

## Licensing Committee

Friday, 6th December, 2013

2.30 - 4.42 pm

Attendees	
<b>Councillors:</b>	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Rob Reid, Malcolm Stennett, Charles Stewart, Pat Thornton, Jon Walklett and Roger Whyborn

### Minutes

1. **APOLOGIES**  
None
2. **DECLARATIONS OF INTEREST**  
Councillor Walklett declared a personal interest as he was a friend of the deceased family.
3. **PUBLIC QUESTIONS**  
None
4. **MINUTES OF MEETING HELD ON 1 NOVEMBER 2013**  
Resolved that the minutes of the meeting held on 1 November 2013 be agreed and signed as a true record.
5. **MINUTES OF SUB COMMITTEE MEETINGS**  
Resolved that the minutes of the sub committee meeting on 25 October 2013 be agreed and signed as an accurate record.
6. **PRIVATE HIRE DRIVER APPLICATION**  
Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Gareth James for a Private Hire Driver's Licence.  
  
Mr James has a number of convictions, the details of which are shown in the background papers.  
  
Mr James' Disclosure and Barring Service showed a conviction for driving with excess alcohol in 2006 and a conviction for making a false statement representation to obtain benefit in 2010.  
  
Louis Krog referred members to the policy considerations and stated that enough time has lapsed for the drink driving offence but the policy requirement of 4 years had not passed from the date of the conviction in 2010.

The background papers noted that Mr James had not disclosed the conviction in 2010 on his private hire driver's licence application form; this was an oversight on his part for which he apologised.

Mr James attended the Committee and spoke in support of his application. He stated that the first offence in 2006 was silly and irresponsible. Mr James said he had paid the full price for this conviction; he had lost his job and his home. After the offence he had fully rehabilitated himself and got a new job. He reapplied for his DVLA drivers licence and got his old job back after 24 months.

Mr James explained about the offence in 2010 and said he thought he was claiming benefits fairly. Mr James said he did not want to claim benefits at all but lost his job in 2006/7 and had to do so to save his home. He started working 12 hours a week in a part time job and thought he had been claiming benefits correctly. Mr James stated that he was unsure of how the benefit system worked and had not claimed any benefit prior to or after the offence.

Members asked the following questions:

- When asked, Mr James stated that he was working on a temporary contract at present that would end before Christmas. He wanted the opportunity to work full time as a private hire driver.
- When asked, Mr James said that he did not disclose the benefit offence on his private hire driver application form as he did not have all of the information, dates or description about the offence. Mr James confirmed that later he discussed this offence with a Licensing Officer.
- When asked, Mr James confirmed that he had not worked as a private hire driver before.
- When asked, Mr James said that he had a car and had worked really hard to pass his driving test. He was willing to put everything in to getting this private hire licence.
- When asked, Mr James confirmed that Starline were happy to employ him subject to this private hire drivers licence be granted today.
- When asked, Mr James said he had held a DVLA drivers licence since 2000-2001.
- When asked, Mr James stated that he could not remember how long or how much the extra benefit had been or gone on for.
- When asked, Mr James confirmed all other tests for the application had been taken.
- When asked, Mr James said he had repaid the housing benefit that he had incorrectly claimed.
- When asked, Louis Krog said he was unable to disclose how many weeks the incorrect benefit had been paid due to data protection rules.

In summing up, Mr James said that he had moved into the area a year ago with his 2 young children. He would like to be the bread winner and wanted the opportunity to do so. His current temporary contract would end on 23 December so he would be out of work before Christmas. Mr James said he wanted the opportunity to support his partner and children.

Members discussed granting the licence for 12 months with a condition that his private hire driver's licence is reviewed at the end of the 12 months.

Upon a vote Members (5 for 5 against) and using the Chairman's casting vote; Did not approve the condition that Mr James private hire drivers licence be granted for 12 months with a condition that his private hire driver's licence is reviewed at the end of the 12 months.

Members were advised they had the following recommendations;

1. Resolved that Mr James' application be granted as Mr James is a fit and proper person.
2. Resolved that Mr James' application be refused on the grounds that Mr James is deemed not to be a fit and proper person.

