

LICENSING SUB-COMMITTEE

Thursday 18 November 2021

Present:

Councillors Holland, Vizard and Wood

Also Present:

Service Lead Legal Services, Legal Advisor, Principal Licensing Officer and Democratic Services Officer (MD)

70

APPOINTMENT OF CHAIR

Councillor Holland was appointed as Chair for this meeting.

71

DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

72

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph's 1 and 2 of Part I, Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

TOWN POLICE CLAUSES ACT 1847

73

HEARING TO DETERMINE IF THE LICENSED DRIVER IS FIT AND PROPER TO HOLD A TAXI DRIVERS LICENCE

The Chair introduced the Licensing Sub Committee Members and Officers.

The Licensed Driver had been referred to the Licensing Sub Committee to determine if he was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Legal Advisor set out the procedure for the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Legal Advisor stated that evidential burden was not on the Licensed Driver to prove he was fit and proper but for the Licensing Sub-Committee to be satisfied on the balance of probabilities that the Licensed Driver was no longer a fit and proper person. Every case before the Licensing Sub-Committee was heard on its individual merits and its paramount concern is the safety of the travelling public.

The Principal Licensing Officer presented the report and gave evidence in respect of a complaint made against the driver, which had been received on 28 July 2021

from a member of the public regarding the conduct and behaviour of the Licenced Driver.

The Licenced Driver was in attendance and was accompanied by a representative to give evidence in respect of the matter and responded to questions from Members and the Legal Advisors.

RESOLVED that the Licensing Sub-committee was satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence and that the licence remain in place. A written warning letter would be issued to the driver by the Chair of the Licensing Sub Committee with regard to future conduct.

74 **HEARING TO DETERMINE IF THE LICENSED DRIVER IS FIT AND PROPER TO HOLD A TAXI DRIVERS LICENCE**

The Chair introduced the Licensing Sub Committee Members and Officers.

The Licensed Driver had been referred to the Licensing Sub Committee to determine if he was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Legal Advisor set out the procedure for the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The Legal Advisor stated that evidential burden was not on the Licensed Driver to prove he was fit and proper but for the Licensing Sub-Committee to be satisfied on the balance of probabilities that the Licensed Driver was no longer a fit and proper person. Every case before the Licensing Sub-Committee was heard on its individual merits and its paramount concern is the safety of the travelling public.

The Principal Licensing Officer presented the report and gave evidence in respect of a complaint against the driver, which had been received on 24 September 2021 from an anonymous member of the public regarding two incidents. The complaint was in relation to aggressive behaviour and conduct of the Licenced Driver. Evidence was by a photograph of the driver's vehicle and a video of the driver's behaviour from the two separate incidents.

The Licenced Driver was in attendance and was accompanied by a representative to give evidence in respect of the matter and responded to questions from Members and the Legal Advisors.

RESOLVED that the Licensing Sub-committee were not satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence and to suspend the licence for a period of 9 months, with immediate effect and that the Licensed Driver attend and complete appropriate anger management training. A written notice setting out the reasons for the decision shall be sent to the Licensed Driver within the next five working days.

75 **HEARING TO DETERMINE IF THE APPLICANT IS FIT AND PROPER TO HOLD A TAXI DRIVERS LICENCE**

The Applicant was not in attendance to speak in support of the application.

RESOLVED that the hearing to determine whether the applicant was a fit and proper person to grant of a Private Hire Vehicle licence be deferred to a future

Licensing Sub Committee hearing.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

76

APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING

The Chair introduced the Licensing Sub Committee Members and Officers.

The Legal Advisor set out the procedure for the hearing and the Applicant confirmed that the procedure was understood.

The Licensing Officer, presented the report which advised, that the Applicants were seeking the approval of the Licensing Sub-Committee for a street trading consent at Alphinbrook Road, Marsh Barton.

The Applicants had applied for a 3 month licence to trade between 07.00 hours and 15:00 hours, on Monday to Friday, selling a selection of hot foods, burgers, with hot and cold drinks. A copy of the supporting information and photographs of the proposed food trailer and trading location had been submitted as part of the application.

Members noted that the application was for a new business and had not yet registered with Environmental Health and that no response had been received from Devon County Highways.

The Applicant's spoke in support of the application and responded to questions from Members and the Legal Advisor.

RESOLVED that the application be approved subject to confirmation that Devon County Highways had been consulted and the following conditions:

- (a) all of the conditions contained within Appendix A of the Street Trading Policy dated 2015 should be included in the consent;
- (b) the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- (c) the use of A boards and flags be prohibited;
- (d) the consent holder will not conduct fly posting;
- (e) in the event that issues do arise from this consent, then this consent may be revoked by the Service Lead Environmental Health and Community Safety in consultation with the Chair of the Licensing Committee; and
- (f) in line with the Council's resolution of 24th April 2018, any cutlery, food/ drink containers, and drinking straws used should not be made from single use plastics.

(The meeting commenced at 10.00 am and closed at 1.50 pm)

Chair