

Licensing Sub-Committee

Date: Thursday, 23rd January, 2020

Time: 10.00 am

Venue: Kaposvar Room - Guildhall, Bath

Councillors: Manda Rigby, 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

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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 Guildhall - Bath

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, 23rd January, 2020

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 (Pages 5 - 8)

6. 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, **RESOLVES** in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public shall be excluded from the meeting for the following items of business and the reporting of this part 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."

7. TAXI PROCEDURE (Pages 9 - 12)

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

8. CONSIDERATION OF FIT AND PROPER - 1901260TAXI (Pages 13 - 38)

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, 5th December, 2019, 10.00 am

Councillors: Manda Rigby (Chair), Steve Hedges and Karen Warrington (in place of Michael Evans)

Officers in attendance: John Dowding (Senior Public Protection Officer) and Carrie-Ann Evans (Deputy Team Leader (Barrister))

56 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

57 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Michael Evans, for whom Councillor Karen Warrington substituted.

58 DECLARATIONS OF INTEREST

There were none.

59 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

60 MINUTES OF PREVIOUS MEETING: 7 NOVEMBER 2019

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

61 LICENSING PROCEDURE

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

62 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE - 1904205PHVL

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

The Senior Public Protection Officer presented the report. He explained that the vehicle for which the applicant was seeking a Private Hire vehicle licence was 4 years and 1 month old at the time the application was made in October 2019, whereas Council policy is that "all vehicles will normally be less than four years old when first licensed". The standard conditions attached to the grant of a Private Hire vehicle licence state that "any vehicle presented for licensing which is older than 4 years at the date of application will be referred to the Council's Licensing Sub-Committee for determination". When the applicant had been granted a licence for his previous vehicle, Council policy had been that vehicles should be less than 5 years old, and the applicant had assumed that the statement to this effect in the conditions

issued with the previous licence was still current policy. The Senior Public Protection Officer said that he had seen the vehicle. He explained that the applicant worked in a specialised sector of the private hire trade. He provided Members with the following additional documents:

1. A certificate of the satisfactory completion by the vehicle of a Bath and North East Somerset Hackney Carriage/Private Hire vehicle inspection;
2. A letter that the applicant had enclosed with the application;
3. A letter from the Senior Public Protection Officer to the applicant enclosing a screenshot from the tfl ULEZ vehicle checker showing that the vehicle was not subject to the ULEZ charge.
4. An MOT test certificate.

The hearing was adjourned to allow Members to inspect the vehicle.

Following the adjournment the applicant stated his case and was questioned by the Chair. He said that he had relied on the conditions included with his previous licence, and had believed that vehicles had to be less than 5 years old when first licensed.

Following a further adjournment the Sub-Committee **RESOLVED** to delegate authority to the Public Protection Officer to issue the licence, subject to the satisfactory completion of the licensing process.

Decision and Reasons

Members have had to determine an application for a Private Hire Vehicle Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, the Council's Policy, an inspection of the vehicle and the applicant's oral representations.

The applicant for the vehicle licence briefly addressed members. It was evident that when he checked the conditions of his previous licence a vehicle up to 5 years old would have been an acceptable age at the time of first licensing. A policy change in January 2019 meant that vehicles are now expected to be less than 4 years old at the time of first licensing.

Members noted that the vehicle in question is now only four years and two months old; it is in immaculate condition and members heard that the vehicle is a diesel fitted with a Euro 6 engine which would be compliant with the proposed Clean Air Zone.

Based on the inspection and what they had heard and read Members found the vehicle to be suitable in type, size and design to be licensed by BANES. In the circumstances, they were content to depart from the Policy and delegate authority to the Public Protection Officer to issue the vehicle licence subject to satisfactory completion of the licensing process.

The meeting ended at 10.48 am

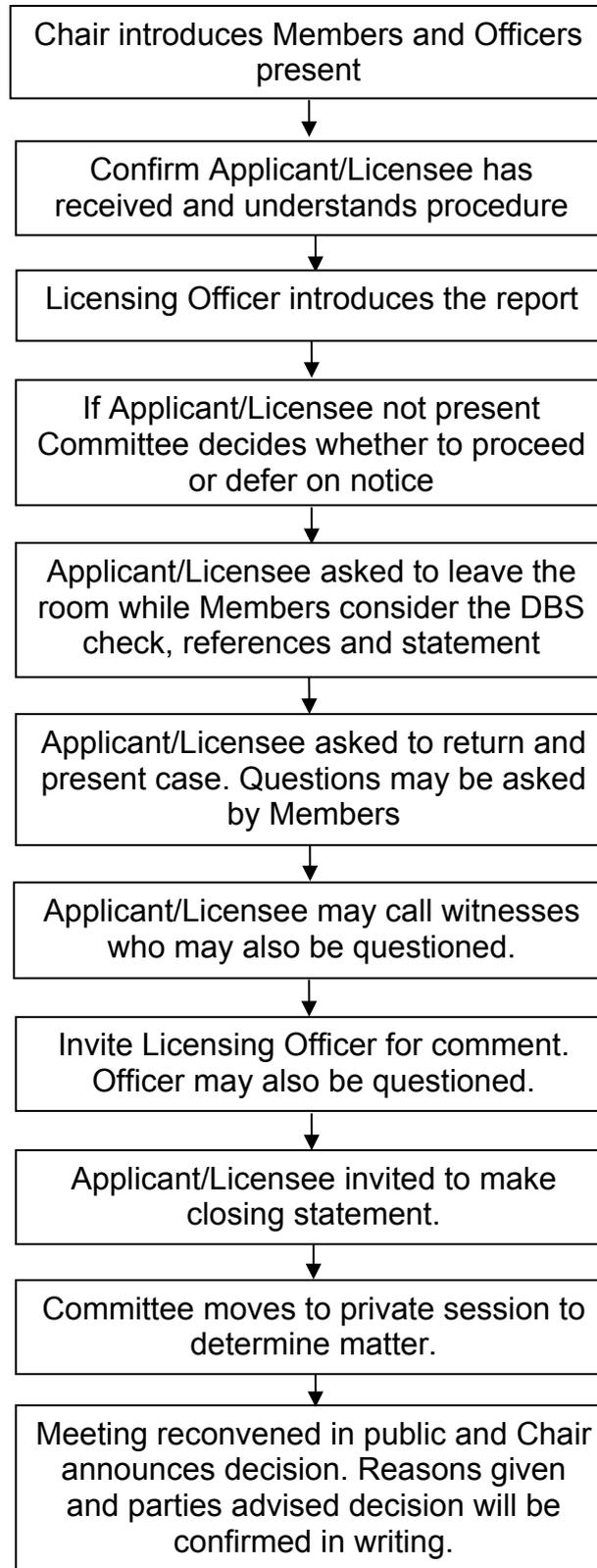
Chair(person)

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 1734/19
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 5 th December 2019
Author: John Dowding
<p>Exempt Report Title: Consideration of Fit and Proper</p> <p>Exempt Appendix Title(s):</p> <p>Exempt Annex A- Current Licence</p> <p>Exempt Annex B – Copy of Letter 6 June 2019.</p> <p>Exempt Annex C – Copy of Letter 23rd August 2019</p> <p>Exempt Annex D – Copy of Letter 13th September 2019</p> <p>Exempt Annex E – Copy of Letter 1st October 2019</p> <p>Exempt Annex F – Copy of Letter 11th September 2015</p> <p>Exempt Annex G – Copy of Letter 1st April 2016</p> <p>Exempt Annex H- Current Policy on Vehicle, Operator & Driver Standards</p>

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 exempt report and appendices 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) 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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