

Licensing Sub-Committee

Date: Thursday, 29th June, 2023

Time: 10.00am

Venue: Council Chamber - Guildhall, Bath

Councillors: Steve Hedges, Lucy Hodge and Toby Simon

Chief Executive and other appropriate officers
Press and Public

A briefing session for Members will be held at 9.30am.



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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>

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.

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 can be found at:

<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, 29th June, 2023

at 10.00am in the Council Chamber - 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.

(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 4.4 Appendix 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: 18TH MAY 2023 (Pages 5 - 12)

6. LICENSING PROCEDURE (Pages 13 - 16)

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

7. EXCLUSION OF THE PUBLIC

The Sub-Committee is asked to consider passing the following resolution:

“the Sub-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. CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00378/TAXI (Pages 17 - 62)

The Committee Administrator for this meeting is Mark Durnford who can be contacted on 01225 394458.

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 18th May, 2023

Present:- Councillors Steve Hedges (Chairman), Sarah Moore and Manda Rigby

Also in attendance: Carrie-Ann Evans (Team Leader, Legal Services) and Michael Dando (Senior Public Protection Officer)

129 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

130 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

131 DECLARATIONS OF INTEREST

Councillor Manda Rigby declared an other interest in respect of agenda item 7. She explained that the site of the licence was within her ward of Bathwick, but that she herself did not live on any of the roads concerned. She added that in a previous year in her role as Deputy Mayor she had taken part in the parade on a float.

132 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

133 MINUTES OF PREVIOUS MEETINGS: 6TH APRIL 2023 & 20TH APRIL 2023

The Sub-Committee **RESOLVED** to approve the minutes for the meetings held on 6th April 2023 and 20th April 2023 and they were duly signed by the Chairman.

134 LICENSING PROCEDURE

The parties confirmed that they had received the licensing procedure.

The Chairman referenced the procedure for the application before the Sub-Committee and stated that all parties would be given an equal opportunity to make their representations and give evidence.

135 APPLICATION FOR A VARIATION OF A PREMISES LICENCE FOR BATH CARNIVAL, SYDNEY GARDENS, BATH. BA2 6NF

The Lead Officer (Licensing) introduced the report to the Sub-Committee. He explained that they were being asked to determine the application to vary a Premises Licence for Bath Carnival, Sydney Gardens, Bath. BA2 6NF.

He informed those present that the application proposes the following variations to the existing licence:

To remove the existing Annex 2 condition:

- We will manage the number of people within the premise and restrict the capacity to a maximum of 3000 people at one time. These numbers will be available to the Licensing Authority or any other responsible representative upon request throughout the day.

and replace this condition with the following:

- We will manage the number of people within the premise and restrict the capacity to a maximum of 4750 people at one time. These numbers will be available to the Licensing Authority or any other responsible representative upon request throughout the day.

He added that there are no proposed changes to Licensable Activities or timings.

Stuart Matson, Bath Carnival Director addressed the meeting and said that the carnival was an event that aimed to provide opportunities to all members of the public in a safe and inclusive manner.

He stated that they take their role in public safety seriously and that at the 2022 event there had been 15 stewards on the site at all times and that 5 of them were SIA trained. He added that all gates to the site were manned with staff that had been given clickers to monitor the numbers attending.

He said that the sound levels at the site will be monitored and controlled as necessary.

He informed the Sub-Committee that this year, as in previous years they will have a dedicated team for litter picking and clearing of the site on completion of the event.

He stated that the prospect of incidents of crime increasing were speculative and that they work with local police as part of the event process and that the event will be effectively managed.

Councillor Sarah Moore asked how the numbers are monitored for those people attending and leaving the site.

Stuart Matson replied that stewards record these figures by using 'In & Out clickers'. He added that the peak number in attendance at the site last year was 2,875.

Councillor Manda Rigby asked for confirmation of how many stewards were in place at the event last year.

Stuart Matson replied that there were 15 stewards on site in Sydney Gardens at all times.

Councillor Rigby asked how often radio checks were made during the event.

Stuart Matson replied that checks took place seven times across the day.

The Chairman asked how many volunteers were helping out as part of the event.

Stuart Matson replied that around 40 volunteers were involved throughout the day with various shift durations.

Rob Deadman, RS Security addressed the Sub-Committee as a witness for the applicant. He said that it had been a pleasure to attend the event the past couple of years. He stated that in addition to the 5 SIA trained staff that had initially been agreed to be in place on the day, a further 6 were present for the event in 2022.

He said that the Sydney Gardens site was manned at all times and that in his opinion it was a well-run event.

