

Agenda

Meeting: **LICENSING COMMITTEE**
Date: **MONDAY 2 JUNE 2014**
Time: **10.00AM**
Venue: **MEETING ROOM 2**
To: **Councillors R Sayner (Chair), K Ellis (Vice Chair), Mrs S Duckett, Mrs P Mackay, Mrs C Mackman, B Marshall, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow**

1. Apologies for absence

2. Minutes

To confirm as a correct record the minutes of the Licensing Committee held on 28 April 2014 and the Licensing Hearings held on 7 April 2014, 24 April 2014 and 28 April 2014 (pages 1 to 13 attached).

3. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Procedure

To outline the procedure to be followed at the meeting (Pages 14 to 15)

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. Application for a Private Hire Driver's Licence

To receive the report of the Senior Enforcement Officer L/14/1 (pages 16 to 20 attached)

8. Application for a Hackney Carriage Driver's Licence

To receive the report of the Senior Enforcement Officer L/14/2 (pages 21 to 26 attached)

9. Application for a Hackney Carriage Licence in Respect of a Particular Vehicle

To receive the report of the Senior Enforcement Officer L/14/3 (pages 27 to 34 attached)

10. Application for a Private Hire Driver's Licence

To receive the report of the Senior Enforcement Officer L/14/4 (pages 35 to 39 attached)

**Mary Weastell
Chief Executive**

Dates of next meetings
7 July 2014
1 September 2014

Enquiries relating to this agenda, please contact Palbinder Mann on:
Tel: 01757 292207 Email: pmann@selby.gov.uk

Minutes

Licensing Committee

Venue:	Committee Room
Date:	28 April 2014
Present:	Councillors R Sayner (Chair), K Ellis (Vice Chair), Mrs P Mackay, Mrs C Mackman, B Marshall, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow
Apologies for Absence:	Mrs S Duckett
Officers Present:	Caroline Fleming - Senior Solicitor, Esta Innes – Graduate, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer

46. MINUTES

RESOLVED:

To APPROVE the minutes of the Licensing Committee meeting held on 3 February 2014 and they be signed by the Chair.

47. DISCLOSURES OF INTEREST

There were no declarations of interest.

48. PROCEDURE

The procedure was noted.

49. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair informed the Committee that item 6 'Application for a Gaming Machine Permit for the Abbey Vaults, James Street, Selby' had now been withdrawn.

50. APPLICATION FOR A GAMING MACHINE PERMIT FOR THE ABBEY VAULTS, JAMES STREET, SELBY

The Committee were informed that this application had been withdrawn and therefore would no longer be considered.

51. APPLICATION FOR A DISCREET PRIVATE HIRE VEHICLE LICENCE IN RESPECT OF A RANGE ROVER SPORT VEHICLE

The Senior Enforcement Officer presented the Report L/13/17 which considered an application for a Private Hire Vehicle Licence in respect of a Range Rover Sport motor vehicle. It was explained that the applicant had requested that the licence be discreet in manner. The applicant was in attendance.

Councillors were given the opportunity to question the applicant in connection with the application. The Committee then discussed the matter and considered whether the application should be granted.

RESOLVED:

To APPROVE the application for the discreet Private Hire Vehicle Licence for the Range Rover Sport motor vehicle.

52. APPLICATION FOR A DISCREET PRIVATE HIRE VEHICLE LICENCE IN RESPECT OF A MERCEDES S CLASS VEHICLE

The Senior Enforcement Officer presented the Report L/13/18 which considered an application for a Private Hire Vehicle Licence in respect of a Mercedes S Class motor vehicle. It was explained that the applicant had requested that the licence be discreet in manner. The applicant was in attendance.

Councillors were given the opportunity to question the applicant in connection with the application. The Committee then discussed the matter and considered whether the application should be granted.

RESOLVED:

To APPROVE the application for the discreet Private Hire Vehicle Licence for the Mercedes S Class motor vehicle.

