

BATH AND NORTH EAST SOMERSET

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

Tuesday, 1st May, 2012

Present:- Councillors Sarah Bevan (Chair), Malcolm Lees and Gabriel Batt

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

44 EMERGENCY EVACUATION PROCEDURE

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

45 APOLOGIES FOR ABSENCE

Councillor Bryan Chalker sent his apologies, Councillor Gabriel Batt was his substitute.

46 DECLARATIONS OF INTEREST

There were none.

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

There was none.

48 MINUTES - TUESDAY 3RD APRIL 2012

RESOLVED that the minutes of the meeting of Tuesday 3rd April 2012 be confirmed as a correct record and signed by the Chair(person).

49 LICENSING PROCEDURE - APPLICATIONS FOR LICENCES, PERMITS AND CONSENTS

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

50 APPLICATION FOR PERMISSION TO PROVIDE FACILITIES ON THE HIGHWAY FOR RECREATION/REFRESHMENT AT SEARCY'S RESTAURANT, PUMP ROOMS, ABBEY CHURCHYARD, BATH

The Sub-Committee considered the report which sought consideration of an application for permission to provide facilities on the highway in respect of Searcy's Restaurant, the Pump Rooms, Abbey Churchyard, Bath.

The applicant was present. He confirmed he had read and understood the procedure for this part of the meeting. Several of the objectors were also present.

The Licensing Officer presented the report. He confirmed the application was for 8 tables and chairs and there was no change in the details since last year. He explained that the objections were based on the reduction of space for street entertainment.

The applicant put his case and was questioned. In summary he explained that Searcy's managed the restaurant on behalf of the Council. The application had remained the same since June 2004 when Searcy's took over. The only change was that since last year a barrier had been put around the area. Mr Searle added that Searcy's did not object to street entertainment and in response to the objections did not believe that the tables, chairs and barrier had ever exceeded the 3m area. He added that Searcy's did not employ any security but the Pump Room had security guards on the door.

The objectors put their cases and were questioned. Dominic Searle and Chris Ryde spoke on behalf of the objectors. In summary it was explained that street entertainment was a valuable asset to the street scene of Bath making it a vibrant city and tourist attraction. He added that there were plenty of places in Bath to sit outside and drink and eat but only half a dozen places in the country where street entertainers could perform outside.

The applicant and then the objectors then made a closing statement.

Following an adjournment it was

RESOLVED that the application for permission to provide facilities on the highway in respect of Searcy's Restaurant, the Pump Rooms, Abbey Churchyard, Bath be granted as follows subject to the standard conditions:

8 tables on the highway outside the premises with appropriate seating (including a chalet during the Christmas Market)
Area 19m x 3m Monday to Friday
Area 19m x 2m Saturday and Sunday
Every day from 9:00 to 22:00 hours.

and that planning permission be sought for the barrier.

Reasons for decision

Members have determined an application for permission to place tables and chairs on the highway at Searcy's Restaurant, Pump Rooms, Abbey Churchyard, Bath.

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, took into account the written representations and listened carefully to the oral representations. They balanced the interests of the applicant, the objectors and the general public. Members noted that the objections

had been made on the basis that the area applied for would, if granted, have the effect of restricting the available space for street performers to present their entertainment which had been used for this purpose historically and which made a positive contribution to the street scene in Bath. Secondly that Searcy's had allegedly used more than the permitted space under their previous permission.

Members listened carefully to what the applicant said as regards the operation of the tables and chairs permission. They also noted that there had not been any objections to the application from Highways. They also listened carefully to what had been said by the objectors and noted that both parties needed to use the same space at the same time in order to further their business interests.

They therefore granted the permission in the terms set out in the application with the restriction to the dimensions to the area on a Saturday and Sunday to 19 metres by 2 metres only.

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

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

52 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 item 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."

53 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.

The applicant Mr CJC was not present. The Licensing Officer stated that he had phoned the office to say that he did not have time off work to attend the meeting.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence application in respect of Mr CJC be deferred until the 7th June Taxis Sub-Committee.

Reasons for decision

Members noted that the applicant was unable to attend today 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.

