

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Tuesday, 17th November, 2015, 10.00 am

**Councillors:** Paul Myers (Chair), Mark Shelford and Caroline Roberts

**Officers in attendance:** Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

#### **71 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **72 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **73 DECLARATIONS OF INTEREST**

There were none.

#### **74 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

#### **75 MINUTES: 6TH AND 14TH OCTOBER 2015**

The minutes of the 6<sup>th</sup> and 14<sup>th</sup> October 2015 were confirmed as a correct record and signed by the Chair of those meetings (Cllr Mark Shelford).

#### **76 LICENSING PROCEDURE**

The Chair drew attention to the procedure to be followed for Agenda Items 8 and 9.

#### **77 EXCLUSION OF THE PUBLIC**

**RESOLVED** that, the Committee 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 shall be excluded from the remainder of meeting 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.

#### **78 APPLICATON FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR A G D**

The Applicant confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer summarised the report. A DBS check had revealed that Mr AGD had received a formal police caution within the previous three years contrary to paragraph 5(d) of the Council's Policy on Convictions, Cautions and Fixed Penalty Notices. He provided Members with copies of a DBS certificate in respect of Mr AGD, a statement from him and three references given on his behalf. The hearing was adjourned to allow Members time to study these documents.

After the adjournment the Applicant stated his case and was questioned by Members. He also made a closing statement.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr AGD was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

### Reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

With regard to the offence Mr AGD said he made a mistake after which he called the police and wanted to be dealt with. He stated that it was a one off incident, that he does not have a problem with anger and that he hoped it would not happen again.

In making their determination Members took account of the applicant's oral representations, his statement, references and balanced these against the information provided by the Disclosure and Barring Service.

Members noted that the Council's Policy stated where an applicant has a conviction for an offence such as an assault they are expected to have remained free from conviction for a period of 3 years. Members were, however, mindful that each case should be decided on its own merits and that they may depart from the policy where there are reasons for doing so. In this case the formal police caution was received in 2014. Whilst this falls squarely within the policy Members felt it was a one off incident and was very unlikely to occur again. Members therefore found Mr M a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence and grant the application.

## **79 CONSIDERATION OF CONVICTION OBTAINED - MR Z M**

The Applicant stated that he had not received the procedure to be followed for the hearing or a copy of the agenda report. He had emailed the Senior Public Protection on 7<sup>th</sup> November enquiring about the time and location of the hearing and had received an automatic out-of-office response. He had only received a response on 16<sup>th</sup> November, to which he had replied stating that he had not received the procedure or the report. Now that he had received the procedure and report, he requested that the hearing be deferred to allow him the opportunity to read the report, familiarise himself with the procedure to be followed and perhaps take advice from his union, the GMB, whom he had already contacted.

Following an adjournment the Sub-Committee **RESOLVED** to defer the hearing to 1<sup>st</sup> December 2015 when Mr M should attend and present his case.

Reasons

Members considered the applicant's request to defer the meeting for him to consider the hearing procedure which he had received yesterday. In all the circumstances and in the interests of openness, transparency and fairness Members resolved to defer the meeting until 1 December 2015 where the licensee should present his case.

The meeting ended at 11.45 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**