

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 3rd September, 2013, 10.00 am

Councillors: Manda Rigby (Chair), Roger Symonds and Anthony Clarke

Officers in attendance: Enfys Hughes, John Dowding (Senior Licensing Officer) and Francesca Smith (Senior Legal Adviser)

27 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

28 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

29 DECLARATIONS OF INTEREST

There were none.

30 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

31 MINUTES: 6 AUGUST 2013

RESOLVED that the minutes of the last meeting on Tuesday 6th August 2013 were approved as a correct record and signed by the Chair.

32 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING

RESOLVED that the procedure for the meeting be noted.

33 EXCLUSION OF THE PUBLIC

RESOLVED "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item(s) of business because of the likely disclosure of exempt information as defined by paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

34 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR MAW

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

The Licensing Officer reported that the applicant was not present, he had turned up but was unwell so had to leave. The witness was present.

Following an adjournment it was

RESOLVED that the application for Mr MAW be deferred until the next available Licensing Sub-Committee and Mr MAW be put on notice that his case might be heard in absence if he did not turn up.

Reasons for decision

The applicant had attended in preparation for the determination of his application but had become ill and had to leave.

The Members wished to question the applicant and in the interests of natural justice would give him a further opportunity to attend. They therefore deferred the determination of the application to the next available Licensing Sub Committee hearing on notice that the matter may proceed in absence on the next occasion.

35 CONSIDERATION OF CAUTION OBTAINED:-:- MR A M

The Sub-Committee considered the report which sought consideration of a caution obtained during the term of Mr AM's licence.

The Licensing Officer reported that Mr AM had not turned up and he had not received any information about him.

Following an adjournment it was

RESOLVED that consideration of Mr AM be deferred until the next available Licensing Sub-Committee.

Reasons for decision

The Licensee had not attended the hearing today and had not given the Council any reasons for this.

However, the Members wished to question the Licensee and in the interests of natural justice they decided to defer the matter to the next available Licensing Sub Committee on notice that the matter may proceed in absence on the next occasion.

36 CONSIDERATION OF CONVICTION OBTAINED:- MR K H

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

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

The Licensing Officer presented the report and stated that as part of the renewal process a Disclosure and Barring Service check was undertaken which revealed a

conviction which had not been disclosed to the Licensing Section at the time or on filling the renewal form. Mr KH had provided a statement. The Licensing Officer circulated the Disclosure and Barring Service check and personal statement in respect of Mr KH. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

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

Following an adjournment it was

RESOLVED that four penalty points be imposed on Mr KH's hackney carriage/private hire driver's licence.

Reasons for decision

Members have had to determine whether to take any action against Mr KH as he had obtained a conviction during the period of his combined hackney carriage and private hire drivers licence which he had failed to declare to the Council in accordance with the standard conditions attached to his licence.

In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy. Members had to consider whether Mr KH was a fit and proper person to continue to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner of any one they cared about to travel alone in a vehicle driven by the applicant.

To assist them in making a determination Members listened to the applicant's oral representations and took account of a Police statement, which he had provided and his own statement.

The conviction had been obtained when Mr KH was using his licensed vehicle and Members took a dim view of this. However they noted that he had been a licensed driver with the Council since 1996 and no complaints had ever been made against him nor had he obtained any other convictions.

They recognised that he was in the process of seeking help for his problems and that he was attempting to turn his life around. They considered that to suspend or revoke his licence would be disproportionate on this occasion.

They noted that the Council's policy was not of assistance on this occasion but had nevertheless applied the "fit and proper" test.

Members therefore decided that Mr KH was a fit and proper person to continue to hold a private hire and hackney carriage drivers licence.

Accordingly, they decided to impose four penalty points on his licence for not declaring the conviction to the Council in accordance with the standard conditions.

The meeting ended at 11.06 am

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services