

## **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 15<sup>th</sup> 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.

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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

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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)