53. APPLICATION FOR A DISCREET PRIVATE HIRE VEHICLE LICENCE IN RESPECT OF A VOLKSWAGEN CARAVELLE TRANSPORTER VEHICLE

The Senior Enforcement Officer presented the Report L/13/19 which considered an application for a Private Hire Vehicle Licence in respect of a Volkswagen Caravelle Transporter motor vehicle. It was explained that the applicant had requested that the licence be discreet in manner. The applicant was in attendance.

Councillors were given the opportunity to question the applicant in connection with the application. The Committee then discussed the matter and considered whether the application should be granted.

RESOLVED:

To APPROVE the application for the discreet Private Hire Vehicle Licence for the Volkswagen Caravelle Transporter motor vehicle.

54. 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.

55. APPLICATION FOR A HACKNEY CARRIAGE LICENCE IN RESPECT OF A PARTICULAR VEHICLE

The Senior Enforcement Officer presented the Report L/13/20 which outlined an application for a Hackney Carriage Licence in respect of a particular vehicle not fully accessible to the disabled. The applicant was in attendance.

Councillors were given the opportunity to question the applicant in connection with the application. The Committee then discussed the matter and considered their decision on whether the application should be granted.

RESOLVED:

To APPROVE the application for a Hackney Carriage Licence in respect of the particular vehicle not fully accessible to the disabled.

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

The Senior Enforcement Officer presented the Report L/13/21 which outlined a complaint that had been received. The Committee considered whether the respective driver was a fit and proper person to drive a Hackney Carriage. The driver was in attendance.

Councillors were given the opportunity to question the driver in connection with the incident. The Committee discussed the matter and considered all the relevant issues.

RESOLVED:

To agree that no further action be taken regarding the incident.

The meeting closed at 11:13am.

Minutes

Licensing Hearing

Venue:	Council Chamber
Date:	7 April 2014
Present:	Councillors R Sayner (Chair), K Ellis and Mrs C Mackman.
Apologies for Absence:	None
Officers Present:	Gillian Marshall – Solicitor to the Council, Tim Grogan – Senior Enforcement Officer and Richard Besley – Democratic Services Officer
Public:	0

INTRODUCTIONS

Members and everyone present introduced themselves when each application was considered.

15. DISCLOSURES OF INTEREST

There were no disclosures of interest.

16. APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR J T MELLANBY'S PUBLIC HOUSE, FINKLE STREET, SELBY

PRESENT:

PREMISES

J T Mellanby's, Finkle Street, Selby

- Paddy Whur – Solicitor
- Ian Campey – Owner of J T Mellanby's
- Tracey Young - Designated Premises Supervisor.

RESPONSIBLE AUTHORITIES

North Yorkshire Police

- Inspector Michelle Falkingham – North Yorkshire Police
- Sgt France – Licensing Officer, North Yorkshire Police
- Sgt Campbell – North Yorkshire Police
- PC Allen – North Yorkshire Police

Selby District Council

- Tim Grogan – Senior Enforcement Officer

The Sub-Committee considered an application from North Yorkshire Police for a Premises Review – Interim Steps Hearing – of the premises licence for J T Mellanby's, Finkle Street, Selby YO8 4DS.

The Senior Enforcement Officer presented the report and background papers and explained that North Yorkshire Police had submitted the application following a serious incident at the premises on the night of Tuesday 1st and Wednesday 2nd of April 2014, which has led to an Expedited Summary Review of the Licence.

Sgt France, the Licencing Officer for North Yorkshire Police submitted the application on behalf of the Police and confirmed that the application was brought to the Sub-Committee following a serious incident near to midnight on Tuesday 1st April 2014.

North Yorkshire Police had evidence to submit, by way of a DVD containing CCTV footage of the incident that would need to be viewed in Private session as criminal proceedings are pending.

At this stage Sgt Campbell, as the North Yorkshire Police Officer attending the scene took the Sub-Committee through the CCTV video footage of the incident.

After viewing the evidence, Sgt France advised the Sub-Committee that North Yorkshire Police had no option than to seek, in the first instance, suspension of the Licence, or to further impose stringent conditions on the terms of the Licence.

The Sub-Committee invited comment from Mr Whur, Solicitor for the Premise Licence Holder, on the proposed suspension of the Licence.

