

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 23rd October, 2007.

Present: Cllr William Woodhead (Chairman), Cllr Dick Cains, Cllr Ken Dixon, Cllr Miss Tina Large, Cllr Alan Lewis, Cllr Lee Narroway, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

Officers: S Mills, M Vaines (DNS); P K Bell, J Nertney (LD).

Also in attendance: For item 4 - Private Hire Operator TV - MF, MM and A Ross (Solicitor acting on behalf of TV); For item 5 - Application for Street Trading Consent - J Harding; For item 6 - Application for Street Trading Consent - J Higgins; For item 7 - Street Trading Consent - T Brown.

Apologies: Cllr Mrs Eileen Craggs, Cllr Kevin Faulks and Cllr Paul Kirton, Cllr Colin Leckonby.

L Declarations of Interest

32/07

There were no interests declared.

L Street Trading Consent - Mr JDH

33/07

Consideration was given to a report on an application for the grant of a Street Trading Consent in respect of a hot food trader who wished to trade in Thornaby Town Centre and to which letters of objection and/or concern had been received.

The application had been received from James Harding for the grant of a Street Trading Consent to permit the sale of hot food from a burger van in Thornaby Town Centre. A copy of the application was attached to the report.

The applicant wished to trade between the hours of 4.00 am and 7.00 pm each Monday through to Saturday and had identified two preferred trading locations as either:-

(a) Outside 'Inshops' or

(b) St Peters Square.

A plan showing these locations was attached to the report.

The Environmental Health Manager and Group Leader (Traffic Management) had no objection to the application.

The Town Centre Manager had objected to the application being approved to allow trading on a Thursday, which is a market day for the town centre as she controlled casual traders through the allocation of stalls/stall space.

Members were respectfully reminded that this area was currently undergoing redevelopment and the developer had requested that the application should be refused as he was keen not to create any new rights in this transitional period. A copy of his email was attached to the report.

Ward Councillors and local businesses had been consulted on the application and this had resulted in three letters of objection, one from a Ward Councillor

and two from the owners of local businesses. Copies of these letters were attached to the report.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

Members were advised that there were currently no street trading consents issued at this location.

Mr J H was in attendance at the meeting and was given the opportunity to outline his application.

Members felt that the application should be refused as the area was undergoing redevelopment and they did not want to create any new rights in the transitional period.

RESOLVED that the Street Trading Consent application submitted by Mr J Harding be refused.

**L
34/07**

Street Trading Consent - JLH

Consideration was given to a report on an application for the grant of a seasonal Street Trading Consent in respect of a trader who wished to trade in Stockton High Street and to which letters of objection had been received.

The application had been received from J Higgins for the grant of a Street Trading Consent to permit the sale of seasonal goods i.e. cards, gift wrap, gift bags etc. from a stall in Stockton High Street. A copy of the application was attached to the report.

The applicant wished to trade between the hours of 7.00 am and 5.00 pm each Monday, Tuesday, Thursday and Sunday for a period of one month beginning 26th November 2007 and had identified a preferred trading location as outside MacDonald's in the High Street.

A plan showing this location was attached to the report.

The Group Leader (Traffic Management) had no objections to the application.

The Town Centre Manager had objected to the application and a copy of her email was attached to the report.

Ward Councillors and local businesses had been consulted on the application and one letter of objection had been received from the manager of the Wellington Square Shopping Centre. A copy of this email was attached to the report.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

Members were advised that the applicant had been granted previous consents for trading at this location without complaint and that there was currently one

other street trading consent issued for Stockton high Street in respect of the open-air coffee shop.

J Higgins was in attendance at the meeting and was given the opportunity to outline her application.

Members felt that the application should be granted as the applicant had been granted previous consents for trading in this location without any complaints and the Street Trading Consent would not be detrimental to the High Street.

RESOLVED that the Street Trading Consent application submitted by Mr J Higgins be approved.

**L
35/07**

Street Trading Consent - TB

Consideration was given to a report on an application for the grant of a seasonal Street Trading Consent in respect of a trader who wished to trade in Stockton High Street and to which letters of objection had been received.

