

Minutes of: **LICENSING AND SAFETY PANEL**

Date of Meeting: 13 February 2014

Present: Councillor D Jones (In the Chair)

N Bayley, I Bevan, D M Cassidy, J Grimshaw, T Holt,
A K Matthews, T Pickstone, A Quinn, S
Southworth, B Vincent, J F Walton

Public Attendance: There were 4 members of public present at the meeting

Apologies for Absence: No apologies

772 DECLARATIONS OF INTEREST

Councillor Cassidy declared a prejudicial interest in item 10 on the Agenda, Application for a Private Hire Driver's Licence, as she knew the appellant and took no part in this item.

773 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 8 January 2014, be approved as a correct record and signed by the Chair.

774 PUBLIC QUESTION TIME

There were no questions asked by any Members of the Public present at the meeting.

775 OPERATIONAL REPORT

The Assistant Director (Localities) submitted a report setting out an update on operational issues within the licensing service, including:

1. Following a request from Mr Oakes, a report was submitted in relation to the consideration given previously, by the Licensing and Safety Panel, regarding rear loading vehicles being used as Hackney Carriages. The Head of Commercial and Licensing explained that this issue has been considered on 5 separate occasions between December 2008 and October 2010 and that the Panel had considered the Fiat Freedom and the Peugeot Premier vehicles. The Panel resolved on each occasion not to licence rear loading vehicles based on:
 - Wheelchair access – The safety of a passenger being able to safely access a rear loading vehicle.
 - Bury Town Centre ranks – The vehicle would need to move forward

approximately 3 metres from the second vehicle in order to accommodate the ramp, wheelchair and driver.

- Lack of space on the ranks to facilitate the loading of a wheelchair passenger.
- The potential for a legal challenge against the Council if a wheelchair passenger was injured during the process of loading into the vehicle.

Following the last consideration of this issue in October 2010, the Panel resolved to delegate to the Head of Commercial and Licensing or the Licensing Unit Manager, authority to consider any further similar applications relating to the licensing of rear loading vehicles as Hackney Carriages.

It was further explained that the Council's Health and Safety Inspectors had been asked for their opinion and identified potential risks arising from the following factors, namely:

- That the taxi ranks are designed for side loading vehicles, not rear loading.
- That there are risks to the passenger being taken down a kerb without a lowered kerb height.

The Head of Commercial and Licensing stated that the simplest control measure would appear to be the continued use of side loading vehicles and that formal risk assessments will be sought for any future applications for rear loading vehicles.

2. Following a complaint from Mr Oakes in relation to private hire vehicles allegedly plying for hire, the Head of Commercial and Licensing stated that in the past, the Licensing Service have carried out a number of successful plying for hire exercises which have resulted in a small number of drivers being prosecuted for plying for hire and Officers will continue to confront drivers of private hire vehicles. It was explained that legitimate parking in areas can normally be established by reference to the data head fitted in the majority of private hire vehicles for advanced bookings and that a number of vehicles stopped in Ramsbottom all had legitimate bookings.
3. The Licensing Hearings Panel on 20 January 2014 considered an application to vary the Premises Licence in respect of Longsight Road Service Station, to extend the hours the premises were authorised to sell alcohol to 24 hours per day and to add the regulated activity of Late Night Refreshments. The Panel granted the application subject to inclusion of a pre-agreed condition with Greater Manchester Police.

In addition to the items set out in the report, the Head of Commercial and Licensing also reported that the appeal to the Magistrates Court by the new Premises Licence holder for Bla Bla Bar, Silver Street, Bury had been resolved, as Greater Manchester Police agreed new licence conditions with the Licence Holder, that were also agreeable to the Council. As a result, the District Judge sitting at the Magistrates Court, having heard the full history of the case, agreed to make an order to modify the conditions of the licence

in accordance with those suggested by GMP. The licence is therefore no longer revoked and the appeal is therefore concluded.

Delegated decision:

That the report be noted

776 URGENT BUSINESS

There was no urgent business to report at the meeting.

777 EXCLUSION OF THE PRESS AND PUBLIC

In respect of item LSP. 778 below, Application for a Pet Shop Licence, the Licensing and Safety Panel Members were specifically asked to consider if this item should be considered in public or private session. The Panel were asked to balance the grounds of hearing the matter in a public forum, based on the public interest, against the prejudice this may cause to the Applicant. The Applicant was asked to comment and indicated his preference that it be dealt with in private session based upon personal information being revealed and discussed.

