



**DARLINGTON**

Borough Council

# General Licensing Committee Agenda

9.30 am

Tuesday, 25 July 2023

Council Chamber, Town Hall, Darlington, DL1 5QT

**Members of the Public are welcome to attend this Meeting.**

1. Introductions/Attendance at Meeting
2. Appointment of Chair for the Municipal Year 2023/24
3. Appointment of Vice-Chair for the Municipal Year 2023/24
4. Declarations of Interest
5. To consider the times of meetings of this Committee for the Municipal Year 2023/24 on the dates agreed in the Calendar of Meetings by Cabinet at Minute C258/Feb/23
6. To approve the Minutes of the meeting of this Committee held on 18 April 2023 (Pages 3 - 4)
7. To approve the Minutes of the meetings of the General Licensing Sub Committee held on :-
  - (a) 18 April 2023 (Pages 5 - 8)
  - (b) 13 June 2023 (Pages 9 - 10)
8. Pavement Cafe Licensing Fees –  
Report of the Group Director of Services

(Pages 11 - 14)

9. Taxi Driver Equality and Diversity Training –  
Verbal Update by Licensing Manager
  
10. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are  
of an urgent nature and can be discussed at this meeting
  
11. Questions



**Luke Swinhoe**  
**Assistant Director Law and Governance**

**Monday, 17 July 2023**

**Town Hall**  
**Darlington.**

**Membership**

Councillors Ali, Crumby, Mrs Culley, Curry, Donoghue, Dulston, Haszeldine, Kane, Lawley, Lee, Mahmud, K Nicholson, Ray and Snedker

If you need this information in a different language or format or you have any other queries on this agenda please contact Hannah Miller, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: [hannah.miller@darlington.gov.uk](mailto:hannah.miller@darlington.gov.uk) or telephone 01325 405801

## GENERAL LICENSING COMMITTEE

Tuesday, 18 April 2023

**PRESENT** – Councillors C L B Hughes (Chair), Donoghue, B Jones, Lee, Mrs H Scott and Snedker

**APOLOGIES** – Councillors Clarke, Newall and Renton

**ABSENT** – Councillors Crumbie, Haszeldine, K Nicholson and A J Scott

**OFFICERS IN ATTENDANCE** – Brian Murray (Assistant Licensing Manager), Colin Dobson (Licensing Manager), Thomas Mann (Licensing Support Officer), Bethany Symonds (Lawyer), Pc Iain Robertson (Durham Constabulary), Anthony Hall (Superintendent Registrar) and Hannah Miller (Democratic Officer)

### LG29 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

### LG30 TO APPROVE THE MINUTES OF THE MEETING OF THIS COMMITTEE HELD ON 17 JANUARY 2023

Submitted – the Minutes (previously circulated) of the meeting of the General Licensing Committee held on 17 January 2023

**RESOLVED** – That the Minutes of the meeting of the General Licensing committee held on 17 January 2023 be approved as a correct record.

### LG31 TO APPROVE THE MINUTES OF THE MEETINGS OF THE GENERAL LICENSING SUB COMMITTEE HELD ON 17 JANUARY 2023

Submitted – The Minutes (previously circulated) of the meeting of the General Licensing Sub-Committee held on 17 January 2023.

**RESOLVED** – That the Minutes of the meeting of the General Licensing Sub-Committee held on 17 January 2023 be approved as a correct record.

### LG32 APPLICATION FOR RENEWAL OF LICENCE FOR PREMISES TO BE APPROVED AS A VENUE FOR MARRIAGES AND CIVIL PARTNERSHIPS - KINGS HOTEL, PRIESTGATE, DARLINGTON

The Assistant Director, Law and Governance and Proper Officer for Darlington Registration District submitted a report (previously circulated) to give consideration an application for the renewal of a licence for the Kings Hotel, Priestgate, Darlington to be approved as a venue for Civil Marriages and Civil Partnerships in accordance with the provisions of The Marriage Act 1949 (as amended by the Marriage Act 1994); the Civil Partnership Act (2004); the Marriage and Civil Partnerships (Approved Premises) Regulations 2005 and 2021; and the Marriage (Same Sex Couples) Act (2013).

