

## Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 4th November, 2008.

**Present:** Cllr Bill Woodhead(Chairman), Cllr Dick Cains, Cllr Ken Dixon, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Maurice Perry, Cllr Roy Rix, Cllr Fred Salt, Cllr Steve Walmsley,

**Officers:** M. Vaines, P. Edwards (DNS), J. Nertney, M. Jones (LD)

**Also in attendance:** G. Reeves for item 5, Mr AM, Mr PC, Ms JG, Ms LL, Mrs KG for item 7, Mr MAS, Mr JS for item 8

**Apologies:** Cllr Kath Nelson, Cllr Eileen Craggs, Cllr Paul Kirton

### **L       Declarations of Interest**

**58/08**

There were no declarations of interest.

### **L       Minutes**

**59/08**

RESOLVED that the minutes of the meetings held on Tuesday 12th August 2008 and Tuesday 23rd September 2008 were signed by the Chairman as a correct record.

### **L       Exclusion of the Public**

**60/08**

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       Application For Street Trading Consents - Mr JM**

**61/08**

Consideration was given to a report regarding an application for the grant of two Street Trading Consents in respect of a trader who wished to sell ice cream in Stockton High Street for one day during the Riverside Festival and to which objections had been received.

Applications had been received from Mr JM for the grant of two Street Trading Consents to permit the sale of ice cream from purpose built vehicles in Stockton High Street.

The applicant wished to trade between the hours of 10.00 am and 12.00 pm on Sunday 2 August 2009, and had identified preferred trading locations as follows:

Van 1. – either (i) outside 133 High Street, Stockton-on-Tees; or  
(ii) outside 137/138 High Street, Stockton-on-Tees

Van 2. – either (i) outside 123 High Street, Stockton-on-Tees; or  
(ii) outside 115 High Street, Stockton-on-Tees

The Town Centre Manager, the Group Leader (Traffic Management), the Environmental Health Manager and Trading Standards and Licensing Manager

had no objections to these applications. However, the Head of Arts and Culture and the Events Manager had objected to the applications and a copy of their emails were available to members.

Ward Councillors and local businesses had been consulted on the application and no objections had been received. The adopted guidelines in respect of Street Trading Consents were noted for Members information.

Mr JM had been invited to attend the meeting, but was not in attendance. Members believed that Mr JM had been given sufficient notice of the hearing and therefore decided to proceed.

The Events Manager was in attendance and was given an opportunity to state his objections. He objected on the grounds that the site plan had not been agreed for SIRF, and would not be agreed for some time. He also indicated that it was intended to invite tenders for the appropriate food pitches at the festival in May 2009.

Members discussed the report and the Events Managers representation and considered that the Application for Street Trading Consents had been submitted too early.

RESOLVED that:

1. Mr JM's Application For Street Trading Consent be deferred to allow for him to have further discussions with the Events Manager regarding SIRF 2009 and the tendering process.
2. Mr JM be advised to resubmit his application in May/June following these discussions.

**L  
62/08**

#### **Private Hire Driver Licence Renewal - Mr TH**

It was noted that Mr TH had been invited to attend the meeting, but was unable to attend. Members decided to consider the report in Mr TH absence.

Consideration was given to an application to renew a private hire drivers licence of a driver who was convicted for possessing criminal property and sentenced to 10 months imprisonment and subject to a confiscation order in the sum of £14,080.

Mr TH was a licensed private hire driver and had been since January 2006. His licence expired 31st January 2008, and he submitted a renewal application.

Mr TH informed licensing officers in January 2007 that he had been charged and bailed by police for serious offences and that he would keep the licensing department informed of the proceedings. Mr TH failed to do so and it was brought to the licensing department's attention that Mr TH had been charged by police and was to appear at Teesside Crown Court at a further date. Determination of Mr TH's renewal application was deferred pending further information about the criminal proceedings.

Notice had now been received from the police that, at a hearing at Teesside Crown Court on 12th May 2008, Mr TH pleaded guilty to charges of proceeds of

crime, possessing criminal property and money laundering. The case was heard on the 12th June 2008 and Mr TH was sentenced to 10 months imprisonment.

Members were reminded that under the provisions of section 61(1)(a)(i) of the Local Government Miscellaneous Provisions Act 1976 which instructs that a district council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle if he has, since the grant of the licence, been convicted of an offence involving dishonesty, indecency or violence.

