

## **Mission Statement**

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

27 February 2009

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, 9 March 2009** 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 9 February 2009 (pages 5 to 8 attached)

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 9 to 10 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 1 of Part 1 of Schedule 12(A) of the Act.**

## 7. Complaint about Behaviour of Licensed Hackney Carriage Driver

Report of the Interim Head of Service – Legal and Democratic Services (pages 11 to 14 attached).

S Martin  
Strategic Director  
27 February 2009

### **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
6 April 2009	19 March 2009	27 March 2009
11 May 2009	22 April 2009	30 April 2009

### 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		

Enquiries relating to this agenda, please contact Tracey Peam on:

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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.

## SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 9 February 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

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624	Application for a Hackney Carriage Licence
625	Application for Registration as a Motor Salvage Operator

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs J Dyson, N Martin (*for Mrs S Duckett*), Mrs K McSherry, C Pearson, Mrs S Ryder, Mrs A Spetch and Mrs D White.

Officials: Interim Head of Service – Legal and Democratic Services, Licensing Enforcement Officer and Committee Administrator.

Public: 0

Press: 0

### 616 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs S Duckett and J McCartney.

Substitute Councillor was N Martin (*for Mrs S Duckett*).

### 617 **Disclosure of Interest**

Councillor R Sayner declared a personal interest in Minute No: 624 and left the Chamber.

618

## **Minutes**

### **Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 12 January 2009 be confirmed as a correct record and be signed by the Chair.**

619

## **Licensing Sub Committee**

### **Resolved:**

**That the minutes of the proceedings of the Licensing Sub Committee meeting held on 9 January 2009 be received.**

620

## **Procedure**

The Procedure was noted.

621

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

The Chair informed the Committee that Licensing Training had been arranged for Friday 6 March 2009 with Mr R Butterfield.

It was agreed that the training should cover all aspects of Licensing issues and should be opened up for all Councillors to attend.

622

## **Licensing Fees**

Councillors received the report of the Licensing Enforcement Officer in respect of the review of licensing fees. Permission was sought to increase the current licensing fees.

In 2008 the Licensing Committee approved an increase in licensing fees of 5%. The Licensing Department proposed an increase this year of 10% for Hackney Carriage and Private Hire fees in order that Selby District fees are brought more closely into line with the fees for our Local Authority neighbours in North Yorkshire.

### **Resolved:**

**That the current licensing fees be increased by 10%.**

623

## **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.**

624

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

Having declared a personal interest in this item Councillor R Sayner left the Chamber and the Vice-Chairman, Councillor C Pearson took the chair.

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.

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

#### **Resolved:**

**That the application for a Hackney Carriage Licence for a vehicle not accessible to the disabled be granted on the grounds of financial hardship.**

625

### **Application for Registration as a Motor Salvage Operator**

Councillor R Sayner returned to the Chamber and proceeded to chair the meeting.

Councillors received the report of the Licensing Enforcement Officer in respect of the applicants' desire to be registered as motor salvage operators.

The Officer addressed the reasons why the application had previously been refused and referred specifically to:

- (i) lack of proper record keeping
- (ii) the pending prosecution of the applicants at Selby Magistrate's

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Court in light of the fact that the court may impose some form of order  
(iii) criminal convictions of the applicant and company employees

In relation to the record keeping it was explained that this had significantly improved to the satisfaction of both the Police and the Council.

With regard to the prosecution it was revealed that the Magistrates had dealt with the applicants leniently and made no order with regard to their continuing to trade.

In respect of the criminal convictions it was stated that the applicant's previous convictions were 'spent' and that the convictions of the employees were irrelevant as the management was the responsibility of the applicants, who it was noted were always on the premises.

The applicants were in attendance and presented their case to the Committee which stated that significant improvements had been made to the record keeping, they had been convicted at Selby Magistrates Court where they had each received a fine, and they also believed that the convictions of one of them were 'spent'.

Councillors gave a great deal of thought to the facts regarding this application and agreed that taking all the above issues into consideration, the application for registration as a motor salvage operator be granted.

**Resolved:**

**That the applicants be granted registration as motor salvage operators.**

The meeting closed at 10:55 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.