately with fittings that are type approved, i.e. bolts through the chassis, suitable nuts and washers and have British Standard I.S.O. numbers on the straps and seatbelts, it will be able to obtain an IVA Certificate from a VOSA (Vehicle and Operator Services Agency) testing station.

An IVA is a nationally recognised alternative means of testing for conformity by the VCA.

An IVA is normally for imported vehicles, kit cars, low volume manufacturers or stretch limousines. According to VOSA a number of local authorities are already using this method as a means of testing vehicles for wheelchair access (e.g. Hereford, Birmingham).

Part of the policy that was agreed at the previous meeting regarding WAV's was for those taxis currently licensed that could not provide a certificate of conformity or that had not been type approved as a WAV to be allowed to undergo an IVA. These

taxis were to be given until 31st July to undergo an IVA. Once passed DBC would then continue to licence them.

Similarly the DBC Policy for Stretch Limousines also allows for an IVA test as an appropriate means of proof of roadworthiness and suitability to be licensed.

Mr McIlvaney made representations as to why he was seeking a change in the requirement for the testing of hackney carriage vehicles licensed for wheelchair use. In addition to his submission included in the report to the committee, he stressed the following points:

- The conditions attached to the License limit the choice of vehicle so that the only vehicles that meet the new criteria are the top end of the range and very expensive.
- If VCA (Vehicle Certification Agency) and IVA (Individual Vehicle Approval) registration were permitted it would allow coachbuilders to convert a taxi for public use within this Borough.
- There are a large number of converters that convert a vehicle to a standard that the Vehicle and Operator Services Agency (VOSA) accept as safe for the road and to the public.
- Mr McIlvaney asked for the License requirement to be changed so that IVA and VCA registrations are allowed and not hold vehicle conversion to self destruct because this means that it is only car manufacturers can afford the millions to take vehicles to whole vehicle destruct where every part of the vehicle is tested.
- The vast majority of conversions in this country are undertaken by coachbuilders who put in standard equipment such as the seats, seat belts and tracking etc that have been tested to M1 self destruct standard
- If we allow VCA's and IVA's then it will allow coachbuilders and manufacturers who work to VOSA standard to supply safe vehicles to be purchased and operated within the Borough of Dacorum.

Councillor Sutton asked if there was any evidence that VCA's and IVA's are less safe than manufactured Wheelchair Accessible Vehicles (WAV's).

R Mabbitt replied that he had spoken to the Senior Technical Officer for VOSA who supplied him with a detailed report of the testing involved. An IVA test takes between 1 – 2 hours and is a lot more stringent than a standard MOT.

Mr McIlvaney added that all vehicles have already been manufactured to self-destruct standard and the conversion is only adding parts to make it into a WAV. All the parts and equipment have been individually tested to self destruct standard and once VOSA have approved a vehicle you can be sure that the vehicle is safe for public use.

Councillor Sutton said that in view of what he had heard, he was more than happy to accept VCA or IVA approval for Wheelchair Accessible Vehicles and proposed that the request be granted.

Councillor Lawson commented that he was satisfied that the proposal would not compromise resident's safety and would provide flexibility to drivers and he seconded the proposal.

Voting:

Unanimously agreed

whereupon it was:

Resolved:

That the Application for a Variation of the Hackney Carriage Licence Conditions Relating to Wheelchair Accessible Vehicles be granted and the Policy relating to Wheelchair Accessible Vehicles be amended so that Individual Vehicle Approval can be used as a suitable alternative means of testing.

6. EXCLUSION OF THE PUBLIC

It was moved by Councillor Mrs Green and seconded by Councillor Hearn and unanimously agreed to move to Part II of the meeting and to exclude the public.

whereupon it was:

Resolved:

That, under S.100A (4) of the Local government Act 1972 the public be excluded during the item in Part II of the Agenda for this meeting, because it was likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to an individual which would be likely to reveal their identity (Minute 7).