After consideration of the report Members expressed serious concerns in relation to the offences involving possession of criminal property and as a result they decided they did not regard Mr TH as being a fit and proper person to hold a Private Hire Drivers Licence and his renewal application was therefore refused by them under the provisions of Section 61(1)(a)(i) of the Local Government Miscellaneous Provisions Act 1976.

RESOLVED that the application be refused as Mr TH was not considered to be a fit and proper person to hold a private hire drivers licence.

**L  
63/08**

### **Combined Driver - Mr AM**

Consideration was given to a report regarding a complaint reported by a young female member of the public regarding the conduct of a Licensed Hackney Carriage and Private Hire Driver who was reported to have exposed himself to her.

Mr AM was a licensed hackney carriage and private hire driver and his licence expired on 31 August 2008. Mr AM submitted his renewal application on 29th August 2008.

The incident was reported to the police who originally arrested Mr AM for Exposure but had subsequently determined to take no further action. A complaint was received by the complainant's mother to the licensing office with regard to Mr AM asking inappropriate questions and exposing himself to a young female passenger. Full details of the incident were included in the report to the Committee. The driver was suspended, with immediate effect, using delegated powers pending the outcome of the police investigations.

During an ID parade the complainant picked out Mr AM. However, Mr AM alleged he had previously dropped a fare near the complainant's home address and that she saw him then and this was why she picked him out of the parade. Mr AM believed this was a set up from SC, his previous employers, since he thought it was suspicious to send him to that address while he was not in the immediate area for a small fare.

The Crown Prosecution Service decided to take 'no further action' as the complainant was unable to identify the driver when he was in her street on 5th June. The complainant advised that she was unable to get a clear sighting of the driver at that time and that she was certain that the driver she picked out of the ID parade was the driver who exposed himself to her and she stood by her complaint.

Mr AM had agreed to release the record of his interview with the police to the Council and a copy was made available for members.

Investigations in to the allegation that Mr AM felt he was 'set up' by SC had been carried out and a statement from the telephone operator working that day advised that the computer automatically chose the closest available vehicle to the job and at that time it was Mr AM's vehicle as he had just completed a job in Station Road, Norton. A statement from the Licensed Private Hire Operator for SC confirmed the same and advised that he had had cause to speak to Mr AM with regard to complaints made against him in relation to fares.

Mr AM was interviewed on 27 October 2008.

Members were advised that Council records showed that in March 2006, Mr AM was given a written warning by Officers, with regard to his conduct and advances towards a female passenger. The complainant at the time advised that once her friends had left the vehicle, and she was a lone passenger, he asked her to sit in the front of the car and then allegedly behaved inappropriately towards her. This matter was not pursued any further at the express wishes of the complainant at that time.

Members were further advised that in January 2006 Mr AM was issued 6 licensing penalty points for not complying with conditions by ensuring he had a fire extinguisher and first aid kit in the vehicle. In March 2006 Mr AM was given licensing penalty points for being abusive towards a parking attendant who had issued a ticket for illegally parking in Dovecot Street. In April 2006 Mr AM was issued another three licensing penalty points for not checking the vehicle for lost property and not assisting a disabled passenger.

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 the provisions of the Act of 1847 or of this part of this Act; or

(b) any other reasonable cause.

Mr AM, his legal representative, the complainant and a witness were in attendance at the meeting. The complainant and witness were taken through their statements and confirmed what had happened, and Mr AM was given an opportunity to present his case.

The Committee noted that Mr AM denied he was the driver who had allegedly made inappropriate comments and exposed himself to the complainant. The Committee also noted that Mr AM was of the opinion that his previous employer had engaged in some sort of conspiracy with the complainant and had deliberately arranged for him to attend a booking which was dropping off in the

same road where the complainant lived. The Committee did not accept that there was a conspiracy against Mr AM by his ex employer. It was noted that witness statements had been presented to the Committee from the Operator of SC and a radio Operator at SC. Their evidence was that Mr AM had been dispatched to the booking as he was the nearest vehicle in the locality and had been selected automatically by the computer booking system.

The Committee noted that there was an issue over the reliability of the ID evidence given that the complainant and Mr AM had allegedly had a conversation on 5th June 2008. Mr AM was of the opinion that this was the reason why the complainant picked him in the ID parade.

