

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 11th September, 2007.

Present: Cllr Woodhead (Chairman), Cllr Dick Cains, Cllr Ken Dixon, Cllr John Fletcher (vice Cllr Lewis), Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Mrs Kath Nelson, Cllr Maurice Perry and Cllr Fred Salt.

Officers: M Vaines, P Edwards, S Forsythe (DNS); J Nertney, F Shayler (LD).

Also in attendance:

Apologies: were submitted on behalf of Cllrs Mrs Craggs, Faulks, Lewis, Kirton, Narroway and Rix.

L 19/07 **Declarations of Interest**

Cllr Dixon declared a personal/prejudicial interest in respect of agenda item 4 - Application for Street Trading Consent due to being a Member of the Planning Committee that considered the application for the structure of the kiosk.

Cllr Cains declared a personal/prejudicial interest in respect of agenda item 4 - Application for Street Trading Consent due to being a Member of the Planning Committee that considered the application for the structure of the kiosk.

Cllr Dixon declared a personal/non prejudicial interest in relation to Agenda No. 8 - Application for Private Hire Driver - Mr DG due to knowing the applicant.

Cllr Large declared a personal/non prejudicial interest in relation to Agenda No. 8 - Application for Private Hire Driver - Mr DG due to knowing the applicant.

Cllr Fletcher declared a prejudicial interest in relation to Agenda Item No. 9 - Combined Driver No. 487 Mr PHW due to being an ex employee of HM Revenue and Customs.

L 20/07 **Minutes**

The minutes of the meeting held on Tuesday, 31st July, 2007 were signed by the Chairman as a correct record.

L 21/07 **Application For Street Trading Consent**

Members visited the site of the proposed coffee kiosk.

Consideration was given to an application for a Street Trading Consent for a coffee kiosk to be located in Stockton High Street, the dimensions of which were outside the Council's guidelines.

The application had been received from Casper and Gambini Ltd of 17 Lockton Crescent, Thornaby for the grant of a street trading consent to permit the sale of coffee from a semi-permanent structure consisting of a kiosk and a glass terrace unit with seating and umbrellas in Stockton High Street. The kiosk unit was 6m x 2.8m and the terrace 12m x 6m. A copy of the application was attached to the report.

The applicant wanted to trade daily between the hours of 7.00 am and 9.00 pm,

Monday to Saturday and 9.00 am to 6.00 pm on a Sunday and his preferred trading location was on the former public toilet site between the Town Hall and the Shambles.

A plan showing this location was attached to the report.

The Chief Planning Officer, Chief Constable and the Town Centre Manager had no objections to the application.

Comments had been received from the Environmental Health Manager and the Group Leader (Traffic Management) and copies were attached to the report.

Ward Councillors and local businesses had also been consulted on this application and no comments had been received.

A copy of the Council's adopted guidelines in respect of Street Trading Consent was attached to the report for Members information. These guidelines limit the size of trading units to 3m x 4m.

Members were advised that if they were minded to approve this application then it would be for non-market days only as separate permission from the Town Centre Manager, who does support the application, would be required to trade on market days.

Members were also advised that there were currently no street trading consents issued for Stockton High Street.

The applicant was in attendance at the meeting and was given the opportunity to outline his application.

Members discussed the application and felt that as no objections had been received and there was support from the Town Centre Manager, the application should be approved for non market days.

RESOLVED that the application by Casper and Gambini for Street Trading Consent - coffee kiosk on the High Street, Stockton on Tees be granted.

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22/07 **Review of Conditions, Policies & Procedures Relating to Hackney Carriages, Private Hire Vehicles and Their Drivers & Operators**

Consideration was given to a report on a proposal to carry out a further more detailed consultation exercise on taxi usage and accessibility issues aimed specifically at passengers with special needs through the Disability Advisory Group and other interested stakeholders.

At the meeting held on Tuesday, 13 February 2007, Members resolved that a full and open consultation take place with the local taxi trade, interested stakeholders and Members on a review of current policies, procedures and conditions relating to the licensing of hackney carriages and private hire vehicles, drivers and operators.

A draft consultation document on what were considered to be the main issues

was also considered at the meeting. A copy of Minute 990, which refers was attached to the report.

This consultation exercise was carried out and resulted in only one letter being received on behalf of taxi users from a Carers Resource Centre, which criticised the documents and the consultation process.

Information had also been received on a judgement given by a Deputy District Judge in July 2007 who overturned a council policy relating to the provision of wheelchair accessible vehicles. One of the factors considered in making this decision related to the amount of consultation undertaken by the local authority with disabled groups.

As part of the Council's consultation included issues on accessibility. It was proposed therefore that in order for Members to be able to make an informed decision on these matters that a further more detailed consultation be undertaken with the Disability Advisory Group and other stakeholders specifically on the policy issues relating to hackney carriage licences being issued to wheelchair accessible vehicles only and/or the requirement for saloon hackney carriages to be fitted with a "swivel seat" and accessibility for disabled persons in private hire vehicles.

Following this further consultation it was proposed that the results be brought back before a special meeting of this Committee for comment prior to any change to policies and conditions being issued for further consultation or referral to Cabinet.

