

## **Mission Statement**

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

31 March 2010

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 12 April 2010**, commencing at **10:00 am**.

### **AGENDA**

**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 8 March 2010 (pages 4 to 6 attached).

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 7 to 8 attached).

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

## 6. Application for removal of a consent street

Report of the Solicitor to the Council (Pages 9 to 30 attached).

J Lund  
Deputy Chief Executive  
31 March 2010

### **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**

<b>Date of Meeting</b>
10 May 2010
7 June 2010
5 July 2010

**Membership of the Licensing Committee  
10 Members**

<b>Conservative</b>	<b>Labour</b>	<b>Independent</b>
K Ellis		
J Dyson	D Davies	J McCartney
P Mackay	B Marshall	
K McSherry		
S Ryder		
R Sayner (Chair)		
D White (Vice Chair)		

Enquiries relating to this agenda, please contact Jade Hibberd on:

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SELBY DISTRICT COUNCIL

**MINUTES**

Minutes of the proceedings of a meeting of the Licensing Committee held on 8 March 2010 in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

621	Apologies
622	Disclosure of Interest
623	Minutes
624	Procedure
625	Guidelines for Hardship
626	Guidelines Relating to the Relevance of Convictions
627	Chairs address to the Licensing Committee
628	Private Session
629	Application for a Hackney Carriage Licence
630	Application for a Private Hire Drivers Licence
631	Application for a Private Hire Drivers Licence

Present: Councillor R Sayner in the Chair.

Councillors: Councillor Mrs D White, Councillor Mrs D Davies, Councillor Mrs J Dyson, Councillor K Ellis, Councillor B Marshall, Councillor J McCartney, Councillor Mrs K McSherry, Councillor Mrs S Ryder and Councillor R Sweeting (Substitute for Councillor Mrs P Mackay).

Officials: Senior Solicitor, Licensing Enforcement Officer and Committee Services Officer.

Public: 0

Press: 0

621 **Apologies for Absence and Substitution**

Apologies were received from Councillor Mrs P Mackay.

Substitutions were Councillor R Sweeting for Councillor Mrs P Mackay.

622 **Disclosure of Interest**

None.

623 **Minutes**

**Resolved:**

Licensing Committee  
08 March 2010

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 8 February 2010 be confirmed as a correct record and be signed by the Chair.**

624 **Procedure**

The procedure was noted.

625 **Guidelines for Hardship**

The guidelines were noted.

626 **Guidelines relating to the relevance of convictions**

The guidelines were noted.

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

The Chair informed the committee that licensing training would be continuing and if members had any suggestions for future sessions they should come forward. Councillor R Sweeting expressed his thanks to the Senior Solicitor and Licensing Enforcement Officer for the previous training session.

628 **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 the new Schedule 12 (A) of the Local Government (Access to information) (Variation) Order 2006.**

629 **Application for a Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Peugeot 406, 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:**

- i) **That the application for a Hackney Carriage Licence for a vehicle not accessible to the disabled be granted on the grounds of financial hardship.**
- ii) **That the applicant was advised that in the event of any claim for hardship on any second or subsequent occasion, it will be a material consideration that a previous application was approved on the grounds of hardship and a further request might be more difficult to prove.**

630

**Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicant's desire to be issued with a Private Hire Driver's Licence and his fitness to operate as a consequence of a CRB disclosure.

The Licensing Enforcement Officer outlined details of the case.

The applicant gave councillors a detailed account of antecedents.

**Resolved:**

**That the applicant be granted a Private Hire Driver's Licence.**

631

**Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicant's desire to be issued with a Private Hire Driver's Licence and his fitness to operate as a consequence of a CRB disclosure.

The Licensing Enforcement Officer outlined details of the case.

The applicant gave councillors a detailed account of antecedents.

**Resolved:**

**That the applicant be granted a Private Hire Driver's Licence.**

The meeting closed at 11:00am

## **LICENSING COMMITTEE**

### **PROCEDURES TO BE FOLLOWED**

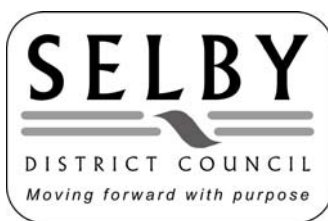
The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal 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 District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
  - iii) The Chair will introduce Members 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, press and public, will then be asked to 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, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Committee Section will inform in writing to the applicant the decision of the Licensing Committee.





## Public Session

Agenda Item No: 6

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**Title:** Application for removal of a consent street  
**To:** Licensing Committee  
**Date:** 12<sup>th</sup> April 2010  
**Service Area:** Customers and Business Support  
**Author:** Tim Grogan  
**Presented by:** Tim Grogan

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### 1. Purpose of Report

- 1.1 The purpose of this report is to determine whether to pass a resolution to remove the designation of Market Place, Selby as a consent street thereby making it a prohibited street under Schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 in order to remove Market Place, Selby from the list.

