

## Agenda

Meeting: **LICENSING COMMITTEE**  
Date: **MONDAY 7 JULY 2014**  
Time: **10.00AM**  
Venue: **COMMITTEE ROOM**  
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 2 June 2014 and the Licensing Hearing held on 30 April 2014 (pages 1 to 8 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](http://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 9 to 10)

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

**6. A Review of the Hackney Carriage and Private Hire Vehicle Licensing Policy**

To receive the report of the Policy Officer L/14/6 (pages 11 to 12 attached)

**7. 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.**

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

To receive the report of the Senior Enforcement Officer L/14/7 (pages 13 to 17 attached)

**9. Issue concerning the behaviour of a Private Hire Vehicle Driver**

To receive the report of the Senior Enforcement Officer L/14/8 (pages 18 to 20 attached)

**10. Issue concerning the behaviour of a Private Hire Vehicle Driver**

To receive the report of the Senior Enforcement Officer L/14/9 (pages 21 to 30 attached)

**Mary Weastell  
Chief Executive**

<b>Dates of next meetings</b>
1 September 2014
6 October 2014
3 November 2014

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

## Minutes

### Licensing Hearing

Venue:	Council Chamber
Date:	30 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, Rachel Howden – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer
Public:	0

#### **PRESENT:**

#### **PREMISES**

JT Mellanbys:

Ian Campey – Premises Licence Holder  
Paddy Whur – Solicitor  
Tracey Young - Representative  
Ian Dickinson - Representative

#### **RESPONSIBLE AUTHORITIES**

North Yorkshire Police:

- Jane Wintermeyer – Acting Head of Legal - North Yorkshire Police
- Inspector Michelle Falkingham
- Sergeant Rob Campbell
- PC Jackie Allen

Selby District Council:

- Tim Grogan – Senior Enforcement Officer

## **INTRODUCTIONS**

Members and everyone present introduced themselves.

### **22. DISCLOSURES OF INTEREST**

There were no disclosures of interest.

### **23. PROCEDURE**

The Solicitor to the Council 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.

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

The Sub Committee considered an application by North Yorkshire Police for the review of the premises licence for JT Mellanby's under section 53A of the Licensing Act 2003 on the grounds that the premises were associated with serious crime or serious disorder or both.

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

The Police outlined the history of incidents at the premises and stated that the Designated Premises Supervisor (DPS) had been warned about the management of the premises and also convicted of offences under the Licensing Act. The Police raised concern that on the night of the incident, the DPS had been the sole member of staff on duty. The Police explained that despite working with the premises, over time there had not been any changes in the working practices.

The Police referred to the five incidents that had taken place at the premises after the previous hearing and appeal. The Police stated that the latest incident was very serious which had resulted in serious consequences for the victim. Concern was raised at the inadequate management of the premises when dealing with the incident. The Police explained that they had now lost confidence in the premises licence holder and his ability to manage the premises and implement any conditions imposed.

Evidence and statements were presented by Inspector Michelle Falkingham and PC Rob Campbell.

The Senior Enforcement Officer on behalf of Selby District Council stated that the premises had operated since 2010 with problems occurring over the last four years. He added that the premises was the

scene of regular incidents and could be categorised as a public house which had lost its way.

The Solicitor for the licence holder stated that revoking the licence would not be an appropriate or proportionate step and the Sub Committee were recommended to impose additional conditions. The Solicitor explained that the incident which had occurred was very serious however could not have been predicted by the premises. The five incidents which had been referred to by the Police were questioned by the Solicitor and he stated that three of these were in fact examples of actions undertaken by a responsible licensee.

The Sub Committee were informed that between May 2013 and January 2014, there had been no incidents at the premises. The Solicitor highlighted the petition which had been presented and signed by many people who had wished to keep the premises open and identified the public support for the premises.

The Sub Committee were asked to view parts of the CCTV footage prior and after the incident. The Solicitor explained that none of the people involved in the incident were being served alcohol prior to it taking place and also questioned the submissions from the Police regarding the response to the incident.

