

MINUTES

LICENSING COMMITTEE
FRIDAY, 5 AUGUST 2011



COMMITTEE MEMBERS PRESENT

Councillor Pam Bosworth (Chairman)
Councillor Robert Broughton
Councillor George Chivers
Councillor Breda Griffin
Councillor Reginald Howard

Councillor Vic Kerr
Councillor Graddon Rowlands
Councillor Susan Sandall
Councillor Mrs Jean Taylor
Councillor Frank Turner

OFFICERS

Licensing Officers (Peter Harrison, Richard Etherton)
Solicitor/Legal Advisor (Paul Rushworth)
Democratic Officer (Lucy Bonshor)

8. APOLOGIES

An apology for absence was received from Councillor Russell.

9. DECLARATIONS OF INTEREST

None declared.

10. MINUTES OF THE MEETING HELD ON 30TH JUNE 2011

The minutes of the meeting held on 30th June were agreed as a correct record of the decisions taken subject to Councillor Rowlands apologies being added.

EXCLUSION OF THE PUBLIC

In accordance with Section 100A(4) of the Local Government Act 1972, it was resolved that the public be excluded because of the likelihood in view of the nature of business to be transacted that if members of the public were present there would be disclosure to them of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act.

11. DECISION TO RENEW OR REFUSE TO RENEW HACKNEY CARRIAGE DRIVER'S LICENCE

Decision:

That the application to renew a Hackney Carriage Licence be approved as the Committee are satisfied that the driver is a 'fit and proper person' pursuant to Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

Note to the applicant: -

The Committee wished to place on record a strict warning as to the applicant's future conduct.

The Legal Advisor to the Committee introduced those present and asked the applicant to introduce himself to the committee.

The Committee had before them exempt report number ENV535 which was an application to renew a Hackney Carriage Driver's Licence. The application had been deferred from the last meeting of the Committee as the applicant had been unable to attend. The Licensing Officer presented the report and provided a background as to why the application was before the Committee. Dates within the report were also clarified as some were incorrect. A temporary badge had been granted up to the date of the Committee.

The applicant then presented his case and answered Members questions.

The Licensing Officer then briefly summed up the case and advised Members of the options available to them:-

- i. Renew the hackney carriage driver's licence; or
- ii. Refuse the renew the hackney carriage driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976

(10.55am Licensing Officers and applicant left the meeting)

Members considered the report and legal advice relating to the 'fit and proper person' test from the Legal Advisor. Members felt that they required further information surrounding the offence before they could make a decision and the applicant and Licensing Officers were asked back to the meeting.

(11.03am Licensing Officers and applicant return to the meeting)

The Legal Advisor to the Committee asked the applicant to clarify the circumstances surrounding the offence in question which he did. Following which he and the Licensing Officers again left the meeting.

(11.06am Licensing Officers and applicant left the meeting)

A further discussion followed and it was proposed, seconded and agreed to renew the hackney carriage driver's licence as it was felt that the applicant was a 'fit and proper' person to hold such a licence under section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976
(11.10am Licensing Officers and applicant return to the meeting)

The Legal Advisor advised the applicant that the Committee considered that the application was finely balanced but having considered the applicants mitigating information considered that this was a genuine mistake as opposed to a fragrant breach and the Committee was minded to approve the application to renew the hackney carriage licence subject to a strict warning as to his future conduct.

12. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE

Decision:-

To refuse the application for a Hackney Carriage Licence, having regard to the applicant's previous convictions and his failure to notify the convictions to the Licensing Authority, the Committee feel that the situation is so serious that the applicant is considered not a fit and proper person to hold such a licence, pursuant to Section 59 of the Local Government Miscellaneous Provisions Act 1976.

The Legal Advisor introduced those present and asked the applicant to introduce himself to the Committee.

The Licensing Officer presented exempt report ENV539 to the Committee which concerned the application for a hackney carriage driver's licence. The Licensing Officer summarised the offences and back ground information to the application.

The applicant then presented his case and answered Members questions pertaining to information contained within the report.

The Licensing Officer gave a closing statement and reminded Members to have regard to the report and appendices and any further information the applicant had provided. The Committee could either;

- Grant the application for a hackney carriage driver's licence; or
- Reject the application for a hackney carriage driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under section 59 of the Local Government (Miscellaneous Provisions) Act 1976.

(11.35am Licensing Officers and applicant left the meeting)

Members felt strongly that the offences committed showed that the applicant was not a 'fit and proper' person to hold such a licence and it was proposed, seconded and unanimously agreed not to issue a hackney carriage licence.

(11.40am Licensing Officers and applicant return to the meeting)

The Legal Advisor informed the applicant that his application for a hackney carriage driver's licence had been refused. The Committee had considered the applicant's mitigation but had considered having regard to his previous convictions and his failure to notify the Local Authority of the same that the situation is so serious that he is considered not a 'fit and proper' person pursuant to the statutory test having regard to the overriding objective of public safety.

The decision was appealable to the Magistrates Court within 21 days of written notification of the decision.

13. ADOPTION OF STREET TRADING POLICY AND REVIEW OF EXISTING CONDITIONS - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Decision

That the Street Trading Policy as appended to report ENV540 be circulated for consultation with stakeholder groups and the general public. The consultation period to run for six weeks starting Monday 8th August 2011 and ending 19 September 2011.

Members had been circulated with report EN540 which concerned a new draft Street Trading Policy. The whole of South Kesteven was designated a consent area for the purposes of street trading however, Stamford Pedestrian Precinct had a different set of criteria and the new policy drew together the best practice from each of the criteria into one document. Members were asked to approve the new draft policy for consultation. Any representations received would be reported back to the Licensing Committee, but if none were received the draft policy would go direct to Cabinet for adoption.

A question was asked about the different costs to which the Licensing Officer replied. Following which it was proposed seconded and unanimously agreed that the policy be circulated for consultation.

14. CLOSE OF MEETING

The meeting closed at 11.45am.