### 2. Recommendation(s)

- 2.1 **It is recommended that councillors resolve to pass a resolution to remove the designation of Market Place, Selby as a consent street from the list of consent streets.**

### 3. Executive Summary

- 3.1 Following the adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Selby District Council granted consent street status to Market Place, Selby on 21<sup>st</sup> October 1985.
- 3.2 In February 2009 work began in Selby on a renaissance scheme, which included upgrading the precinct and repaving Market Place. At this time a Mr

Crombie was operating in Market Place selling hot snacks and drinks from a purpose built catering vehicle better known as a burger van. The work in progress prevented him from occupying his usual site but when the work was completed on 7<sup>th</sup> August 2009 he asked to return to his original pitch. This was resisted by the Renaissance Working Group on the grounds that the area would visibly deteriorate owing to the likelihood of grease and debris.

3.3 The matter was raised at a Licensing Committee Hearing on 9<sup>th</sup> November 2009 where a decision was taken to recommend that Market Place be removed from the register of consent streets for the following reasons:

- **The impact that cooked food traders would have on the regenerated Market Place when there are alternative locations available.**
- **Obstruction of emergency vehicle access.**

3.4 The Licensing Department, as required by legislation, placed a public notice in a local newspaper and served copies on North Yorkshire Police and North Yorkshire County Council Highways Authority.

3.5 No representations have been received and as a consequence the Licensing Committee is recommended to consider passing a resolution that the designation of Market Place, Selby be changed from a consent street to a prohibited street.

3.6 In addition, the Licensing Committee, at this hearing, resolved that the removal of all other cooked food traders currently operating in the area would be looked into. The Licensing Department is able to report that trading carried out in a lawful market or fair does not constitute street trading for the purposes of the Local Government (Miscellaneous Provisions) Act 1982. It therefore follows cooked food traders operating in this manner are beyond the scope of the District Council.

#### **4. The Report**

4.1 On the 21<sup>st</sup> October 1985 Selby District Council resolved to adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. As a consequence a number of streets within the district were designated as consent streets. This allowed street traders to operate in such streets provided they were authorised so to do by the Council.

4.2 These streets included Market Place, Selby and since this time and in accordance with the legislation the Licensing Department authorised a number of traders to operate in this area.

4.3 The sole trader operating from Market Place, Selby is Anthony Crombie whose authority expires on 31<sup>st</sup> October 2010. Essentially he is licensed to trade by selling hot snacks and drinks from a purpose built catering vehicle better known as a burger van.

- 4.4 In February 2009 work began on a renaissance scheme in Selby part of which involved an upgrade of the precinct area of the town. As this concerned repaving Market Place with York stone Mr Crombie was requested to find an alternative site.
- 4.5 Mr Crombie occupied a number of sites in the vicinity of Market Place before settling at a location close to the junction of Gowthorpe and Finkle Street, adjacent to the new automatic rising bollards.
- 4.6 On the 17<sup>th</sup> August 2009 the renaissance scheme was completed and Mr Crombie contacted the Licensing Department with a view to assuming his pitch in Market Place. However, the Renaissance Working Group made it clear that as £1.3 million pounds had been used to fund the scheme, much of which had been spent on expensive York stone, it would be inappropriate for a burger van to occupy the area where the likelihood was that the stone would become spoiled by deposits of grease and other debris resulting from the sale of snacks.
- 4.7 The current situation is that Mr Crombie continues to operate from a position bordering the bollards but insists he be allowed back into Market Place. However, the view of the Renaissance Working Group is that Mr Crombie should not be allowed to return to the Market Place for the following reasons:
- (i) Lack of access to the Market Place for emergency vehicles
  - (ii) The grease and debris resulting from the use is spoiling the new granite benches and York stone paving in that area
  - (iii) Public concerns about the impact of the use and the risk that it will soon be ruined
- 4.8 For this reason the matter was considered by the Licensing Committee on 9<sup>th</sup> November 2009 where Councillors made the following decision:

**Recommendation to Council:**

**That the Market Place Selby be removed from the register of consent streets for the following reasons:**

- **The impact that cooked food traders would have on the regenerated Market Place when there are alternative locations available.**
- **Obstruction of emergency vehicle access.**

**Resolved:**

**That the removal of all other cooked food traders currently operating in the area would be looked into.**

- 4.9 In accordance with legislation a notice of intention to pass a resolution to vary the original resolution of 21<sup>st</sup> October 1985 that the designation of Market Place, Selby be changed from a consent street to a prohibited street was published in the Selby Times on 7<sup>th</sup> January 2010 requesting responses by the 9<sup>th</sup> February 2010. In addition, copies were served on North Yorkshire Police and North Yorkshire County Council, Highways Authority.

