

GENERAL LICENSING COMMITTEE

2ND JULY 2013

PRESENT – Councillors Nutt (in the Chair) L. Haszeldine, B. Jones, D. Jones, Lawton, Newall, Stenson, J. Vasey and L. Vasey. (9)

APOLOGIES – Councillors J. Lyonette, Lee and Thistlethwaite. (3)

ABSENT – Councillor C.L.B. Hughes. (1)

L8. DECLARATIONS OF INTEREST – There were no interests declared at the meeting.

L9. MINUTES – Submitted – The Minutes (previously circulated) of the meeting of this Licensing Committee held on 4th June 2013.

RESOLVED – That the Minutes be approved.

L10. APPLICATION FOR PAVEMENT CAFÉ LICENCE – The Director of Place submitted a report (previously circulated) inviting Members to consider an application for a Pavement Cafe Licence in the light of an objection from a neighbouring business. The application was in respect of Tap and Spile Public House. The Licensing Manager informed Members that the public house has changed its name and therefore the application was considered for a Pavement Café licence in respect of The Old English Gentleman Public House.

The submitted report provided background information in respect of the Old English Gentleman Public House and Members noted that the premise did used to hold a pavement café licence but the application to renew its pavement café licence was refused in 2009. No further applications were submitted until now. The application was submitted for a pavement café licence in May 2013 and Darlington Association on Disability (DAD) originally objected to the application. However, after an amended plan was submitted to clarify the issues DAD raised, the objection has now been withdrawn. An objection has, however, been received from the Tapas Bar, the property located next door to the Old English Gentleman Public House The objection was in relation to the Old English Gentleman Public House not obtaining consent of neighbouring frontagers and documents relating to a series of incidents that occurred between 2012 and 2013.

The objectors, Mr Turnbull and Mr Buxton, attended the Committee and expressed their concerns if a Pavement Café licence was to be granted. Mr Turnbull also submitted a recording which was recorded on 29th May 2013 when loud chanting was heard in the Tapas Bar restaurant to the rear of the premises. Members listened carefully to the recording. The representative from the Police confirmed that Officers attended the Tapas Bar the day after the incident and also attended the Tap and Spile and requested CCTV footage and the matter was on going.

The Licensing Manager confirmed that advice had been sought from Legal Services in respect of the issue of express consent and members were informed that for express consent to be required the frontager would have to be affected by the placing of the

structure etc. between his own frontage and the highway, rather than a structure adjacent to his own frontage. It is therefore clear that because Mr Turnbull's frontage is adjacent to the Old English Gentleman Public House and is not affected in this way.

The applicant, Mr Sowerby addressed the meeting and responded to Members questions in relation to the above, and to why the application for a Pavement Café Licence should be granted.

In reaching their decision, Members disregarded the issue of frontagers and express consent, following legal advice that the Tapas Bar was not a frontager, as expressed in the Highways Act 1980. Members considered the representations from Mr Turnbull and made reference to the recording produced of an incident involving a group of people chanting slogans outside of the premises on 29 May 2013, but noted that this had occurred significantly after 21.00 hours and that the Police were currently investigating this matter.

Members also noted that there had not been any representations from the Police in respect of this application and accepted the assurances offered from Mr Sowerby that the pavement café will be well controlled.

RESOLVED – (a) That the application for a Pavement Café Licence be granted in accordance with the revised plan for the hours 08.30 hours to 21.00 hours every day.

(b) That an additional condition also be imposed on the licence, in addition to the Council's standard conditions, that two CCTV cameras must cover the pavement café at all times. The cameras must be regularly monitored and anyone seen to be standing within the vicinity of the pavement café must be asked to sit down, leave the premises or return to the inside of the public house.

L11. APPLICATION FOR PRIVATE HIRE OPERATOR LICENCE – The Director of Place submitted a report (previously circulated) inviting Members to consider an application for a Private Hire Operator Licence in light of information contained within the submitted report. The application was in respect of Parkers Executive Chauffeurs (Teesside) Ltd.

The Executive Officer, Mr Rudd, from the Company addressed the meeting and responded to Members questions in relation to the above, and to why the application for a Private Hire Operator Licence should be granted.

In reaching their decision, Members believed that the business would provide a good service for the area of Darlington, that it would be good for the Airport and that the Company should be deemed to be fit and proper to hold such a licence.