The application had been received from T Brown, for the grant of a Street Trading Consent to permit the sale of seasonal goods i.e. cards, gift wrap, gift bags etc. from a stall in Stockton High Street. A copy of the application was attached to the report.

The applicant wished to trade between the hours of 5.30 am and 5.30 pm each Monday, Tuesday, Thursday, for a period of one month beginning 26th November 2007 and had identified preferred trading locations as either between the Halifax and Vodafone shops or outside 131 High Street.

A plan showing these locations was attached to the report.

The Group Leader (Traffic Management) had no objections to the application

The Town Centre Manager had objected to the application and a copy of her email was attached to the report.

Ward Councillors and local businesses had been consulted on the application and one letter of objection had been received from the manager of the Wellington Square Shopping Centre. A copy of the email was attached to the report.

A copy of the adopted guidelines in respect of Street Trading Consents was attached to the report for Members information.

Members were advised that the applicant had been granted previous consents for trading at similar location without complaint and that there was currently one other street trading consent issued for Stockton high Street in respect of the open-air coffee shop.

T Brown was in attendance at the meeting and was given the opportunity to outline her application.

Members felt that a 7.00 am start would be more appropriate and the applicant agreed to amend her application. With regard the location Members agreed that the trading location should be outside 131 High Street.

Members felt that the application should be granted as the applicant had been granted previous consents for trading in a similar location without any complaints and the Street Trading Consent would not be detrimental to the High Street.

RESOLVED that the application for Street Trading Consent submitted by T Brown be approved.

**L
36/07** **Exclusion of 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.

**L
37/07** **Hackney Carriage/Private Hire - O L**

Members were updated with the situation regarding Hackney Carriage/Private Hire Driver Mr O L.

Members noted that Mr O L was not in attendance. Members considered Mr O L's continued fitness to hold a licence to drive Hackney Carriage/Private Hire Vehicles following a Police Caution he received for possession of a Class C drug, namely Cannabis.

Members noted that following Mr O L's last appearance before them on 9th October 2007 Mr O L indicated that he would be willing to submit to a drugs test in order to satisfy the Committee that he was not a drug user. Mr O L indicated that he had a fear of needles so would be reluctant for a blood test to be taken. An appointment was made for Mr O L to attend Birch Tree Medical Practice on Friday 19th October 2007 at 10 a.m. On that morning the Licensing Office received a telephone call from the Doctor indicating that Mr O L was reluctant to provide a hair sample and would only give a urine sample. The Licensing Office indicated that this would not be acceptable and a hair sample was required. The surgery staff then informed the Licensing Office that owing to the amount of gel on Mr O L's hair a sample could not be taken on that day by the Doctor. A further appointment was made for Mr O L to attend on Monday 22nd October 2007 at 11 a.m. A hand delivered letter was taken to Mr O L's home address on Friday 19th October 2007 informing him of this appointment and confirming that he was required to give a hair sample. Mr O L was informed that should he fail to attend the appointment then he would be referred to this Committee on Tuesday 23rd October at 10 a.m. when he would be required to attend. This information was also forwarded to Mr Paul Watson, Mr O L's Solicitor.

Mr O L failed to attend the appointment on Monday 22nd October and did not make any contact with the Licensing Office to explain his failure to attend. On Monday 22nd October 2007 the Licensing Office contacted both Mr O L's landline and his mobile phone but received no response. The Licensing Office

left a message on Mr O L's mobile voice mail asking him to contact the Licensing Office as a matter of urgency. On the morning of Tuesday 23rd October 2007 the Licensing Office again contacted his mobile phone and left a further voice mail message.

The Licensing Office received no contact from Mr O L or his Solicitor in relation to this matter. On Tuesday 23rd October 2007 Mr N K contacted the Licensing Office and advised that Mr O L had left the country and travelled to Pakistan due to family issues.

Mr O L had not given any indication of when he would be returning to the UK and Members were concerned that this matter could not be left in abeyance. Members had regard to the Council's policy on the relevance of convictions which took a firm view of any cautions or convictions for possession of drugs. It was not in dispute that Mr O L had received a formal Police caution for possession of Cannabis. Mr O L's explanation for this was that it was not his Cannabis but that he had taken responsibility for it as it was found on his premises, namely his garage where he indicated he socialised with his friends.