54 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR PTJ H

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

The applicant Mr PTJH 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 a previous caution. He circulated the Criminal Records Bureau check, personal statement and references in respect of Mr PTJH. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr PTJH be granted subject to the standard 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 the applicant's representations, took into account a Criminal Record check, his statement, references and further information. Members considered that he presented himself well and had satisfied them that this sort of offending was now in the past. Members considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant and therefore found the applicant a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

55 APPLICATION FOR RENEWAL OF LICENCE & CONSIDERATION OF CONVICTION OBTAINED DURING TERM OF CURRENT LICENCE - MR G M W

The Sub-Committee considered the report which sought consideration of convictions obtained by Mr GMW during the term of his hackney carriage/private hire driver's licence.

Mr GMW was present. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received two letters from Mr GMW informing him that he had been convicted of three offences. He circulated the letters and the certified extract of convictions. Mr GMW and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOVED that no further action be taken in respect of Mr GMW's convictions and his Hackney Carriage/Private Hire Driver's Licence be renewed subject to the standard 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 had to consider what action, if any, to take in light of the three convictions of assault obtained by Mr W during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr W continued to be a fit and proper person to hold such a licence and therefore had regard to his history as a Licence holder, his extract of conviction, his statement and supporting information. However, with regard to fitness Members disregarded matters relating to Mr W's personal circumstances.

In order to hold a combined Hackney Carriage/Private Hire Vehicle driver's Licence the holder must be a fit and proper person and a Licensing Authority may suspend, revoke or refuse to renew a licence if the holder has since its grant (i) been convicted of an offence involving dishonesty, indecency or violence (ii) been convicted of an offence or failed to comply with the Acts of 1847 or 1976 or any other reasonable cause.

Mr W stated that the two convictions of assault against Ms W had occurred during their marital breakdown. He also stated that the third offence of assault had occurred when a fight broke out between him and a guest of his wife in his own home. He had lost his temper and assaulted the man for allegedly not leaving Mr W's home when asked.

Mr W stated that he has been a licenced driver since 2000 and that the incidents were not related to his work. The Licensing Officer confirmed that Mr W had an unblemished record as far as this was concerned. Mr W stated that he had also received counselling and therapy for his problem including problems with alcohol.

Members needed to satisfy themselves that their family, friends or loved ones would be safe in a vehicle driven by Mr W. Whilst they acknowledged their policy in this regard they disapplied it because they considered that Mr W was serving his sentence and had notified the Council of his convictions. They therefore considered that he had done the right thing, learned his lesson and should be given credit for doing so.

Nevertheless, Members did not endorse the committing of violent offences by licenced drivers and therefore gave Mr W a stern warning as to his future conduct. In taking into account the convictions and what Mr W stated to them today, they considered that he is a fit and proper person to continue to drive as a Hackney Carriage/Private Hire Driver.

56 APPLICATION FOR RENEWAL OF LICENCE & CONSIDERATION OF CONVICTION OBTAINED DURING TERM OF CURRENT LICENCE - MRS T S

The Sub-Committee considered the report which sought consideration of a conviction obtained by Mrs TS during the term of her hackney carriage/private hire driver's licence.

Mrs TS was present. She confirmed she had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received a letter from Mrs TS informing him that she had received a conviction. He circulated the letter, further information and certified extract of conviction. Mrs TS and the officer withdrew from the meeting while Members took some time to consider these documents.

Mrs TS put her case and was questioned. Mrs TS then made a closing statement.

Following an adjournment it was

RESOLVED that no further action be taken in respect of Mrs TS's conviction and that her Hackney Carriage/Private Hire Driver's Licence be renewed subject to the standard 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 had to consider what action, if any, to take in light of the conviction obtained by Mrs S during the term of her Hackney Carriage/Private Hire Driver's Licence.

In doing so Members had to consider whether Mrs S is a fit and proper person to hold such a licence and therefore had regard to her history as a Licence holder, her extract of conviction, her representations and her supporting information. However, with regard to a person's fitness Members disregarded matters relating to Mrs S's personal circumstances.

Members noted Mrs S was convicted of the offences of theft and of dishonestly receiving a wrongful credit arising from benefit claims. Members took a dim view of licensed drivers committing offences of dishonesty as they were in a position of trust. However, they considered Mrs S was paying off the debt and had notified the Council of her convictions. They therefore considered that she had done the right

thing, learned her lesson and should be given credit for doing so. Nevertheless, Members did not endorse the committing of offences of dishonesty by licenced drivers.

Members noted their policy as regards dishonesty and that they needed to satisfy themselves that their family, friends or loved ones would be safe in a vehicle, driven by Mrs S. They considered that she is a fit and proper person to continue to drive as a combined Hackney Carriage/Private Hire Driver and therefore disapplied their policy.

The meeting ended at 1.01 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services