

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE**

MEETING, 22nd September, 2015

Present – Councillors Donaghy (Chairman), Haworth (Vice-Chairman), C. Burrows, Chadwick, Mrs Fairclough, Graham, Gillies (as deputy for Councillor Bury), Harkin (as deputy for Councillor L. Byrne), Haslam, Hayes (as deputy for Councillor Martin), Murray, Richardson, Watters and Wild.

Apologies for absence were submitted by Councillors Bury, L. Byrne and Martin.

Councillor Donaghy in the Chair.

18. URGENT ITEM

The Chairman reported that the Director of Environmental Services had requested that an urgent item entitled, 'Misconduct by Licensed Private Hire Driver LER/29/15' which Was not specified on the agenda for this meeting be placed Before the Committee as a matter of urgency owing to the nature of the allegations.

19. MINUTES OF PREVIOUS MEETING

The minutes of the proceedings of a meeting of the Committee held on 25th August, 2015 were submitted.

Resolved – That the minutes be agreed and signed as a correct record.

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

The minutes of the proceedings of meetings of the Licensing Sub-Committee (Sensitive Cases) held on 29th June, 20th July and 27th July, 2015 were submitted.

Resolved – That the minutes be agreed and signed as a correct record.

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

The minutes of the proceedings of a meeting of the Licensing Sub-Committee (Traffic Matters) held on 28th July, 2015 were submitted.

Resolved – That the minutes be agreed and signed as a correct record.

**LICENSING AND ENVIRONMENTAL REGULATION
COMMITTEE (ACTING AS LICENSING ACT, 2003
COMMITTEE)**

**22. APPLICATION FOR A PERMIT FOR AMUSEMENT
WITH PRIZES (AWP) GAMING MACHINES**

The Director of Environmental Services submitted a report which set out details of an application for a permit for Amusement with Prizes (AWP) gaming machines in a public house.

By way of background information, the report explained that the Licensing Team had received an application which related to The Bee Hive, 991 Chorley New Road, Bolton. BL6 4BA.

The application had been submitted by Gamestec on behalf of the licence holder Spirit Pub Company.

The application was for a variation to the existing permit and requested permission for a total of 4 category C machines and two category D machines. The application is for two existing crane / grabber machines, which had now been reclassified as Games of Chance and required gaming machine permits.

The Committee were advised that no complaints concerning the presence or the operation of the existing machines had

been received.

The permit duration was indefinite and it was linked to the Licensing Act, 2003 Premises Licence.

Resolved – That the application for a new Gaming Machine Permit in relation to the The Bee Hive, 991 Chorley New Road, Bolton set out in the report.

23. 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.

24. APPLICATION FOR A STREET TRADING CONSENT LER/28/15

The Director of Environmental Services submitted a report which set out details of an application which had been received for a Street Trading Consent.

The report also set out details of convictions declared by the applicant.

The applicant did not attend the meeting.

Resolved – That consideration of the application be deferred until the next meeting to give the applicant another opportunity to attend this Committee. The matter will then be considered whether or not the applicant is present.

25. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LICENCE LER/25/15

(Councillor Haworth, the Vice-Chairman, declared an interest in relation to the following item in so far as she knew the applicant and left the meeting taking no part in the debate or vote thereon)

The Director of Environmental Services submitted a report which set out details of an application which had been received for a licence to drive a private hire vehicle.

The report also set out details of convictions which had come to light following the return of the Enhanced Disclosure Certificate.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The applicant and his wife attended the meeting. The driver made representations to the meeting and provided testimonials from previous employers.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the applicant.

Resolved – That the application be refused as the Committee are not satisfied that the applicant is a fit and proper person at this time.

In coming to its decision the Committee was mindful of its duty to protect the public and the applicant's convictions from 2003 to 2011 included violence, racially motivated violence, possession of an offensive weapon in a public place, the most serious of motoring offences and a warning for possession of cannabis which are serious offences under the Council's Policy.

Following consideration of all the evidence the Committee find, that on the balance of probabilities, the driver did commit the

serious offences as mentioned. 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, in coming to its decision, specifically also took account of, viz-

- The seriousness of the offences which were committed between 2003 and 2011 with serious offences taking place relatively recently;
- The applicant's admittance of the offences; and
- Matters concerning the guidance in the Council's Licensing Policy relating to the applicants convictions.

The Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the applicant would be working in an unsupervised environment.

There is therefore reasonable cause to refuse to grant the application for the grant of a private hire vehicle licence.

26. APPLICATION FOR A LICENCE TO DRIVE A PRIVATE HIRE VEHICLE LICENCE LER/26/15

The Director of Environmental Services submitted a report which set out details of an application which had been received for a licence to drive a private hire vehicle.

The report also set out details of convictions which had come to light following the return of the Enhanced Disclosure Certificate.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The applicant attended the meeting and made representations.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the applicant.

Resolved – That the application for a private hire vehicle licence be granted subject to the standard conditions.

**27. MISCONDUCT BY LICENSED PRIVATE HIRE DRIVER
LER/29/15**

(Councillor Mrs Fairclough declared an interest in relation to the following item in so far as she had met the driver concerned in her capacity as a JP and left the meeting taking no part in the debate or vote thereon)

The Director of Environmental Services submitted a report which set out details of alleged misconduct against a private hire driver during the period of his licence.

The Committee heard representations both verbally and in writing from Miss Clyne, Principal Licensing Officer.

The applicant and his legal representative attended the meeting and the driver's legal representative addressed the meeting.

The Committee gave careful consideration to the information provided in the report and on questioning the evidence from the driver.

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

In coming to its decision the Committee was mindful of its duty to protect the public and noted that the driver was arrested on 10th September, 2015 on suspicion of possession with intent to supply a Class A controlled drug (cocaine). This is a serious offence under the Council's Licensing Policy.

Following consideration of all the evidence including from the Police, the Committee find, on the balance of probabilities, that the driver did engage in the supply of Class A drugs. Drivers

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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, in coming to its decision, specifically also took account of, viz-

- The seriousness of the allegations against the driver who has been charged with six offences of being concerned in the supply of a Class A controlled drug (cocaine);
- The fact that the driver is accused of using his private hire vehicle in connection with the supply of cocaine on six separate occasions to an under cover police officer, although the driver denied the use of his private hire vehicle;
- The driver is bailed to appear at Bolton Crown Court on 2nd October, 2015;
- The driver has a previous conviction for possessing Class A drugs;
- The driver did not provide an explanation in relation to the alleged offences for fear of self-incrimination but this meant that the Committee had no evidence which contradicted that of the Police and it was noted that the driver gave a no comment interview to the Police.
- Matters concerning the guidance in the Council's Licensing Policy relating to the applicants convictions.

The Committee's primary duty is of concern for the safety and wellbeing of the public and this includes the most vulnerable in the community and the applicant would be working in an unsupervised environment.

There is therefore reasonable cause to revoke the licence with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act, 1976 in the interests of public safety due to the nature and seriousness of the allegations.

(The meeting started at 3.00pm and finished at 5.50pm)