



Minutes of the Licensing Sub-Committee

10 March 2011

-: Present :-

Councillors Manning, Mills and Pentney

575. Election of Chairman.

Councillor Manning was elected as Chairman for the meeting.

Councillor Manning in the Chair.

576. Matters for Consideration.

The Sub-Committee considered the following matters, full details of which are set out in Appendix 1 to these Minutes.

576.1 Lucius Food and Wine, 12 Lucius Street, Torquay.

576.2 Suspension of Hackney Carriage Driver's Licence.

576.3 Suspension of Private Hire Driver's Licence.

(Note: Prior to consideration of the item in Minute 576.3 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).)

Chairman

APPENDIX 1
to the Minutes of the Licensing Sub-Committee
held on 10 March 2011

Lucius Food and Wine, 12 Lucius Street, Torquay

Decision maker:

The Licensing Sub-Committee at its meeting held on 10 March 2011.

Details of application:

Application for a Premises Licence in respect of Lucius Food and Wine, 12 Lucius Street, Torquay, as set out in Report 45/2011.

Cumulative Impact Zone:

The Premises do not fall within the Cumulative Impact Area.

Written representations received from:

Name	Details	Date of Representation
Police	Representation confirming the Police have no objection to the application, and suggesting three conditions be added to the Licence if granted, as set out in Appendix 2 to Report 45/2011.	14 February 2011
Members of the public	Four letters objecting to the application for a Premise Licence, as set out in Appendix 3 to Report 45/2011.	Not available

Additional information:

Prior to the Sub-Committee the applicant's representative requested an extension to the normal allowance of 10 minutes to 20 minutes to present their application. The Sub-Committee agreed to the extension of time and informed the objectors and Police that they too would be entitled to 20 minutes when making their representations.

APPENDIX 1 (continued)

Oral representations received from:

Name	Details
Applicant's representatives	The applicant's representatives outlined the application as set out in Report 45/2011 confirming that the Applicant was willing to accept the three additional conditions suggested by the Police, if the Licence was granted.
Police	The Police representative confirmed the Police had no objection to the application and outlined the three conditions they were recommending, as set out in Appendix 2 to Report 45/2011, if the Licence was granted,
Two Members of the Public	Two member of the public outlined their objection to the application.

Applicant's response to representations:

The applicant's representative confirmed that the applicant had agreed, prior to the Licensing Sub-Committee, to the three additional conditions proposed by the Police.

Decision:

That the application for a Premises Licence in respect of Lucius Food and Wine, 12 Lucius Street, Torquay be granted as submitted subject to the imposition of the three conditions recommended by the Police in their written representation dated 14 February 2011 (set out in Appendix 2 to Report 45/2011).

Reason for decision:

Members carefully considered all the written and oral representations put before the Sub-Committee by the applicant, the Police and the interested parties. Members noted that although the Police had made representations, they were not objecting to the grant of the application provided three specified conditions were added to the licence in order to promote the licensing objectives. Members noted that the applicant was agreeable to these conditions.

Members considered the various representations from the interested parties, the common theme of which was that by granting this application the vicinity's alcohol related problems of crime and disorder, public nuisance and anti-social behaviour will be added to.

The Licensing Sub-Committee treated these representations seriously, however they found that there was no evidence for them to determine that such problems would be added to if the application was granted. The Sub-Committee noted that the area in which these premises were located was not within the Cumulative Impact Area and that the Police have not represented that the alcohol related problems referred to will increase in the area if this licence is granted.

APPENDIX 1 (continued)

The Sub-Committee had regard to the applicant's Operating Schedule and the measures proposed to promote the four licensing objectives, particularly through its training programme.

The Sub-Committee also had regard to the three conditions proposed by the Police, which had been accepted by the applicant, which were aimed at promoting the four licensing objectives. As a result, the Sub-Committee found that to grant this application on the basis of the proposals presented to the Sub-Committee at its meeting, the four licensing objectives would be promoted rather than undermined and the concerns of the interested parties should be alleviated.

APPENDIX 1 (Continued)

Suspension of Hackney Carriage Driver's Licence – Mr Keith Dooley

Decision maker:

The Licensing Sub-Committee at its meeting held on 10 March 2011.

Details of application:

Review of Hackney Carriage Driver's Licence in respect of Mr Keith Dooley, as set out in Report 46/2011.

Written representations received from:

Name	Details	Date of Representation
Parking Operations Officer	Representation regarding illegal parking by taxis in Torbay.	28 January 2010
Police	Representation confirming events over the past nine months on The Strand involving taxi drivers.	4 February 2010
Public Transport Officer	Briefing paper regarding taxi parking on The Strand, Torquay, and the impact on bus drivers.	27 January 2010
Operations Manager – Torbay Stagecoach South West	Representations confirming the ongoing problems with taxis parking at The Strand bus stops.	28 January 2010, 9 February 2007, 4 July 2006
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers regarding the use of The Strand, its taxi rank, the adjacent bus bay and the roundabout.	16 January 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers updating them on the current situation regarding the taxi ranks and bus bays on the harbour side.	3 April 2009
Principal Safety and Licensing Officer	Representation sent to all Hackney Carriage Drivers regarding the non-observation of Road Traffic Orders by some Hackney Carriage Drivers.	4 December 2009
	Minutes of the Licensing Sub-Committee held on 1 April 2010.	1 April 2010
Principal Safety and	Representation sent to all Hackney	31 August 2010

APPENDIX 1 (Continued)

