

# Licensing Sub-Committee

**Date: Thursday, 15th August, 2019**

**Time: 10.00 am**

**Venue: Kaposvar Room - Guildhall, Bath**

**Councillors:** Manda Rigby, Sue Craig, Michael Evans and Steve Hedges

Chief Executive and other appropriate officers  
Press and Public

A briefing session for Members will be held at 9.30am in the room where the meeting is to take place.



**Sean O'Neill**

**Democratic Services**

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## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the **Public Access points**:- Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

## 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. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast). The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

## 4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may also ask a question to which a written answer will be given. **Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.** Further details of the scheme:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

## 5. **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 signposted. Arrangements are in place for the safe evacuation of disabled people.

## 6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

**Licensing Sub-Committee - Thursday, 15th August, 2019**

**at 10.00 am in the Kaposvar 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 PREVIOUS MEETING: 4 JULY 2019 (Pages 5 - 8)

6. TAXI PROCEDURE (Pages 9 - 12)

The Chair will, if required, explain the licensing procedure.

7. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:

“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, **RESOLVES** that 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.

8. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:-  
19/01517/TAXI (Pages 13 - 30)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

**BATH AND NORTH EAST SOMERSET COUNCIL**

**LICENSING SUB-COMMITTEE**

Thursday, 4th July, 2019, 10.00 am

**Councillors:** Manda Rigby (Chair), Michael Evans and Ryan Wills (in place of Sue Craig)

**Officers in attendance:** Terrill Wolyn (Senior Public Protection Officer), Ian Nash (Public Protection Officer (Licensing)) and Carrie-Ann Evans (Deputy Team Leader (Barrister))

**14 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

**15 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Cllr Sue Craig, for whom Cllr Ryan Wills substituted.

**16 DECLARATIONS OF INTEREST**

There were none.

**17 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was none.

**18 MINUTES OF PREVIOUS MEETING: 6 JUNE 2019**

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

**19 LICENSING PROCEDURE**

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

**20 APPLICATION FOR A PREMISES LICENCE FOR MUZZY KEBAB, PITCH 30 ORANGE GROVE, BATH BA1 1LP**

Applicant: Mehmet Yilmaz

The applicant confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report.

The applicant stated his case. He said that he would like to extend his business opportunities by being able to offer food to people who go out in the evening. Asked by the Chair why he thought that his operation would not conflict with the licensing objectives, he said that he had been in the business for eighteen years. He had worked for four years in Bristol city centre and knew how to deal with difficult and drunk customers. Asked by a Member about cleaning the area around the pitch, he replied that he would clean the area every day after close of business. He confirmed

that he would use signage on the van to encourage customers to keep noise down and be mindful of residents, and said he had a very quiet generator. He was not seeking authorisation for Late Night Refreshment on Fridays and Saturdays. On these days, which he said were by far his busiest, he would trade for the hours specified in the Street Trading Licence for the pitch, which was first granted in 2002.

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

### Decision and reasons

Members have determined an application for a new Premises Licence for Muzzy Kebab, Pitch 30, Orange Grove, Bath, BA1 1LP. In doing so, they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998 and case law.

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 information put before them. Members noted that an application must be considered on its own merits.

### **The Applicant**

The applicant indicated in his application that the premises licence is sought in relation to his mobile catering unit which will sell hot take away food and soft drinks. As he wishes to provide late night refreshment from 2300 to 0300 Monday to Thursday inclusive and from 2300 to 0100 on Sunday, he seeks a premises licence.

The application provided that there would be no alcohol sold from the premises, signs would be prominently displayed requesting customers refrain from making excessive noise; all packaging would be paper or card; all drinks would be sold in aluminium cans or plastic cups; a litter bin would be provided for use by customers; and the area adjacent to the unit would be regularly cleaned.

Mr Yilmaz explained to Members that he has 18 years' experience of this kind of work and has 4 years' experience of such in Bristol City Centre trading from 6pm to 6am. He explained to members that he feels able to deal with any noisy customers and that he would tidy any litter from around the pitch every day that he was trading.

### **Other Persons**

Two representations of objection had been received from 3 residents living close to the premises expressing concerns that the proposals are likely to undermine the prevention of public nuisance licensing objective.

### **Responsible Authorities**

Members noted that there had been no representations from Responsible Authorities.

**Members**

Members noted that the Licensing Act 2003 is a permissive regime that is intended to minimise the regulatory burden.

Members noted that there had been no representations from any of the Responsible Authorities such as the Police or Environmental Protection.

