

GENERAL LICENSING COMMITTEE
11 March 2014

PRESENT – Councillors Nutt (in the Chair); B. Jones, D. Jones, Lawton, Lee, J. Lyonette, Newall, Stenson, Thistlethwaite, J. Vasey and L. Vasey. (11)

APOLOGIES – Councillors L. Haszeldine and C.L.B. Hughes. (2)

L50. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

L51. MINUTES – Submitted – The Minutes (previously circulated) of the meeting of this Licensing Committee held on 11 February, 2014.

RESOLVED – That the Minutes be approved.

L52. 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.

L53. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE REVIEWS – The Director of Place submitted a report (previously circulated) inviting Members to consider reviews of Hackney Carriage and Private Hire Driver Licences in the light of motoring offences and/or complaints about conduct.

(1) Ref. No. 04/14 An application to review a Hackney Carriage Driver Licence in respect of a conviction for Criminal Damage.

The Driver attended the meeting and responded to Members' questions in relation to the conviction and as to why he felt that he was a fit and proper person to hold a Hackney Carriage Driver Licence.

In reaching their decision, Members expressed their concern at the nature of this recent offence, particularly as it involved violence, however, decided they could depart from the Council's Policy (which would normally require that a licence is refused until 3 years had elapsed) due to the mitigating circumstances that were put forward in respect of the offence and the fact they accepted the drivers version of events ie. that he had been prevented from maintaining contact with his daughter.

RESOLVED – That the Licence be retained and the driver be issued with a warning letter in respect of this matter and warned that if any further convictions, cautions, warnings, complaints or reprimands are received they would be referred immediately to the Licensing Committee.

(2) Ref. No. 05/14 An application to review a jointly owned Hackney Carriage Vehicle Licence taking into account the concerns of officers regarding the vehicle and the behaviour of the joint proprietors (Ref 06/14 and 07/14 refer).

Licence holder (Ref 07/14) attended the meeting and responded to Members' questions in relation to the Hackney Carriage Vehicle Licence in light of breaches of the vehicle condition prohibiting the installation of an override switch and concerns about the roadworthiness of the vehicle as joint proprietor. Licence holder (Ref 06/14) failed to attend the meeting.

The Licensing Manager advised Members that the Vehicle Licence had been jointly surrendered however due to concerns at the information contained within the report Members agreed to consider the report.

In reaching their decision Members took into consideration the information contained within the report and concluded that the vehicle was unfit for use as a hackney carriage due to its poor maintenance; questions about its roadworthiness and the use of second hand tyres; the production of alleged invoices for work undertaken on the vehicle which failed to provide VAT and other details and which Members believed were not genuine; the Council's condition prohibiting the use of override switches had been deliberately breached; and the Members responsibility to protect the public.

The Chair requested Officers to refer the invoices to HM Revenue and Customs and to express the concerns of the Members of this Licensing Committee that the invoices supplied to Officers were not proper VAT invoices.

RESOLVED – That the Licence be revoked under Section 60(a) and (c) of the Local Government (Miscellaneous Provisions) Act 1976.

(3) Ref. No. 06/14 An application to review a Hackney Carriage Driver Licence in respect of recent issues involving his hackney carriage vehicle licence (Ref 05/14 refers) which is jointly held with Hackney Carriage Driver Ref. 07/14.

The Licensing Manager advised Members that the vehicle licence had been jointly surrendered and also his Hackney Carriage Driver Licence had been surrendered. Members decided to consider the review in the driver's absence as they believed the surrender of the Licence was an attempt to avoid a disciplinary hearing.

In reaching their decision Members concluded that contrary to the joint applications for the licence, the driver in question had sole responsibility for the vehicle and that the joint proprietor was simply the driver of the vehicle; Members were concerned that the joint proprietor had been placed on the Licence to avoid the Council's requirement that employer liability insurance be obtained when persons other than the proprietor(s) are driving the vehicle; that the vehicle had not been properly maintained and this had raised questions about the safety of the public and particularly with the practise of second hand tyres; and that the driver had deliberately contravened the Council's condition prohibiting the use of override switches in the vehicle after Officers had already required an override switch to be removed in August 2013 and a further switch had subsequently been installed in the difference location; and Members were concerned at the alleged invoices that had been produced to support the claim that the vehicle was properly maintained which did not satisfy the Members that such invoices were genuine as they did not show a VAT registration number and contain proper Company heading etc.

Members concluded that the issues raised serious questions about the honesty of the driver and whether he was a fit and proper person to hold a hackney carriage driver licence.

RESOLVED – That the Licence be revoked in accordance with Section 61(c) of the Local Government (Miscellaneous Provisions) Act 1976.

(4) Ref. No. 07/14 An application to review a Hackney Carriage Driver Licence in respect of an incident involving his hackney carriage vehicle licence (Ref 05/14 refers) which is jointly held with Hackney Carriage Driver Ref 06/14.

The Driver attended the meeting and responded to Members' questions in relation to the recent issues involving his Hackney Carriage Driver Vehicle Licence and as to why he felt that he was a fit and proper person to hold a Hackney Carriage Driver Licence.

In reaching their decision Members took into consideration that you had been the joint proprietor of a vehicle which was frequently not in a roadworthy condition; that the vehicle had been found to have an override switch installed contrary to the Council's condition prohibiting such switches; that when officers suspended the vehicle in August 2013 and required the switch to be removed a further switch had been installed in a difference location; that second hand tyres had been used on the vehicle and that alleged invoices for works done to the vehicle did not display a VAT registration number and were without proper Company heading.

However, Members accepted the driver's version of events, namely that the joint proprietor had purchased the vehicle and that he was unaware he was a joint proprietor of the vehicle and had signed forms completed by the other joint proprietor without realising he was a joint proprietor; that he had been the driver only and had paid the joint proprietor £90 per week for use of the vehicle; that the joint proprietor had been responsible for sorting out all the repairs and that he was unaware that the override switch was against the Council's conditions for such a switch to be installed.

RESOLVED - That the Licence be retained and the driver be issued with a final warning letter in respect of these matters and warned that if any further convictions, cautions, warnings, complaints or reprimands are received they would be referred immediately to the Licensing Committee.

Date _____

Signature _____