Councillor Rigby asked what guidance they were following that had led them to increase the number of stewards for the event this year.

Stuart Matson replied that they talked with their security personnel and the Licensing department.

Ceris Humphreys, Pulteney Estate Residents' Association (PERA) asked if a figure could be given as to how many people were on the site during the parade.

Rob Deadman replied that the numbers do decrease once the parade begins and said that it would have been around 100 people.

Ceris Humphreys, PERA addressed the Sub-Committee. She said that the safeguarding of young people was a real concern to some of the local residents and that they do not feel that the site is adequately manned.

She added that residents would welcome being consulted as part of the application process for the carnival in future years.

She stated that she felt that there were clear contradictions within the paperwork that had been submitted. She said that the site was a large open space with many access points and a low running wall to one section of the site.

She informed the Sub-Committee that she felt that the attendance numbers had not been recorded correctly and that there would not be such a low footfall through the Canal Gate.

She stated that PERA do support community events in general, but want them to be safe and lawful. She said that the Sub-Committee needs to be able to satisfy itself that the numbers are correct and that they feel the site will be safe. She added that access to the site needs to be better managed.

Councillor Manda Rigby asked what measures / conditions she would like to be put in place.

Ceris Humphreys replied that the counting of attendees needs to be more accurate and that she felt she could provide advice of where stewards could be better placed. She added that if possible additional barriers could be placed on the low walls section of the site.

Councillor Rigby asked if it would be helpful if there was access to a named person to contact to be able to report any incidents.

Ceris Humphreys replied that flyers regarding the event are distributed to some residents, but said that there was nothing on site regarding any specific contact details so that any problems can be reported. She added that she would welcome contact information for the public to use to be on show at the site.

Councillor Sarah Moore asked her to confirm that when attending the site she was only able to see one person wearing hi-vis.

Ceris Humphreys replied yes. She said that she entered the site near the Holburne Museum and proceeded to walk around the site and was only able to see the one person in hi-vis.

The Chairman asked each party to make a closing statement.

Stuart Matson stated that the event has been signed off through SAGE (Safety Advisory Group for Events) and that none of the Responsible Authorities had made any representations regarding the event. He added that a Stewarding Plan can be submitted to the Council prior to the event taking place.

He explained that a 1,000 letter drop had been carried out to local residents and businesses providing them with contact details for the event and that there would be an always manned HQ on site.

He said that the event was open for all kinds of people to attend and that it welcomes many members of the public to it with a variety of needs.

Ceris Humphreys said that for the event to go ahead she wanted appropriate and enforceable conditions in place and strict monitoring and recording of the numbers in attendance. She added she would welcome being consulted about the event in future years.

The Sub-Committee at this point of the meeting went into recess to begin their deliberations.

Following this break the Sub-Committee reconvened to enable them to clarify further points of evidence.

Councillor Manda Rigby asked for further details to be given regarding the Stewarding Plan.

Stuart Matson replied that it formed part of their Event Management Plan and that it shows specifically where stewards will be sited during the event. He said that they

would submit it to the Licensing department and the Responsible Authorities. He added that they also have a Major Incident Plan and Lost Child Plan in place.

Councillor Rigby asked who had approved the Stewarding Plan.

Stuart Matson replied that it had been approved by SAGE (Safety Advisory Group for Events).

Councillor Rigby asked where on site was there signage for the event HQ.

Stuart Matson replied that there was signage at the Gardener's Lodge and throughout the site.

The Chairman asked if he would be willing for these measures to be put in place as conditions of the licence.

Stuart Matson replied that he would.

Councillor Sarah Moore asked if a contacts information card could be given to all site workers so that they could pass this information onto members of the public should they need it.

Stuart Matson replied that he would be willing to put this in place.

The Chairman asked if he would be willing for this to be put in place as a condition of the licence.

Stuart Matson replied that he would.

The Sub-Committee at this point of the meeting again went into recess to deliberate their decision.

Decision & Reasons

Members have determined an application to vary a Premises Licence for Bath Carnival, Sydney Gardens, Bath, BA2 6NF. 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 on the information before them. Members reminded themselves that this is not a review of the existing premises licence, and the applicant should not come away with less than is already permitted under the terms of that licence. Members reminded themselves that each application must be considered on its own merits.

Members noted that these premises do not fall within BANES' Cumulative Impact Area which means that the Cumulative Impact Policy is not engaged.

Members had received and read one lot of additional information on behalf of the Pulteney Estate Residents Association (PERA) prior to the hearing which comprised a bundle of 5 annexes.

Members had also received and read a further lot of additional information on behalf of the applicant, the first lot being attached to the agenda reports pack, which comprised a 3-page word document.

