

Licensing Sub-Committee

Date: Thursday, 7th November, 2019

Time: 10.00 am

Venue: Kaposvar Room - Guildhall, Bath

Councillors: Manda Rigby, Sally Davis 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.



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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. 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, 7th November, 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: 26 SEPTEMBER 2019 (Pages 5 - 8)

6. EXCLUSION OF THE PUBLIC

The Sub-Committee is invited to pass the following resolution:

Having been satisfied that the public interest would be better served by not disclosing relevant information, the Sub-Committee, 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 agenda item 8, and that the reporting of that part of the meeting shall be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended.

7. TAXI PROCEDURE (Pages 9 - 12)

The Chair will, if required, explain the procedure.

8. APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE -
19/00165/TAXI (Pages 13 - 32)

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, 26th September, 2019, 10.00 am

Councillors: Manda Rigby (Chair), Michael Evans and Steve Hedges

Officers in attendance: John Dowding (Senior Public Protection Officer), Ian Nash (Public Protection Officer (Licensing)) and Shaine Lewis (Team Leader Resources - Legal Team)

37 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

38 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

39 DECLARATIONS OF INTEREST

There were none.

40 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

41 MINUTES OF PREVIOUS MEETING: 29TH AUGUST 2019

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

42 EXCLUSION OF THE PUBLIC

The Sub-Committee having been satisfied that the public interest would be better served by not disclosing relevant information, **RESOLVED**, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public should be excluded from the meeting for Agenda Item 8 and that the reporting of that part of the meeting should be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended.

43 TAXI PROCEDURE

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

44 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: 19/02221/TAXI

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

The Senior Public Protection Officer presented the report and provided Members with copies of a DBS statement in respect of the applicant and a statement submitted by her. The hearing was adjourned to allow Members time to study these documents.

The applicant stated her case and was questioned by Members. The applicant made a closing statement.

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

Decision and reasons

Members have had to consider an application for a combined Hackney Carriage/Private Hire Driver's licence in light of a Disclosure and Barring Service Certificate disclosing previous convictions. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members heard the convictions dated back to the time just after leaving school when the applicant hung around with the wrong crowd and was a different person. As she matured she took the decision to distance herself from this crowd, met her partner, had her first child and started a fresh in Bath. Since then she had attended college, had run successful businesses interacting with the public and now wanted the flexibility and freedom offered through taxi driving.

Members found the applicant's convictions related to the early part of her life and fell outside of the Policy. They found she was well-presented, ashamed of her younger stupidity and in the circumstances a fit and proper person to hold a combined hackney Carriage/Private Hire Driver's licence. Authority was therefore delegated to the Senior Officer (Licensing) to issue the licence subject to satisfactory completion of the licensing process.

45 RETURN TO OPEN SESSION

46 STREET TRADING PROCEDURE

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

47 APPLICATION FOR A NEW STREET TRADING PITCH, KINGSMEAD STREET, BATH

Applicant: Laura Terry

Objectors: Paul Ivory (Avonvale Carpets), Ian Menzies (Seafoods), Councillor Andrew Furse

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

The Public Protection Officer presented the report.

The Applicant stated her case and was questioned by Members.

The objectors stated their cases and were questioned by Members.

The Applicant made a closing statement.

Councillor Furse made a closing statement.

Following an adjournment, the Sub-Committee **RESOLVED** to issue a street trading consent subject to the standard conditions.

Decision and reasons

Members have had to determine an application to create a Street Trading pitch at Kingsmead Street. In determining the application the Local Government (Miscellaneous Provisions) Act 1982, Council Policy and Human Rights Act were taken into account.

The applicant stated she lives and works in Bath. She will use ingredients from local suppliers and serve food in recyclable containers. The stall itself is self-contained, purpose built and covers a relatively small area. The applicant further stated the goods to be offered are baked potatoes which are healthy and wholesome alternatives to food fried in a wrap or bun. Having looked at the area and operation of businesses there the applicant was careful to ensure that her operating hours and pitch location should not negatively impact on them. She also suggested a pitch in this location may in fact draw additional footfall and increase trade generally.

The objectors stated a pitch in this location would be hazardous and be inconvenient to those loading and un-loading of goods at premises in the location and goods arrive at all times throughout the day. The objectors also questioned the licensing process, history of pitches in the location, the ambition for Kingsmead Square in terms of the street experience and the appearance and operation of other pitches in the city more generally.