- 4.10 The Police and Highways responded with no objections and Mr Crombie was sent a letter requesting clarification of his position. On 18<sup>th</sup> February 2010 he contacted the licensing Officer stating he was unaware that he was required to respond having declared his position on the 9<sup>th</sup> November 2009.
- 4.11 It is for the Licensing Committee to decide, having regard to all the available evidence, to consider passing a resolution that the designation of Market Place, Selby be changed from a consent street to a prohibited street.
- 4.12 Failure to follow the correct procedure could lead to a challenge by way of Judicial Review. There is no statutory right of appeal except by Judicial Review. If the correct procedure were followed the risk of such an application is low.
- 4.13 In relation to the Licensing Committee's resolution; **that the removal of all other cooked food traders currently operating in the area be looked into**, the Committee should be aware that trading carried out in a lawful market or fair does not constitute street trading for the purposes of the Local Government (Miscellaneous Provisions) Act 1982. A street market in the strict legal sense can only be established under Royal Prerogative (historical "charter markets") or under statute. It therefore follows that cooked food traders operating as part of a lawful market are beyond the scope of the District Council.
- 4.14 Furthermore, it would not prevent the area being used for special events provided that permission was granted under the terms of any other legislation, for example, the Licensing Act 2003.

## **5. Financial Implications**

- 5.1 The fee for Anthony Crombie's authorisation is £1,157.50 per year, which would be lost to the Council should this licence be no longer granted or no alternative pitch be found.
- 5.2 The fee to publish the notice in the Selby Times on the 7<sup>th</sup> January 2010 was £104.46.
- 5.3 The fee to publish the two notices as demanded by legislation will be £201.92

## **6. Link to Corporate Plan**

- 6.1 The additional safeguards proposed in this report will help support the Council's strategic theme of putting customers first.

## **7 How Does This Report Link to Council's Priorities?**

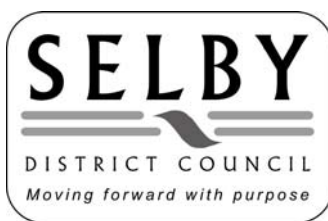
7.0 This report will contribute towards acknowledging the priority of safer communities.

## **8 Impact on Corporate Policies**

- |     |                                                                                                                                                                                                                                                                                 |                  |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 8.1 | <b>Service Improvement</b><br>The removal of Market Place, Selby from the list of consent streets could contribute to the area remaining free from deposits of grease and other debris.                                                                                         | <b>Impact</b>    |
| 8.2 | <b>Equalities</b>                                                                                                                                                                                                                                                               | <b>No Impact</b> |
| 8.3 | <b>Community Safety and Crime</b>                                                                                                                                                                                                                                               | <b>No Impact</b> |
| 8.4 | <b>Procurement</b>                                                                                                                                                                                                                                                              | <b>No Impact</b> |
| 8.5 | <b>Risk Management</b><br>There is a risk that if Market Place remains a consent street an applicant refused permission to trade could appeal to the High Court by way of Judicial Review with the risk that costs could be awarded in the event of the appeal being successful | <b>Impact</b>    |
| 8.6 | <b>Sustainability</b>                                                                                                                                                                                                                                                           | <b>No Impact</b> |
| 8.7 | <b>Value for Money</b>                                                                                                                                                                                                                                                          | <b>No Impact</b> |

## **9 Background Papers**

- 9.1 Copy of Licensing Committee report heard on 9<sup>th</sup> November 2009 making application for removal of a consent street.
- 9.2 Copy of Minute 374 of Licensing Committee report 9<sup>th</sup> November 2009 making application for removal of a consent street.
- 9.3 Copy of Committee report requesting approval of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 showing list of consent streets
- 9.4 Copy of Mr Crombie's consent and the street trading consent conditions.
- 9.5 Copy of Notice published in Selby Times 7<sup>th</sup> January 2010.



## Public Session

Background Paper: 9.1

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**Title:** Application for removal of a consent street

**To:** Licensing Committee

**Date:** 09 November 2009

**Service Area:** Customers and Business Support

**Author:** Tim Grogan

**Presented by:** Tim Grogan

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### 1. Purpose of Report

- 1.1 The purpose of this report is to request that councillors re-designate the register of consent streets upon which the Council allows street trading to operate in accordance with Schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 in order to remove Market Place, Selby from the list.

### 2. Recommendation(s)

- 2.1 **It is recommended that councillors determine whether or not to remove Market Place, Selby from the list of consent streets having consideration of all the relevant facts.**

### 3. Executive Summary

- 3.1 On the 21<sup>st</sup> October 1985 Selby District Council resolved to adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. As a consequence a number of streets within the district were designated as consent streets. This allowed street traders to operate in such streets provided they were authorised so to do by the Council.

