

Democratic Services

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Date: 27 May 2011

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**To: All Members of the Licensing (Taxis, Street Trading and Miscellaneous)
Sub-Committee**

Councillor Sarah Bevan
Vacancy
Vacancy

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee: Tuesday, 7th June, 2011

You are invited to attend a meeting of the **Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee**, to be held on **Tuesday, 7th June, 2011 at 10.00 am** in the **Kaposvar Room - Guildhall, Bath.**

Briefing

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.15am.

The agenda is set out overleaf.

Yours sincerely

Enfys Hughes
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Enfys Hughes who is available by telephoning Bath 01225 394410 or by calling at the Riverside Offices Keynsham (during normal office hours).
2. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Enfys Hughes as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

3. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
4. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
5. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Licensing (Taxis, Street Trading and Miscellaneous) Sub-Committee - Tuesday, 7th June, 2011

at 10.00 am in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair(person) will refer to the emergency evacuation procedure as set out under Note 5 for each case.

2. APOLOGIES FOR ABSENCE

To inform the meeting of any apologies and substitutions for the meeting.

3. DECLARATIONS OF INTEREST

Members who have an interest to declare are asked to:

- a) State the item number in which they have the interest.
- b) State the nature of the interest.
- c) State whether the interest is personal, or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

5. MINUTES - TUESDAY 3RD MAY 2011 (Pages 5 - 8)

To be confirmed as a correct record and signed by the Chair(person).

6. LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS (Pages 9 - 10)

The Chair will outline the procedure for this part of the meeting.

7. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended”.

8. APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR DB (Pages 11 - 18)

The Sub-Committee will consider the determination of an application for a hackney

carriage/private hire driver's licence.

The Committee Administrator for this meeting is Enfys Hughes who can be contacted on 01225 394410.

BATH AND NORTH EAST SOMERSET

LICENSING (TAXIS, STREET TRADING AND MISCELLANEOUS) SUB-COMMITTEE

Tuesday, 3rd May, 2011

Present:- Councillors Tim Ball (Chair), Malcolm Lees and Carol Paradise

Also in attendance: Alan Bartlett (Principal Licensing Officer), John Dowding, Enfys Hughes and Shaine Lewis (Senior Legal Adviser)

98 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the emergency evacuation procedure as set out on the Agenda.

99 APOLOGIES FOR ABSENCE

There were none.

100 DECLARATIONS OF INTEREST

There were none.

101 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

In light of the forthcoming council elections, the Chair thanked the other Councillors and Officers for their time spent on this Sub-Committee.

102 MINUTES - TUESDAY 5TH APRIL 2011

RESOLVED that the minutes of the meeting on Tuesday 5th April 2011 be confirmed as a correct record and signed by the Chair(person).

103 LICENSING PROCEDURE - APPLICATIONS FOR LICENSES, PERMITS AND CONSENTS

RESOLVED that the procedure for this part of the meeting be noted.

104 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT GASCOYNE PLACE, 1 GASCOYNE PLACE, SAW CLOSE, BATH

The Sub-Committee considered the report which sought permission to provide facilities on the highway in respect of Gascoyne Place, 1 Gascoyne Place, Saw Close, Bath.

Mr Wayne Taylor was present, the applicant's business partner. He confirmed he had seen and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that the number of tables applied for had been reduced since last year to 15 but the number of days increased from Sundays only, to Saturdays, Sundays and Bank Holidays. The applicant had agreed to the condition that the permit would only take effect when an official Road Closure Order was in place.

Mr Taylor put his case and was questioned.

Following an adjournment it was

RESOLVED that permission be granted, as amended, to provide facilities on the highway in respect of Gascoyne Place, 1 Gascoyne Place, Saw Close, Bath, for 15 tables with appropriate seating, on Sundays and Bank Holidays 11.30am – 9.00pm, subject to the standard terms and conditions and the following special condition:

That tables and chairs should not be placed on the highway unless there was in place a Temporary Road Traffic Regulation Order which closed the area on which the objects were placed.

Reasons for decision

Members have determined an application for permission to place tables and chairs on the highway at Gascoyne Place. Members took into account the Local Government (Miscellaneous Provisions) Act 1982, Part VIIA Highways Act 1980 and the Human Rights Act 1998.

Members considered the application, the written objections, listened carefully to the oral representations and balanced the interests of the applicant, objectors and the general public.

Members granted the application as amended for each Sunday and Bank Holiday from 11:30 – 21:00 hrs. Members refused the application for Saturday because they believed Saturdays to be a very busy day with a heavy pedestrian footfall and the use of that area for tables, chairs and the provision of hot food and beverages could pose a health and safety risk to those in the area. The permission was therefore issued as amended with the attachment of the standard conditions and the following additional condition:- tables and chairs should not be placed on the highway unless there was in place a Temporary Road Traffic Regulation Order which closed the area on which the objects were placed.

105 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVER'S HEARING

RESOLVED that the procedure for this part of the meeting be noted.

106 APPROVAL OF VEHICLE FOR PRIVATE HIRE – MR WALDEMAR WYRWOL

The Sub-Committee considered the report which sought approval of a Peugeot 407 vehicle for use as a Private Hire Vehicle, which fell outside the age requirements as stipulated in the current Private Hire Vehicle Licence Conditions.

