
Bath & North East Somerset Council

Democratic Services

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Date: 28 December 2015

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To: All Members of the Licensing Sub-Committee

Councillors:- Paul Myers, Mark Shelford and Caroline Roberts

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Sub-Committee: Tuesday, 5th January, 2016

You are invited to attend a meeting of the **Licensing Sub-Committee**, to be held on **Tuesday, 5th January, 2016 at 10.00 am** in the **Brunswick Room - Guildhall, Bath.**

Briefing

Members of the Sub-Committee are reminded that the meeting will be preceded by a briefing at 9.30am.

The agenda is set out overleaf.

Yours sincerely

Sean O'Neill
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 Sean O'Neill who is available by telephoning Bath democratic_services@bathnes.gov.uk or by calling at the Guildhall Bath (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 Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Reception: Civic Centre - 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. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

The Council will broadcast the images and sound live via the internet www.bathnes.gov.uk/webcast An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. 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.

Protocol for Decision-making

Guidance for Members when making decisions

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

Licensing Sub-Committee - Tuesday, 5th January, 2016

at 10.00 am in the Brunswick Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 5 on the previous page.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

3. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

4. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

5. MINUTES OF THE 15TH DECEMBER 2015 (Pages 7 - 12)

6. TAXI PROCEDURE (Pages 13 - 16)

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 and the reporting of the meeting be prevented under

Section 100A(5A) 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. CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE AND COMPLAINTS RECEIVED AND ENFORCEMENT ACTION TAKEN - MR DM (Pages 17 - 120)

9. CONSIDERATION OF CONVICTION OBTAINED - MR J R (Pages 121 - 134)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on democratic_services@bathnes.gov.uk.

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 15th December, 2015, 10.00 am

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

Officers in attendance: Michael Dando (Senior Public Protection Officer), Wendy Stokes (Environmental Information Officer) and Shaine Lewis (Principal Solicitor and Deputy Monitoring Officer)

92 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

93 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

94 DECLARATIONS OF INTEREST

There were none.

95 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

96 MINUTES: 1ST DECEMBER 2015

These were approved as a correct record and signed by the Chair.

97 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for the next item of business.

98 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 meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A) 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.

99 CONSIDERATION OF CONVICTION OBTAINED - MR JR

The Public Protection Officer reported that Mr J R had informed him that he was not fit enough to attend the hearing. He circulated a DBS certificate in respect of Mr J R and a witness statement from him.

After deliberation, the Sub-Committee **RESOLVED** to defer the hearing of this matter to the meeting of the 5th January 2016.

Reasons

Members had to determine what action to take against a licensed driver having obtained a caution during the course of his Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government Miscellaneous Provisions Act, Human Rights Act, case law and Council Policy. Members also took account of the applicant's written and oral representations.

The Licensee failed to attend and whilst the Licensee had consented to the matter being dealt with in his absence Members, were concerned about the circumstances of the matter and deferred the matter for his attendance.

100 RETURN TO PUBLIC SESSION

101 LICENSING ACT PROCEDURE

102 VARIATION OF A PREMISES LICENCE, THE BELL, WALCOT STREET

Applicant: The Bell Inn Ltd, represented by Arron Whan (General Manager and Designated Premises Supervisor)

Other Persons: Diane Piper and Sylvain Filluzean, represented by Cllr P Turner; Ms Rhoda Turner

The parties confirmed that they had received and understood the procedure to be followed for the hearing.

The Public Protection Officer summarised the report. He said that the applicant was seeking to vary the premises licence by:

- extending the hours for the sale of alcohol, live music and recorded music
- extending the opening hours
- adding the provision of late night refreshment
- removing the condition prohibiting the playing of live music in the garden
- removing the conditions attached to the Public Entertainment Licence

Relevant representations had been received from local residents relating to the licensing objective of the prevention of public nuisance. He invited the Sub-Committee to determine the application.