- 3.2 These streets included Market Place, Selby and in accordance with the legislation the Licensing Department authorised Anthony Crombie to operate in this area for the purpose of selling hot snacks and drinks from a purpose built catering vehicle.
- 3.3 In February 2009 work began on a renaissance scheme in Selby which included upgrading the precinct area of the town by repaving the Market Place. This resulted in Mr Crombie having to temporarily move locations and although he has occupied a number of sites within the vicinity he has now settled at a location close to the junction of Gowthorpe and Finkle Street alongside the automatic rising bollards.
- 3.4 On the 17<sup>th</sup> August 2009 the renaissance scheme was completed and Mr Crombie has approached the Licensing Department in an effort to resume his original pitch in Market place. This has so far been resisted as a result of representations from the renaissance working group as a consequence of the visible deterioration in the York stone owing to deposits of grease and debris alleged to have originated from food provided by Mr Crombie.
- 3.5 Accordingly, it seems that the only method by which Mr Crombie or indeed other traders who may impact upon the appearance of the area is to remove the Market Place, Selby as a consent street.

#### **4. The Report**

- 4.1 On the 21<sup>st</sup> October 1985 Selby District Council resolved to adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. As a consequence a number of streets within the district were designated as consent streets. This allowed street traders to operate in such streets provided they were authorised so to do by the Council.
- 4.2 These streets included Market Place, Selby and since this time and in accordance with the legislation the Licensing Department authorised a number of traders to operate in this area.
- 4.3 The sole trader now operating from Market Place, Selby is Anthony Crombie whose authority is due to expire on 31<sup>st</sup> October 2009. Essentially he is licensed to trade by selling hot snacks and drinks from a purpose built catering vehicle better known as a burger van.
- 4.4 In February 2009 work began on a renaissance scheme in Selby part of which involved an upgrade of the precinct area of the town. As this concerned repaving Market Place with York stone Mr Crombie was requested to find an alternative site.
- 4.5 Mr Crombie occupied a number of sites in the vicinity of Market Place before settling at a location close to the junction of Gowthorpe and Finkle Street, adjacent to the new automatic rising bollards.

- 4.6 On the 17<sup>th</sup> August 2009 the renaissance scheme was completed and Mr Crombie contacted the Licensing Department with a view to assuming his pitch in Market Place. However, the renaissance working group made it clear that as £1.3 million pounds had been used to fund the scheme, much of which had been spent on expensive York stone, it would be inappropriate for a burger van to occupy the area where the likelihood was that the stone would become spoiled by deposits of grease and other debris resulting from the sale of snacks.
- 4.7 Essentially the view of the renaissance working group is that Mr Crombie should not be allowed to return to the Market Place for the following reasons:
- (i) Lack of access to the Market Place for emergency vehicles
  - (ii) The grease and debris resulting from the use is spoiling the new granite benches and York stone paving in that area
  - (iii) Public concerns about the impact of the use and the risk that it will soon be ruined
- 4.8 The current situation is that Mr Crombie continues to operate from a position bordering the bollards but insists he be allowed back into Market Place. This places him just beyond the paved area of Market Place but close enough to allow his customers to despoil the York stone. There is some evidence, in the form of CCTV footage and photographic stills, that the stone is being stained by grease and other debris, especially in the area of the seating surrounding the abbey cross. However, what is less clear is whether Mr Crombie or his customers are responsible or whether this involves customers of other nearby retailers.
- 4.9 The legislation suggests that the Council should allow traders to trade from a consent street unless there are reasonable grounds for preventing such. Should the Council decide that an authorisation be refused on the grounds of grease deposits and litter this is already catered for in the site conditions that indicate that the consent holder is responsible for such and should take all reasonable steps both to prevent and properly remove all such deposits.
- 4.10 If permission is denied the applicant is entitled to appeal to the High Court by way of Judicial Review on the grounds that his trade is being restrained. There is no other right of appeal.
- 4.11 It is the view of the Licensing Department that to avoid any future appeals the Council should consider removing Market Place, Selby from the list of consent streets. This would therefore prevent anyone trading from this location and Mr Crombie would need to find an alternative site.
- 4.12 The Committee should be aware that this legislation has no bearing on the Market Place being the site of market stalls on set days as this is dealt with under separate regulations.



- 4.13 In addition, it would not prevent the area being used for special events provided that permission was granted under the terms of the Licensing Act 2003.

## **5. Financial Implications**

- 5.1 The fee for Anthony Crombie's authorisation is £1,157.50 per year which would be lost to the Council should this licence no longer be granted or no alternative pitch be found.

## **6. Link to Corporate Plan**

- 6.1 The additional safeguards proposed in this report will help support the Council's strategic theme of putting customers first.

## **7 How Does This Report Link to Council's Priorities?**

- 7.0 This report will contribute towards acknowledging the priority of safer communities.