The Solicitor explained the premises licence holder owned four premises in the district and had invested heavily in all the premises. The Sub Committee were informed that the premises licence holder was willing to adopt conditions relating to extra door supervision and have accredited door staff on every Saturday and each Sunday preceding a bank holiday after 9.30pm. In addition to this, the Sub Committee were informed that the People Safe system would be installed which could assist in the event of an emergency and a telephone had also been installed behind the bar. The Solicitor also stated that the Designated Premises Supervisor would be replaced.

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

**RESOLVED:**

- i) **To REVOKE the premises licence.**

**REASONS FOR DECISION:**

This review been sparked by a serious incident, the most serious incident in licence premises that the Licensing Sub Committee have had to deal with. The behaviour of the staff during and after the incident was well below the standards that the Sub Committee expects.

The key issue for the Sub Committee was the management of the premises under the stewardship of the licence holder. Applying the section 182 guidance the Sub Committee concluded that poor management was the cause of the problems with these premises.

Given the previous review and the work done with the premises by the police, the decision to have single manning of the premises was unwise. Although the licence holder has run other premises without incidents, in this venue he made a decision to stick with the DPS despite previous convictions and concerns raised until he had been forced to address the issues through these formal review proceedings. The Sub Committee considered that this showed a lack of judgement and understanding of the responsibilities required. Given that view the conditions offered were too little and too late. The Sub Committee did not have confidence that the premises licence holder would take the necessary control and put in place the appropriate measures to promote the licensing objectives. For that reason, the appropriate step to promote the licensing objectives was to revoke the licence.

For the avoidance of doubt the Sub Committee reached this decision based upon the CCTV footage taken as a whole as the most important piece of evidence, and had taken on board the observations made by Solicitor for the Premises Licence Holder with regards to the footage immediately before the incident as well as the apparent discrepancies with statements of the attending officers as well as the evidence presented.

The Sub Committee also considered that the interim steps imposed, namely the suspension of the licence, should continue in force until this decision took effect and any appeal was disposed of. An opportunity was given the representatives of the parties to make any submissions on the continuation of these interim steps but none were received

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

The meeting closed at 4.20pm.

# Minutes

## Licensing Committee

Venue:	Committee Room
Date:	2 June 2014
Present:	Councillors R Sayner (Chair), K Ellis (Vice Chair), Mrs S Duckett, Mrs P Mackay, Mrs C Mackman, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow
Apologies for Absence:	B Marshall
Officers Present:	Caroline Fleming - Senior Solicitor, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer

### 1. MINUTES

It was pointed out that the closing time for the Licensing Hearing on 24 April 2014 should read 10.30am not 10.30pm.

It was also stated that the word ‘premises licence’ was missing from the reasons for decision for the minutes from the Licensing Hearing on 28 April 2014.

#### RESOLVED:

**To APPROVE the minutes of the Licensing Committee meeting held on 28 April 2014 and the Licensing Hearings held on the 7 April 2014, 24 April 2014 and 28 April 2014 with the above amendments and they be signed by the Chair.**

### 2. DISCLOSURES OF INTEREST

There were no declarations of interest.

### 3. PROCEDURE

The procedure was noted.

### 4. CHAIR’S ADDRESS TO THE LICENSING COMMITTEE

The Chair explained that the same panel of Members had been used for all the Licensing Hearings for JT Mellanby's to ensure consistency and because the Members were familiar with the evidence presented.