Mr Whan stated the case for the applicant. He said that the Bell is unique. It is the largest community buyout pub in the country. It is a host to grassroots music and arts and a venue for shows, plays and poetry events. Staff are paid well over the minimum wage and local suppliers are used. The Bell had to turn a profit in an

increasingly harsh market while maintaining a 300-year old building. The Bell had been at the centre of the community for a long time. Bath would be worse off if it had to close.

The Principal Solicitor advised Mr Whan that as the premises were located in the Cumulative Impact Area, there was a presumption that the application would be refused, unless he could demonstrate that it would not significantly add to the cumulative impact already being experienced. It would therefore be helpful if he would explain in greater detail the measures he had put in his operating schedule, and explain why he considered that the application would not have a detrimental effect.

Mr Whan said that a lot of noise was caused by customers leaving to move on to other establishments. A later closing hour would reduce noise nuisance by allowing customers to disperse over a longer period. He believed that more noise in Walcot Street emanated from Club XL rather than from the Bell. The staff at the Bell did their best to keep doors closed and to encourage customers to leave quietly. There would be further staff training to make sure that staff encouraged customers to leave quietly. Bands were being asked to finish earlier, so that there would be less disturbance for local residents. CCTV would be installed.

A Member asked Mr Whan to explain why the variation application sought a closing hour of 01:30 on Fridays and Saturdays when under the current licence the closing time for the Function Room on Saturdays was 02:30. He replied under the existing licence there was a separate closing hour for the lounge of 02:30. The Principal Solicitor advised that on the premises map supplied with the application the lounge was included within the area edged in red, and would therefore be subject to the same closing hours as the rest of the premises. Mr Whan said that this was a mistake, and that he would like to retain the Saturday closing hour of 02.30 for the lounge. The Chair asked whether the applicant would be allowed to amend the application. The Principal Solicitor advised that the error could be rectified by the Sub-Committee refusing the variation of the closing hour on Saturdays, but the applicant would need to address the Committee further on this.

In reply to questions from Members, Mr Whan stated:

- the management of the premises had had a couple of meetings with local residents to explain the application
- the extended hours, if granted, would be introduced gradually, beginning with an additional hour on Friday nights, and the impact would be assessed
- the management had spoken to many people, explaining that there was no intention to turn the Bell into a nightclub or impact adversely on the community
- doors would be kept closed; smokers would use the back part of the garden; customers would be asked to leave quietly and staff trained to encourage them to do this

- CCTV would help to reduce noise because customers would know they were under observation
- door staff would not be employed
- there had been communication with the many regular customers explaining how the Bell expected to operate and encouraging them to be aware of the local community
- bands would be asked to load their equipment earlier to reduce the possibility of noise nuisance

The Other Persons stated their cases.

Michael Lewin said he would like another person to speak on his behalf. She said that she liked the Bell and did not object to current activities at the premises, but she and her neighbours did not want increased disturbance. The management of the Bell had not contacted her or her neighbours about the application. She thought it odd that staff would need to be trained about encouraging customers to leave quietly; surely this should have been done already. People collecting outside waiting for taxis cause noise nuisance. Staff would have to be trained not to allow people to drink outside the premises and not to drink in Chatham Row, where she lived. People use the road as a toilet. She opposed any extension of hours at the Bell.

Councillor Peter Turner read out a statement on behalf of Diane Piper and Sylvain Filluzean. They were concerned about the potential for increased noise at the venue because of late-night music and the sale of alcohol, and the likely increase in anti-social behaviour and noise after the pub had closed, including on weekdays. They believed that the extended hours would attract large numbers of customers to the Bell later at night, and that their behaviour would be worse and outside the Bell's ability to control. Residents report that under the current arrangements the Bell is already causing some disruption, but that is at a tolerable level. They fear that an extension of hours would result in the disturbance becoming intolerable for residents. There could be more frequent disturbances, including anti-social behaviour, in a residential area whose inhabitants include a large number of working adults and school-age children, some in properties immediately adjacent to the Bell.

