

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 8th April, 2008.

Present: Cllr Bill Woodhead (Chairman), Cllr Dick Cains, Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr Paul Kirton, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Kath Nelson, Cllr Roy Rix and Cllr Fred Salt.

Officers: C Barnes, P Edwards, C Snowdon (DNS); P K Bell, M Jones, J Nertney (LD).

Also in attendance: For Item 4 - Application for Renewal of Street Trading Consent - C&G Ltd - D J Wilson (Applicant) and J Wilson (Father of Applicant); For Item 7 - Private Hire Driver - Mr K M - Mr K M; For Item 8 - Private Hire Driver Mr Y M - Mr Y M; For Item 9 - Hackney Carriage and Private Hire Driver - Mr M S - Mr M S.

Apologies: Cllr Mrs Ann McCoy, Cllr Maurice Perry and Cllr Steve Walmsley.

L Declarations of Interest

1/08

There were no interests declared.

L Minutes

2/08

The minutes of the meeting held on 8th April 2008 were signed by the Chairman as a correct record.

L Application for Renewal of Street Trading Consent - C&G Ltd

3/08

Consideration was given to an application for renewal of a street trading consent for a coffee kiosk located in Stockton High Street to which an objection had been received from the Environmental Health Manager.

An application had been received from Casper and Gambini Ltd of 17 Lockton Crescent, Thornaby for the renewal of a street trading consent for a 3 month period to permit the sale of coffee and food 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 wished to continue trading 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. Members were respectfully reminded that the trading location was on the former public toilet site between the Town Hall and the Shambles.

The Chief Planning Officer, Chief Constable, Senior Engineer (Traffic Management) and the Town Centre Manager had no objections to this application.

The Environmental Health Manager objected to the application and a copy of his email was attached to the report.

Ward Councillors and local businesses had also been consulted on the 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.

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

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

Members were also advised that under the provisions of Schedule 4 The Local Government (Miscellaneous Provisions) Act 1982 the council may grant a consent if they think fit and may attach such conditions to it as they consider reasonably necessary.

The applicant (Mr D J Wilson), the applicants father (J Wilson) and the objector (Environmental Health Manager) were in attendance at the meeting and were given the opportunity to state their case.

The Environmental Health Manager stated that he had objected to the renewal of a Street Trading Consent because despite advice, warnings and the issue of fixed penalty notices the establishment had continued to contravene the smoke free legislation.

Members were informed that the premise had recently changed hands and that the new owner was now Mr D J Wilson who was the brother of the previous owner Mr P Wilson. The Environmental Health Manager stated that the new owner Mr D J Wilson was more co-operative than the previous owner and the fixed penalty notices had now been paid.

Members felt that the application should be approved but the applicant should receive a written warning as to his future conduct. Members also felt that the application should be granted for 3 months only and that any future application should be brought back before the Committee.

RESOLVED that:-

1. The application for renewal of street trading consent be approved for 3 months only.
2. The applicant be issued with a written warning as to his future conduct.
3. Any future application be brought back before the Committee.

L
4/08

Application for Street Trading Consent - Mr CAL

Members were informed that the above application had been withdrawn.

L
5/08

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.

**L
6/08**

Private Hire Driver - Mr K M

Consideration was given to a report on a conviction imposed on a licensed private hire driver for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847.

Mr K M was a licensed private hire driver with the authority and had been since 2nd April 2003 and his licence was due to expire at the end of April 2008.

Legal proceedings were instituted against Mr K M following an enforcement operation undertaken by Officers in February 2007 when he agreed to carry under cover officers in his private hire vehicle without being pre-booked.

Mr K M pleaded guilty at Teesside Magistrates Court on 11 March 2008 for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847.

Mr K M was fined £100 for the offence. He was also ordered to pay £50.00 towards costs.

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: -

(a) that he has since the grant of the Licence: -

(i) Been convicted of an offence involving dishonesty, indecency or Violence; or

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

(b) Any other reasonable cause.

