

Agenda

Meeting: **LICENSING COMMITTEE**
Date: **MONDAY 5 SEPTEMBER 2016**
Time: **10.00AM**
Venue: **COMMITTEE ROOM**
To: **Councillors C Pearson (Chair), K Ellis (Vice Chair), Mrs J Chilvers, Mrs S Duckett, M Hobson, M Jordan, B Marshall, R Sweeting, J Thurlow and Mrs D White**

1. Apologies for absence

2. Minutes

To confirm as a correct record the minutes of the Licensing Committee held on 1 August 2016 (pages 1 to 6 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 and Guidance to the Relevance of Convictions

To confirm the procedure to be followed at the meeting, including Appendix C to the Council's Licensing Policy which details the guidance on the relevance of convictions when determining applications for licences (pages 7 to 10 attached).

5. Chair's Address to the Licensing Committee

6. Private Session

That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in paragraph 3 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/16/7 which asks the Committee to determine an application for a Private Hire Driver's Licence (pages 11 to 14 attached).

8. Application for a Private Hire Driver's Licence

To receive the report of the Senior Enforcement Officer L/16/8 which asks the Committee to determine an application for a Private Hire Driver's Licence (pages 15 to 20 attached).

9. Application for an exemption from assisting passengers on medical grounds

To receive the report of the Senior Enforcement Officer L/16/9 which asks the Committee to determine an application for an exemption from assisting passengers on medical grounds (pages 21 to 34 attached).

**Gillian Marshall
Solicitor to the Council**

Enquiries relating to this agenda, please contact Daniel Maguire on:
Tel: 01757 292247 Email: dmaguire@selby.gov.uk.

Recording at Council Meetings

Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to: (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Manager on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

Minutes

Licensing Committee

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| Venue: | Committee Room |
| Date: | Monday 1 August 2016 |
| Time: | 10.00am |
| Present: | Councillors C Pearson (Chair), D Buckle (sub for M Jordan), Mrs J Chilvers, J Deans (sub for R Sweeting), K Ellis, M Hobson, B Marshall, J Thurlow, P Welch (sub for S Duckett) and Mrs D White. |
| Apologies: | Councillors Mrs S Duckett, M Jordan and R Sweeting. |
| Officers present: | Kelly Dawson, Senior Solicitor; Tim Grogan, Senior Enforcement Officer; and Daniel Maguire, Democratic Services Officer |
| Public: | 0 |
| Press: | 0 |

9. MINUTES

The Committee considered the minutes of the Licensing Committee meeting held on 13 June 2016. The minutes were approved as a correct record and signed by the Chair.

RESOLVED:

To approve the minutes of the Licensing Committee meeting held on 13 June 2016.

10. DISCLOSURES OF INTEREST

There were no disclosures of interest.

11. PROCEDURE

The Committee noted the Licensing Committee procedure, including the relevant section of the Licensing Policy regarding the relevance of convictions.

12. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair welcomed members and officers. He reported that officers were considering a draft Charitable Collections Policy, which would be presented to the Executive on 6 October 2016. If approved by the Executive, the draft policy would then be subject to a public consultation, which would include being presented to the Licensing Committee at the meeting on 7 November 2016.

It was noted that a training day for the Licensing Committee, substitute councillors and officers had been arranged for Monday 17 October. The training day would focus on the work of the Committee and full details would be circulated in due course. Councillors were asked to make a note of the date.

13. PRIVATE SESSION

RESOLVED:

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 described in paragraphs 3 of Schedule 12(A) of the Act.

14. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/16/3)

The Senior Enforcement Officer presented the report, which detailed concerns relating to a Disclosure and Barring Service (DBS) check made in connection with an application for a Hackney Carriage Driver's Licence. A copy of the DBS report was circulated to the Committee.

The applicant was in attendance and was able to answer questions from the Committee. He confirmed that the concerns highlighted in the DBS check related to events that occurred previously on the dates stated. The applicant also confirmed that he had been a licensed hackney carriage driver in a neighbouring district between 1991 and 2001 after which he took up alternative employment. It was confirmed that the previous licensing authority had been aware of one of the matters of concern and had not taken any action.

The applicant and the Senior Enforcement Officer left the room while the Committee made its decision.