The Committee further noted that Mr AM had received a previous complaint for inappropriate behaviour toward a female passenger in 2006. Mr Barnes, Licensing Officer, had investigated a complaint and had formally interviewed Mr AM in relation to that on 16th January 2006. It was noted that at that time the complainant was reluctant to take the complaint further but that Mr Barnes had felt it appropriate to send him a warning letter advising that such behaviour was inappropriate and that he should be extremely careful in the future.

The previous complaint bore striking similarities to the complaint that had been received from the complainant and was before the Committee. It was noted that Mr AM had failed to respond to the warning letter even though he was invited to respond if he wished and his comments would be placed on record.

The Committee noted that Mr AM could not account for his whereabouts on the date and time of the incident and had no alibi. Mr AM accepted that if he had no booked jobs he would work from the rank on Stockton High Street where the complainant had been picked up.

The Committee was advised that they had to decide on the balance of probabilities whether Mr AM was responsible for the behaviour alleged i.e. he was the driver of the vehicle when the driver was alleged to have made inappropriate comments and exposed himself to the complainant.

The Committee found that Mr AM was the driver of the vehicle and was responsible for the behaviour as alleged by the complainant.

The Committee resolved that such behaviour was totally unacceptable for a licensed driver and rendered Mr AM unfit to hold a drivers licence. The Committee therefore resolved to revoke his drivers licence under Section 61 "any other reasonable cause".

RESOLVED that:-

1. Mr AM's Private Hire Drivers Licence be revoked as Mr AM is not a fit and proper person to hold such a Licence.
2. As the revocation was on the grounds of public safety the revocation take immediate effect under the provisions of Section 61(2)(B) of the Local Government Miscellaneous Provisions Act 1976.

## **L Combined Driver Application - Mr MAS**

Consideration was given to a report regarding an application for a combined hackney carriage / private hire driver's licence from an applicant who had been accused of kidnap and sexual touching but was subsequently found not guilty at a hearing in the Crown Court.

Mr MAS was a licensed hackney carriage / private hire driver with this Authority. He was first licensed on 17th October 2002 and his previous licence expired on 31st October 2007. He had applied for the grant of a new licence.

On 20th September 2007, Stockton Police contacted the Licensing Department when they informed Officers that Mr MAS had been arrested and charged that day, with kidnap and three counts of sexual touching, on a female passenger in his taxi.

Upon receipt of this information and because of the serious nature of the charges Mr MAS's Combined Drivers Licence was immediately suspended by Officers using delegated powers under Section 61(1)(2B) of the Local Government (Miscellaneous Provisions) Act 1976 (As Amended). Pending the outcome of the police investigation. However, Mr MAS did not apply to renew his licence at its expiry on 31-10-07.

Following Mr MAS's application for the grant of a new licence, further enquiries had been made. Mr MAS agreed to allow release of his record of interview with the police and a copy was available to members.

Officers had been advised that Mr MAS attended Teesside Crown Court on 12th May 2008, when he was found not guilty on all charges.

At the request of Licensing Officers Cleveland Police contacted the complainant and her witnesses, who were also involved in this matter, to seek their permission to release details of their statements to the Council, to allow Officers to make their own enquiries. However, letters were received from the complainant, her friend who she had been out with that night and a male friend who had been contacted when the alleged kidnap was taking place. All parties had refused to be involved any further.

Mr MAS was interviewed by Officers on 13th October 2008 when he advised that he was innocent and that he had been very upset by this whole incident.

Mr MAS and his legal representative were in attendance and were given the opportunity to state their case. They noted that Mr MAS had been found not guilty of the offence and his Criminal Record Bureau check had been returned clear of convictions or comments. Mr MAS stated that he had learnt a lesson on how to deal with lone female passengers.

The Committee had full regard to the report presented and to the comments made by Mr MAS and his legal advisor.

The Committee Members decided, as no evidence was presented in relation to the complaint, to put their trust in Mr MAS and to grant him a Combined Hackney Carriage and Private Hire Drivers Licence. However, the Committee stated that Mr MAS would receive a letter of advice to ensure that he had learnt

from the experience he had been through with regard to the complaint.

RESOLVED that:-

1. Mr MAS's application for a Combined Driver Licence be granted.
2. A copy of the letter of advice to remain on file and be referred to should any future complaint or disciplinary matter come to the attention of the Licensing Unit.