

**LICENSING AND ENVIRONMENTAL REGULATION  
COMMITTEE**

MEETING, 19th SEPTEMBER, 2017

Present – Councillors Donaghy (Chairman), Murray (Vice-Chairman), L. Byrne, Chadwick, Gibbon, Gillies, Greenhalgh, Haslam, Haworth, Kirk-Robinson (as deputy for Councillor Mrs Fairclough), McKeon, Newall, Peel (as deputy for Councillor Watters) and Radcliffe (as deputy for Councillor P. Wild).

Apologies for absence were submitted on behalf of Councillors Mrs Fairclough, Watters and P. Wild

Councillor Donaghy in the Chair.

**29. MINUTES**

The minutes of the proceedings of the meeting of the Committee held on 22<sup>nd</sup> August, 2017 were submitted and signed as a correct record.

**30. MINUTES OF THE LICENSING SUB-COMMITTEE  
(SENSITIVE CASES)**

The minutes of the proceedings of the meeting of the Licensing Sub-Committee (Sensitive Cases) held on 21<sup>st</sup> August, 2017 were submitted and signed as a correct record.

**31. MINUTES OF THE LICENSING SUB-COMMITTEE  
(TRAFFIC MATTERS)**

The minutes of the proceedings of the meeting of the Licensing Sub-Committee (Traffic Matters) held on 15<sup>th</sup> August, 2017 were submitted and signed as a correct record.

**Licensing and Environmental Regulation Committee  
(Acting as Licensing Act 2003 Committee) for the following  
item**

### **32. APPLICATION TO VARY AN EXISTING LICENCE PREMISES GAMING MACHINE PERMIT LER/31/17**

The Director of Place submitted a report which set out details of an application which had been received to vary an existing gaming machine permit for amusement with prizes (AWP) in a public house, which holds a premises licence issued under the Licensing Act, 2003.

The application related to the premises that traded as Yates, 36 Bradshawgate, Bolton and had been submitted by Popplestone Allen Solicitors in Nottingham on behalf of the premises licence holder, Stonegate Pub Company Ltd in Luton.

The application was to vary the existing permit and requested permission to increase the number of Category C machines from 6 to 7.

No complaints concerning the presence or the operation of the existing machines in the premises had been received by the Licensing Team.

Resolved – That the application to vary the gaming machine permit be granted.

### **33. EXCLUSION OF PRESS AND PUBLIC**

Resolved – That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as specified in paragraph 3 (financial and business affairs) of Part 1 of Schedule 12A to the Act; and that it be deemed that, in all the circumstances of the case, the public interest in its exemption outweighs the public interest in its disclosure.

### **34. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/32/17**

The Director of Place submitted a report which set out details of misconduct allegations against a driver licenced to drive a private hire vehicle. The report went onto set out details of misconduct matters by the driver.

The applicant attended the meeting and provided verbal evidence.

The Committee also heard verbal evidence from the Licensing Officer who explained that the licence had been granted in error in December, 2016 and the matter should have been presented to a meeting of this Committee for consideration.

Resolved – That the licence to drive a private hire vehicle be revoked on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Committee noted that the driver had been convicted on 20<sup>th</sup> November, 2016 of possession of cannabis. Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

The Committee took account of the following –

- The driver had been convicted of possession of cannabis on 20<sup>th</sup> November, 2016 and had not declared this conviction in accordance with the conditions of his licence;
- The Council's Policy indicates that where a person has an isolated conviction related to possession of drugs and the date of the conviction is less than five years, then a person applying for a licence, renewing a licence or an existing licence holder whose licence is being reviewed will normally have the application refused or the licence revoked. Furthermore, where a person has more than

## C4

one conviction related to the possession of drugs, the period above will be extended to 10 years and the driver has a conviction for possession of cannabis from 1999 and a conviction for possession with intent to supply a controlled drug (cannabis) from 2009;

- The Police assertion that the driver is not a fit and proper person to hold a licence at this time;
- Police evidence regarding a complaint received on 4<sup>th</sup> April, 2017 relating to the drivers erratic driving and abusive behaviour. The Committee also heard verbal evidence from the complainant in this regard which the Committee found to be credible. The driver denied the complainant's version of events and presented an alternative version, which the Committee did not find credible;
- The Committee did not find the driver's explanation for the cannabis conviction from 20<sup>th</sup> November, 2016 to be credible and noted that the driver did not accept responsibility for his actions;
- The Committee were also concerned that the driver had two previous convictions from 2006 and 2011 relating to using a vehicle uninsured against third party risks which are major traffic offences under the Council's Policy;
- The driver tabled a reference, various work feedback forms and job sheets in support of his case which the Committee gave limited weight to; and
- The loss of livelihood, as mentioned by the driver, is an irrelevant issue in terms of this matter.

