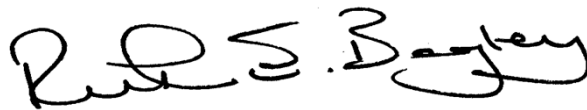


Date of issue: 13th October, 2015

MEETING:	LICENSING SUB-COMMITTEE (Councillors Davis (Chair), Shah and Wright)
DATE AND TIME:	THURSDAY, 22ND OCTOBER, 2015 AT 10.00 AM
VENUE:	FLEXI HALL, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	CONSTITUTIONAL MATTERS		
1.	Declarations of Interest		
	<i>All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare</i>		

AGENDA
ITEM

REPORT TITLE

PAGE

WARD

that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.

The Chair will ask Members to confirm that they do not have a declarable interest.

All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.

- | | | |
|----|---|-------|
| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 |
| 3. | Minutes of the Last Meeting held on 11th December, 2014 | 3 - 6 |

LICENSING ISSUES

This 'General' Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers' licences, hackney carriage/private hire vehicle licences and street trading consents.

4. Exclusion of the Press and Public

It is recommended that the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

PART II

- | | | |
|----|---|---------|
| 5. | Private Hire Driver and Operator Conduct Hearing- (Reference 01-15) | 7 - 32 |
| 6. | Private Hire Operator Conduct Hearing- (Reference 02-15) | 33 - 54 |
| 7. | Private Hire Driver (Grant) Application (Reference 03-15) | 55 - 70 |



Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

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PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Sub-Committee – Meeting held on Thursday, 11th December, 2014.

Present:- Councillors Ajaib (Chair), Davis and Malik

Officers Present:- Teresa Clark, Senior Democratic Services Officer, Neil Fraser, Trainee Democratic Services Officer, Niall Toru, Legal Advisor to the Sub-Committee

PART 1

59. Declarations of Interest

None received.

60. Guidance on Predetermination/ Predisposition - To Note

Resolved - Members confirmed that they had read and understood the guidance on predetermination and predisposition.

61. Minutes of the Meeting of the Licensing Sub-Committee held on 15th October, 2014

Resolved - That the minutes of the meeting of the Licensing Sub-Committee held on 15th October 2014 be approved as a correct record.

62. Exclusion of the Press and Public

Resolved – That the press and public be excluded from the remainder of the meeting as the items to be considered contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

PART II

(The following is a summary of the matters considered in part II of the meeting)

63. Personal Licence Application- (Reference 05-14)

The Licensing Sub-Committee was asked to consider whether the granting of a personal licence to the Applicant (ref. 05-14) would promote the crime prevention objective. The Applicant attended the hearing and Thames Valley Police (TVP) were represented. The Licensing Manager summarised the background to the application and discussed the relevant Policy and Legislative considerations in the case. He advised Members that the Sub-Committee could only grant a personal licence if they were satisfied that to do so would promote the crime prevention objective.

Licensing Sub-Committee - 11.12.14

As part of the application process, the Applicant had submitted a Disclosure Scotland Criminal Record report which contained details of convictions for a number of 'relevant offences' as defined by the Licensing Act 2003. Members were advised that in this case, the convictions were not deemed to be 'spent' under the Rehabilitation of Offenders Act 1974. The Act stipulated that all relevant convictions could be taken into account, regardless of whether they would otherwise be spent.

TVP had made representations against the granting of the licence as permitted by regulations, stating that to do so would undermine the crime prevention objective.

The Licensing Manager reminded the Sub-Committee that it could reject or grant the application and must have regard to the Section 182 guidance and the Council's Statement of Licensing Policy. He concluded that the Sub-Committee could grant the licence only if it was felt that the crime prevention objective could be promoted.

The Applicant addressed the Sub-Committee and acknowledged the prior convictions. He advised however that these incidents occurred many years ago, that he was remorseful for his crimes, and he was a fully rehabilitated member of society eager to move forward with his working life.

The Sub-Committee adjourned to reach its decision. Having carefully considered all of the evidence, the Sub Committee decided to grant a Personal Licence.

Resolved – That the application (Ref 05-14) for a Personal Licence be approved.

64. Private Hire Driver Application- (Reference 04-14)

The Licensing Sub-Committee was asked to consider whether Applicant (Reference 04-14) was a fit and proper person to be granted a private hire drivers licence. The Applicant attended the hearing.

The Licensing Manager, summarised the background to the application and discussed the relevant Policy and Legislative considerations in this case. He advised Members that the Sub-Committee could only grant a private hire driver's licence if they were satisfied that the applicant was a 'fit and proper' person to hold that licence. Members were advised that the application was subject to a criminal record check and a DBS Certificate detailed a number of previous convictions dating from 1990 to 2010. The Officer advised that due to the number and nature of these convictions, the Applicant was not deemed to be a 'fit and proper person' to hold a private hire driver's licence.

Members were advised that in this case convictions would normally be 'spent' under the Rehabilitation of Offenders Act 1974, but the law had created an exception where local authorities were considering whether to licence individuals to drive hackney carriages or private hire vehicles. This exception

Licensing Sub-Committee - 11.12.14

stipulated that all relevant convictions could be taken into account, regardless of whether they would otherwise be spent.

Details of the convictions were revealed at the hearing and the Sub-Committee was asked to consider whether the offences were relevant and should be admitted. The Licensing Manager submitted that the Sub-Committee had the option to grant the private hire driver's licence application; grant the licence subject to conditions or refuse the application.

The Licensing Manager referred to extracts from case law which dealt with the 'fit and proper' to hold a licence test. He reminded the Sub-Committee that an applicant's personal circumstances, for example his need of a licence to provide for his family, should not be taken into account when deciding an application. It was confirmed that the Applicant had held a private drivers licence previously and these were revoked in 2003 and 2009. The Officer recommended that the application be refused.

The Applicant addressed the Sub-Committee and submitted that the offences were in the past and therefore not relevant to his application.

The Legal Advisor to the Sub-Committee referred Members to a High Court case where it was held that all of the Applicant's previous offences were relevant and it was found that it would be wrong not to have regard to them.

The Sub-Committee adjourned to reach its decision and carefully considered all the evidence. Members considered that all the Applicant's previous convictions were relevant when reaching its decision but noted the time lapse since these occurred. However, one of the offences was not viewed as a 'serious' offence and therefore Member's decided that the Council's policy did not apply. The other convictions were ten and fifteen years earlier.

The Sub-Committee decided to grant a licence for a limited period of six months with the option to re-apply.

Resolved- That the application (Ref 04-14) for a private hire licence be granted for 6 months and that on the expiry of this period an annual licence may be applied for subject to a satisfactory DBS check. Subsequent applications will also be subject to a satisfactory DBS check for the following 3 years and then on a 3 yearly basis in line with Council policy.

Chair

(Note: The Meeting opened at 10.05 am and closed at 12.50 pm)

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