The applicant Mr Wyrwol was present. He confirmed he had received and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that the vehicle fell outside of the age requirements, as stipulated in the current Private Hire Vehicle Conditions. He added that Officers could exercise some discretion when the vehicle was between two and five years old. This vehicle was just over five years old, therefore the application was presented to the Sub-Committee for determination.

Members adjourned the meeting to inspect the vehicle, then the meeting continued.

Mr Wyrwol put his case and was questioned.

Following an adjournment it was

RESOLVED that the Peugeot 407 not be approved for use as a Private Hire Vehicle.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations and took account of the inspection by a Licensing Officer and their own inspection of the vehicle that morning. The vehicle fell outside the Council's policy and although Members found the vehicle was suitable in type, size and design, they found it was not suitably comfortable or of good external appearance. This was because there was damage to the front bumper of the vehicle which had not been professionally repaired and it was covered in dents and scratches some of which had appeared subsequent to the Licensing Officer's inspection which were detrimental to the appearance of the vehicle. Members were also concerned about the vehicle's high mileage.

Members therefore applied the Policy and refused the application.

107 EXCLUSION OF THE PUBLIC

RESOLVED "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

108 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR R N

The Sub-Committee considered the report which sought determination of an application by Mr RN for the grant of a Combined Hackney Carriage/Private Hire Driver's Licence.

The applicant Mr RN was present. He confirmed he had received and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a Criminal Records Bureau check was undertaken which had revealed some previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr RN. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr RN put his case and was questioned and then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr RN be granted subject to the standard terms and conditions.

Reasons for the decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations, took account of his references, Criminal Records Bureau check, his statement and noted his last offence was in 1988.

Members found Mr RN presented himself very well. Although he had been convicted of a number of serious matters of which they took a dim view, the convictions took place a long time ago and fell well outside the council's policy. In the circumstances Members believe that Mr RN had moved on with his life, as his references testified and therefore found him a fit and proper person to hold a combined Hackney Carriage/Private Hire vehicle driver's licence.

The meeting ended at 11.30 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Agenda Item 6

Licensing (Taxis, Street Trading & Miscellaneous) Sub Committee Hackney Carriage (taxi) and Private Hire Drivers Hearing Procedure

1. The Chair will introduce Members of the Sub-Committee, introduce the Officers present, explain the procedure to be followed and ensure those present understand that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Sub-Committee.
3. The Applicant is asked to leave the room while the Sub-Committee consider the CRB check, references and statement.
4. The Applicant (or his/her representative) addresses the Sub-Committee.
5. The Applicant may be asked questions about the matter by the Sub-Committee.
6. The Applicant (or his/her representative) may call witnesses in support of their case and each witness may also be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to make any comments. If the Officers makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. The Sub-Committee withdraw to private session to consider their decision. The Sub-Committee may reconvene to resolve any points of uncertainty on matters already raised. The Sub-Committee will be accompanied for advice only by the Legal Adviser and Democratic Services Officer.
10. The Sub-Committee will return to the meeting room and the Chair will announce the Sub-Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.
11. Where the Sub-Committee attach conditions to the licence the Sub-Committee will detail those conditions.

PLEASE NOTE:

- Where the Sub-Committee considers it necessary the procedure may be varied.
- In circumstances where any party fails to attend the Sub-Committee will consider whether to proceed in that party's absence or defer to the next meeting on notice to all parties that the matter may proceed in a parties absence on the next occasion. In deciding whether to proceed all notices and representations will be considered.
- Only in **exceptional circumstances** will the Sub-Committee take into account any additional late documentary or other information produced by an existing

party in support of their application/representation. This will be at the discretion of the Chair and with the agreement of all the other parties. No new representations will be allowed at the hearing.

- The Sub-Committee will disregard any information or representation given by a party they consider not to be relevant to an Application.
- The hearing will take the form of a discussion and the Sub-Committee will allow all parties to ask questions of other parties present. However, formal cross examination will be discouraged although supplementary questions may be asked for clarification purposes.
- If any person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing in order that reasonable adjustments can be made.
- Parties will be allowed an equal maximum period of time to make representations. Although time limits will be at the discretion of the Chair, in the interests of costs and efficiency, this will not normally exceed **twenty minutes** and will include both case presentation and summing up. The time limit will not include the time taken for questions.

N.B.

1. Where there is more than one party making relevant representations the time allocated will be split between those parties and it is therefore recommended parties arrive early to discuss the application with other interested parties.
 2. Where several parties make the same or similar representations one representative should be appointed to make the representations.
 3. Where an objection is made by an association or local residents group, a duly authorised person – as notified to the Licensing authority – may speak on behalf of that association or local residents group.
- The Chair may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and refuse to allow that person to return, or only allow them to return subject to certain conditions. Any person so excluded will however be entitled to submit to the Sub-Committee any information which they would have been entitled to give orally had they not been required to leave.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion, but on occasion may find it necessary to exclude members of the press and public based upon the legal framework given in the Local Government Act 1972 Schedule 12 (a). On these occasions decisions based on the above framework will be given.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 8

Document is Restricted