## **8 Impact on Corporate Policies**

- |     |                                                                                                                                                                                                                                                                                 |                  |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 8.1 | <b>Service Improvement</b><br>The removal of Market Place, Selby from the list of consent streets could contribute to the area remaining free from deposits of grease and other debris.                                                                                         | <b>Impact</b>    |
| 8.2 | <b>Equalities</b>                                                                                                                                                                                                                                                               | <b>No Impact</b> |
| 8.3 | <b>Community Safety and Crime</b>                                                                                                                                                                                                                                               | <b>No Impact</b> |
| 8.4 | <b>Procurement</b>                                                                                                                                                                                                                                                              | <b>No Impact</b> |
| 8.5 | <b>Risk Management</b><br>There is a risk that if Market Place remains a consent street an applicant refused permission to trade could appeal to the High Court by way of Judicial Review with the risk that costs could be awarded in the event of the appeal being successful | <b>Impact</b>    |
| 8.6 | <b>Sustainability</b>                                                                                                                                                                                                                                                           | <b>No Impact</b> |
| 8.7 | <b>Value for Money</b>                                                                                                                                                                                                                                                          | <b>No Impact</b> |

## **9 Background Papers**

- 9.1 Copy of Committee report requesting approval of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 showing list of consent

streets.

- 9.2 Copy of Mr Crombie's consent and the street trading consent conditions.
- 9.3 CCTV footage and photographic stills (available on the day)
- 9.4 Mr Crombie's views (available on the day)
- 9.5 The views of the Renaissance working group (available on the day)

Minutes of the proceedings of a meeting of the Licensing Committee held on 9 November 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

368	Apologies for Absence
369	Disclosure of Interest
370	Minutes
371	Procedure
372	Guidance relating to the relevance of Convictions
373	Chair's Address to the Licensing Committee
374	Application for Removal of Consent Street
375	Licensing Act 2003 – Minor Variations
376	Private Session
377	Application for a Private Hire Drivers Licence
378	Complaint About the Behaviour of a Licensed Private Hire Driver

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs J Dyson, K Ellis, Mrs P Mackay, Mrs K McSherry, Mrs S Ryder and Mrs D White.

Officials: Licensing Enforcement Officer, Senior Solicitor and Committee Services Officer.

### 368 **Apologies for Absence and Substitution**

Apologies were received from Councillor J McCartney

### 369 **Disclosure of Interest**

Councillor Davies declared a personal and non prejudicial interest in Agenda Item 7, due to knowing the family of the applicant.

### 370 **Minutes**

#### **Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 5 October 2009 be confirmed as a correct record and be signed by the Chair.**

### 371 **Procedure**

The Procedure was noted.

372 **Guidelines Relating to the Relevance of Convictions**

The guidelines were noted.

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

The Chair made no address.

374 **Application for Removal of a Consent street**

Councillors received the report of the Licensing Enforcement Officer in respect of re-designating the register of consent streets upon which the Council allows street trading to operate in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 in order to remove Market Place, Selby from the list.

The Licensing Enforcement Officer outlined details of the case.

Councillors also heard the account of a Burger van operator who had previously traded from the Market Place and wished to be allowed to return to the same location now that the renaissance scheme had been completed.

**Recommendation to Council:**

**That the Market Place Selby be removed from the register of consent streets for the following reasons:**

- **The impact that cooked food traders would have on the regenerated Market Place when there are alternative locations available.**
- **Obstruction of emergency vehicle access.**

**Resolved:**

**That the removal of all other cooked food traders currently operating in the area would be looked into.**

375 **Licensing Act 2003 – Minor Variations**

Councillors received the report of the Licensing Enforcement Officer in respect to advising of the changes introduced by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 ("The Order").

The request was also put to Councillors that delegated authority be

granted to the Licensing Enforcement Officer to determine applications for minor variations in respect of Premises Licences and Club Premises certificates.

**Resolved: That**

- i) The report be noted**
- ii) The Licensing Enforcement Officer be granted delegated authority to determine applications for minor variations in respect of Premises Licences and Club Premises Licences.**

376

### **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.**

377

### **Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicants desire to be issued with a Private Hire Driver's Licence and his suitability to operate with a vehicle not fully accessible to the disabled.

The Licensing Enforcement Officer outlined details of the case.

The applicant gave councilors his own account of the situation.

**Resolved:**

**That the applicant be granted a Private Hire Driver's Licence.**

378

### **Complaint About the Behaviour of a Licensed Private Hire Driver.**

**Resolved:**

**That this item be deferred to another Licensing Committee meeting to be held 23 November 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00am.**

The meeting closed at 11.30am.

NOTICE IS HEREBY GIVEN that Selby District Council having adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading propose to pass a resolution naming certain streets as consent streets. A copy of the draft resolution is appended hereto and any representations relating to it may be made in writing to the Council at The Civic Centre, Portholme Road, Selby, North Yorkshire, YO8 0SB on or before 16th July 1985.