In reaching a decision Members took account of the relevant representations and balanced the competing interests of the applicant, supporting representation and objectors. Members were mindful to deal with the matter on its merits and disregarded concerns relating to the licensing process, perceived need for stalls in the area, history of stalls in the location, any proposed redevelopment of the area and the appearance and operation of other stalls across the city.

With regards to the creation of the pitch, Members had regard to their policy. Members noted the application area measured 1.7m x 1.85m and there were no objections from the Highway Authority and despite being made aware in the meeting of the ambitions for Kingsmead Square no objections were received from the Public Realm team. Given the size of the stall and its proposed location, Members found it would be unlikely to have a detrimental effect on public safety, amenity, cause an obstruction or impeded safe access and egress to and from it or premises based trading in the vicinity. So far as the nature of the goods sold Members reminded themselves of their Policy and placed little weight on the objection referring to the

need for additional food outlets and similarities between goods to be offered for sale on the stall and premises based traders.

Accordingly, Members found it both reasonable and in the public interest to create the pitch which provided ample space on each side for pedestrians to pass, repass and vehicles to service premises in the area. Therefore, the application was granted as applied for and authority was delegated to the Licensing Officer to issue consent subject to the standard conditions.

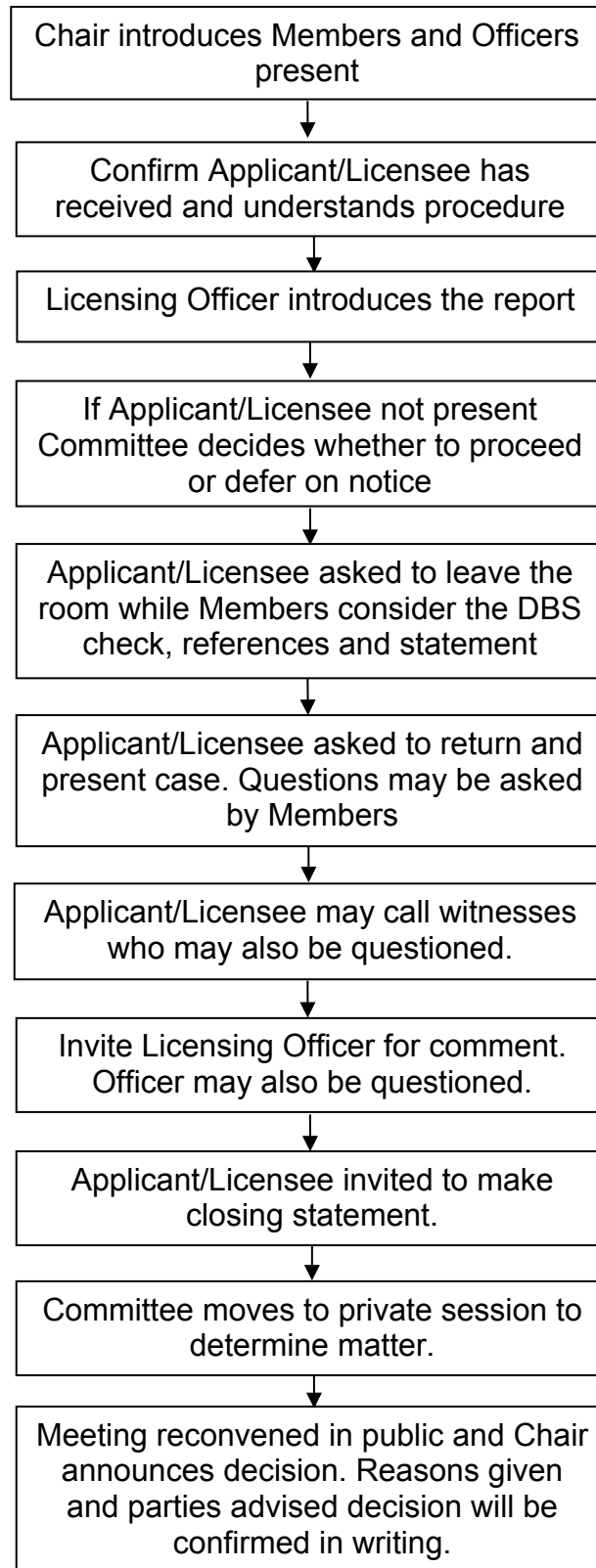
The meeting ended at 11.30 am

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 1474/19

Meeting / Decision: Licensing Sub-Committee

Date: Thursday 24th October 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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