The Applicant

Members heard from Stuart Matson on behalf of the Applicant who indicated that they want to make the carnival as inclusive and accessible for everyone who wishes to participate, and they want to make it a safe environment. He explained that they take safety very seriously and referred to the witness statements in the Applicant's additional information appended to the agenda reports pack, which confirm that there were stewards on gates with clickers and that they had gate numbers with recording logs as part of the management process.

Mr Matson indicated to Members that appropriate safeguarding was in place and he referred to the witness statement provided by Mr Prentice from Super Pirates who managed the children's activities and quoted verbatim Mr Prentice's observation that the event is "well managed, communication is clear, risk assessment and security is diligent."

Mr Matson explained to Members that if the increased capacity is permitted there will be enhanced safeguarding. In relation to waste on the premises, Mr Matson brought Members' attention to the photographs that had been submitted showing the premises after the event. On the subject of crime and disorder, Mr Matson submitted that the comments from the objector were speculative, he explained that the Applicant works closely with local law enforcement and noted that they had not raised concerns about increased numbers. On questioning from Members, Mr Matson indicated that in 2022 the number of attendees peaked at 2875, recording had started immediately at the start of the event and numbers were reported back on 7 occasions throughout the day; there were 15 stewards on the premises at all times including 5 SIA registered staff. In addition to those numbers there were about 40 volunteers over the course of the day.

The applicant called Rob Deadman from RS Security as a witness in support of the application. Members had already read Mr Deadman's witness statement which was dated 4th May 2023 and contained at page 76 of the agenda report's pack. Mr Deadman described the carnival as a joyous event and very well run, he confirmed the details of trained stewards and registered SIA staff appointed for the 2022 carnival, as referred to in his witness statement.

The Interested Parties

Objections

There was a written objection to the application from Pulteney Estate Residents Association (PERA). Within the written representation was a witness statement from

Ceris Humphreys (Vice Chair, PERA) which Members had already read. Ms Humphreys addressed Members in oral representations.

PERA objected to the application on all four licensing objectives, namely, prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety. It was indicated that the proposed variation would increase the permitted capacity at the premises by nearly 60% and that any increase in capacity would be contrary to all 4 licensing objectives.

The representation indicated that PERA is supportive of the carnival as a community event however, in its view, the 2022 event failed in various respects to comply with BANES' policies, the approved Event Management Plan and conditions on the Premises licence. In the written representation it was asserted that there was a breach of the condition of the licence relating to stewards and SIA registered staff. Ms Humphreys' observation was that for a considerable period during the 2022 event there were no stewards on site and in her view, this would have impaired a proper response to any incident or emergency and was an unacceptable risk to public safety. Ms Humphreys also indicated in writing that there appeared to her to be no counting of people entering or leaving the premises which led her to conclude it was likely that at busy times the maximum capacity condition of the licence would have been breached. Ms Humphreys expressed concern that the requested increase in capacity would increase the risk of harm to children for the same reasons already expressed.

In the written objection, PERA referred to noise nuisance at the event and the Noise Management Plan however, members noted that the application did not seek to vary any licensable activities, and this is not a review of the existing premises licence.

PERA also expressed concerns in relation to the prevention of public nuisance licensing objective regarding waste generated at the event and remaining on the premises after the event.

Responsible Authorities

Members noted that there were no representations from Responsible Authorities in relation to the application.

Members

Members were careful to take account of the relevant written and oral representations both for and against the application and balanced their competing interests. Members also noted the additional information presented by the parties.

Members were careful to disregard matters falling outside of the scope of the application before them such as issues relating to noise from licensable activities which were not the subject of this variation application.

Members were satisfied that if granted with the conditions offered as part of the application, the conditions agreed to by the Applicant at the hearing and a further condition imposed by members to detail the arrangements for recording numbers at the premises, the application would not undermine the promotion of one or more of

the licensing conditions. Accordingly, Members delegate authority to the licensing officer to issue the licence as applied for with conditions offered by the applicant in their application and the following additional conditions which Members consider promote the public safety and protection of children from harm licensing objectives.

The Applicant agreed to a condition for signposting of the headquarters at the premises and Members have specified the location of that signposting, the condition is as follows:

1. A copy of a site location plan indicating the location of headquarters on the premises to be located at each entrance/exit to the premises as follows:
 - i) Beckford Road junction with Sydney Place
 - ii) Holburne Museum
 - iii) New Sydney Place
 - iv) Sydney Road
 - v) Sydney Road link with Warminster Road
 - vi) Beckford Road adjacent to canal; and
 - vii) Canal

The Applicant agreed to the following condition:

2. Each steward, SIA registered member of staff, trader, supplier, St John's Ambulance representative or volunteer on site on the day of the event shall be provided with channel list, basic chain of command and key contacts details.