DRAFT

SELBY DISTRICT COUNCIL  
LOCAL GOVERNMENT  
(MISCELLANEOUS PROVISIONS) ACT 1982  
SECTION 3 AND SCHEDULE 4

STREET TRADING

NOTICE IS HEREBY GIVEN that Selby District Council being a district council for the purposes of Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") have resolved in accordance with Paragraph 2 of Schedule 4 of the Act that streets described in the schedule below shall be CONSENT STREETS that is streets where street trading is prohibited without the consent of the District Council. These provisions shall take effect on 12th September 1985.

SCHEDULE

All parts comprising the following streets and including verges, lay-bys, bus stops and road cut-offs and other areas of land specified and situated within the District of Selby as follows:-

- (1) The A1, within the boundaries of Selby District
- (2) The A64, within the boundaries of Selby District
- (3) The A19, within the boundaries of Selby District
- (4) The A63, within the boundaries of Selby District
- (5) The A1079, within the boundaries of Selby District
- (6) The A166, within the boundaries of Selby District
- (7) Low Street, Sherburn in Elmet, plus the area of land in front of the shops in Low Street
- (8) Finkle Hill, Sherburn in Elmet
- (9) Kirkgate, Sherburn in Elmet
- (10) Moor Lane, Sherburn in Elmet
- (11) Micklegate, Selby, plus the area of land forming the Londesborough Arms Yard, the area of land adjacent to the Griffin Public House, and the area of land between the Co-operative Society Supermarket and Clark's Shoe Shop.
- (12) Gowthorpe, Selby
- (13) Market Place, Selby
- (14) Finkle Street, Selby
- (15) Water Lane, Selby
- (16) Church Hill, Selby
- (17) Church Lane, Selby
- (18) Wren Lane, Selby
- (19) Ousegate, Selby

- (20) The Crescent, Selby
- (21) Park Street, Selby
- (22) James Street, Selby, plus the Abbey Vaults' Car Park
- (23) Abbey Yard, Selby
- (24) Back Park Street, Selby
- (25) Market Lane, Selby
- (26) New Lane, Selby
- (27) Audus Street, Selby
- (28) The Quay, Selby
- (29) Millgate, Selby

A person who engages in street trading in a consent street shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

The following are NOT street trading for the purpose of the Act.

- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order;
- (c) trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading which:-
  - (i) is carried on at premises used as a petrol filling station; or
  - (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- (f) selling things, or offering or exposing them for sale, as a roundsman;
- (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- (i) the doing of anything authorised by regulations made under Section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

Dated this 13th day of June, 1985

D J JENKINS  
Chief Executive & Clerk of the Council.

## SELBY DISTRICT COUNCIL

### CONSENT STREETS

The streets described in the schedule below are consent streets, that is streets where street trading is prohibited without the consent of the District Council.

### SCHEDULE

All parts comprising the following streets and including verges, lay-bys, bus stops and road cut-offs and other areas of land specified and situated within the District of Selby as follows:-

- (1) The A1, within the boundaries of Selby District
- (2) The A64, within the boundaries of Selby District
- (3) The A19, within the boundaries of Selby District
- (4) The A63, within the boundaries of Selby District
- (5) Low Street, Sherburn-in-Elmet, plus the area of land in front of the shops in Low Street, from 1-11 Low Street, 5-8 Wolsey Parade, land at the side of 5 Wolsey Parade and land in front of 98 Wolsey Croft
- (6) Finkle Hill, Sherburn-in-Elmet
- (7) Kirkgate, Sherburn-in-Elmet
- (8) Moor Lane, Sherburn-in-Elmet
- (9) Micklegate, Selby plus the area of land forming the Londesborough Arms Yard, the area of land adjacent to the Griffin Public House (42 Micklegate) and the area of land between 37 Micklegate and 33 Micklegate.
- (10) Gowthorpe, Selby
- (11) Market Place, Selby
- (12) Finkle Street, Selby



- (13) Water Lane, Selby
- (14) Church Hill, Selby
- (15) Church Lane, Selby
- (16) Wren Lane, Selby
- (17) Ousegate, Selby
- (18) The Crescent, Selby
- (19) Park Street, Selby
- (20) James Street, Selby, plus the Abbey Vaults Car Park
- (21) Abbey Yard, Selby
- (22) Back Park Street, Selby
- (23) Market Lane, Selby
- (24) New Lane, Selby
- (25) Audus Street, Selby
- (26) The Quay, Selby
- (27) Millgate, Selby

