

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Tuesday, 15th October, 2013, 10.00 am

**Councillors:** Manda Rigby (Chair), Anthony Clarke (In place of Gabriel Batt) and Roger Symonds

**Officers in attendance:** Enfys Hughes, John Dowding (Senior Licensing Officer) and Simon Barnes (Principal Solicitor)

### **44 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

### **45 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Gabriel Batt sent his apologies, Councillor Anthony Clarke was his substitute.

### **46 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

### **48 MINUTES**

There were no minutes to be considered at the meeting.

### **49 LICENSING PROCEDURE -HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE PROPRIETORS' HEARING**

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

### **50 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR MATTHEW BANNISTER**

The Sub-Committee considered the report which sought approval of a Mini Cooper vehicle for use as a private hire vehicle. The vehicle did not comply with the requirements stipulated in the current private hire vehicle licence conditions.

Mr MB was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and explained how the vehicle did not comply with current requirements.

Mr MB put his case and was questioned. He stated that he would only be running pre-bookable tours in the car and it would be clear to the customer that it was a classic mini. He confirmed he would not be using the car for general private hire work. He stated that the car had a low mileage, had been regularly serviced, had an

airbag and side impact safety bars. With regard to the car only having two doors he explained that the rear side windows could be pushed out in an emergency. Mr MB then made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr Matthew Bannister's Mini Cooper be approved for private hire use subject to the modification of the standard conditions as identified in the report and the following additional condition:

- The vehicle shall only be used for privately booked tours and shall not be used for general private hire use.

#### Reasons for decision

Members had to determine an application to licence Mr Bannister's Rover Mini Cooper as a private hire vehicle.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, case law and the general conditions relating to private hire vehicles adopted by the Council.

Members had to consider whether the vehicle was suitable for use as a private hire vehicle, having regard in particular to public safety. To assist them in making a determination, Members inspected the vehicle and heard from the applicant who explained that his intention was to only use the vehicle to give privately booked tours of the area and not for general private hire use. Members acknowledged that the Mini did not fit the criteria in the Council's standard conditions but were satisfied that the Mini was safe and suitable for the limited use proposed by the applicant.

Members therefore decided to grant the licence subject to modification of the standard conditions to take account of the aspects of the vehicle which did not conform to the standard conditions, as detailed in the report; and the following condition:

"The vehicle shall only be used for privately booked tours and shall not be used for general private hire use."

Authority was delegated to the Senior Licensing Officer to issue the licence accordingly.

#### **51 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(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."

#### **52 LICENSING PROCEDURE HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE VEHICLE DRIVERS**

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

**53 CONSIDERATION OF CAUTION OBTAINED:- MR P D**

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

Mr PD was not present. The Licensing Officer had not heard anything from him.

Following an adjournment it was

**RESOLVED** that the item be deferred until the next meeting of the Licensing Sub-Committee with advice to Mr PD that it was likely to go ahead in his absence if he did not turn up.

**54 CONSIDERATION OF CAUTION OBTAINED:- MR A M**

The Sub-Committee considered the report which sought consideration of a Police Caution for taxi touting obtained by Mr AM during the term of his hackney carriage/private hire driver's licence.

Mr AM was present. He confirmed he had read and understood the procedure.

The Licensing Officer presented the report and stated that he had received information from the Metropolitan Police in respect of a formal caution which Mr AM had not disclosed to Licensing in accordance to the conditions attached to his licence.

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

Following an adjournment it was

**RESOLVED** that four penalty points be imposed on Mr AM's hackney carriage/private hire driver's licence in respect of the formal police caution.

Reasons for decision

Members had to determine whether to take any action against Mr AM as he had obtained a caution for taxi touting during the period of his combined hackney carriage/private hire driver's licence which he had failed to declare to the Council in accordance with the standard conditions attached to his licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, case law and the Council's policy.

Members had to consider whether Mr AM was a fit and proper person to continue to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr AM.

To assist them in making a determination, Members listened to Mr AM's representations. Mr AM stated that he did not realise that he had been given a caution and had done nothing wrong. Members took account of his otherwise excellent record as a driver.

Members therefore decided that Mr AM was a fit and proper person to continue to hold a private hire/hackney carriage driver's licence. Accordingly, they decided to impose 4 points on his licence in accordance with the Council's policy.

## **55 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR MA W**

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

The applicant was present with two witnesses. He confirmed he had read and understood the procedure for the meeting. One complainant was also present.

The Licensing Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken which had revealed a number of previous convictions. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr MAW. He explained that Mr MAW's licence had previously been revoked and MR MAW had appeared twice previously before the Licensing Sub-Committee. The Licensing Officer went on to explain that Mr MAW was currently licensed by Mendip District Council and Bath and North East Somerset had received complaints regarding Mr MAW's conduct which had been referred to Mendip for their consideration. The applicant and officer withdrew from the meeting while Members took some time to consider these documents.

Mr MAW put his case and was questioned and called his witnesses. He submitted a further document from Mendip District Council which Members agreed to consider. Members refused permission to admit other late documents as they were not relevant to Mr MAW's fitness to hold a licence.

The complainant put his case before the Sub-Committee and was questioned.

Mr MAW then made a closing statement.

Following an adjournment it was

**RESOLVED** that a hackney carriage/private hire driver's licence not be granted in respect of Mr MAW.

### Reasons for the decision

Members had to determine an application for a combined hackney carriage/private hire driver's licence by Mr MAW.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Home Office guidelines on the relevance of convictions and the Council's adopted policies.

Members had to consider whether Mr MAW was a fit and proper person to hold a driver's licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr MAW.

To assist them in making a determination, Members listened to Mr MAW's oral representations. These included that Mr MAW was licensed by Mendip District Council as a hackney carriage/private hire driver and that his last conviction was in 2007. Members also took account of the evidence from Mr MAW's character witnesses, one of whom is a local solicitor, and noted that Mr MAW only wanted the licence so he could move taxis within Bath and North East Somerset as part of his business. However, Members noted Mr MAW's history of convictions for violent and aggressive behaviour including the caution referred to in his statement which involved possession of a weapon in a taxi. Members also noted the evidence of two people who had complained about Mr MAW, one of whom was a customer and the other a driver who gave live evidence about a campaign of bullying and intimidation by Mr MAW. Although Mr MAW only wanted the licence for a limited purpose, he still needed to be a fit and proper person.

In light of Mr MAW's history of aggressive behaviour, the evidence from the two complainants and the fact that Mr MAW had previously had a driver's licence revoked by the Council, Members concluded that Mr MAW was not a fit and proper person and the application was refused.

The meeting ended at 1.27 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**