Mr Whur asked the Sub-Committee consider that the suspension of the Licence would have drastic effect on the business and livelihood of the staff and assured the Sub-Committee that the premise Licence Holder would meet any of the supplementary conditions which had been put forward by the Police

The Chair confirmed with all parties that they had said all that they needed to say.

The members of the Sub-Committee retired together with the Democratic Services Officer and Senior Solicitor to consider the application.

RESOLVED:

That, in view of the serious nature of the incident leading to the Review and other incidents of disorder and evidence of mismanagement of the Premises by the Premise Licence Holder and Designated Premises Supervisor, the Sub-Committee resolve to:

- (i) Suspend the Licence pending a full review.**

REASONS FOR DECISION:

The Designated Premises Supervisor failed to deal with and manage the incident in a manner that would reasonably be expected of a responsible manager.

On the evidence seen the Licence Holder did not provide the safe systems, equipment and training to promote the objectives that the Council expect,

The incident was serious and there is a record of a previous review following other incidents.

The meeting closed at 4:12pm.

Minutes

Licensing Hearing

Venue:	Council Chamber
Date:	24 April 2014
Present:	Councillors R Sayner (Chair), K Ellis and Mrs C Mackman.
Apologies for Absence:	None
Officers Present:	Gillian Marshall – Solicitor to the Council, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer
Public:	0

INTRODUCTIONS

Members and everyone present introduced themselves.

18. DISCLOSURES OF INTEREST

There were no disclosures of interest.

19. REVIEW OF A PREMISES LICENCE – REPRESENTATION TO THE INTERIM STEPS FOR JT MELLANBY'S PUBLIC HOUSE, FINKLE STREET, SELBY

PRESENT:

PREMISES

J T Mellanby's, Finkle Street, Selby:

- Chris Rees-Gay – Solicitor
- Ian Campey – Owner of J T Mellanby's
- Karen McCartney – Staff Member of J T Mellanby's

RESPONSIBLE AUTHORITIES

North Yorkshire Police:

- Inspector Michelle Falkingham – North Yorkshire Police

Selby District Council:

- Tim Grogan – Senior Enforcement Officer

The Sub-Committee considered the representation from the Premises Licence Holder for the premises known as J T Mellanby's, Finkle Street, Selby YO8 4DS against the Interim Steps under Section 53B of the Licensing Act 2003. The decision taken by the Licensing Sub-Committee was to suspend the Premises Licence pending review under Section 53C of the Licensing Act 2003, to be heard on 30 April 2014.

The Solicitor for the Premises outlined the representation to the Sub Committee and explained the following conditions would be offered as the interim steps instead of the current suspension:

- The Designated Premises Supervisor to be changed to Karen Linda McCartney.
- A condition that whenever there is single member of bar staff they will have the facility to use the Lone Worker Device. A leaflet containing further information about the device was circulated to the Committee.
- An SIA door supervisor will be employed at the premises on Friday and Saturday nights from 9:00pm.

The Sub Committee raised queries concerning the conditions and received responses.

The Police raised concern regarding the conditions and stated that they felt the position had not changed with regard to public perception or the need to amend the interim steps until the review. Concerns were also raised regarding the lone worker scheme if the worker was away from the bar. It was also stated that the condition of the door supervisor would not assist as the incident had taken place on a Tuesday.

The Chair confirmed with all parties that they had said all that they needed to say.

Parties were asked to leave the room while the Sub Committee considered their decision. The Democratic Services Officer and Senior Solicitor remained in the room to assist the Committee.

RESOLVED:

- (i) To uphold the original decision taken with regard to the interim steps.**

REASONS FOR DECISION:

The Sub Committee noted that the conditions offered on behalf of the premises licence holder fell short of the police 'fall-back' position on conditions as was put to the Sub Committee at the last hearing, and which the Sub Committee had not accepted then as satisfying their requirements to promote the objectives on that occasion.

The Sub Committee felt that whilst the incident may have been caused by the criminal actions of individuals, it was badly managed causing risk to public safety. It was felt the original decision focussed on failings in the systems put in place by the premises licence holder, and not just the actions of the Designated Premises Supervisor.