Upon a vote it was (8 for, 1 against, and 1 abstention)

**RESOLVED that Mr James' application be granted as Mr James is a fit and proper person.**

## **7. PRIVATE HIRE DRIVER APPLICATION**

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been received from Mr Keith Lewis for a Private Hire Driver's Licence.

Mr Lewis has a number of convictions, details of which are shown in the background papers.

Louis Krog advised the Committee that the following convictions were as follows:

1972 – using threatening, abusive, insulting words or behaviour and assault on Police.

1997 – Using disorderly behaviour likely to cause distress.

1999 – Destroy/damage property.

1999 – Assault occasioning actual bodily harm.

Louis Krog referred Members to the interview notes in the background papers, Mr Lewis had explained in his interview that the offence in 1972 was more than 40 years ago and was not clear on the details.

Louis Krog advised Members that sufficient time had lapsed since Mr Lewis' convictions with regard to the policy considerations.

Mr Lewis and Mr Whitam attended the meeting and Mr Lewis spoke in support of this application. He stated to the Committee that he was currently unemployed, his previous job was a heavy mechanical job and he was unable to continue with this role.

Mr Lewis stated that subject to his licence being granted today, he had been offered a job with Spa Taxis. His convictions were in the past now and they had happened 40 years ago. Mr Lewis said he had been clear from convictions since then and felt it would be unfair if his previous convictions were taken into consideration today. He had cleaned up his act and had not been in any trouble since then.

Members asked the following questions:

- A Member advised Mr Lewis that despite his offences being in the past they were relevant and indicated a pattern of behaviour. The Member asked Mr Lewis how he had changed and why the Committee should grant his licence today.
- Mr Lewis referred to his offence in 1999 and stated that this had occurred due to a dispute with his neighbour. He said that his neighbour had been verbally abusing his wife and son and had made false allegations against his son resulting in his son being arrested. Mr Lewis confronted his neighbour which turned into an argument which got out of hand.
- A Member asked if Mr Lewis had thought of other ways to deal with this incident.
- Mr Lewis said he had tried to speak to the neighbour about his 14 year old son being arrested but had seen a red mist.
- The Members referred to Mr Lewis seeing the red mist and advised him that there may be issues as a private hire driver and he may come across things like this, the Member asked how Mr Lewis would deal with these situations now.
- Mr Lewis said he had changed now and would walk away from any incidents and let the Police deal with them. Mr Lewis referred to a previous conviction and said that he was a passenger in a car which the Police stopped as they thought the driver had been drinking. Mr Lewis was arrested for arguing with the Police not his friend.
- The Member stated that these offences occurred when Mr Lewis became upset.
- Mr Lewis advised the Committee that his previous convictions were behind him now.
- When asked, Mr Lewis stated that he used to drive heavy vehicles in various different countries. His job was as a professional driver and a mechanic and he also drove for school runs.
- A Member stated that it appeared Mr Lewis managed to deal with members of the public in his previous job in a good manner.

In summing up, Mr Lewis said he wanted to continue his working life and his previous heavy mechanic job was too much now. Mr Lewis stated that he was unemployed at the moment and wanted the chance of a job and to be given this opportunity.

Members were advised they had the following recommendations;

3. Resolved that Mr Lewis application be granted as Mr Lewis is a fit and proper person.
4. Resolved that Mr Lewis application be refused on the grounds that Mr James is deemed not to be a fit and proper person.

Upon a vote it was (7 for, 0 against, 3 abstentions)

**RESOLVED that Mr Lewis' application be granted as Mr Lewis is a fit and proper person.**

## **8. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - A BOARD**

Louis Krog, Business Support and Licensing Team Leader introduced the report as circulated with the agenda. An application had been made to renew the existing consent to place a straight sided and straight bottomed 'A' board outside 13-17 Promenade.

Louis Krog advised the Committee that this 'A' board had previously had consent. On renewal of the consent it was considered necessary to refer the application to Committee because the Council's policy had changed and the application does not comply with the newly adopted policy as detailed in 5.1.1 and 5.1.2 of the report.

It is intended that the 'A' board be displayed for the following times;

Monday	08.30-17.30
Tuesday	08.30-17.30
Wednesday	08.30-17.30
Thursday	08.30-19.30
Friday	08.30-17.30
Saturday	08.30-17.30
Sunday	11.00-16.00

Appendix A of the report showed an image of the 'A' board.

