

BATH AND NORTH EAST SOMERSET

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

Thursday, 7th June, 2012

Present:- Councillors Sarah Bevan (Chair), Tim Warren and Chris Watt

1 EMERGENCY EVACUATION PROCEDURE

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

2 APOLOGIES FOR ABSENCE

Councillor Gabriel Batt sent his apologies, Councillor Chris Watt was his substitute. Councillor Bryan Chalker sent his apologies, Councillor Tim Warren was his substitute.

3 DECLARATIONS OF INTEREST

There were none.

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

There was none.

5 MINUTES - 1ST MAY 2012

RESOLVED that the minutes of the meeting of Tuesday 1st May 2012 be confirmed as a correct record subject to the following addition:

Item 50 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT SEARCY'S RESTAURANT, PUMP ROOMS, ABBEY CHURCHYARD, BATH – that the Sub-Committee had recommended that planning permission be sought for the barrier.

6 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS

RESOLVED that the procedure for the meeting be noted.

7 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.”

8 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR C J C

The Sub-Committee considered the report which sought determination of an application by Mr CJC for the grant of a combined hackney carriage/private hire driver's licence.

Members noted that the application had been deferred at the last meeting of the Sub-Committee on 1st May 2012 when the applicant was unable to attend due to work commitments. Members therefore decided to defer the application to the next meeting of the Licensing Sub Committee on 7th June on notice that, if he was absent on the next occasion, the application might be determined in his absence.

The applicant Mr CJC was not present and had not provided any reasons for his absence. Members resolved to determine the application in his absence as it had been deferred from the previous meeting and it had been made clear that, if the applicant did not attend this meeting, the application might be determined in his absence. The Sub-Committee also noted that the applicant had not asked for a further deferral.

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 previous convictions. He circulated the Criminal Records Bureau check and personal statement in respect of Mr CJC. The officer withdrew from the meeting while Members took some time to consider these documents.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr CJC.be refused.

Reasons for decision

Members took into account the Human Rights Act 1998 and the Local Government (Miscellaneous Provisions) Act 1976.

Members noted that Mr CJC appeared before the Licensing Sub-Committee on 3 June 2008 as he has previous convictions. Members resolved, on that occasion, to grant his combined Hackney Carriage and Private Hire Drivers' Licence as they considered that he was a fit and proper person to hold such a licence. Mr CJC was licenced between 18 June 2008 and 28 February 2011 when he did not renew his licence.

Members have now had to consider his application as a new driver together with a caution obtained in 2009, for possession of a controlled drug, namely cocaine, which he did not declare during the currency of his previous licence, as required by the Standard Conditions attached to that licence.

In doing so Members have to consider whether Mr CJC is a fit and proper person to hold such a licence and have therefore had regard to his history as a previous Licence holder, his Criminal Records' check and statement.

Members were not satisfied that he had taken full responsibility for the caution as he was bound to have suspected who the drugs belonged to as they appeared to have been left in his car by a regular customer. Secondly that he admitted that the drugs had been left in full view on the dashboard of the car when he could have been carrying other fares.

Members considered that he ought to have at least put them away and taken them direct to the Police Station. Furthermore, he also had the opportunity to give the drugs to the Police when he was stopped for having a defective headlight.

Members considered that he had acted dishonestly and had also not declared that he had obtained a caution during the currency of his previous licence and had therefore acted dishonestly in this regard as well. .

Members asked themselves if they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant. The answer to this was no and therefore they refused to grant the application as they considered that he was not a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

9 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR MKK

The Sub-Committee considered the report which sought determination of an application by Mr MKK for the grant of a combined hackney carriage/private hire driver's licence.

The applicant Mr MKK was present. He confirmed he had read 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 previous convictions. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr MKK. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

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

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 Mr MKK's representations, took into account a Criminal Record check, his statement and references.

Whilst noting the circumstances of his convictions, which concerned criminal damage, theft, motoring offences, disqualification from driving and violence, they noted that they all fell outside of their Policy.

However, Members were not convinced by the circumstances under which he failed to provide a specimen of breath which led to his disqualification from driving in 2007 and that, clearly, the Court had not been convinced by his arguments. Members stated to Mr MKK that he should decide whether to continue to give these reasons for mitigation if required to do so in the future.

Nevertheless, Members considered that he genuinely wished to return to work and was aware of his past mistakes, most of which occurred when he was young. Mr MKK had also offered mitigating circumstances to explain the two more recent convictions.

They also took into account that he had an unblemished record when previously licenced as a Hackney Carriage and Private Hire Driver. Members considered that they would be happy if their family, friends or loved were to travel in a vehicle driven by the applicant and therefore find him a fit and proper person to hold a Hackney Carriage and Private Hire Drivers' Licence.

The meeting ended at 12.15 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services