

Agenda

Meeting: **LICENSING COMMITTEE**
Date: **16 APRIL 2012**
Time: **10.00AM**
Venue: **COMMITTEE ROOM**
To: **Councillor Mrs S Duckett, Councillor K Ellis, Councillor Mrs P Mackay, Councillor Mrs C Mackman, Councillor Marshall, Councillor Mrs K McSherry, Councillor Mrs S Ryder, Councillor Sayner, Councillor R Sweeting and Councillor J Thurlow**

1. Apologies for absence

2. Disclosures of Interest

Members of the Executive should disclose personal or prejudicial interest(s) in any item on this agenda.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 5 March 2012 and Licensing Hearing on the 20 March 2012 (pages 3 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 item as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 7 of Part 1 of Schedule 12(A) of the Act.

7. Issue concerning the behaviour of a Licensed Hackney Carriage Driver

To receive the report of the Senior Enforcement Officer L/11/26
(pages 12 to 17 attached)

8. Issue concerning the behaviour of a Licensed Private Hire Driver

To receive the report of the Senior Enforcement Officer L/11/27
(pages 18 to 22 attached)

9. Application for a Hackney Carriage Licence

To receive the report of the Senior Enforcement Officer L/11/28
(pages 23 to 31 attached)

10. Issue concerning the behaviour of a Licensed Private Hire Driver

To receive the report of the Senior Enforcement Officer L/11/29
(pages 32 to 34 attached)

11. Issue concerning the behaviour of a Licensed Hackney Carriage Driver

To receive the report of the Senior Enforcement Officer L/11/30
(pages 35 to 39 attached)

**Martin Connor
Chief Executive**

Dates of next meetings
14 May 2012
2 July 2012
3 September 2012

Enquiries relating to this agenda, please contact Democratic Services on:
Tel: 01757 292007 Email: democraticservices@selby.gov.uk

Minutes

Licensing Committee

Venue:	Committee Room
Date:	5 March 2012
Present:	Councillors Mrs S Duckett, K Ellis, Mrs C Mackman, B Marshall, Mrs K McSherry, Mrs P Mackay, Mrs S Ryder, R Sayner (Chair), R Sweeting and J Thurlow.
Apologies for Absence:	None
Officers Present:	Caroline Fleming - Senior Solicitor, Tim Grogan – Senior Enforcement Officer, Simon Scarrott – Senior Enforcement Officer and Karen Mann – Democratic Services Officer

67. DECLARATIONS OF INTEREST

None.

68. MINUTES

Resolved:

To receive and approve the minutes from the Licensing Hearing on the 13 January 2012 and they be signed by the Chair.

To receive and approve the minutes of the Licensing Committee held on the 6 February 2012, with an amendment to note Councillor K Ellis was in attendance, and they be signed by the Chair.

69. PROCEDURE

The Procedure was noted.

70. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair addressed the committee and asked that they agree to not holding a meeting in June. This was approved by the committee.

A discussion took place with regard to disclosure of information between North Yorkshire County Council and District Councils. The committee were informed that there would be a meeting between the Solicitors of each council within North Yorkshire to discuss sharing of information.

A letter to the local MP would be written informing him of the particular difficulties in obtaining information from NYCC.

71. APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE

The Senior Enforcement Officer presented the **Report L/11/20** for the committee to consider whether an application for a Private Hire Vehicle Licence, discreet in manner, be granted.

The Senior Enforcement Officer outlined the case.

Councillors were given the opportunity to question the applicant in connection with his application and then the Committee considered their decision.

RESOLVED:

- i) To receive and note the report**
- ii) To APPROVE the application for a Discreet Private Hire Vehicle Licence**

72. APPLICATION FOR PRIVATE HIRE VEHICLE LICENCE

The Senior Enforcement Officer presented **Report L11/21** for the committee to consider whether an application for a Private Hire Vehicle Licence, discreet in manner, be granted.

The Senior Enforcement Officer outlined the case.

Councillors were given the opportunity to question the applicant in connection with his application and then the Committee considered their decision.

A vote took place and the Chair of the Committee used the casting vote.

RESOLVED:

- iii) To receive and note the report**
- iv) To APPROVE the application for a Discreet Private Hire Vehicle Licence**

73. 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.

74. ISSUE CONCERNING THE BEHAVIOUR OF A LICENSED HACKNEY CARRIAGE DRIVER

The Senior Enforcement Officer presented **Report L11/22** for the committee to consider if the applicant was a 'fit and proper' person, in connection with a complaint about his behaviour.

The Senior Enforcement Officer outlined details of the case.

Councillors were given the opportunity to question the applicant about his behaviour and then the Committee considered their decision.

RESOLVED:

- i) To receive and note the report**
- ii) That the applicant be given a WRITTEN WARNING to be held on file for 12 months**

75. APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Senior Enforcement Officer presented **Report L11/23** for the committee to consider if the applicant was a 'fit and proper' person in connection with his medical fitness to drive.

The Senior Enforcement Officer outlined details of the case.

Councillors were given the opportunity to question the applicant. The Committee considered their decision.