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) 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 the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that 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 adopted guidelines relating to the Relevance of convictions was attached to the report.

Mr K M was in attendance at the meeting and was given the opportunity to state his case.

Mr K M stated that he had been told by his operator (TV Cars) that it was acceptable for him to pick his passengers up outside the Swallow Hotel and that he had been wrongly advised of the system. Mr K M apologised for the offence and stated that he had not re-offended since his offence.

Members felt that many of the drivers at TV Cars had been put under pressure to pick up fares outside the Swallow Hotel and that the proprietor of TV Cars had told them he had permission to use the area outside the Swallow Hotel to pick up fares.

Members felt that because of the above circumstances on this occasion Mr K M be issued with a final written warning as to his future conduct.

RESOLVED that Mr K M be issued with a final written warning as to his future conduct.

**L
7/08**

Private Hire Driver - Mr Y M

Consideration was given to a report on a licensed private hire driver for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847.

Mr Y M was a licensed private hire driver with the authority and had been since 8 August 2002 and his licence was due to expire at the end of August 2008.

Legal proceedings were instituted against Mr Y M following an enforcement operation undertaken by Officers in February 2007 when he agreed to carry under cover officers in his private hire vehicle without being pre-booked.

Mr Y M pleaded guilty at Teesside Magistrates Court on 11 March 2008 for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847.

Mr Y M was fined £200 for the offence. He was also ordered to pay £50.00 towards costs.

Member 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: -

(a) that he has since the grant of the Licence: -

(i) Been convicted of an offence involving dishonesty, indecency or Violence; or

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

(b) Any other reasonable cause.

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) 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 the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that 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 adopted guidelines relating to the Relevance of convictions was attached to the report.

Mr Y M was in attendance at the meeting and was given the opportunity to state his case.

Mr Y M stated that he had been told by his operator (TV Cars) that it was acceptable for him to pick his passengers up outside the Swallow Hotel and that he had been wrongly advised of the system. Mr Y M apologised for the offence and stated that he had not re-offended since his offence.

Members felt that many of the drivers at TV Cars had been put under pressure to pick up fares outside the Swallow Hotel and that the proprietor of TV Cars had told them he had permission to use the area outside the Swallow Hotel to pick up fares.

Members felt that because of the above circumstances on this occasion Mr Y M be issued with a final written warning as to his future conduct.

RESOLVED that Mr Y M be issued with a final written warning as to his future conduct.

**L
8/08**

Hackney Carriage and Private Hire Driver 231 - Mr M S

Consideration was given to a report on an application which was deferred at the last meeting of the Committee for renewal of a combined hackney carriage and private hire drivers licence from a driver who was suspended for failing to complete his application for his three yearly criminal record check with the Criminal Record Bureau (CRB).

At the last meeting held on Tuesday, 26 February 2008 Members deferred consideration of an application from Mr M S for renewal of his combined hackney carriage and private hire drivers licence pending the results of his CRB disclosure.

Members were advised that Mr M S's driver's licences had been suspended with immediate effect, by the Trading Standards and Licensing Manager for

failing to complete his CRB application despite two reminder letters.

Mr M S had submitted his CRB application prior to the last meeting so Members agreed that he remain suspended and that his renewal application be brought back before the Committee following receipt of his CRB disclosure. A copy of Mr M S's renewal application was attached to the report.

Members were advised that this had been received and revealed no convictions.

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 any of the following grounds:-

(a) that he has since the grant of the 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

(b) any other reasonable cause

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:

(2A) 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 the notice is given to the driver under subsection (2)(a) of this section

(2B) If it appears that 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 M S was in attendance at the meeting and was given the opportunity to state his case.

Mr M S stated that he had not completed his application for a CRB check because he had recently completed one for Middlesbrough Council and thought the same one could be used by this authority. It had been made clear to Mr M S that he also needed to complete an application for a CRB check with Stockton Borough Council and he had now completed the application.

RESOLVED that Mr M S's application for a renewal of a combined Hackney Carriage and Private Hire Drivers Licence be approved.