A Member asked whether any of the Other Persons present had been contacted by the management of the Bell about the application. They all indicated that they had not.

In reply to questions from Members the Other Persons stated:

- there was definitely nuisance associated with the Bell; some residents could hear and see activities at the premises from their own properties
- there was noise from the Bell all the year round, not just in summer
- noise seemed to stop at the Bell at a certain and residents had got used to continuing until then; they would be concerned if it continued later

- the Bell was undoubtedly an asset to the community
- local residents sometimes collected abandoned glasses from the street and left them on the doorstep of the Bell

The parties were invited to sum up.

Councillor Turner summed up on behalf of the Other Persons. He said that he recognised that it was difficult to strike a balance between commercial imperatives and the interests of local residents. However, he thought the appropriate compromise was to not to extend hours beyond what they were now.

Mr Whan said that there was no intention to turn the Bell into a nightclub. If they were granted the additional hours were granted, they would increase them gradually, beginning with an extra hour on Fridays.

Following an adjournment the Sub-Committee **RESOLVED** to refuse the application.

Reasons

Members have determined an application for a variation of a premises license at The Bell, Walcot Street, Bath. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy and the Human Rights Act 1998.

Members are aware that the proper approach under the Licensing Act is to be reluctant to regulate in the absence of evidence and must only do what is appropriate and proportionate in the promotion of the licensing objectives based on the information put before them. In this instance Members noted the premises are in the Cumulative Impact area and therefore a rebuttable presumption is raised that the application will be refused unless the applicant demonstrates the variation is unlikely to add significantly to the cumulative impact being experienced.

The application is to extend live and recorded music, opening times, add late night refreshment and remove a number of conditions.

The applicant stated that the pub is unique, the largest community pub in the country and that he had tried to engage the community in the process of variation. He said although the premises occasionally caused nuisance the variation was not designed to turn it into a night club. With regard to Cumulative Impact it was accepted noise nuisance was caused from music and the bands loading and unloading equipment although those gathering on the street drinking and smoking also contributed to this. However, it was stated that a lot of noise and disorder was attributable to the other venues in the area and with a later opening time of his premises this would enable customers to disperse more evenly and with further staff training this would mean there would be no significant effect on the cumulative impact already being experienced.

The Interested Parties made representations under the objectives of public nuisance and crime and disorder. It was stated that none of those who attended had been engaged in the variation process by the premises. It was said the Bell is a good community pub although it was feared this extension would contribute to the general

noise and anti-social behaviour experienced on Walcot Street. It was also said that departing customers and smokers using the outside areas often cause noise nuisance and that noise escapes when customers enter or leave the building which results in sleep disturbance. The objectors stated that although they had made no complaint to Environmental Health they had had cause to complain to the premises on occasions.

In determining the application Members took into account all relevant representations, disregarded the irrelevant and noted there were no representations from the police or environmental health.

With regard to policy it was noted that the Statement of Licensing Policy recognised the need to encourage live music for the wider cultural benefit of the community and that performances of live music had further been encouraged by the Live Music Act. However, Members recognised that licensed premises have a significant potential to adversely impact on communities through public nuisance and were therefore careful to balance the competing interests of the applicant and objectors.

Members noted that although there had been no recorded complaints and no Responsible Authority representation the Interested Parties had been affected by noise nuisance which they feared would increase and the applicant accepted his premises did cause nuisance. Members were disappointed to hear that there had been no meaningful consultation with the community regarding the variation and felt the applicant did not make any realistic suggestions as to how nuisance could be addressed by condition.

In the circumstances Members find the applicant had not satisfied them that granting the variation would not contribute significantly to the cumulative impact already experienced. The application is therefore refused having considered the scale of the application, the acknowledgement that the premises is already causing nuisance, the apparent lack of control and lack of realistic suggestions from the applicant to take control that there are no conditions to mitigate the negative effect of such an extension.

Application refused.