# **SELBY DISTRICT COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

## **STREET TRADING CONSENT**

**The Selby District Council being the Licensing Authority under section 3 of the above Act HEREBY GRANT CONSENT to**

**Anthony Crombie of**

**10 Lordship Lane, Wistow, Selby, North Yorkshire, YO8 3XE**

**to trade at**

**Burger Van, Market Place, Selby, North Yorkshire**

**on MONDAY TO SUNDAY  
between the hours of 6:00PM to 3:00AM**

**in articles of the following description**

**HOT SNACKS AND DRINKS FROM A PURPOSE BUILT CATERING VEHICLE**


**This CONSENT is granted subject to the conditions set out in the Schedule(s) attached.**

**A fee of £1,157.50 will be paid for this licence in  
1 payment of £96.55 and 11 payments of £96.45**

**This consent shall remain in force from 1st November 2009  
until and including 31st October 2010 unless previously revoked or surrendered.**

**Granted at the office of the said Council at**

**The Civic Centre, Portholme Road, Selby, YO8 4SB  
On 1st December 2009**



**Solicitor To The Council**

## **STREET TRADING CONSENT CONDITIONS**

### **GENERAL CONDITIONS**

1. This Consent enables the holder to trade in Selby from the area and between those times detailed in this consent only (if any).
2. The Consent Holder will only employ persons that are suitably qualified in food hygiene to assist him (unless trading in non food articles/goods).
3. The Consent Holder shall not permit any person under the age of 17 to engage in Street Trading.
4. The Consent Holder shall at all times have available for inspection an up to date and valid Certificate of insurance (vehicle and Public Liability) the level of Public Liability Cover shall be a minimum of £2.000.000. (or such sum specified by the Council). If food sold, the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate shall be produced to the Council before the trading consent is issued.
5. The Consent Holder shall notify the Head of legal and Democratic Services immediately of any convictions or proceedings arising out of the use of enjoyment of the Consent.
6. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.
7. The Consent Holder shall not use or permit anyone to use this consent to trade from anywhere other than the site detailed within this consent.
8. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
9. The Council may vary the Conditions attached to this Consent at any time.

### **SITE CONDITIONS**

10. The Consent Holder shall take all reasonable steps to ensure public safety; in particular, any vehicle or trailer used to assist in street trading shall be maintained in a safe condition and be tested/serviced annually.
11. The Consent Holder shall ensure that no waste liquids (including grease) of any description are deposited onto the site, highway or into rainwater gullies/drains serving the site. All liquids must be removed from the site and disposed of in a proper manner, and in particular shall leave the site clear of such refuse at the completion of trading.
12. The Consent Holder shall take all reasonable steps to:
  - Prevent accumulation of litter and dirt in or close to the site;
  - Remove and properly dispose of any such litter, etc which does accumulate.
13. The Consent Holder shall ensure that the surface of the public highway or any area of the consent street to which the public has access is not damaged in any way as a result of their undertaking. In the event there is damage the Consent Holder shall be responsible for and shall reimburse/make good any damage caused.

14. The Consent Holder shall ensure that a current price list of articles sold is always prominently displayed on the vehicle or stall.
15. The Consent Holder shall not use or permit to be used any electrical or electronic equipment (for example, televisions or radio receivers) in such a manner as to cause a disturbance or nuisance.
16. The Consent Holder shall not obstruct the highway/footpath in which the site is situated or cause danger to persons using the highway/footpath.
17. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity.
18. At least one container shall be provided by the consent holder and placed on the pavement near to his/her stall/vehicle and be available for use by his/her customers. A notice shall also be displayed requesting customers to deposit litter in a waste container
19. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street or place, or fix equipment of any description in the said surface, except with the previous consent of the Council in writing.

#### **TRADING CONDITIONS**

20. The Consent Holder shall only trade from the size and type of vehicle, stall/trailer as approved in writing by the Head of Legal & Democratic Services.
21. There shall be no alteration in the design/construction/appearance of the vehicle or stall without the written permission of the Council having been obtained.
22. Adequate precautions shall be taken by the Consent Holder to prevent the risk of an outbreak of fire at his/her stall or vehicle. Where a power source or heating appliance is present, eg a generator or bottled gas container, then a suitable fire extinguisher shall be provided. In addition a fire blanket shall be provided in a vehicle selling hot food.
23. A copy of this Consent shall be kept on site by the holder and available for inspection by an authorized officer of the Council, or a Police Officer.
24. Each Consent Holder shall ensure that disabled persons and wheelchair users can be adequately served. This may involve such customers being served from outside the vehicle/stall.
25. Static street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.

## **LEGAL PROVISIONS**

26. At all times the Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force.
27. The Council will not accept liability for any accident or damage to any person, property or other thing whatsoever arising out of or in connection with the activities of the matters relating to the street trading consent.
28. The issue of this Consent shall in no way affect the duties and powers of the District Council as Planning Authority.
29. All applications for a street trading consent shall be accompanied by a certificate signed by an approved gas installer to the effect that all gas appliances installed in or on the vehicle or trailer, and all cylinders, pipes and other fittings used for supplying gas to that appliance have been examined and found to be fitted in a safe and satisfactory manner and are suitable for their intended use. (At the present time such certificate can only be issued by a person approved by the council for Registered Gas installers- CORGI).
30. All Consent Holders must comply with all aspects of the Food Safety, and Health and Safety Legislation in respect of themselves and their vehicles.
31. The Consent Holder shall at all times obey all road traffic regulations in force in the consent area.