RESOLVED that:-

1. A more detailed consultation exercise be undertaken with the Disability Advisory Group and other stakeholders.
2. The results of this consultation exercise be brought back before the Licensing Committee prior to any changes to policies and conditions being issued for further consultation or referral to Cabinet.

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23/07

Exclusion of the Public

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

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24/07

Application For Renewal of Combined Driver Licence - Mr M A

Consideration was given to a report on an application for the renewal of a combined hackney carriage/private hire drivers licence from a driver who had recently been prosecuted by the Council for 'plying for hire without the appropriate licence' and driving without having appropriate insurance.

Mr M A was a licensed hackney carriage and private hire driver. He had been licensed since 30 August 2006 and his licence expired on 31 August 2007.

Mr M A had applied to renew this licence and a copy of his application was attached to the report.

A copy of his current DVLA drivers licence was attached to the report.

Members were advised that since his licence was granted the Council had prosecuted Mr M A on 3 July 2007 for plying for hire without the appropriate licence under the provision of the Town Police Clauses Act 1847 and driving without appropriate insurance. Mr M A pleaded guilty to the plying for hire offence and was fined £50. He pleaded not guilty to the insurance offence but was convicted by the Court when he was fined £200 and awarded 6 penalty points on his licence. Mr M A subsequently appealed against this conviction and the matter will be heard in the Teesside Crown Court.

Members were advised that the prosecution followed a 'test purchasing' exercise carried out jointly by Licensing Officers, Trading Standards Officers and Cleveland Police in October last year in the Bridge Road area of Stockton following complaints from the hackney carriage trade about private hire vehicles illegally plying for hire in this area.

Members were reminded that under the provisions of Section 61(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds:-

That he has since the grant of a licence:-

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act; or
- (iii) any other reasonable cause

A copy of the Council's adopted guidelines on the relevance of convictions was attached to the report for Members information.

Mr M A and his legal representative, Mr Wheatley were in attendance at the meeting.

During their deliberation Members noted that Mr M A's appeal against the 'no insurance' issue was to be determined in the Crown Court, however it was further noted that Mr M A's legal representative did not make any application to defer consideration of this matter until after the appeal hearing. It was decided therefore that as at the day of the meeting the conviction stood. The Committee took a dim view that despite being given three points for speeding in 2004 whilst a new driver, Mr M A committed a further offence for which he was disqualified for 28 days in 2005 and obviously had not learnt any lessons as Mr M A had now also been prosecuted by the Council.

Members decided to refuse Mr M A's application for renewal of his hackney carriage and private hire drivers licence on the grounds that he was no longer

considered to be a fit and proper person to hold such licence. Members arrived at this decision after consideration of Mr M A's conviction under the Town Police Clauses Act 1847, for plying for hire without the appropriate licence, which was in itself sufficient grounds to refuse his application under the provisions of Section 61 (1)(a)(ii), and to his motoring convictions on his DVLA licence.

RESOLVED that Mr M A's application for renewal of his hackney carriage and private hire drivers licence be refused on the grounds that Mr M A was no longer considered to be a fit and proper person to hold such licence.

**L
25/07**

Combined Driver - Mr BWB

Consideration was given to a report on a combined Private Hire/Hackney Carriage licensed driver who had accumulated 12 points on his DVLA driving licence and who had not been disqualified because of exceptional hardship.

At the time of this meeting Mr B W B was a licensed combined Private Hire/Hackney Carriage Driver. He was first licensed on 15th September 1987; his current license was due to expire on 29th February 2008.

Mr B W B attended the Licensing Offices in February 2007 and informed an Officer that he had been convicted of going through a red traffic signal on 9th February 2007 and also for speeding on 10th February 2007. He was given six points in total on his DVLA licence for these offences bringing the total points on his DVLA licence to 12. Mr B W B informed officers that he was going to appeal the points for the speeding offence and would inform Officers of the outcome.

On Friday 17th August Mr B W B attended the Licensing Offices and spoke to an Officer. He informed the Officer that he had attended the Magistrates Court and they had upheld the conviction for speeding. The Court did not ban Mr B W B from driving although he had 12 points on his licence for reasons of exceptional hardship. A copy of Mr B W B's DVLA Licence was attached to the report. A copy of a letter from Mr B W B was attached to the report.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he has since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence;
or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

and Section 61(2)

(A) Subject to subsection (2B) of this section, a suspension or revocation of the

licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section

(B) If it appears in the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

A copy of the councils adopted guidelines as to the Relevance of Convictions was attached to the report for Members information.

Mr B W B was in attendance at the meeting and was given the opportunity to state his case.

Members noted that Mr B W B drove a taxi to supplement his main job which was driving for Renault for whom he worked approximately 40 hours per week. Members were of the view that the Magistrates had taken into consideration that if they disqualified Mr B W B from driving he would have lost his main employment as he required his driving licence to work. Members considered the safety of the public which was one of their main considerations. Members noted that if Mr B W B's licence was revoked he still had the ability to obtain other employment and they felt that such a decision would not have such a great impact on his personal circumstances and would not amount to exceptional hardship. Mr B W B would still retain the ability to obtain other driving work which did not involve driving members of the public.

