

GENERAL LICENSING COMMITTEE

9 DECEMBER 2014

PRESENT – Councillor Nutt (in the Chair); Councillors L. Haszeldine, CLB Hughes, B. Jones, J. Lyonette, Stenson, Thistlethwaite, J. Vasey and L. Vasey. (9)

APOLOGIES – Councillors D. Jones, Lawton and the Mayor (Lee), (3)

OFFICERS – Julie Richings, Principal Licensing Officer; Sergeant. C. Dickenson Darlington and Durham Police; Amy Wennington, Lawyer and Allison Hill, Democratic Officer.

L26. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

L27. MINUTES – Submitted – The Minutes (previously circulated) of the meeting of this Committee held on 7 October, 2014.

RESOLVED – That the Minutes be approved as a correct record.

L28. CONSULTATION DOCUMENT – REVIEW OF CONDITIONS AND POLICIES RELATING TO STREET TRADING – The Director of Economic Growth submitted a report (previously circulated) to consult Members on the proposed revision of the current Policies and Conditions relating to street trading and to invite Members to support the amendments to the Council's Street Trading Policy (also previously circulated).

The Submitted report gave the background to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 which enables the Council to adopt a code for the regulation and control of street trading in the borough of Darlington and provides for street trading licences and street trading consents to be issued.

The review of the Street Trading Policy seeks to improve the economy of Darlington by encouraging street trading in the borough including the town centre and permit the use of the market square for community events to enhance cultural and recreational participation in the heart of the town.

The submitted report gave further detail on consents for trading in the town centre and non town centre, limited period trading and special event consents; outlined the Department for Business, Innovation and Skills national consultation with local authorities in relation to pedlars and street trading; and highlighted the proposed changes to the current policy.

The submitted report also outlined the consultation process with existing consent holders, Durham Police, Durham Fire Authority, Darlington Association on Disability (DAD), Highways, Environmental Health, Trading Standards, Markets and the

Events Team between 1 and 31 July, 2014 and gave details of the comments received.

RESOLVED – (a) That the report be noted.

(b) That this Licensing Committee supports the proposals for new and/or amended policies and conditions as detailed in the submitted report.

L29. SCRAP METAL DEALERS ACT 2013 - The Director of Economic Growth submitted a report (previously circulated) to advise Members of a change to the delegation of powers in respect of dealing with applications and variations of licences to collect scrap metal; the reviews of such licences; and the setting of fees in respect of both mobile collector and site licences.

It was reported that the Scrap Metal Dealers Act 2013, which came into force on 1st October, 2013, replaced the Scrap Metal Dealers Act 1964 and the Motor Vehicles Crime Act 2011, creating a new licensing regime for motor salvage operators and also collectors of scrap metal, which was formerly subject to a registration scheme.

The submitted report detailed the scheme of delegation which was approved by Full council on 26 September 2013 and since the introduction of the new legislation Officers have granted 16 site licences and 15 collector licences and there have been no contested applications considered by the Licensing Act 2003 Committee. It was also reported that it had come to light that the Home Office had erred by not updating the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and the Scrap Metal Dealers Act 2013 did not replace the Scrap Metal Dealers Act 2964 in Schedule 1 to these Regulations, making the function an executive function.

In light of this information, Cabinet at its meeting on 2 September 2014 approved an amended Scheme of Delegation which will operate until such time as the anomaly is resolved and also requested to approve the fees set in respect of this function. Cabinet duly approved the fees and delegated the function to the Assistant Director of Regulatory Services, who in turn delegated to the Licensing, Parking, Trading Standards and CCTV Manager and the 31 licenses that had already been granted had since been re-considered on the basis of the previous applications and reissued in accordance with the revised delegation.

RESOLVED – That the report be noted.

L30. 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.

L31. REVIEW OF PRIVATE HIRE DRIVER LICENCE – The Director of Economic Growth submitted a report (previously circulated) inviting Members to consider an application for a Private Hire Driver Licence; review a hackney carriage driver licences in light of recent convictions and to review a hackney carriage and private hire driver licence in light of additional medical information.

(1) Ref. No. 21/14 – An application for a Private Hire Driver Licence in respect of offences for shoplifting; unauthorised dumping; and benefit fraud.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they were a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy that states that applicants with a conviction, caution, reprimand or final warning involving offences of dishonesty will normally be refused a licence unless the applicant can show at least three years free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning or three years from the completion of any custodial sentence imposed, whichever is later.

Members did not feel that there was sufficient exceptional circumstances to depart from the Council's Policy to allow a grant of a licence.

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

(2) Ref. No. 22/14 – A review of a combined Hackney Carriage and Private Hire Driver Licences in respect of a caution being issued to the driver for production or being concerned in the production of a controlled drug – cultivate cannabis.

The driver did not attend the meeting. Members discussed whether they felt that the driver was a fit and proper person to hold a combined Hackney Carriage and Private Hire Driver Licence in light of information received regarding the above.

It was reported that the driver had, at the end of his interview decided to surrender his licences although Members were advised that there is no legal provision for the surrender of a licence and Members were therefore invited to revoke this licence on the grounds that the driver was no longer a fit and proper person to hold such licences.

In reaching their decision Members, Members took into consideration the Council's Licensing Policy which states that the Council will consider it extremely serious when existing holders of licences receive criminal convictions, cautions, reprimands or warnings or receive complaints which result in disciplinary action and that existing holders of licences may expect the Council to consider revoking their licence. The Licensing Policy also states that in respect of drugs offences, there should be a period of at least three years free of such conviction, caution, reprimand or final warning from either the date of conviction, caution, reprimand or final warning.

Members also took into consideration the drivers admission of drug usage and the failure to disclose the police caution to the local authority and concluded that the driver could no longer satisfy the Members that they were a fit and proper person to hold this driver licence.

RESOLVED – That the combined Hackney Carriage and Private Hire Driver be revoked under Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976.

(3) Ref. No. 20/14 – Pursuant to Minute L25(1)/Oct/14, a review of a Private Hire Driver Licence in respect of a recent caution for common assault; a further offence of harassment and to give consideration to information received from the driver's GP regarding his state of health.

The driver did not attend the meeting. Members discussed whether they felt that the driver was a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision Members, Members took into consideration the Council's Licensing Policy which states that the Council will consider it extremely serious when existing holders of licences receive criminal convictions, cautions, reprimands or warnings or receive complaints which result in disciplinary action and that existing holders of licences may expect the Council to consider revoking their licence. The Licensing Policy also states that the Council will deem incidents of domestic violence to be extremely serious because if an individual is prepared to assault an individual in a domestic or home environment there would be concerns over that person's ability to control their temper when working in an environment dealing with members of the public.

Members also took into consideration the statement of Police Sergeant Dickenson regarding his attempt to evade the police; the caution for Common Assault; the failure to advise the council of the Caution for Common Assault; the conviction for harassment; the driver's current depressive condition and the effects of the medication used to control it which made them groggy; the letter from the drivers GP and a further letter recently from the driver's GP revising his original medical opinion of impulsive overdose to overdose with suicidal intent; and the provisions of Group 11 driver requirements and the current Medical Standards of Fitness to Drive.

RESOLVED –(a) That the Private Hire Driver Licence be revoked with immediate effect in the interests of public safety in accordance with the provisions of Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976.

(b) In accordance with the previous suspension in accordance with Section 52 of the Road Safety Act 2006 in the interests of public safety, the driver remains unable to drive private hire vehicles in the period pending any appeal.