## **REVOCATION**

32. If a Consent Holder fails to comply with any of the conditions attached to this consent he/she will risk having the consent revoked and risk prosecution.
33. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

## **THIS CONSENT DOES NOT:**

1. **Permit trading outside the terms of the consent.**
2. **Indicate that planning permission is not required.**

### **Please note:**

- (a) **That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.**
- (b) **That the grant of one or more street trading consents does not give the trader immunity from planning control**
- (c) **The Council has discretion whether or not to enforce planning laws in relation to street trading.**
3. **Indicate that the unit is exempt from business rates**
4. **Over ride parking restrictions or any other traffic regulations**
5. **Imply approval from the Highway Authority or any other person or authority.**



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at UKI Partnerships, The Mere,  
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Doncaster DN4 5PL  
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between 4pm – 7pm

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that would enhance the Children's opportunities for

Public Notices

**Dalkia plc Dated 04/01/10**  
Notice of application for consent to construct a Biomass fuelled electricity  
Generating station land at Poffington in the East Riding of Yorkshire and Great Heck  
in the district of Selby in the county of North Yorkshire.

Notice is hereby given that Dalkia plc ("the Company") has applied under section 36 of the  
Electricity Act 1989, for consent of the Secretary of State to construct and operate a 53MW  
power station at the above location and for a direction, under section 90(2) of the Town &  
Country Planning Act 1990, that planning permission for the development be deemed to be  
granted. A copy of the application, with a plan showing the land to which it relates, together  
with a copy of the Environmental Statement, explaining the company's proposals in more  
detail and presenting an analysis of the environmental implications with a non-technical  
summary thereof, may be inspected, during normal office hours, at the following addresses:

Access Selby, 8-10 Market Cross, Market Lane, Selby YO8 4QA  
Telephone 01757 705101  
Google Customer Service Centre, Council Offices, Church Street, Goole, DN14 5BG  
Tel: 01405 722000  
Beverley Customer Service Centre, Cross Street, Beverley, HU17 9BA.  
Tel: 01482 887888

Paper copies of the Environmental Statement ( 5 volumes price £250, CD price £55) and  
the Non-Technical Summary (hard copy) may be obtained, while stocks last, from ethical  
partnership at 28 Windsor Terrace, South Gosforth, Newcastle upon Tyne, NE3 1YL,  
www.ethicalpartnership.co.uk. Further details on the proposal will be updated onto the web  
site at www.dalkia.co.uk .

Any objections to the proposals, stating the name of the power station and the grounds of  
the objection, should be made in writing to the Secretary of State for Energy and Climate  
Change at Onshore Power Consents, Area A, 3 Floor, 3 Whitehall Place, London, SW1A  
2AW, or by email to: robert.prdham@dec.gov.uk not later than 14 February 2010.  
Other representations are also welcome. Unless otherwise indicated, copies of any  
objections, and other representations received, will be regarded as public documents.

During the consideration of the proposal the Secretary of State may formally request further  
information from the developer to supplement the Environmental Statement, and materially  
relevant additional information may also be generated. If that happens further public notices  
will give advice on how representations may be made to the Secretary of State on this  
material.

Following receipt of all views and representations the Secretary of State will either grant or  
refuse consent for the proposal (with or without conditions). This may involve holding a  
public inquiry first, depending on whether there is a statutory objection from the relevant  
planning authority, or the Secretary of State decides to exercise his discretion to call a public  
inquiry in the light of objection by other persons.

**Selby District Council**

**STREET TRADING**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

NOTICE IS HEREBY GIVEN that Selby District Council pursuant to the powers conferred on it by paragraph 2 of  
Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 intends to pass the following resolution:  
to vary the resolution passed by Selby District Council on 21st October 1986, under the provisions of Schedule 4  
to the Local Government (Miscellaneous Provisions) Act 1982 governing street trading, that the designation  
of Market Place, Selby be changed from a consent street to a prohibited street.

No variation of any other part of the resolution is proposed.  
The effect of such designation will be that street trading in the said street will not be permitted.  
Trading carried out in a lawful market or fair does not constitute street trading for the purposes of the  
Local Government (Miscellaneous Provisions) Act 1982.

Any person wishing to make representations relating to this draft resolution may do so by writing to the  
undersigned to be received by 9th February 2010.  
Dated, 7th January 2010

Mr Tim Grogan - Licensing Department, Civic Centre, Portholme Road, Selby YO8 4SR.

Goods Vehicle

Operator's Licence

NORTH YORKSHIRE COUNTY COUNCIL

TEMPORARY PROHIBITION OF TRAFFIC