RESOLVED:

To grant the application.

Reason for decision:

The Committee had referred to the Council's Licensing Policy, and specifically the guidance in relation to the relevance of convictions. The Committee considered that sufficient time had passed since the matters of concern had occurred, and that the applicant was a 'fit and proper' person to hold a Private Hire Driver's Licence.

The applicant was invited back into the meeting and the Senior Solicitor advised him of the Committee's decision.

15. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/16/4)

The Senior Enforcement Officer presented the report, which detailed concerns relating to a Disclosure and Barring Service (DBS) check made in connection with an application for a Hackney Carriage Driver's Licence. A copy of the DBS report and letters from two referees supplied by the applicant were circulated to the Committee.

The applicant was in attendance and was able to answer questions from the Committee. He confirmed that the concerns highlighted in the DBS check related to events that occurred when the applicant was 22 years old. The Committee noted that the incident was of a serious nature, and that a previous application made to Selby District Council had been refused on 7 March 2011 due to insufficient time having lapsed since the conviction. The applicant stated that he had not been in trouble with the police since the conviction.

The applicant and the Senior Enforcement Officer left the room while the Committee made its decision.

RESOLVED:

To grant a Hackney Carriage Driver's Licence with an initial probationary period of six months.

Reason for decision:

The Committee had referred to the Council's Licensing Policy, and specifically the guidance in relation to the relevance of convictions. The Committee considered that sufficient time had passed since the matters of concern had occurred, and that the applicant was a 'fit and proper' person to hold a Hackney

Carriage Driver's Licence. However, having regard to the severity of the offence the Committee considered it would be appropriate to initially issue a licence for a probationary period of 6 months.

The applicant was invited back into the meeting and the Senior Solicitor advised him of the Committee's decision.

16. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/16/5)

The Senior Enforcement Officer presented the report, which detailed concerns relating to a Disclosure and Barring Service (DBS) check made in connection with an application for a Hackney Carriage Driver's Licence. A copy of the DBS report was circulated to the Committee.

The applicant was in attendance and was able to answer questions from the Committee. He confirmed that the concerns highlighted in the DBS check related to events when the applicant was 17 years old.

The applicant and the Senior Enforcement Officer left the room while the Committee made its decision.

RESOLVED:

To grant the application for a Hackney Carriage Driver's Licence.

Reason for decision:

The Committee had referred to the Council's Licensing Policy, and specifically the guidance in relation to the relevance of convictions. The Committee considered that sufficient time had passed since the matters of concern had occurred, and that the applicant was a 'fit and proper' person to hold a Hackney Carriage Driver's Licence.

The applicant was invited back into the meeting and the Senior Solicitor advised him of the Committee's decision.

17. APPLICATION FOR AN EXEMPTION FROM ASSISTING PASSENGERS ON MEDICAL GROUNDS (REPORT L/16/6)

The Committee was advised that the applicant had requested that the application be deferred due to him being in hospital. It was confirmed that the applicant was expected to be available to attend the next scheduled meeting of the Licensing Committee on 5 September 2016.

RESOLVED:

To defer the application to the next scheduled meeting.

Reason for decision:

The request to defer the application would have no detrimental effect on the Council or its licensing obligations.

The meeting closed at 11.07am.

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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 an opportunity to say anything that they wish to say 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 Legal Advisor will inform the applicant in writing of the decision of the Licensing Committee and any appeal rights.

Appendix C – Relevance of convictions

The guidance for the relevance of convictions that we use has regard to the joint circular distributed by the Department of Transport and the Home Office (DOT 2/92, HO 13/92).

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of convictions for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

(a) Minor Traffic Offences

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Driver's licence may be granted after its restoration but a warning should be issued as a future conduct.

(b) Major Traffic Offences

An isolated conviction for reckless driving or driving without due care and attention etc. should normally merit a warning as to future conduct and advice on the standard expected of Hackney Carriage and Private Hire Vehicle Drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

(c) Drunkenness

(i) *With Motor Vehicle*

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period

of 5 years should elapse after treatment is complete before a further licence is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

(d) Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained or 5 years after detoxification treatment if he/she was an addict.

(e) Indecency Offences

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

(f) Violence

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

(g) Dishonesty

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty.

In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.