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of this item, as it contained personal information relating to the applicant and also the following items of business since they involve the likely disclosure of information relating to individuals who hold Licences granted by the Authority or applicants for Licences provided by the Authority.

778 APPLICATION FOR A PET SHOP LICENCE

The Head of Commercial and Licensing read the report, the contents of which were agreed by the Applicant. The Chair, Councillor Jones, asked if the premises had previously been a pet shop and it was reported that it had never been licensed for a pet shop.

The Applicant was then given the opportunity to address the Panel and the following issues were reported:

- This application was not for breeding dogs and therefore the property should not be referred to as a 'puppy farm'.
- Although incidents had occurred in the past with the Applicant's Father and Brother, the Applicant was applying for a pet shop licence independently.
- The Applicant and a full time member of staff would be with the puppies up to 18 hours a day.
- The exercise area was suitable for puppies up to 12 weeks of age, at which time the Applicant would have the dogs inoculated and they would be naturally exercised and walked with a collar.

- All kennel sizes will be 6 Sq m, larger than the specified size in the Model Conditions for Pet Vending Licensing, 2013.
- All kennels will be fitted with heat lamps which will be set between 18 – 20 degrees, with thermostats on all walls to ensure the temperature does not drop below the recommended temperature of 12 degrees at the lowest.
- All windows have been fitted with double glazing with enough natural light for the puppies and with fire lights.
- There are enough windows providing adequate ventilation for the puppies.
- The kennels will be cleaned more than 4 times a day, which is the recommended number.
- Food and drink will be independently bought from BETA who would also provide free packs with advice on keeping puppies.
- No puppy will be sold under the age of 8 weeks.
- All areas have been fitted with plastic and are easily disinfected, with a special 'floor tech' flooring.
- An independent fire plan has been carried out with foam and water extinguishers fitted.
- Although the licence is requesting to hold 30 – 40 puppies, the likelihood is that there would be no more than 20 at any time.
- A purchase register will be kept, including date puppies were bought and sold etc.
- The dogs will be played with, fed, watered at regular intervals which will exceed the recommendations in the Pet Vending Licensing Conditions.
- If the licence is granted, the City and Guilds qualification will be taken and completed.
- If the Panel see fit, conditions to the licence could be added and inspections carried out as necessary.
- Puppies will be separated for the first 7 days, which would normally be the time scale for illness to become apparent.
- £6,122 to date has been spent on improving the building to the standard required.
- An isolation unit has been built for sick animals, which has been independently verified by 2 separate vets.
- Food will be stored in a large black food container, which is easily cleaned and hygienic.
- Puppy waste will be disposed off through Rawtenstall pet crematorium at a cost of £6 per bag with receipts kept.
- Transportation to the premises, which has been agreed as adequate by DEFRA, will be used.
- A key holder to the premises will always be available.
- Soft material such as sawdust and hay will be used and play things constantly available.
- This will be the Applicant's full time employment
- That the Applicant owns a share in the premises
- That the Applicants Father would have no involvement in the business and his Brother does not visit
- There would be no breeding taking place.

Various questions were asked by Officers of the Council and Members of the Licensing and Safety Panel, including:

- Where will the puppies be sourced?
The Applicant stated from farms, and that they will be brought to the premises with traceable documentation.
- Has the Applicant any previous experience of keeping dogs?
The Applicant explained that he had been brought up on a farm with dogs throughout childhood, including dogs with a litter of pups.
- What will the Applicant do with the dogs once they are on the premises?
The Applicant stated that they will be advertised for sale as is the same way as in a pet shop.
- What is the business plan, as the Applicant will have to pay the member of staff. How many dogs would need to be sold to be beneficial?
The Applicant explained that would depend on the breed of dog and the cost of the purchase of the puppy in the first instance.
- Will this be the main source of income?
The Applicant explained it would be one of them but there were other ventures also and that he wanted to prove he could keep the animals to a good standard.
- Is 8 weeks very young for the pups to leave their Mother?
The Applicant explained that a puppy can be weaned after 6 weeks and 8 weeks is the youngest they can leave their Mother. The Applicant stated he would not buy any puppies younger than 7 weeks.
- Where can the City and Guilds qualification be taken?
The Applicant stated that a number of places including Preston and Southport run the course but this cannot be commenced until a licence has been granted.
- Was the Applicant living at the premises when his relatives were prosecuted?
The Applicant stated he was living at the premises but was not involved with the breeding of dogs in any way.
- How would the time be split between the Applicant and the full time member of staff in order to be with the puppies 18 hours a day?
He stated it would be 2 nine hour shifts with a gap during the night from the hours of 11 pm – 5 am.
- Was this realistic 7 days a week?
The Applicant stated that he was brought up on a farm and it is normal to work 7 days a week, however it may be that 2 members of staff would need to be employed.