Licensing Officer	Carriage Drivers informing them of the arrangements for taxi ranks at Vaughan Parade and The Strand.	
Parking Enforcement Officer	Taxi/Private Hire Parking Report Form.	15 October 2010
Licensing Support Officer	Letter sent to Mr Ford regarding illegal parking on the Harbourside, Torquay.	29 October 2010
Parking Enforcement Officer	<p>Parking Enforcement reports, extract from the Highway Code showing definition of hash lines and two photographs of the relevant area.</p> <p>Plan of Road Traffic Orders in place on Torquay harbour side.</p> <p>Spreadsheet showing percentage of Taxi Rank space on Torquay harbour side.</p>	<p>11 December 2010</p> <p>15 January 2011</p>
Licensing Support Officer	<p>Letter sent to Mr Keith Dooley in respect of a queuing/parking offence and inviting his comments.</p> <p>Hackney Carriages and Private Hire Vehicles Byelaw 8.</p>	4 February 2011
Respondent	Letter from Mr Keith Dooley responding to a letter sent by the Licensing Support Officer, dated 10 February 2011 and an email received on 11 February 2011, explaining the circumstances of the incidents.	<p>10 February 2011</p> <p>11 February 2011</p>

Oral representations received from:

Name	Details
Environmental Health Manager (Commercial)	The Environmental Health Manager (Commercial) outlined the Council's case, as set out in Report 45/2011 and the reasons for recommending that Mr Dooley be suspended for 21 days.
Mr Dooley	Mr Dooley explained the circumstances surrounding his breaches of the Road Traffic Orders and Byelaw and responded to Members' questions.

APPENDIX 1 (Continued)

Decision:

That Mr Keith Dooley's Carriage Driver's Licence be suspended for a period of 14 days on the ground of 'any other reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for decision:

Having carefully considered all the written and oral representations put before the Sub-Committee, Members resolved that Mr Dooley's Hackney Carriage Driver's Licence be suspended for a period of 14 days on the ground of 'any other reasonable cause', as in accordance with Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

Members found this ground to be established, as on the basis of the evidence before them they could not be satisfied Mr Dooley remained a fit and proper person to hold a licence. Members had regard to the fact that over a period of three months Mr Dooley has contravened Road Traffic Orders, relevant Byelaws or the Highway Code on five occasions whilst working as a Hackney Carriage Driver.

Members also considered the fact that on 1 April 2010 Mr Dooley's Hackney Carriage Driver's Licence was suspended for a period of seven days following similar contraventions. However, Members noted there was no evidence before them that any person was actually placed at risk as a consequence of Mr Dooley's contraventions and that Mr Dooley was now mainly operating in Brixham. The Sub-Committee also noted Mr Dooley's full acceptance of responsibility for his actions, his regret and remorse and his promise to avoid any contraventions in the future.

Members therefore resolved to suspend the licence for the 14 day period. Members felt this to be a proportionate and necessary response in the interests of public safety and one that would be sufficient to ensure that upon the return of his licence Mr Dooley would be a fit and proper person to hold it.

APPENDIX 1 (Continued)

Suspension of Hackney Carriage Driver's Licence

Decision maker:

The Licensing Sub-Committee at its meeting held on 10 March 2011.

Details of application:

Review of Hackney Carriage Driver's Licence, as set out in exempt Report 48/2011.

Written representations received from:

Name	Details	Date of Representation
Licensing Enforcement Officer	Representation requesting the Private Hire Driver named in the Exempt Report to contact the Safety and Licensing Section.	14 February 2011
Police (Notifiable Occupation Co-ordinator)	Representation informing Torbay Council's Community Safety Team of two incidents by the Private Hire Driver named in the Exempt Report.	17 February 2011
Executive Head for Community Safety	Representation informing the Private Hire Driver named in the Exempt Report of his suspension pending a Licensing Committee.	15 February 2011
Police (Notifiable Occupation Co-ordinator)	Representation notifying Torbay Council's Community Safety Team of other relevant information in respect of the Private Hire Driver named in the Exempt Report.	25 February 2011

Oral representations received from:

Name	Details
Environmental Health Manager (Commercial)	The Environmental Health Manager (Commercial) outlined the Council's case, as set out in exempt Report 48/2011.

Decision:

Having carefully considered all the written and oral representations put before the Licensing Sub-Committee, Members resolved that they could not be satisfied the Private Hire Driver named in exempt Report 48/2011 remained a fit and proper person to hold a Private Hire Driver's Licence.

APPENDIX 1 (Continued)

Members therefore found the ground for revoking his Private Hire Driver's Licence on the basis of any other reasonable cause to be established. Accordingly the suspension was supported and his licence was revoked with immediate effect.

In addition Members resolved that the interests of public safety demand that this revocation has immediate effect once the requisite notice is handed to the Private Hire Driver named in the exempt report.

Reason for decision:

The compelling evidence presented to the Licensing Sub-Committee demonstrated that the Private Hire Driver named in exempt Report 48/2011 had been involved in a number of incidents over a short period of time (which were set out in the exempt Report).

Members noted their duties to ensure only suitable persons were licensed to drive Private Hire Vehicles. Members could not be satisfied, on the basis of the evidence, that the Private Hire Driver named in the exempt Report is or would be a suitable person for the foreseeable future. The Sub-Committee found that to allow the Private Hire Driver named in the exempt Report to retain his licence would create an unacceptable risk to public safety and so find the immediate revocation of his licence a proportionate action to protect passengers and members of the public.