RESOLVED:

- i) To receive and note the report**
- ii) That the applicant be REFUSED a Private Hire Vehicle Licence on the grounds of medical fitness**

76. APPLICATION FOR A HACKNEY CARRIAGE LICENCE

The Senior Enforcement Officer presented **Report L11/24** for the committee to consider whether an application for a Hackney Carriage Licence be granted. The applicant was in attendance to apply for a Hackney Carriage Licence.

The Senior Enforcement Officer outlined details of the case.

Councillors were given the opportunity to question the applicant. The Committee considered their decision.

RESOLVED:

- i) To receive and note the report**
- ii) To APPROVE the application for a Hackney Carriage Licence**

The meeting closed at 12.31pm.

Minutes

Licensing Hearing

Venue:	Committee Room
Date:	20 March 2012
Present:	Councillors S Ryder, R Sayner and R Sweeting.
Apologies for Absence:	None
Officers Present:	Caroline Fleming - Senior Solicitor, Tim Grogan – Senior Enforcement Officer, Simon Scarrott - Senior Enforcement Officer, and Karen Mann – Democratic Services Officer

APPLICANT:

JD Wetherspoons – Ross Baxter, Area Manager, and Nigel Connor, Solicitor

REPRESENTORS:

Responsible Authorities

North Yorkshire Police – Inspector M Falkingham, PC Mick Wilkinson and Jane Wintermeyer, Solicitor for the Police.

The Chair granted a 30 minute recess prior to the meeting commencing for the solicitors of the Police and Wetherspoons to discuss the conditions.

INTRODUCTIONS

The Senior Solicitor introduced the committee and officers present and the representatives of the Responsible Authorities.

4. DECLARATIONS OF INTEREST

None.

5. PROCEDURE

The Chair confirmed all committee members were familiar with the procedure.

6. APPLICATION FOR A PREMISES LICENCE – Wetherspoons plc, Selby

In attendance and entitled to speak on this application were: Nigel Connor, Solicitor.

Jane Wintermeyer, NY Police Solicitor explained that a compromise had been agreed between both parties and an additional condition would be added to those listed in the agenda. There would also be amendments to condition 9 and 10 listed in the agenda.

Nigel Connor, Solicitor read out the following conditions:

- 1 A colour digital CCTV system will be installed to cover the premises and recorded coverage will include all areas (including outside areas) to where public have access to consume alcohol
- 2 It will be maintained, working and recording at all times when the premises are open
- 3 The recordings should be of good evidential quality to be produced in Court or other such hearing
- 4 Copies of the recordings will be kept available for any Responsible authority for 21 days
- 5 Copies of the recordings shall be made available to any Responsible Authority within 24 hours of request
- 6 Copies of recordings will display the correct time and date of the recording
- 7 The only acceptable proof of age identification shall be current Passport, photocard Driving Licence or identification carrying the PASS logo
- 8 Only drinking vessels (to include bottles) of any type shall not be allowed to enter or leave the premises whilst under the customers care (save for the movement to any outside drinking area attached to the premises)
- 9 The premises licence holder will ensure that all staff at the premises have been trained in accordance with established JD Wetherspoon plc training procedures. Specifically the premises licence holder will ensure that all employees are trained in their responsibilities to prevent alcohol being served to anybody who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf. Training will be refreshed at regular intervals and documentary evidence of training will be maintained at the premises and available for inspection by any Responsible Authority on request
- 10 A Refusals Register (or EPOS till recording system) and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises
- 11 Both the above documents (Condition 10) shall be kept for at least one year and will be made available immediately on request from any Responsible Authority (who shall return the document within 24 hours of taking possession)

- 12 Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly
- 13 All OFF sales shall be made in sealed containers (save for those made to any outside drinking area attached to the premises)
- 14 The venue shall partake in the Night-time Economy radio system
- 15 The premises licence holder will employ a minimum of 2 SIA registered door supervisors from 2100 until close of business on Friday and Saturday nights and for the first four Thursdays after opening. At all other times the premises licence holder will risk assess the need for door supervisors and employ such door supervisors on such days and at such times as deemed necessary by the risk assessment. The premises licence holder will pay particular regard to the need for door supervisors on Thursday and any day preceding a bank holiday and any advice from NY Police in conducting such risk assessment.

Inspector Falkingham explained, to the committee, the reason for debating the new conditions prior to the commencement of the meeting and reasons for wanting door supervision on Thursday evenings.

Nigel Connor explained the applicant's position. The emphasis would be on creating a family atmosphere, the provision of food trade not merely drinking. Local Breweries real ale would be used and there would be no free standing bar areas. The focus would be on a more mature clientele and the encouragement of families.

If it became apparent that door supervision would be needed on a Thursday evening it would be put in place. He asked the committee to grant the licence on the basis of the conditions presented. The premises, should planning permission be granted, would open mid autumn.

The Sub-Committee adjourned to debate their decision.

RESOLVED:

- i) **To receive and note Report L/11/25**
- ii) **To APPROVE the application subject to the conditions 1 to 15 listed in the minutes above.**

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.