

## **Mission Statement**

To Improve the Quality of Life  
For Those Who Live and Work in The District

19 September 2008

Dear Councillor

You are hereby invited to a meeting of the **Licensing Committee** to be held in **Committee Room 2**, Civic Centre, Portholme Road, Selby on **Monday 29 September 2008**, commencing at **10:00 am**.

The agenda is set out below.

**1. Apologies for Absence and Notice of Substitution**

To receive apologies for absence and notification of substitution.

**2. Disclosure of Interest**

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

**3. Minutes**

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 1 September 2008 (pages 5 to 9 attached)

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 10 to 11 attached).

**5. Chair's Address to the Licensing Committee**

## **6. Private Session**

**That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.**

## **7. Complaint about behaviour of Licensed Private Hire Driver**

Report of the Head of Service – Legal and Democratic Services (pages 12 to 18 attached).

## **8. Application for a Hackney Carriage Licence**

Report of the Head of Service – Legal and Democratic Services (pages 19 to 26 attached).

M Connor  
Chief Executive  
19 September 2008

### **Disclosure of Interest – Guidance Notes:**

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.
- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

**[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].**

### Dates of Future Meetings of the Licensing Committee

Date of Meeting	Deadline Date	Distribution Date
27 October 2008	9 October 2008	17 October 2008
24 November 2008	6 November 2008	14 November 2008
15 December 2008	27 November 2008	5 December 2008

### Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
J Dyson	D Davies	J McCartney
K McSherry	S Duckett	
C Pearson (Vice-Chair)		
S Ryder		
R Sayner (Chair)		
A Spetch		
D White		

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## Descriptions of Exempt Information

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).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Qualifications for Exempt Information:

Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -

  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.
9. Information falling within any of the 7 categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
10. Information which;
  - (a) falls within any of paragraphs 1 to 7 above; and
  - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## Agenda Item No: 3

### SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 1 September 2008, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

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Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs S Duckett, J McCartney, Mrs P Mackay (*for Mrs D White*) Mrs K McSherry, C Pearson, Mrs S Ryder and Mrs A Spetch.

Officials: Solicitor, Licensing Enforcement Officer and Committee Administrator

Public: 2

Press: 0

#### 237 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs J Dyson and Mrs D White.

Substitute Councillor was Councillor Mrs P Mackay (*for Mrs D White*) .

#### 238 **Disclosure of Interest**

None.

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## **Minutes**

### **Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 4 August 2008 be confirmed as a correct record and be signed by the Chair.**

240

## **Procedure**

The Procedure was noted.

241

## **Chair's Address to the Licensing Committee**

The Chair asked that all councillors had received the email she had sent in respect of the suspension of a taxi driver.

The incident in which the driver was concerned is being looked at by the Police and once the investigation has been concluded the Chair will report back to the Committee on what procedures need to be taken with regard to the driver.

The Chair also informed councillors that there was a Licensing Committee being held on Monday 29 September 2008 as this had been missed off the agenda for forthcoming meetings.

242

## **Introduction of DVLA Checks**

The Chair asked that this item be deferred until the 29 September 2008 meeting when a power point presentation from Data Systems (UK) Ltd would be given to councillors on the introduction of DVLA Checks.

### **Resolved:**

**That the item be deferred until 29 September 2008 meeting.**

243

## **Private Hire Licence in respect of a Limousine and Discreet Licensing Issue**

Councillors received the report of the Licensing Enforcement Officer to seek a decision regarding the approval of the grant of a private hire vehicle licence in respect of a limousine owned by Mrs Waters and that the licence be discreet in manner.

Mrs Waters had applied for a Private Hire Vehicle Licence in respect of a Lincoln Town Car American Stretch Limousine motor vehicle.

**Resolved:**

**That the approval of a private hire vehicle licence in the form of a disc identifying the registration number as a private hire vehicle be approved for the Limousine.**

244

**Private Session**

**That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, as there will be disclosure of exempt information as defined in paragraph 3 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.**

245

**Application for Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Ford Mondeo, a vehicle not fully accessible to the disabled.

The Licensing Enforcement Officer outlined the details of the case.

The driver concerned outlined his reasons for the application and produced a copy of his accounts for the period covering the last three years.

Councillors considered the application against the Council's guidelines on hardship and resolved to grant a licence for a vehicle, which did not have disabled access.

**Resolved:**

**That the application for a hackney carriage licence for a vehicle not accessible to the disabled be granted.**

246

**Application for Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Renault Espace, a vehicle not fully accessible to the disabled.

The Licensing Enforcement Officer outlined the details of the case and that the applicant was not applying for the licence on hardship grounds.

The driver handed out several papers to the councillors in connection with his application.

The driver concerned raised various issues in respect of the report before the Committee and that he was not applying for his licence on hardship grounds or medical grounds.

The driver insisted that the Renault Espace mentioned in 4.6 of the report was not the same vehicle. The Licensing Enforcement Officer accepted that it had been an error although this did not materially alter the meaning of the paragraph.

The driver also argued that under S36(7) of the Disability Discrimination Act 1995 the Council had to consider his medical condition. The Licensing Enforcement Officer informed both the driver and the Committee that this section had never been implemented by the Government and was not relevant to this application.

The driver also raised issues that were not relevant to the application before the Committee involving Plate 28, other drivers, other vehicles and a recent Court case.

The driver was questioned as to the status of Plate 28 which he declared was in bits and that he did not have to return as it belonged to him. The Licensing Enforcement Officer advised him that it still belonged to the Council and he was obliged to return it in whatever condition it was currently in.

Concerns were expressed that the licence plate could be misused.

The Committee considered the application and after some debate it was agreed not to grant the Hackney Carriage Licence.

The driver was asked if he had received a fair hearing to which he reported "no".

The Licensing Enforcement Officer was also asked if he had received a fair hearing to which he reported "yes".



The driver asked for the papers he had handed out at the start of the meeting to be returned to him. The Licensing Enforcement Officer asked that he keep the copy he had received as he had made notes on the paperwork during the meeting. As it was not indicated at the start of the hearing that the papers needed to be returned to the applicant, the officer retained his copy.

**Resolved:**

**That the application for a hackney carriage licence for a vehicle not accessible to the disabled be refused.**

The meeting closed at 11:45 am.

### LICENSING COMMITTEE

#### PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Councillors of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
  - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
  - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
  - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
  - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
  - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
  - ii) The Head of Service – Legal and Democratic Service will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
  - iii) The Chair will introduce Councillors of the Committee.
  - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, will then withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Head of Service – Legal and Democratic Services will write to the applicant informing them of the decision of the Licensing Committee.