7. APPLICATION FOR A VARIATION OF THE LICENCE CONDITIONS FOR A PRIVATE HIRE DRIVER MR M

Full details are in the Part 2 minutes

The meeting ended at 8.05 pm

APPENDIX B

PROCEDURE FOR THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE (PRIVATE HIRE VEHICLE AND HACKNEY CARRIAGES)

1. The Chairman will open the proceedings by stating the nature of the matter, which is to be considered, (first application/renewal/suspension/revocation), whether the proceedings concern a vehicle, driver or operator licence, and the name of the applicant or licence holder.
2. The Chairman will introduce himself/herself and the Members of the Committee, the Clerk to the Committee and any other officer present.
3. The Chairman will ask the officers to confirm whether or not the formal requirements in respect of the matter to be considered have been complied with. In the case of a proposed suspension or revocation of licence or a refusal to renew, the Chairman will ask the officers to confirm whether or not the requisite 14 days' prior notice has been served on the licence holder.
4. If satisfied as to the formal requirements the Committee will consider the merits of the application or proposed suspension/revocation and the report of the officers. The Committee may ask the officers for clarification of any points in issue.
5. The Chairman will then invite the applicant or licence holder to make any representations. The applicant or licence holder may make his/her representations personally or through a representative, who shall first identify him/herself.
6. The Chairman and other members of the Committee may ask the applicant or licence holder questions and points of clarification.
7. The applicant or licence holder, his/her representative (if any) and any officer present (with the exception of the Clerk to the Committee) shall withdraw.
8. The members of the Committee 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
9. All parties will be recalled for the announcement by the Chairman of the Committee's decision.
10. The Committee's decision will be confirmed in writing by the Solicitor to the Council.
11. At any point in this procedure, the 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 individuals which is likely to reveal their identities).

DACORUM BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

Any requirements of legislation which affect the operations being carried out under the terms of this licence shall be regarded as if they are conditions of this licence.

1. Type of Vehicle

The vehicle must not resemble a London-type taxi or be of such design to lead any person to believe the vehicle is a taxi.

2. Maintenance of Vehicle and Safety Equipment

The proprietor of the vehicle shall:

- (a)** Provide sufficient means by which any person in the vehicle may communicate with the driver;
- (b)** Cause the roof or covering to be kept watertight;
- (c)** Provide adequate windows which must be capable of being opened and closed at all times by passengers;
- (d)** Cause the seats to be properly cushioned, covered and kept clean;
- (e)** Cause the floor to be provided with a proper carpet, mats or other suitable floor covering;
- (f)** Cause the fittings and furniture generally to be kept in a clean condition and well maintained;
- (g)** Provide means for securing luggage;
- (h)** Provide external rear view mirrors to be fitted both sides of the vehicle;
- (i)** Provide a heater screen to the rear window of the vehicle which must be kept in working order;
- (j)** Ensure that the wheels (including the spare) are not fitted with remould tyres;
- (k)** Ensure that the wheels (including the spare) are fitted with radial tyres.

- (l) Provide an efficient vaporising liquid or dry powder fire extinguisher, which shall be carried in such a position as to be readily available for use at all times;
- (m) Provide a first aid kit, such equipment to be carried in such a position in the vehicle as to be readily available for use at all times (a list of minimum contents will be supplied)
- (n) Ensure that the vehicle and all its fittings and equipment are at all times, when the vehicle is in use or available for hire, kept in an efficient, safe, tidy and clean condition and all relevant statutory requirements (including those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with;
- (o) Ensure that no material alteration or change in specification, design, condition or appearance of the vehicle are made without the approval of the Council at anytime whilst the licence is in force;
- (p) If the vehicle is an estate, a guardrail must be fitted of a type approved by the Council, to separate the rear loading area from the passengers. In the case of hatchback models, it is only necessary to fix a guardrail when the parcel shelf is removed.

3. Identification Plate

The identification plate issued by the Council bearing the number of the licence granted in respect of the vehicle shall be securely fixed to the satisfaction of the Council, on or above the bumper on the outside of the offside rear of the vehicle, in such a position that it shall be clearly visible from the rear of the vehicle and the proprietor/driver shall not willfully or negligently conceal it from public view whilst the vehicle is being used for hire.

