

Licensing Committee



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Friday, 13 November 2020 at 10.00 am
Virtual meeting - this meeting will be held remotely by
Skype for Business

Committee Members: Councillor Mrs Pam Bosworth (Chairman)
Councillor Dean Ward (Vice-Chairman)

Councillor Harrish Bisnauthsing, Councillor Robert Broughton, Councillor George Chivers, Councillor Helen Crawford, Councillor Mrs Rosemary Kaberry-Brown, Councillor Ms Jane Kingman, Councillor Philip Knowles, Councillor Nikki Manterfield and Councillor Lee Steptoe

Agenda

Virtual Meeting - Joining Arrangements

Councillors should access the meeting using the link in their calendar.

Members of the press and public can gain access to the meeting by using the following link:

[Licensing - 13 November 2020](#)

If you are using a smartphone or tablet it may be necessary to download the Skype for Business app before you can enter the meeting; please allow yourself time to do this. If you are using a laptop or desktop computer, you should be able to access the meeting via your web browser.

When you follow the link to the meeting you will enter a virtual lobby; you will be invited into the meeting from the lobby just before the meeting begins. Members of the public should not use the Chat function in Skype for Business. This is for use by Councillors, who will use it to indicate that they would like to speak.

If you have any questions about how to join the meeting, please e-mail democracy@southkesteven.gov.uk.

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☎ 01476 406080

Karen Bradford, Chief Executive

www.southkesteven.gov.uk

1. Register of attendance and apologies for absence

2. Disclosure of interests

Members are asked to disclose any interests in matters for consideration at the meeting.

3. Minutes of the meeting held on 3 July 2020

(Pages 3 - 7)

EXCLUSION OF THE PRESS AND PUBLIC

It is anticipated that, in accordance with Section 100A(4) of the Local Government Act 1972 (as amended) the press and public may be excluded from the meeting during consideration of the following item of business because of the likelihood that otherwise exempt information, as described in paragraphs 1 and 2 of the Act (as amended) would be disclosed to them.

4. Hackney Carriage Driver

(Pages 9 - 19)

Report ENV768 from the Licensing Officer.

5. Hackney Carriage Driver

(Pages 21 - 36)

Report ENV769 from the Licensing Officer.

6. Any other business which the Chairman, by reason of special circumstances, decides is urgent.

Minutes

Licensing Committee
Friday, 3 July 2020



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Harrish Bisnauthsing
Councillor Mrs Pam Bosworth
(Chairman)
Councillor Robert Broughton
Councillor George Chivers
Councillor Helen Crawford

Councillor Mrs Rosemary Kaberry-Brown
Councillor Ms Jane Kingman
Councillor Philip Knowles
Councillor Nikki Manterfield
Councillor Dean Ward (Vice-Chairman)

Officers

Licensing Officers (Chris Clarke, Richard
Etherton)
Legal Advisor (Mandy Braithwaite)
Democratic Officer (Lucy Bonshor)
Technical Support (Julie Edwards)

Other Members

Councillor Susan Sandall

48. Register of attendance and apologies for absence

All Members were present with the exception of Councillor Morgan.

49. Disclosure of interests

Councillor Broughton indicated that he may know the applicant under discussion at agenda item 4 and he withdrew from the meeting during discussion of this item and took no part in the debate or decision.

50. Minutes of the meeting held on 22 May 2020

The minutes from the meeting held on 22 May 2020 were agreed.

Exclusion of the Press and Public

The press and public were excluded from the meeting during consideration of the following item of business because of the likelihood that information that was exempt under paragraph 1 and 2 of Schedule 12A of the Local Government Act 1972 (as amended) would be disclosed to them.

51. Application for a Hackney Carriage/Private Hire Dual Driver's Licence

Decision:

The Licensing Committee refused to issue a licence to drive a Hackney Carriage/Private Hire vehicle on the grounds that the applicant was not a fit and proper person to hold such a licence under Section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

The applicant was not in attendance.

The Licensing Officer presented exempt report ENV755 which concerned an application for a hackney carriage/private hire driver's licence. The application had been received in January 2020 by the Licensing team and was duly processed. Only one conviction had been brought to the Licensing team's attention which had occurred 10 years ago. The Disclosure and Barring Service (DBS) application was checked and submitted in January 2020.

In May 2020 the applicants completed enhanced DBS was received by the Licensing team. Various convictions were shown during a period between May 2000 and May 2009. The applicant was contacted and advised that due to the nature of the convictions his application would be referred to the Licensing Committee for determination.

Questions about the applicant's address were queried by the Committee to which the Licensing Officer replied. A comment was also made in relation to spent convictions and the Committee was informed that in respect of hackney carriage driver applications convictions were never spent.

The Licensing Officer then gave his closing statement. Members were asked to consider the report and appendices before them, and any further information made during the course of the meeting and decide whether to:

- Issue a licence to driver a Hackney Carriage/Private Hire vehicle, or
- Refuse to issue a licence to drive a Hackney Carriage/Private Hire vehicle on the grounds that the applicant was not a fit and proper person to hold such a licence under Section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

(11:18am Licensing Officers left the meeting)

Members discussed the application before them. The Legal Advisor gave Members some general advice to take into consideration in respect of the application before them such as the threat to the safety of the public, the seriousness of the convictions, the date the convictions happened and the age of the applicant at the time of the convictions. She also drew Members attention to guidance issued and the Council's own Hackney Carriage and Private Hire Licensing Policy and Councillor's Handbook.