The submitted report gave a summary of the Kings Hotel as an approved venue; the designated rooms and maximum capacity for each room for civil marriage and civil partnerships.

**RESOLVED** – That the licence for the Kings Hotel as an approved premise for civil marriage and civil partnerships be granted for a further three years from 4 June 2023 and that the places designated where civil marriage and civil partnerships can take place indoors at the premises and the maximum of numbers of persons who can attend those marriage and civil partnerships continue to be:

Room	Maximum Capacity
The Pullman Suite The Ballroom	60 300

## GENERAL LICENSING SUB COMMITTEE

Tuesday, 18 April 2023

**PRESENT** – Councillors C L B Hughes (Chair), Donoghue, B Jones, Lee and Mrs H Scott

**OFFICERS IN ATTENDANCE** – Colin Dobson (Licensing Manager), Brian Murray (Assistant Licensing Manager), Thomas Mann (Licensing Support Officer), Bethany Symonds (Lawyer), Pc Iain Robertson (Durham Constabulary) and Hannah Miller (Democratic Officer)

### **LGS25 ELECTION OF CHAIR FOR THE PURPOSE OF THE MEETING**

**RESOLVED** - That Councillor C Hughes be elected Chair for the purpose of this meeting.

### **LGS26 DECLARATIONS OF INTEREST**

There were no declarations of interest reported at this meeting.

### **LGS27 EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during 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 1 of Schedule 12A to the Act.

### **LGS28 PRIVATE HIRE/HACKNEY CARRIAGE DRIVER LICENCE (EXCLUSION PARAGRAPHS 1 AND 7)**

The Group Director of Services submitted a report (previously circulated) to give consideration to the review of two private hire Licence holder and a review of a Hackney Carriage/private hire driver licence holder.

#### **Ref: 05/23**

To give consideration to a review of a Hackney Carriage/private hire driver licence in light of an ongoing criminal investigation by Durham Constabulary.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a private hire licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy; Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976; and Section 52 of the Road Safety Act 2006.

After careful consideration Members decided to confirm the suspension of the driver licence for a period of 6 months and that the licence be referred back to the General Licensing Sub

Committee for further consideration for the reasons that although they had not been convicted, Members were concerned that the driver may have been involved in the supply of counterfeit tobacco and dangerous vapes.

**RESOLVED** – That the driver licence which was previously suspended in accordance with section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 in the interests of public safety be confirmed in accordance with the same legislation for a period of 6 months and be referred back to the General Licensing Sub Committee for further consideration.

**Ref: 03/23**

To give consideration to a review of a private hire driver licence in light of an ongoing criminal investigation by Durham Constabulary.

The driver did not attend the meeting and was therefore unable to respond to Members questions as to why he was a fit and proper person to retain a private hire driver licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976; and Section 52 of the Road Safety Act 2006.

After careful consideration Members decided to revoke the driver licence due to the nature of the offences outlined in the submitted report, although not convicted and in light of Members grave concerns regarding the fitness and propriety of the driver.

**RESOLVED** – That the Licence be revoked under Section 61(1(b) of the Local Government (Miscellaneous Provisions) Act 1976.

**Ref: 04/23**

To give consideration to a review of a private hire driver licence in light of an ongoing criminal investigation by Durham Constabulary.

The driver did not attend the meeting and was therefore unable to respond to Members questions as to why he was a fit and proper person to retain a private hire driver licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976; and Section 52 of the Road Safety Act 2006.

After careful consideration Members decided to revoke the driver licence due to the nature of the offence outlined in the submitted report, concerns regarding the fitness and propriety

of the driver and in the interest of public safety

**RESOLVED** – That the Licence be revoked under Section 61(1(b) of the Local Government (Miscellaneous Provisions) Act 1976.