4. Interior Marking

The interior plate issued by the Council bearing the number of the licence granted in respect of the vehicle shall be securely fixed inside the vehicle, to the satisfaction of the Council, in such a position that it is clearly visible to the passengers while the vehicle is being used for hire.

5. Roof Signs

The proprietor must not fix a roof sign on the vehicle.

6. Notices, Advertisements etc

No signs, notices, advertisements, marks, numbers, letters, figures, symbols, emblems, badges or any device whatsoever must be displayed on, in or from the vehicle, except as may be required by an statutory provision or the following conditions:

- (a) An identification sign of a maximum size of 30" x 16" showing the name of the firm and/or the company's symbol or badge which **must** include the words "**LICENSED PRIVATE HIRE CAR**" must be displayed on the front doors of the vehicle only, subject to an

authorised Officer of the Council approving the appropriate size, layout and design and wording prior to them being displayed on the vehicle;

(Note: The only exemption to this condition will be for vehicles which are being used for executive hire under a contract.)

- (b) There may be displayed inside the vehicle an interior panel measuring 10" x 8" for displaying advertisements, provided it is not illuminated or readily visible outside the vehicles

7. Two Way Radio Equipment and Hands-Free Telephones

The proprietor shall immediately notify the Licensing Office before such equipment is installed in a licensed vehicle, so that the equipment and proposed position can be checked and approved in relation to passenger and driver safety.

8. Driver

The driver shall at all times be clean and respectable in his dress and behave in a civil and orderly manner.

(a) Passengers

The driver shall not, when the vehicle is in use:

- (b) Carry more passengers than the vehicle is licensed to carry;
NB: A one-day old child is a passenger.
- (c) Have more than one passenger in one seat belt;
- (d) Without the consent of the hirer of the vehicle, convey or permit to be conveyed, any other person in that vehicle;
- (e) Place any passenger in danger regarding the use of seat belts or child restraints.

10. Change of Address

The proprietor shall immediately notify the Council in writing of any change of his/her address during the period of the licence that the vehicle is kept.

11. Convictions

The proprietor of the vehicle shall immediately disclose to the Council in writing any conviction imposed on him/her or the driver during the period of the licence.

12. Deposit of the Drivers Licence

If the proprietor of the vehicle permits or employs any other person to drive the vehicle as a hire car, he/she shall, before the person starts to drive the vehicle, cause the driver to deliver to him/her his/her Hire Car Drivers Licence

for the retention of until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his/hers.

13. Copy of Vehicle Licence Conditions

The proprietor shall make sure that he/she or any driver he/she engages or employs carries a copy of the vehicle licence and conditions in the vehicle, and makes them available for inspection by an authorised officer, the hirer or any other passenger on request.

14. Vehicle Fitted with Taximeter

If the licensed vehicle is fitted with a taximeter or other device for recording fares, it must be of a type approved by the Council and the position of the device in the vehicle shall be approved, tested and sealed by an Authorised Officer.

15. Insurance

The proprietor shall at all times be adequately insured to the Council's satisfaction in respect of the use of the vehicle for carrying fare paying passengers and ensure that he/she or any driver he/she engages or employs carries proof that the vehicle is insured and makes it available for inspection by an authorised officer, the hirer or any other passenger on request.

16. Accidents

Any accident to a vehicle must be reported to the Council as soon as possible and, in any case, within 72 hours. A Vehicle Damage Report must be presented to the Licensing Office. **No further hirings may be undertaken until the vehicle has been inspected and approved by an authorised Officer.**

(Note: a vehicle that has been withdrawn from service may require a further mechanical test at the Council's authorised testing station before being allowed to return to service, this depends on the extent of damage. (Any cost to be met by the proprietor.)

17. The Council reserves the right to vary, delete or waive any of the foregoing Conditions.

If you are aggrieved by any of the Conditions attached to this licence, you may appeal to a Magistrates Court within 21 days of the service of the licence on you. (S.47 and 77 of the 1976 Act and S.300 to 302 of the Public Health Act 1936.)