RESOLVED – That the application for a Private Hire Operator Licence be granted.

L12. EXCLUSION OF THE PUBLIC – RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part I of Schedule 12A to the Act.

L13. APPLICATIONS FOR AND REVIEWS OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES AND HACKNEY CARRIAGE VEHICLE LICENCES – The Director of Place submitted a report (previously circulated) inviting Members to consider applications for and reviews of Hackney Carriage and Private Hire Driver Licences and Hackney Carriage Vehicles following cautions and convictions, concerns over medical issues and a deferred review of a Hackney Carriage Driver Licence and two Hackney Carriage Vehicle Licences in the light of motoring and licensing convictions.

(1) Ref. No. 11/13 – An application for a Private Hire Driver Licence in light of a conviction, a caution and concerns over a medical issue. The representative from the Police advised of a fixed penalty for an offence of being drunk and disorderly in October 2012.

The applicant addressed the meeting, with a representative for support and Councillor Lister as his ward Councillor and responded to Members questions in relation to the above, and to why he was a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members carefully considered the medical information which shows that the applicant has misused alcohol as recently as October 2012 and the fact that the DVLA Group II Medical Standards require that a licence be refused until at least a one year period of abstinence or controlled drinking has been attained in the case of alcohol misuse, and refusal for at least three years in the case of alcohol dependence.

Members expressed severe concerns that the earlier offences were also alcohol related and that he had made a false declaration on the application form by stating that he had never been convicted for any offence or received a caution, reprimand or final warning. This was clearly not true.

RESOLVED – That the application be refused as the Committee did not consider the applicant to be fit and proper person to hold a Private Hire Driver Licence.

(2) Ref. No. 12/13 – An application for a Hackney Carriage Driver Licence in light of two convictions.

The applicant addressed the meeting and responded to Members questions in relation to the above, and to why he was a fit and proper person to hold a Hackney Carriage Driver Licence.

After careful consideration, Members accepted that the applicant had turned his life around in the past 22 years and they could therefore deem him to be fit and proper to hold such a Hackney Carriage Driver Licence.

RESOLVED – That the application for a Hackney Carriage Driver Licence be granted.

(3) Ref. No. 13/13 – An application for a Hackney Carriage Driver Licence in light of a number of convictions. The submitted report detailed a disclosure from the Chief Constable in respect of a particular offence which was highlighted as part of the Criminal Record Bureau check.

The applicant addressed the meeting, with a representative for support, and responded to Members questions in relation to the above, and to why he was a fit and proper

person to hold a Hackney Carriage Driver Licence. The applicant handed a letter from the Probation Service to the Chair who read it out to the meeting. The Local Safeguarding Manager also addressed the meeting.

After careful consideration, Members considered the applicant's long history of offending and particularly the conviction of a sexual nature, which prompted the Chief Constable's disclosure. In considering this issue Members also noted the concern of the Safeguarding Manager and recognised their duty to protect the public of Darlington. Members were also concerned to note the length of time and number of attempts to pass the Council's legislation test.

RESOLVED – That the application be refused as the Committee did not consider the applicant to be fit and proper person to hold a Hackney Carriage Driver Licence

(4) Ref. No. 09/13 – Pursuant to L7Ref (3) /June/13 a review of a Hackney Carriage Driver Licence and Hackney Carriage Vehicle Licences following a conviction. The driver addressed the previous Committee meeting and requested an adjournment to enable him to be legally represented.

The Driver and his legal representative addressed the meeting and responded to Members questions in relation to the above, and to why he was a fit and proper person to hold a Hackney Carriage Driver Licence and Hackney Carriage Vehicle Licences.

In reaching their decision, Members considered the fact that the driver had not appeared before Committee since 2001, and although they expressed concern at the convictions and the serious nature of an offence of not having insurance, they accepted that he had made a genuine mistake in not renewing the vehicle licence.

RESOLVED – That the licences be retained with a Warning Letter reminding him that any further incidents or offences of any kind will result in the immediate return to Committee for further review of the licence.

(Note: Councillor Lawton left the meeting and was not present for the remainder of the meeting from L11.onwards.

Councillor Newall left the meeting and was not present for the consideration of L13. Ref (1) only.

Councillors Stenson and L. Vasey left the meeting and were not present for the consideration of L13. Ref (2) and Ref (3)).