Appendix B of the report detailed a location map.

Members asked the following Officer questions;

- A Member said they felt this was controversial. The Member said they thought if the premises were trading on the ground floor and had shop frontage this would not comply with the current policy. The Member advised the Committee that this store trades upstairs on the first floor with one boxed window.
- Louis Krog referred Members to point 3.5 of the revised outdoor advertising policy and confirmed that although the store trades on the first floor the premises still had shop frontage. Louis Krog advised Members that this store had had the 'A' board since 2003.
- When asked, Mr Krog said that only the change in policy had brought this application to Committee today, no complaints had been received about the 'A' board which had been there since 2003. It was for Members to decide today if the application should be approved or not.

Mr Gardner, store manager attended the meeting and spoke in support of his application. He referred Members to 1.2 of the report which detailed the times that the 'A' board would be displayed. On Thursdays the 'A' board would be displayed between 8.30 and 17.30 not 8.30 to 19.30 as indicated in the report.

Mr Gardner said that the store had first opened in 2003 and the store front window had always been used. The premises trades on the 2nd floor over 10,000 square metres. There is a very small entrance to the store with one window at the front of the premises just big enough to display a mannequin in it. The 'A' board has been there for 10 years with no problems at all.

Members asked the following questions;

- Two Members stated that they had previously visited premises and had had to ask where the premises was. The 'A' board added direction to the premises.
- When asked, Mr Gardner said a lot of trade would be lost without the 'A' board. There were 20 Slaters stores nationwide and 18 of the premises had 'A' boards due to the location of the premises. This 'A' board would help people when they were looking for the store and help people find the store.
- A Member stated that they supported this application and the 'A' board was needed for this type of premises trading on the 2<sup>nd</sup> floor and it enhanced the location.

In summing up, Mr Gardner said that all other premises in that area had 5 times the size of shop frontage to Slaters and even with illuminating the small front window they were still at a disadvantage.

Members were advised they had the following recommendations to vote for.

1. The application be approved because Members are satisfied there are sufficient reasons to deviate from the new policy in respect of objects placed on the highway.
2. The application be refused because Members are not satisfied that the A board complies with the Council's new policy in respect of objects placed on the highway.

Upon a vote it was (6 for, 2 against, 2 abstentions)

**RESOLVED that the application be approved because Members are satisfied there are sufficient reasons to deviate from the new policy in respect of objects placed on the highway.**

#### **9. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION**

Upon a vote it was unanimously agreed that the following exempt items would be heard in a closed session.

#### **10. PRIVATE HIRE DRIVER APPLICATION**

Members were advised they had the following recommendations to vote on.

1. Mr Harding's application for a Private Hire driver's licence be granted as Mr Harding is a fit and proper person
2. Mr Harding's application for a Private Hire driver's licence be revoked as the Committee considers Mr Harding is not deemed to be a fit and proper person to hold a Private Hire driver's licence.

Upon a vote it was (8 for 1 against and 1 abstention)

**RESOLVED, that**

**Mr Harding's application be granted, subject to additional conditions as required by Officers, as Mr Harding is a fit and proper person.**

**11. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE**

Members were advised they had the following recommendations to vote on.

3. Mr Hepworth's Hackney Carriage driver's licence be continued with no further action because the Committee is satisfied that he is a fit and proper person to hold such a licence;
4. Mr Hepworth's Hackney Carriage driver's licence be revoked as the Committee considers Mr Hepworth is no longer deemed to be a fit and proper person to hold such a licence in accordance with section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Upon a vote it was (8 for 1 against)

**RESOLVED, that**

**Mr Hepworth's Hackney Carriage driver's licence continues to be suspended as an interim measure pending him being assessed by a medical practitioner to ensure he is fit to drive. Upon receipt of satisfactory confirmation as to fitness, the Licensing Officer be authorised to lift the suspension of the Hackney Carriage driver's licence.**

**12. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION**

The Chairman advised Members that the next Licensing Committee would take place on Friday 10 January 2014 not Friday 6 January 2014.

**13. DATE OF NEXT MEETING**

10 January 2014

Garth Barnes  
**Chairman**