

# Minutes

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## **Licensing/Appeals Sub-Committee Monday, 16th November, 2015**

### **Attendance**

Cllr McCheyne  
Cllr Newberry

Cllr Wiles

### **Officers Present**

Gary O'Shea - Principal Licensing Officer  
Jean Sharp - Governance and Member Support Officer  
Adam Rulewski - Barrister, BDT Legal

### **221. Appointment of Chair**

Members resolved to appoint Cllr McCheyne to chair this meeting of the Sub-Committee.

### **222. Administrative Function**

Members were respectfully reminded that, in determining the matters under consideration, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matters were determined on the facts before the Sub-Committee and the rules of natural justice applied.

### **223. Application for the Grant of a Street Trading Licence - Local Government (Miscellaneous Provisions) Act 1982**

Members were requested to determine an application for the grant of a Street Trading licence in respect of an E-Cigarette and Vaping supplies stall to permit it to trade at the Essex Farmers Market in the High Street Brentwood, weekly on both Friday and Saturday.

Brentwood Borough Council had adopted schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate Brentwood High Street from Wilsons Corner to its junction with Kings Road and Weald

Road as a 'licence' Street for the purpose of Street Trading. This meant that no trading might take place otherwise than in accordance with an authorisation from the Council.

This application had been submitted by Mr Matthew Connolly. Originally, a licence was granted under delegated authority and Mr Connolly traded for a total of 4 trading days until concern was raised that the content of the stall might fall outside of the Council's current Street Trading and Market Policy. Mr Connolly immediately ceased trading pending determination of his application.

The Sub-committee heard from the applicant who confirmed that he traded from an online shop and in other markets. He purchased the e-cigarette products themselves from a wholesaler in the UK, and all parts could be fully traced. In terms of the e-cigarette liquid, this was compiled at home by the applicant, by mixing together the various ingredients which he had purchased. The ingredients themselves were pre-produced, and his role was simply to mix them into an appropriate formula. He confirmed he had no formal qualifications in this respect, and that he was acting entirely in accordance with the law. The applicant confirmed that he had full public and product liability in respect of these products.

Officers confirmed that no complaints had been received in respect of the applicant's stall.

The Sub-committee had some concerns in respect of the mixing of the formula at home without qualification, but took into account the applicant's description of the simple process and noted that this was entirely legal.

**The Sub-committee RESOLVED UNANIMOUSLY to grant the street trading license, but on condition that the applicant provided to the local authority copies of his Public and Product Liability Insurance, and subject to the Sub-committee being satisfied that these policies adequately covered him for sales of these products from his market stall.**

**224. Consideration of the Suspension or Revocation of a Hackney Carriage/Private Hire Driver's Licence (Exempt Information, Paragraph 4 of Part 1 of 12A of the Local Government Act 1972).**

Members were requested to consider information contained in the confidential report before them relating to an incident which had given rise to concern over whether a dual Hackney Carriage and Private Hire license holder remained a 'fit and proper' person to hold the license and having considered the information to determine whether it should be suspended, revoked or remain in force.

The incident involved the applicant's vehicle being seen to be driving away with a pedestrian hanging onto the vehicle for some 100 yards before falling

to the ground. The Sub-committee had reviewed the footage and noted the comments from the Police that they had no concerns about the applicant. The applicant provided a full and honest account of the incident and the Sub-committee noted that he had an unblemished driving license and unblemished record with the Council.

**Taking all of these matters into consideration, the Sub-committee was of the view that the applicant was clearly a fit and proper person to hold a license. In the present situation, the Sub-committee considered him to be nothing more than victim of circumstances and no blame could be attached to him for what happened and it was RESOLVED UNANIMOUSLY that the applicant should therefore continue to operate under his license.**

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