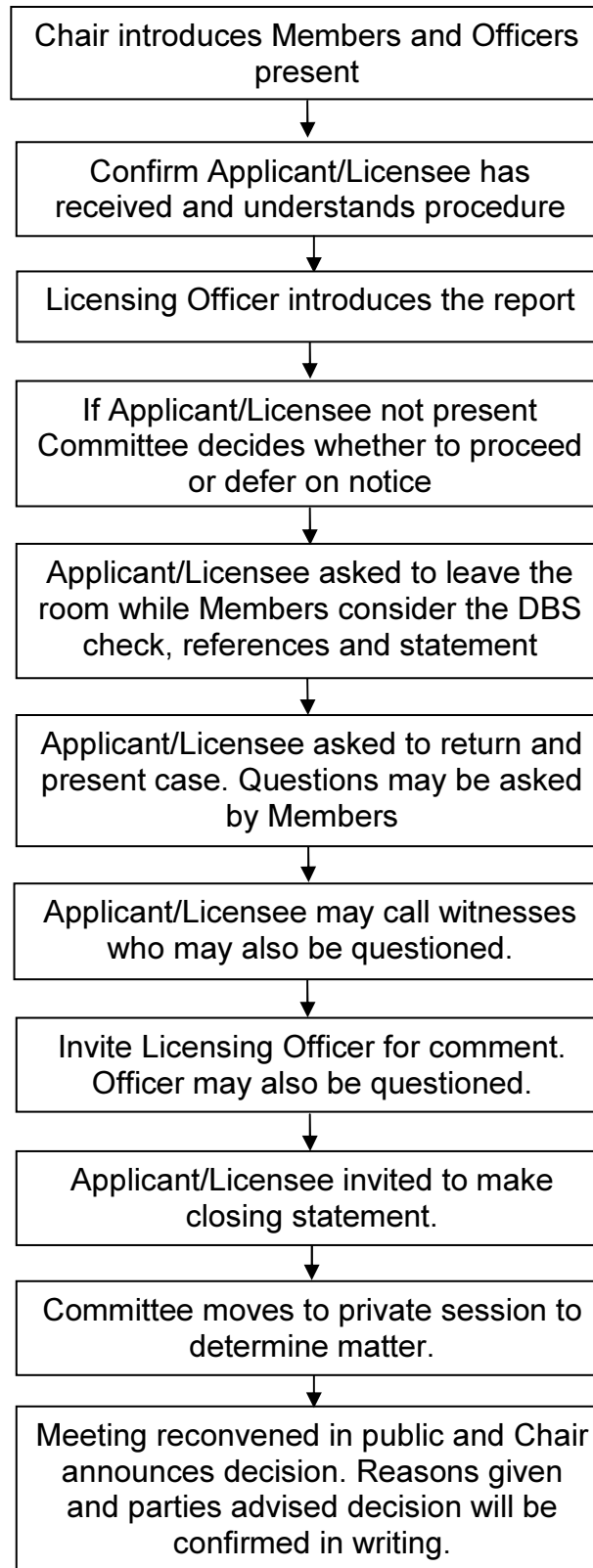
The meeting ended at 11.32 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

**LICENSING SUB-COMMITTEE
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE VEHICLES DRIVERS' LICENCE PROCEDURE**



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**Licensing Sub Committee
Hackney Carriage (taxi) and Private Hire
Driver Application Procedure**

1. The Chair will introduce Members of the Committee, introduce the Officers present, explain the procedure to be followed and ensure those present have received and understood that procedure.
2. The Licensing Officer will outline the nature of the matter to be considered by the Committee.
3. The Applicant, representative and/or witness is asked to leave the room while the Committee consider the Disclosure and Barring Service report, references and statement.
4. The Applicant, representative and/or witness returns and presents the case to the Committee.
5. The Applicant may be questioned about the matter by the Committee.
6. The Applicant may call witnesses in support of their application and each witness may be asked questions.
7. The Chair will ask the Licensing Officers present whether they wish to comment. If an Officer makes comment they may be asked questions.
8. The Applicant will be invited to make a closing statement.
9. The Chair will invite the Committee to move into private session to enable the Members to deliberate in private. The Committee will reconvene publicly if clarification of evidence is required and/or legal advice is required. The Committee may retire to a private room, or alternatively require vacation of the meeting room by all other persons.
10. Whilst in deliberation the Committee will be accompanied by Legal and Democratic Services Officers for the purpose of assisting them in drafting their reasoning for the decision.
11. The Committee will reconvene the meeting and the Chair will announce the Committee's decision with reasons and advise that the decision will be released in writing within the statutory time limits.