This page is intentionally left blank



## GENERAL LICENSING SUB COMMITTEE

Tuesday, 13 June 2023

**PRESENT** – Councillors Haszeldine (Chair), Ali, Curry, Donoghue and Dulston

**ALSO IN ATTENDANCE** – Councillors Coe, Crumbie, Kane and Snedker

**OFFICERS IN ATTENDANCE** – Amy Wennington (Principal Lawyer (Litigation)), Hannah Miller (Democratic Officer), Colin Dobson (Licensing Manager), Brian Murray (Assistant Licensing Manager) and PC Alan Newcombe (Durham Constabulary)

### **LGS1 ELECTION OF CHAIR FOR THE PURPOSE OF THE MEETING**

**RESOLVED** - That Councillor Haszeldine be elected Chair for the purpose of this meeting.

### **LGS2 DECLARATIONS OF INTEREST**

There were no declarations of interest reported at this meeting.

### **LGS3 EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED** – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during 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 1 of Schedule 12A to the Act.

### **LGS4 PRIVATE HIRE DRIVER LICENCE APPLICATION FOR GRANT AND DUAL BADGE (HACKNEY CARRIAGE DRIVER LICENCE AND A PRIVATE HIRE DRIVER LICENCE) APPLICATION FOR GRANT (EXCLUSION PARAGRAPHS 1 AND 7)**

The Group Director of Services submitted a report (previously circulated) to give consideration to an application for grant of a Private Hire Driver Licence and an application for grant of a Dual Badge (Hackney Carriage Driver Licence and Private Hire Driver Licence).

**Ref: 06/23**

To give consideration to an application for grant of a Private Hire Driver Licence in light of a previous caution and a previous refusal of a licence.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that 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 guidance as to the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration, Members decided to grant the driver a Private Hire Driver Licence as they were satisfied that they were a fit and proper person, however due to the drivers dishonesty at a previous Committee in relation to a police investigation for assault occasioning actual bodily harm, Members agreed that a warning be issued about their future conduct.

**RESOLVED** – That the licence be granted and the driver be issued with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub-Committee.

**Ref: 7/23**

To give consideration to an application for grant of a Dual Badge (Hackney Carriage and Private Hire) Driver Licence in light of a previous revocation.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a dual badge driver licence.

In reaching their decision, Members took into consideration the Council's guidance as to the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to grant the driver a Dual Badge Driver Licence as they were satisfied that they were a fit and proper person, however due to previously having had their licence revoked following a complaint regarding aggressive and racially abusive language, Members agreed that the Licence be granted on the proviso that the driver attends Equality and Diversity training provided by Officers from the Council. Members also agreed that a warning be issued about their future conduct.

**RESOLVED** - That the application be granted on the proviso that the driver attends Equality and Diversity training; a warning letter be issued in respect of future conduct and the applicant be warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub Committee.

## GENERAL LICENSING COMMITTEE 25 JULY 2023

---

### PAVEMENT CAFÉ LICENSING FEES

---

#### Purpose of the Report

1. The purpose of this report is to invite Members to determine the fees relating to the licensing of Pavement Cafés in light of a further extension to the current temporary pavement licensing measures, until September 2024. The fees are based on the cost recovery of administering and where appropriate enforcing the relevant legislation relating to these licences.