- Could this be classed more of a hobby if not a money making venture?
The Applicant replied that it was his love for animals and could possibly be considered as such.
- What breed of dog would be bought and sold?
The Applicant explained it would be mainly Border Collies with some Jack Russell's and possibly Labradors as these are the dogs the Applicant had previous experience with.
- 10 – 20 puppies at once are not that many.
The Applicant stated that it would probably be 2 or 3 litters at a time with each having 6 – 7 puppies, but that some weeks he has none.
- Although the Applicant had expressed independence from the relatives who had been convicted, it was a very controversial issue and could be seen, in the eyes of the public, as connected.
The Applicant explained that the convictions were against his relatives not the address of the premises.
- To expect a full time member of staff to work 9 hours a day for 7 days was a lot to request. What sort of wage would he pay?
The Applicant stated it may be minimum wage but that it was possible to get apprentices through the City and Guilds course which was something he would consider.
- How long will the dogs be kept when purchased?
The applicant explained that would depend on the demand.
- How much would the puppies be sold for and how quickly would they sell?
The Applicant explained that would depend on the dog and the breed. It could be he may buy them for £50 to £100 each and depending on the markings and breed could get £250 each.
- How would the applicant vet the potential buyers and what after care advice would be offered?
The applicant stated that in relation to the after care, BETA would provide packs or information can be obtained from local vets or on the internet. The buyer would leave with as much information as possible. In relation to vetting the buyer, that was more difficult to assess but if there were any doubts, the Applicant would refuse to sell the puppy.
- The timing of this application was not really long after the relatives were convicted.
The Applicant stated that it didn't matter when the licence was applied for as there would still be the same public interest.
- Would the applicant consider any other breeds?
The Applicant stated no dogs such as 'Toy' dogs or a breed that could

be construed as dangerous would be brought onto the premises.

- Who actually owns the premises?
The Applicant stated his father owns 4/5ths, with the Applicant owning 1/5th.
- Do the Applicant and his father live in the same premises?
Yes.
- The Applicant's Father's ban under section 34 (2) of the Animal Welfare Act 2006, disqualifies him from owning dogs, keeping dogs, participating in the keeping of dogs and being a party to an arrangement under which they are entitled to control or influence the way in which dogs are kept. How will the Applicant satisfy this ban when they live on the same premises?
The Applicant explained that it had been clarified with Court and the Police that if his Father is not in the company of the puppies or left alone with them it won't be an issue.
- When was the work amounting to over £6,000 carried out on the premises?
The Applicant replied around October 2013, following the visit from the RSPCA.
- The premises that the Applicant shares with his Father are where the incidents took place which has lead to the ban imposed on his Father, so how can the Applicant state it is not the address that comes into question when animals were kept bred and sold at these premises?
The Applicant reiterated that he would not be breeding dogs but buying and selling them from these premises. He could not stop his Father from walking around the premises but clarified that he would not be involved in the pet shop licence which was being applied for.

Delegated decision:

That although the Panel accepted the Applicant was independent from his Father and Brother, and was not involved in the prosecutions and is not subject to the disqualification, the application for a pet shop licence would be at the same premises that were the subject of prosecutions for serious welfare concerns. The Applicant's Father still resides at this address and owns 4/5ths of the property and there is no evidence provided that can prove he will not become actively involved with the business and would not breach the conditions of the ban, namely:

- Owning dogs
- Keeping dogs
- Participating in the keeping of dogs and being a party to an arrangement under which they are entitled to control or influence the way in which dogs are kept

Therefore, the Licensing and Safety Panel members agreed, unanimously, to refuse the application for a pet shop licence.

