

# Minutes

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## Licensing/Appeals Sub-Committee Tuesday, 21st February, 2017

### Attendance

Cllr Bridge  
Cllr Mrs Murphy

Cllr Mynott

### Apologies

### Substitute Present

### Also Present

### Officers Present

Paul Adams	-	Principal Licensing Officer
Jean Sharp	-	Governance and Member Support Officer
Sonia Sharp	-	Planning Solicitor
Maria Williams	-	Licensing Officer

### 284. Appointment of Chair

The Sub-committee resolved that Cllr Mrs Murphy should chair the meeting.

### 285. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

### 286. Declaration of Interest

There were no declarations of interest.

## **287. Determination of an application for Hackney Carriage Vehicle (Exempt)**

The Sub-committee considered this matter in private session by virtue of Part 1 of Schedule 12 Local Government Act 1972 because it contained information relating to an individual.

The Sub-committee was requested to determine an application for the grant of a Hackney Carriage Vehicle licence. The vehicle to be licensed did not currently qualify under the Council's pre-licensing conditions by virtue of the Engine Cubic Capacity being lower than the stipulated minimum requirement.

Members were reminded that the Licensing of Hackney Carriage vehicles was provided under Town Police Clauses Act 1847 and more recently by Local Government (Miscellaneous Provisions) Act 1976 (the Act).

Under provision of Section 47 of the Act a district Council might attach such conditions to the grant of a Hackney Carriage vehicle licence as it considered to be reasonably necessary.

Conditions were in place to be observed by licence holders at all times in the interests of public safety, whilst pre-licensing conditions stipulated the guidelines and minimum standards for newly licensed vehicles.

The applicant made an application to replace their existing licensed vehicle with a brand new Renault Dacia Logan 1.5dci which ran on petrol.

Hackney Carriage Vehicle Pre-Licensing Condition 4 stated that the minimum permitted cubic capacity of a petrol engine was 1600cc and 1700cc in respect of a diesel engine.

Having been advised that under delegated authority the licensing team would be obliged to refuse the application, the applicant had requested that consideration be given to waiving the condition on this occasion and allowing the vehicle to be licensed.

The Sub-committee considered the report before them and the oral submission presented by the applicant and acknowledged that the advances in engine technology since the Council's guidelines were introduced meant that a smaller engine might deliver equivalent power output. The Sub-committee was therefore satisfied that the vehicle submitted for licensing was appropriate to be licensed as a Hackney carriage vehicle as applied for and

1. Granted the application.
2. Recognised that given the current "Pre-Licensing Conditions" policy, the Licensing Officer had no choice but to refer this matter to the Sub-Committee but hoped that the policy would be reviewed as a matter of urgency.

**288. Determination of an application for Hackney Carriage Vehicle (Exempt)**

The Sub-committee considered this matter in private session by virtue of Part 1 of Schedule 12 Local Government Act 1972 because it contained information relating to an individual.

The Sub-committee was requested to determine an application for the grant of a Hackney Carriage Vehicle licence. The vehicle to be licensed did not currently qualify under the Council's pre-licensing conditions by virtue of the Engine Cubic Capacity being lower than the stipulated minimum requirement.

The applicant made an application to replace their existing licensed vehicle with a Toyota Prius 1497cc Electric Hybrid, first registered in 2006.

Hackney Carriage Vehicle Pre-Licensing Condition 4 stated that the minimum permitted cubic capacity of a petrol engine was 1600cc and 1700cc in respect of a diesel engine.

Having been advised that under delegated authority the licensing team would be obliged to refuse the application, the applicant had requested that consideration be given to waiving the condition on this occasion and allowing the vehicle to be licensed.

The Sub-committee considered the report before them and the oral submission presented by the applicant and acknowledged that the advances in engine technology since the Council's guidelines were introduced meant that a smaller engine might deliver equivalent power output. They also noted that identical vehicles were being licensed in other boroughs. The Sub-committee was therefore satisfied that the vehicle submitted for licensing was appropriate to be licensed as a Hackney carriage vehicle as applied for and

1. Granted the application.
2. Recognised that given the current "Pre-Licensing Conditions" policy, the Licensing Officer had no choice but to refer this matter to the Sub-Committee but hoped that the policy would be reviewed as a matter of urgency.

**289. Determination of a current combined Hackney Carriage & Private Hire Driver's Licence (Exempt)**

The Sub-committee considered this matter in private session by virtue of Part 1 of Schedule 12 Local Government Act 1972 because it contained information relating to an individual.

The driver concerned had held a combined Hackney Carriage and Private Hire Drivers Licence since 1986 but had exceeded the number of speeding points on his driving licence generally permitted under Brentwood Borough Council's Licensing Conditions, therefore the Sub-committee needed to

determine whether the licence should be suspended or revoked or that no further action should be taken.

The Sub-committee took into account the written information before it and the oral submission of the driver. Members acknowledged that he had previously held an unblemished licensing record, that the penalty points had been received in relation to two incidences only and took into account the many supportive references which had been provided by the driver's customers.

The Sub-Committee therefore decided to take no further action regarding the licence and hoped that having had to endure the prospect of having his licence revoked, that this would ensure the driver would avoid having to attend a licensing sub-committee meeting in the future.

**290. Determination of an application for Hackney Carriage & Private Hire Driver's Licence (Exempt)**

The Sub-committee considered this matter in private session by virtue of Part 1 of Schedule 12 Local Government Act 1972 because it contained information relating to an individual.

An application had been received for a combined Hackney Carriage and Private Hire Drivers Licence from an individual who had been a driver for Brentwood Borough Council previously between 2005 and 2011 and who had reapplied for their licence in September 2016. They had passed their knowledge test and completed a medical, DBS and DVLA check as part of the new application. Their DBS check indicated a caution for Assault occasioning Actual Bodily Harm which occurred on 14th January 2015. The policy of the Council's Combined Hackney Carriage and Private Hire Vehicle Drivers Licence Pre-Licensing Conditions stated that a person should not have been cautioned for or convicted of a criminal offence involving the threat and/or use of violence.

The applicant had been unable to attend the Sub-committee meeting and Members therefore decided to adjourn this matter to a future date for hearing with a request that the applicant attend so that evidence may be heard from them. The decision was made due to the serious nature of the information before the Sub-committee concerning the applicant's background.

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The meeting commenced at 6.00pm and ended at 7.35pm.