Members noted that the applicant has already obtained the street trading pitch at Pitch 30, Orange Grove and he has obtained a Street Trading Consent. Members noted that the report refers to the fact that there has been an established street trading pitch selling hot food and drink at this location from 1800 to 0300 on Monday to Saturday inclusive and 1000 to 0100 on Sunday, since 2002.

Members found there was no evidence of impacts on the licensing objective of prevention of public nuisance which could not be mitigated by the conditions proposed by the applicant.

In all the circumstances Members found the application to be reasonable and they were satisfied that the licensing objectives would be promoted by the conditions to the licence. Accordingly, Members resolved to approve the application as applied for.

Authority is delegated to the Licensing Officer to issue the licence accordingly.

**Note**

Members made the applicant aware that at any stage following the grant of the premises licence the licensing authority may be asked to review the licence if there are matters arising which undermine any of the four licensing objectives.

The meeting ended at 10.34 am

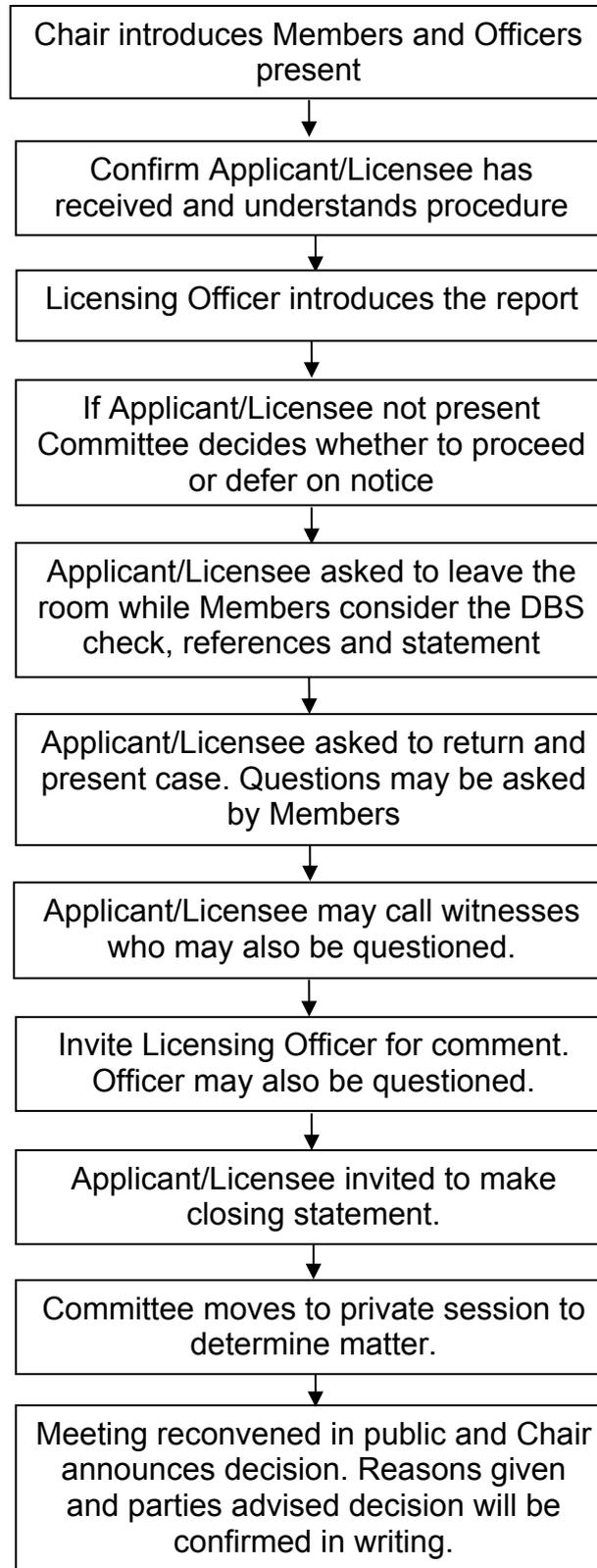
Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**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 1059/19

Meeting / Decision: Licensing Sub-Committee

Date: Friday Thursday 1<sup>st</sup> August 2019

Author: John Dowding

Exempt Report Title: **Application For Hackney Carriage/Private Hire Driver's Licence**

Exempt Appendices:

**Exempt Annex A- Application Form**

**Exempt Annex B – Current Policy On Driver, Vehicle & Operator Standards**

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 2018 (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 Disclosure and Barring Service (DBS) 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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