The applicant was informed of their right to appeal to the Magistrates' Court within 21 days.

779 PROPOSED SUSPENSION/REVOCATION OF A PRIVATE HIRE DRIVER'S LICENCE

Councillor Cassidy left the meeting.

The Assistant Director (Localities) submitted a report regarding applications for Public/Private Hire Vehicles Drivers' Licences.

The Applicant 04/2014 was invited to attend the meeting. At the start of the hearing, Councillor Holt declared a personal interest in this item as he knew the person who was attending the meeting in support of the Applicant, in a professional capacity.

The Chairman outlined the procedure to be followed and the Deputy Licensing Manager read the contents of the report which was accepted as correct by the Applicant, who took the opportunity to address the Panel.

The Applicant, who was supported by his estranged wife, explained that he had committed the offences set out in the report due to drinking alcohol, as he had a low tolerance and got drunk easily and as a result got into trouble. He stated he had tried to sort himself out but had been unsuccessful, but that he was still very friendly with his wife and her family.

The Applicant went on to explain he had previously worked in the gas industry but was no longer able to work in that industry due to disability, but he did not want to rely on benefits. He is also a part time carer for a relative with mental health problems.

Members of the Licensing and Safety Panel asked questions of the Applicant, during which he indicated he did have spent convictions and that trouble often follows him due to his name and reputation. However he reiterated he no longer drinks to the same degree.

Delegated decision:

That after careful consideration of all the representations and the evidence submitted and taking into account the Council's Conviction Guidelines, the Applicant identified as 04/2014 be **refused** an application for a Private Hire Driver's Licence on the basis that the Applicant was not a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976, to hold a Licence.

In reaching its decision, the Panel followed the Conviction Guidelines and determined that due to the serious nature of the offences reported, namely; assault occasioning actual bodily harm, common assault, battery, possessing an offensive weapon in a public place, drunk and disorderly, using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence and failing to comply with requirements of a Community Order, it was not satisfied the Applicant was a fit and proper person to hold a driver's licence.

The Applicant was advised of their right to appeal within 21 days of notification to the Magistrates' Court.

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APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Deputy Licensing Manager informed the Panel that the matter relating to Client No. 03/2014 had been adjourned from the last meeting of the Licensing and Safety Meeting on 8 January 2014, due to the non attendance of the licence holder on that occasion and the fact there was no information given to account for his non attendance.

The Deputy Licensing Officer reported that a letter had been personally delivered to the licence holder's address informing him of this meeting but the licence holder had stated he had not received this letter. The Deputy Licensing Manager informed the licence holder verbally of the meeting and had received no further correspondence from him and again could provide no information to account for the licence holder's non attendance.

The Licensing and Safety Panel Members agreed unanimously to hear the case in the licence holder's absence.

The Deputy Licensing Manager presented the report submitted by the Assistant Director (Localities) on the proposed suspension/revocation of the licence holders Hackney Carriage / Private Hire Driver's Licence.

Members of the Panel heard about an altercation between the licence holder and a Civil Enforcement Officer undertaking parking attendant duties, during which the licence holder was reported to have used foul and abusive language towards the Officer, struck the Officer to the side of the head causing the Officer's hat to fall to the ground and then pushed the Officer in the back causing the Officer to stumble forward. Members also heard that during interview the licence holder admitted his involvement, that he had lost his temper and struck the Officer, but that he denied using foul and abusive language or pushing the Officer.

Delegated decision:

That the licence holder 03/2014 have their Private Hire and Hackney Carriage Driver licences **revoked**.

Upon considering the written report, and taking account of relevant policy and guidance, the Panel, having been satisfied as to the Officer's version of events, and being further satisfied that it had reasonable cause, did not consider the licence holder to be a fit and proper person to hold a licence and further considered it reasonable and proportionate in view of his unacceptable behaviour and in the interests of public safety that the licence be revoked.

The applicant will be reminded of their right of appeal to the Magistrates' Court within 21 days.

COUNCILLOR JONES
Chair

Please note: The meeting started at 7.00 pm and finished at 9.40 pm