## **5. 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.**

## **6. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

The Senior Enforcement Officer presented the Report L/14/1 which outlined an application for a Private Hire Driver's Licence. 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 a Private Hire Driver's Licence.**

## **7. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE**

The Senior Enforcement Officer presented the Report L/14/2 which considered an application for a Hackney Carriage Driver's Licence. 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 REFUSE the application for a Hackney Carriage Driver's Licence.**

### **REASONS FOR DECISION:**

**The Disclosure and Barring Service Enhanced Certificate revealed a pattern and range of offences, in terms of dishonesty and impulsive reaction to provocation, which gave reasonable cause for a belief that the applicant was not a fit and proper person to hold a Hackney Carriage Driver's Licence.**



## **8. APPLICATION FOR A HACKNEY CARRIAGE LICENCE IN RESPECT OF A PARTICULAR VEHICLE**

The Senior Enforcement Officer presented the Report L/14/3 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.**

## **9. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

The Committee decided to defer this application until the next meeting as the applicant was not present. The Committee also recommended that the driver be sent a letter that if he was not present at the next meeting, the application would be heard in his absence.

### **RESOLVED:**

**To DEFER the application until the next meeting and inform the driver that if he was not present at the next meeting, the application would be heard in his absence.**

## **10. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

It was noted that this item had been accepted as an urgent item by the Chair. The Senior Enforcement Officer presented the Report L/14/5 which outlined an application for a Private Hire Driver's Licence. 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 a Private Hire Driver's Licence.**

## **11. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE**

It was noted that this item had been accepted as an urgent item by the Chair. The Senior Enforcement Officer presented the Report L/14/6 which outlined an application for a Private Hire Driver's Licence. 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 a Private Hire Driver's Licence.**

The meeting closed at 11:34am.

## **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.



**Report Reference Number: L/14/6**

**Agenda Item No: 6**

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**To: Licensing Committee**

**Date: 07 July 2014**

**Author: Michelle Dinsdale, Policy Officer**

**Lead Officer: Michelle Dinsdale, Policy Officer**

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**Title: A review of the Hackney Carriage and Private Hire Vehicle Licensing Policy.**

**Summary:**

Policy and Strategy are undertaking a review of the Hackney Carriage and Private Hire Vehicle Licensing Policy. This report sets out the timeline for the review, including the dates for the public consultation process.

**Recommendations:**

Licensing Committee to note the content of this report.

**1. Introduction and background**

The Council has the responsibility, under the Local Government (Miscellaneous Provisions) Act 1976, for licensing hackney carriage and private hire vehicles, drivers and operators within the District.

The Council currently has a number of separate policies, guidance notes and conditions relating to hackney carriage and private hire licensed vehicles, drivers and operators. A draft Hackney Carriage and Private Hire Vehicle Licensing Policy will be developed which brings all of these documents together to provide one comprehensive policy.

**2. The Report**

A review of Selby District Council's Hackney Carriage and Private Hire Vehicle Licensing Policy is to be undertaken.

The proposed outcome of the review will be that the Council has a comprehensive policy in place which clearly sets out the approach it will undertake in exercising its discretion in carrying out its regulatory functions including considering, or making decisions, on applications.

The policy will take into account the guidance document provided by the Department of Transport – Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010, updated August 2011).

The draft policy will be subject to a six week public consultation process.

The timeline for the review is detailed below.

<b>Date</b>	<b>Milestone</b>
07 July 2014	<b>Licensing Committee</b> - to receive the report outlining the review timeline
02 October 2014	<b>Executive</b> – to consider the report, including the draft policy, which seeks approval to carry out public consultation on the draft policy
06 October - 14 November 2014	Six week public <b>consultation</b> period
01 December 2014	<b>Licensing Committee</b> – to receive a report informing of the outcome of the consultation exercise
08 January 2015	<b>Executive</b> – to consider the consultation responses and approve the policy (including any amendments where appropriate to reflect consultation responses)

### **3. Legal/Financial Controls and other Policy matters**

#### **3.1 Legal Issues**

None at this time.

#### **3.2 Financial Issues**

None at this time.

### **4. Conclusion**

A comprehensive draft Hackney Carriage and Private Hire Vehicle Licensing Policy will be developed. The draft policy will be subject to a six week public consultation process. Following the consultation process the Licensing Committee will receive a report informing them of the outcome.