To date Mr O L had not attended for the drug test and the purpose of the Committee been previously mindful to allow Mr O L to attend for that test was that it should be done as matter of urgency as traces of drugs would disappear from a persons system over time.

RESOLVED that:-

1. Due to Mr O L's caution for possession of cannabis and the fact that Mr O L had failed to submit a drugs test Mr O L was not a fit and proper person to hold a Hackney/Private Hire Driver Licence and therefore Mr O L's Hackney/Private Hire Driver Licence be revoked.
2. Should Mr O L choose to reapply in the future then he would need to provide documentary proof of the date he travelled to Pakistan and when he returned. Members would expect to see Mr O L's passport, flight tickets and financial records or receipts showing when and where Mr O L booked his flight tickets.

**L
38/07**

Private Hire Operator - TV

Consideration was given to a report on a private hire operator who despite a formal warning from the Committee had not complied with his existing conditions and legislation.

At the meeting on Tuesday 12th June 2007 Members resolved to renew the private hire operator licence in respect of T V subject to a strict warning as to his future conduct. A copy of this Committee item and a copy of the meeting minute were attached to the report.

Following this meeting a letter confirming this decision was hand delivered to Mr F in the Licensing reception on Tuesday 19th June 2007. At this time Mr F opened the letter and a Licensing Officer gave an explanation of the letter and also what was expected from him as the operator. A copy of the decision letter

was attached to the report.

Mr F did not respond within 14 days as per his decision letter and as result a further verbal advice was given to Mr F in person on the 26th July when he visited the Licensing Office for another matter.

A further letter was written to Mr F on the 31st July 2007 giving him a further 7 days to comply with Licensing Committees decision letter. A copy was attached to the report.

Mr F finally responded to the Committees decision letter on the 21st August 2007. A copy of which was attached to the report.

Further complaints had been received since the Licensing Committee by Cleveland Police regarding the illegal ranking of vehicles in the area of Yarm Lane, a copy of the Memo from a Police Sergeant was attached to the report.

Since the meeting Officers had also carried out test purchasing exercise in and around Yarm Lane area. Officers of the Council had approached private hire vehicles and hackney carriages vehicles from other districts operating in the area this included vehicles operated by T V. They had requested to go to a location and the drivers were accepting the journeys, on route to their destination they were stopped by a Licensing Officer who was in company with a traffic police officer.

As a result of these types of Joint Operations eight summonses had been served on T V drivers over recent months for illegally plying for hire and driving without insurance and further two summonses had been served on Mr F in connection with those offences. These matters had not been concluded in the Magistrates Court.

Also one T V driver had his licence revoked by the Committee on the 4th September after he had been successfully prosecuted for illegally plying for hire during this type of operation. In addition since the last meeting two further offences of illegally plying for hire against T V drivers were being investigated.

Mr F had also had a further three summonses issued for further breaches of legislation as proprietor and operator. These matters had not been concluded in the Magistrates Court.

CCTV evidence showing the problem of vehicles operating in the Bridge Road/Yarm Lane area was shown and included:-

1. Evidence obtained prior to the meeting in June 2007
2. Evidence in support of the Police complaint
3. Evidence obtained after the meeting in June 2007.

T V's last private hire operator licence which would expire on 30th November 2007 authorised them to operate 32 vehicles.

A copy of the private hire operator's standard conditions was attached to the report for Member's information.

Members were reminded that under the provisions of Section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:-

- (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- (b) any conduct on the part of the operator which appears to the council to render him unfit to hold an operator's licence;
- (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted ; or
- (d) any other reasonable cause

Mr M made a comment alleging that the legal adviser may have acted inappropriately in relation to a journey in a TV vehicle. The legal adviser informed the Committee that as Mr M had made a comment in relation to his ethics he felt it inappropriate to remain and would therefore withdraw from the meeting. The meeting could therefore not proceed without a legal adviser and the meeting was therefore adjourned to another date when the same Members would reconsider the matter with a new legal representative.

Mr M was advised he should either substantiate his comment or withdraw his allegation. Mr M and his legal representative were informed that the Committee expected written confirmation of that issue.

RESOLVED that the meeting be adjourned and the item be heard at a future special meeting of this Committee.