Members were extremely concerned about the behaviour of the applicant during the time that the convictions happened, although it was acknowledged that an extensive period of time had passed since the last conviction, with a clear record. The fact that the applicant was not in attendance to give any mitigating information to the Committee to take into consideration was also highlighted. Discussion on deferring a decision was raised, although it was noted that the applicant had been given the opportunity to attend the meeting or submit any representation. The applicant had referred to character references within an e-mail received but despite indicating to the applicant to arrange for references to be submitted before the meeting, nothing in writing had followed. There was no specific request for an adjournment from the applicant. Members proceeded to determine the application. It was felt that based on the evidence before them and taking into consideration guidance, policy and the Councillor's Handbook, the application be refused as it was considered that - the applicant was not a fit and proper person to hold a hackney carriage/private hire licence. The proposal was seconded and on being put to the vote agreed.

(11:46am Licensing Officers returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, all relevant guidance, the Councillor's Handbook and the Council's Hackney Carriage and Private Hire Licensing Policy. On the information before them the Committee had decided that the applicant was not a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence under Section 59 (1) and Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The applicant had 21 days to appeal the decision to the Magistrates Court.

(Councillor Broughton returned to the meeting)

52. Local Government (Miscellaneous Provisions) Act 1982: An Application to Renew a Sexual Entertainment Venue Licence - Taboo Gentleman's Club, 99A Westgate, Grantham

Decision:

To approve the renewal of the application for a Sexual Entertainment Venue Licence for Taboo Gentleman's Club, 99A Westgate, Grantham in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act 2009.

The applicant's solicitor, Mr Kent was present at the meeting.

Report ENV753 had been circulated to Members which concerned the renewal of a licence for a Sexual Entertainment Venue for Taboo Gentleman's Club, 99A Westgate, Grantham. In accordance with the authority's procedures all applications relating to sex entertainment venues with the exception of uncontested transfer applications were to be heard by the Licensing Committee.

The Policing and Crime Act 2009 amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to permit the Licensing Authority to license sex establishments. A sex establishment was any premises, vessel or stall where relevant entertainment was provided before a live audience for the financial gain of the organiser or entertainer.

The applicant had held a licence to run the premises as a sexual entertainment venue since 2012 until the renewal application had been submitted. One valid objection had been received from an interested party. The objector felt that the market square of a historic market town was not an appropriate location for a venue of this type and discouraged, other more reputable businesses from establishing themselves in town.

No representation had been received from the Police, the only responsible authority required to be served with a copy of the application under Schedule 3, paragraph 10(14) of the Local Government (Miscellaneous Provisions) Act 1982.

Each application had to be determined on its own merits; however, applications could only be refused on certain defined mandatory or discretionary grounds and these were listed within the report.

The Licensing Officer confirmed that there had been no complaints or disturbances to which the Police had attended.

The applicant's solicitor, Mr Kent then made his representation. He referred to when the premises had first been licensed in 2010 before the authority took over the issuing of the licence in 2012. He then listed the subsequent years that the licence had been renewed by the authority including the variation to the licence that had taken place in 2014. He and his clients had attended the meetings up until 2017 but had not attended in 2018 or 2019 as no representations had been received. Although an objection had been received in the early years of the licence renewal, none had been received in the intervening years. No Police objection had been received to the renewal. The representation received was in keeping with the grant or renewal of the licence due to the character of the relevant locality. Nothing had changed in relation to the location since the last renewal was granted and he invited Members to renew the licence.

The Licensing Officer then gave his closing statement. He reminded Members that the application should be considered on its own merits and the Committee should have regard to South Kesteven's sex establishment procedures, the Human Rights Act, SKDC's regulations prescribing standard conditions and Schedule 3 of the Local

Government (Miscellaneous Provisions) Act 1982. The options available to the Committee were:

- to renew the application as applied for;
- to renew the application with modifications and/or additional conditions
- refuse the renewal. If, having considered the renewal application the committee decides to refuse it, it must provide the applicant with the reasons for the decision in writing.

Mr Kent then gave his closing statement and made reference to the Appeal in R v Birmingham City Council ex parte Sheptonhurst Ltd. The applicants contended that renewal could not subsequently be refused on locality grounds “*unless there had been some change in the character of the relevant locality or in the use to which premises in the vicinity were put.*” This view was endorsed by the Court of Appeal, which had decided that an unfettered discretion existed both for the grant and renewal, the only difference being that there was an obligation to take into account that the applicant was an existing licence holder in the case of a renewal, and that no change of circumstances was necessary to justify refusal to renew. The location of the premises was located in a busy part of the Grantham night time locality with other licensed premises and night clubs. No objections had been received from the Police and there were no reasonable grounds for refusal to renew the licence.

(12:05pm Licensing Officer and solicitor left the meeting)

Members considered the application before them having regard to all necessary regulations, procedures and the representations that had been made. Members felt that there was no change in relation to the location of the premises and it was proposed, seconded and unanimously agreed to renew the licence.

(12:10pm Licensing Officer and solicitor return to the meeting)

The Legal Advisor read out the Committee’s decision. The Committee had taken into consideration all the relevant regulations, procedures and the representations made, and had decided to renew the application for a Sexual Venue Entertainment licence under Schedule 3, paragraph 10 (14) of the Local Government (Miscellaneous Provisions) Act 1982 amended by the Policing and Crime Act 2009 for the premises known as Taboo Gentleman’s Club, 99A Westgate, Grantham.

53. Close of meeting

The meeting closed at 12:15pm.

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Agenda Item 4

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

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Agenda Item 5

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