Updated November 2013

PLEASE NOTE:

- Where the Committee considers it necessary the procedure may be varied.
- In circumstances where a party fails to attend the Committee will consider whether to proceed in absence or defer to the next meeting. Should a matter be deferred the deferral notice will state that the matter may proceed in a party's absence on the next occasion. In deciding whether to proceed all notices, communications and representations will be considered.
- Only in **exceptional circumstances** will the Committee take account of additional late documentary or other information and will be at the discretion of the Chair and on notice to all the other parties. No new representations will be allowed at the hearing.
- The Committee will disregard all information or representations considered irrelevant.
- The hearing will take the form of a discussion. The Committee will allow parties to the proceedings to ask questions. Formal cross examination will be discouraged and, should they be necessary, supplementary questions allowed for clarification purposes only.
- Parties will have an equal amount of time to present their cases. Whilst time limits are at the Chair's discretion, in the interests of cost and efficiency, presentations will not normally exceed **twenty minutes** to include summarising the case. Time limits 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.
 2. Where several parties are making the same or similar representations it is suggested that one representative is appointed to avoid duplication and to make the most efficient use of the allocated time.
 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 request that persons behaving in a disruptive manner should leave the hearing and their return refused, or allowed subject to conditions. An excluded person is however, entitled to submit the information they would have been entitled to present had they not been excluded.
 - Bath & North East Somerset Council is committed to taking decisions in an honest, accountable and transparent fashion. On occasion however, it may be necessary to exclude members of the press and public pursuant to the Local Government Act 1972 Schedule 12 (a). In those circumstances reasons for such decisions will be given.
 - If a person has special needs regarding access, hearing or vision, this should be brought to the Licensing Authority's attention prior to the hearing so that reasonable adjustments may be made.

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1401/15

Meeting / Decision: Licensing Sub-Committee

Date: 1st December 2015

Author: John Dowding

Exempt Report Title: CONSIDERTION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE
 Exempt Appendix Title:
Annex A – Current Combined Hackney Carriage/Private Hire Drivers Licence
Annex B – Letter dated 8th June 2015.
Annex C – Letter dated 23rd July 2015.
Annex D - Policy on Hackney Carriage and Private Hire Licensing Standards – Drivers, Vehicles and Operators

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed. Further, as any information revealed by the Criminal Records Bureau check is likely to constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1649/15

Meeting / Decision: Licensing Sub-Committee

Date: 1st December 2015

Author: John Dowding

Exempt Report Title: Consideration of Conviction Obtained:

Exempt Appendix Title:

List of attachments to this report:

Annex A – Current Combined Hackney Carriage/Private Hire Drivers Licence.

Annex B – Current Council Policy.

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the sub-Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972. The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

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1. Information relating to any individual
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Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this report would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed. Further, as any information revealed by the Criminal Records Bureau check is likely to constitute sensitive personal data in terms of the DPA, this information cannot be disclosed by the Council without the explicit consent of the individual concerned.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds. It is considered that there is a public interest in information about individuals applying for taxi licences in the area, and in particular, information as to the backgrounds of those individuals.

Other factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that the individual/s concerned could bring a successful action against the Council if the disclosure occurred. Therefore it is recommended that exemptions 1 and 2 in Schedule 12A stand. The Council considers that the public interest is in favour of not holding this matter in open session at this time and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

Due to the factors outlined above, further consideration has not been given to the application of exemption 3 of Schedule 12A.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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