#### Background

2. Councils are responsible for administering a range of licences and for the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. It is an accepted principle in relation to these schemes that those who benefit from the system (licence holders) should cover the cost of it. Locally set fees are a vital means of ensuring that full costs can be recovered, reducing the risk of a subsidy from local tax payers, and that businesses do not pay more than they should.
3. Legislation permits the Council to recover all or part of the costs of providing the licensing service, including its administration and control (i.e. enforcement or supervision). It does not permit the Council to profit from its fees and charges, thus ring fencing the income to the licensing service. Surpluses **must** be carried forward and deficits **may** be carried forward to future years within each ring-fenced licensing budget. The Council may, however, choose to subsidise the service.
4. Some fees, notably in relation to the Licensing Act 2003, are set nationally within legislation and the Council has no control. Whilst the Gambling Act 2005 allows local authorities to set fees, regulations place a maximum amount that can be charged.
5. While Full Council previously determined the levy of all fees and charges in respect of the licensing service, on 28 January 2016 it delegated the setting of fees and registrations to the General Licensing Committee.

#### Pavement Cafes

6. Pavement café licences are ordinarily issued under the Highways Act 1980, however the Business and Planning Act 2020 introduced a 'fast track' system of issuing licences to assist the hospitality trade recover from the impact Covid-19 had on their trade. This legislation placed a maximum fee of £100 that could be charged. Darlington's Licensing

Committee approved licences to be issued free of charge. Some of the lost income was recovered from government funds, however it is still estimated that the total loss as a result of Covid-19 was in the region of £5,000.

7. Due to the second wave of Covid-19 and a requirement to assist the hospitality trade further, this legislation was extended until September 2022.
8. It is now the intention of government to make this Act permanent (subject to some changes) through the Levelling Up and Regeneration Bill 2022. As this is still progressing through Parliament, an initial decision was taken to extend this Act until September 2023, however it was recently announced that there is likely to be a further extension until September 2024.
9. On 17 January 2023 the Licensing Committee agreed new fees that would be charged for Pavement Café licences once the extension to the Business and Planning Act ended in September 2023. This legislation will allow a maximum fee of £350.
10. As financial support for pavement café licences no longer exists, there was an expectation in that charges of up to a maximum of £350 would be made after September 2023.

### **Fees Proposal**

11. There will inevitably be significant year on year variations in the allocated costs depending on where time has been spent. In the case of *Hemmings v Westminster*, the High Court stated that, *"a local authority does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it all comes out in the wash eventually"*. In this case of *R v Westminster City Council, ex parte Hutton (1985) 83 L.G.R. 461*, it was held that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year so as to recoup the cost of providing the service.
12. As funding is no longer available to subsidise the licensing service post-covid, it is proposed that a maximum fee of £100 is imposed on all Pavement Café licences issued under the Business and Planning Act until September 2024. The proposed licence fees are at **Appendix 1**.

### **Recommendation**

Members are invited to approve a licensing fee to be introduced under the Business and Planning Act 2020.

### **Reasons**

13. The recommendation is put forward to ensure there is a balance between recovering the costs of delivering the licensing service from the relevant licence fees whilst acknowledging

the increased cost in delivering the service from the trade. This is a proportionate response in line with current practice throughout the country.

**Dave Winstanley**  
**Group Director of Services**

Contact Officer – Colin Dobson x 5988

### **Background Papers**

The Local Government (Miscellaneous Provisions) Act 1976

The Deregulation Act 2015

Highways Act 1980

Open for Business (LGA guidance on locally set fees)

Business and Planning Act 2020

Levelling-up and Regeneration Bill

### **Appendix**

1. Proposed fees

**Appendix 1**

**Pavement Café Licence fees**

- Currently free until September 2023
- Proposed fee of £100 from September 2023 to 2024
- Fees already approved for charge when Levelling Up and Regeneration Act receives Royal Assent

<b>Number of people</b>	<b>Current fee</b>	<b>Proposed fees (from Sept 2023)</b>	<b>Future fees (after Sept 2024)</b>
1 - 20	£0	£100	£200
21 - 20	£0	£100	£230
41 - 60	£0	£100	£260
61 - 80	£0	£100	£290
81 - 89	£0	£100	£320
Over 100	£0	£100	£350
Duplicate fee	£0	£50	£50
Transfer licence	£0	£50	£50
Change of detail	£0	£30	£30
Variation	£0	£100	£50