The Sub Committee felt that the conditions offered by the premises licence holder were not appropriate to promote the licensing objectives and therefore concluded that suspension of the licence was still a necessary interim step pending the full review hearing.

The meeting closed at 10:30pm.

Minutes

Licensing Hearing

Venue:	Council Chamber
Date:	28 April 2014
Present:	Councillors R Sayner (Chair), R Sweeting and Mrs P Mackay.
Apologies for Absence:	None
Officers Present:	Caroline Fleming – Senior Solicitor, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer
Public:	0

PRESENT:

PREMISES

Bugg's Bites:

Stacey Bugg
Chris Bugg

RESPONSIBLE AUTHORITIES

North Yorkshire Police:

- Sergeant Matt France – North Yorkshire Police
- PC Jackie Allen – North Yorkshire Police

Selby Town Council:

- Karen Mann – Clerk
- Councillor Melanie Davis

INTRODUCTIONS

Members and everyone present introduced themselves.

20. DISCLOSURES OF INTEREST

There were no disclosures of interest.

21. PROCEDURE

The Senior Solicitor circulated and summarised the amended procedure. It was explained that as per the regulations, there would be no cross examination. There were no objections to the procedure.

21. APPLICATION FOR A PREMISES LICENCE FOR A MOBILE UNIT IN JAMES STREET, SELBY AT THE JUNCTION WITH GOWTHORPE

The Sub-Committee considered the application to grant a premises licence for a mobile unit to be situated in James Street at the junction with Gowthorpe, Selby. The applicant had requested that the licence be granted for the provision of late night refreshment from Thursday to Saturday (inclusive) and Bank Holidays between 23:00 – 04:00. The hearing had been necessitated by representations from the Police and Selby Town Council.

Due to an amended plan being circulated by the applicant, the Police requested an adjournment of the meeting to visit the application site and verify the measurements submitted by the applicant. The Chair agreed to the adjournment. The meeting reconvened at 1:36pm.

The Sub Committee noted the position of the mobile unit as indicated on the plan that was provided at the hearing.

The Senior Enforcement Officer presented the report and outlined the details of the application.

Mr Bugg explained to the Sub Committee that he employed staff at the premises whose jobs would be affected if the licence was not granted. He also explained that he had not been aware that a licence had been required for the site and had been trading on the site for around five months without any incidents or problems.

Sergeant France stated that the Police were objecting to the application on the grounds of prevention of crime and disorder, public safety and the prevention of public nuisance objectives. He raised concern that the location of the application would make it difficult for other vehicles to pass on the road. Sergeant France stated that the application was in contravention of regulation 101 of The Road Vehicles (Construction and Use) Regulations 1986 and therefore an offence under the Road Traffic Act 1988 section 42.

Further concern was raised that the site was out of sight of the town's CCTV cameras and as a result any incidents would not be captured.

Sergeant France also raised concern over littering and noise. The Senior Enforcement Officer stated that he understood that the camera could cover the area unless it had been changed.

The Town Council representations were concerned with possible problems relating to the prevention of crime and disorder, public safety and prevention of nuisance licensing objectives. Concern was raised that the siting of the unit would cause a risk to pedestrians near the taxi rank and a risk to vehicles and people from Gowthorpe, there would be additional litter detrimental to the street scene and that the premises are in the wrong location

All parties left the room while the Sub Committee made their decision. In arriving at the decision the Sub Committee considered written and oral representations as well as the operating schedule, the Council's Licensing Policy and the Licensing Act 2003 and guidance.

RESOLVED:

- i) **To REFUSE the application for a premises licence for a mobile unit.**

REASONS FOR DECISION:

- **The siting of the premises was in contravention of regulation 101 of The Road Vehicles (Construction and Use) Regulations 1986 and therefore an offence under the Road Traffic Act 1988 section 42 and as the Sub Committee were bound to promote the licensing objectives it was inappropriate to grant the**

The parties were informed of the decision and the right of appeal.

The meeting closed at 3.30pm.

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 Solicitor will inform in writing to the applicant the decision of the Licensing Committee.