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety and wellbeing to private hire drivers whenever they take a journey. Passengers often travel alone and are vulnerable to inappropriate behaviour.

The Committee's primary duty is of concern for the safety and wellbeing of the public.

There is therefore reasonable cause to revoke the private hire drivers licence with immediate effect on the grounds of public safety.

**35. APPLICATION TO RENEW A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LER/33/17**

The Director of Place submitted a report which set out details of an application which had been received to renew a licence to drive a private hire vehicle. The report went onto set out details of a misconduct matter by the applicant.

The applicant and his representative attended the meeting and provided verbal evidence.

The Committee also heard verbal evidence from the Licensing Officer in which she explained that in 2015 a licence was granted in error and the matter should have been presented to this Committee for consideration.

Resolved – That the licence to drive a private hire vehicle be not renewed and revoked on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Committee noted that the driver had not declared his first three offences as listed in the report and had a history of dishonesty convictions. Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

The Committee also took account of the following –

- The driver had a series of dishonesty convictions from 21<sup>st</sup> January, 2011 relating to making dishonest representations to obtain benefit under the Social Security Administration Act, 1992 all of which carried a

prison sentence together with three convictions of failing to notify a change of circumstances required by regulations under the Act on 12<sup>th</sup> May, 2005, 16<sup>th</sup> May, 2005 and 30<sup>th</sup> April, 2009. The convictions for dishonest representations related to making dishonest claims for income support and were committed over a long period of time;

- The Council's Policy indicates that a serious view is taken of any conviction involving dishonesty. Where a person has a conviction for an offence relating to dishonesty and the date of conviction is less than five years then a person renewing a licence will normally have the application refused. Where the person has more than one conviction for dishonesty the period above will be extended to 10 years and as the driver had multiple convictions the relevant period is 10 years. The Committee also noted the justification set out in the Council's Policy in relation to dishonesty offences.

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety and wellbeing to private hire drivers whenever they take a journey. Passengers often travel alone and are vulnerable to inappropriate behaviour.

The Committee's primary duty is of concern for the safety and well-being of the public.

There is therefore reasonable cause to refuse to renew and revoke the private hire drivers licence.

### **36. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER LER/34/17**

The Director of Place submitted a report which set out details of misconduct allegations against a driver licenced to drive a private hire vehicle. The report went onto set out details of misconduct matters by the driver.

The driver attended the meeting and provided verbal evidence.

The Committee also heard verbal evidence from the Licensing Officer.

Resolved – That the licence to drive a private hire vehicle be suspended for a period of three weeks on the basis that the Committee is not satisfied that the driver is a fit and proper person to hold a licence at this time.

Following consideration of all the evidence the Committee noted that the driver had been convicted on 4<sup>th</sup> July, 2017 of criminal damage. Drivers are placed in a position of trust and have a duty to conduct themselves in a lawful and professional manner at all times.

The Committee took account of the following –

- The driver had been convicted of criminal damage on 4<sup>th</sup> July, 2017 and had received a fixed penalty in this regard;
- Police intelligence concerning the above offence that the offender whilst intoxicated argued with his nephew and then pinned him against the inner door, pushing him into the door with force, damaging it and breaking the door off the hinges and smashing a panel of safety glass;
- The Council's Policy indicates that an extremely serious view will be taken where a person has been convicted of any offence of violence. A person will normally be refused or revoked where the person has been convicted of criminal damage and the conviction date is less than five years; and
- The Committee accepted the driver's explanation for the incident and his contrition for the offence. He said there was a family argument and there was provocation.

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety and wellbeing to private hire drivers whenever they take a journey. Passengers often travel alone and are vulnerable to inappropriate behaviour.

The Committee's primary duty is of concern for the safety and well-being of the public.

There is therefore reasonable cause to suspend the private hire driver's licence.

### **37. APPLICATION FOR A STREET TRADING CONSENT LER/35**

The Director of Place submitted a report which set out details of an application for a Street Trading Consent. The report also set out details of misconduct allegations against the applicant.

The applicant's solicitor attended the meeting and requested that the matter be deferred until a future meeting as he needed more time to consider evidence he had just received from the applicant.

Resolved – That consideration of this matter be deferred to a future meeting of this Committee.

(The meeting started at 2.00 p.m. and finished at 5.07pm)