The Licensing Committee noted from Mr B W B's driving licence that he had seven motoring convictions dating from 2000 to date mainly for speeding offences, and by his own admission these were mainly whilst he was driving licensed vehicles. Members felt that these motoring convictions posed a risk to public safety. Members were particularly concerned that Mr B W B had twelve penalty points on his licence.

RESOLVED that Mr B W B's behaviour was not fit and proper for that of a licensed driver and this was sufficient reasonable cause to revoke Mr B W B's licence under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

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26/07 **Application For Private Hire Driver - Mr DG**

Members were informed that Mr D G was not in attendance at the meeting. Members decided to consider the report on Mr D G's application for a Private Hire Drivers Licence in his absence as they considered that he had been given sufficient notice of the meeting and the matter had been deferred on three previous occasions.

Consideration was given to a report on an application for a private hire drivers licence from Mr D G who had relevant convictions.

Mr D G had submitted an application to become a licensed private hirer driver

with the authority. A copy of his application was attached to the report, included in this was a copy of Mr D G's DVLA driver's licence, which showed he had no motoring convictions.

An important part of the vetting process was to undertake a Criminal Record Bureau check. This was done and returned to the applicant with a copy being sent to the Local Authority. The record disclosed that Mr D G had a number of convictions and were detailed in the report. A copy of the disclosure was available at the meeting.

Mr D G was interviewed regarding his convictions and caution on the 12th April 2007 and a copy the transcript was attached to the report.

A copy of the Councils guidance on the Relevance of Convictions was attached at to the report for Members information.

Members were respectfully reminded that under the provisions of section 51(1)(a) of the Local Government (Miscellaneous Provision) Act 1976 District Councils are instructed not to grant a licence to drive private hire vehicles unless they are satisfied that the applicant is a fit and proper person to hold such a licence.

If members were minded to approve the application then they were advised that Mr Gordon would need to pass his Council Knowledge test for Private Hire Drivers.

After consideration of the report as to the history of Convictions and Cautions detailed on Mr D G's CRB Disclosure Members had concerns in relation to the offences involving violence.

RESOLVED that Mr D G's application be refused under the provisions of section 51(1)(a) of the above Local Government (Miscellaneous Provision) Act 1976 as Mr D G was not a fit and proper person to hold a Private Hire Drivers Licence.

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27/07

Combined Driver - Mr PHW

Consideration was given to an application for renewal of a driver licence from a Combined Private Hire/Hackney Carriage driver who had been convicted at Teesside Magistrates Court for tax evasion.

Mr P H W was a licensed combined Private Hire/Hackney Carriage Driver. He was first licensed on 20th October 1988. His current license expired on 31st May 2007. An application for renewal had been received and a copy was attached to the report.

Mr P H W's taxi driving license was suspended with immediate effect on 21st March 2007 after failing to complete the appropriate form to enable a criminal record check to be completed. This was after two written requests. The form was finally completed on 26th March 2007. A copy of Mr P H W's CRB was available at the meeting.

This revealed that Mr P H W was convicted at Teesside Magistrates Court on 29th March 2007 for tax evasion. Mr P H W failed to notify the Licensing Department of this offence.

On receipt of Mr P H W's driver licence renewal form it showed three convictions for speeding offences, each with 3 points on his DVLA licence dated 12/2/04, 22/8/05 and 16/10/05 none of which had been declared to the Licensing Department at the time of the offences and for which warning letters had been sent.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he has since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence;
or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

and Section 61(2)

(A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section

(B) If it appears in the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr P H W was in attendance at the meeting and was given the opportunity to state his case.

Members had full regard to the report presented, a copy of which had been provided to Mr P H W prior to the meeting. This report had been deferred from the meeting on Tuesday 31st July 2007 as Mr P H W failed to attend, when asked for an explanation for this Mr P H W told Members that he had been called into work. Mr P H W did not inform the Council that he was unable to attend.

It concerned Members that on Friday 29th March 2007 Mr P H W appeared at Teesside Magistrate Court and was convicted of Tax Evasion. Mr P H W failed to inform the Council of this conviction within seven days as required under his driver licence conditions. It was of further concern to Members that he had on three separate occasions failed to inform the Licensing Department of motoring

convictions for speeding on 12/2/04, 22/8/05 and on 16/10/05 resulting in 9 points on Mr P H W's DVLA license. Mr P H W had been issued with warning letters for failing to notify these convictions and was advised of the need to notify the Council of convictions.

Members felt all of these issues were of a very serious nature.

RESOLVED that Mr P H W's application for renewal of a Combined Private Hire/Hackney Carriage driver be refused as Mr P H W's behaviour was not fit and proper for a licensed driver and Mr P H W's conviction for dishonesty was an offence specifically covered in the legislation as grounds for refusing a licence under Section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

(Cllr Fletcher declared a prejudicial interest in respect of the above item and withdrew from the meeting and left the room.)