As imposed by Members but set out as an operating practice in the Applicant's additional information at page 81 of the agenda reports pack, the following condition:

3. Event headquarters will radio stewards managing the entry and exits every 30 minutes to log the number of each clicker.

The meeting ended at 1.50 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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.

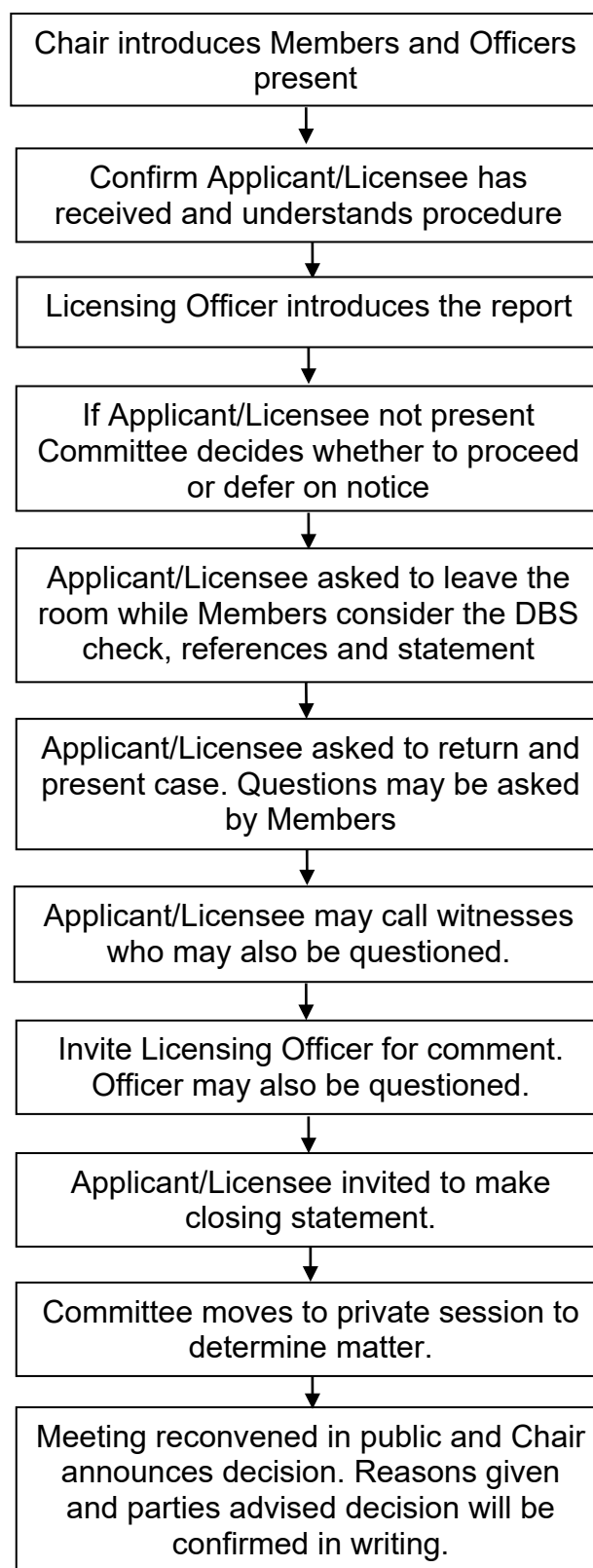
PLEASE NOTE:

- 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.

**LICENSING SUB-COMMITTEE
HACKNEY CARRIAGE (TAXI) AND
PRIVATE HIRE VEHICLES DRIVERS' LICENCE PROCEDURE**



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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-1369537
Meeting / Decision: Licensing Sub-Committee
Date: Thursday 29 th June 2023
Author: Wayne Campbell
Exempt Report Title: Consideration of 'Fit and Proper' status Exempt Appendix Title(s): Exempt Annex A- Current Combined Hackney Carriage/Private Hire Drivers Licence and Conditions. Exempt Annex B – Copy of Email. Exempt Annex C – Section 9 Statement. Exempt Annex D –Copy of Letter. Exempt Annex E – Copy of Licensing Officer's Contemporaneous Notes. Exempt Annex F – Copies of Warning Letters. Exempt Annex G – Copy of Email. Exempt Annex H - Policy on Hackney Carriage & Private Hire Licensing Standards for Drivers, Vehicles and Operators.

The Report and Appendices contain 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 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.

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 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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