

Minutes

Licensing/Appeals Sub-Committee Wednesday, 20th January, 2016 10.00am

Attendance

Cllr McCheyne (Chair)
Cllr Newberry

Cllr Pound

Officers Present

Keith Alexander	- Licensing Officer
Gary O'Shea	- Principal Licensing Officer
Jean Sharp	- Governance and Member Support Officer
Chris Pickering	- Principal Solicitor

309. Appointment of Chair

Members resolved that Cllr McCheyne should chair this meeting of the sub-committee.

310. 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.

311. Application for the Grant of an Operator's Licence - Local Government (Miscellaneous Provisions) Act 1982

Members were requested to determine an application for the grant of an Operator's Licence to take bookings for a private hire vehicle within the borough. The applicant did not currently qualify under the Council's pre licensing conditions by virtue of not having held a Licence to drive private hire vehicles for a period of 2 years or more.

The applicant, Mr Heggie, originally made an application for a Private Hire Operator's Licence to work in Brentwood on 2 November 2015.

Private Hire Vehicle Operator's Licence Pre-Licensing Conditions stated that the applicant should have been licensed as a Private Hire or Hackney Carriage vehicle driver for at least two years within Brentwood prior to their first application.

The applicant had never driven as a licensed driver within Brentwood and although he had made application to enable him to drive a licensed Hackney Carriage or Private Hire vehicle, he had not done so for the required 2 year period. This contravened the pre-licensing condition and therefore, the application had to be refused by officers. Mr. Heggie had appealed the decision to refuse his application.

It was his intention that he would operate as an Operator/Driver Company based in Brentwood which would focus on a specialist clientele, e.g. large corporations, private jet rentals, executive hire etc. The application indicated that the vehicle being used by Mr Heggie was a Bentley which was not a vehicle that would be used for every day private hire work as with a standard private hire operation.

If the Licence was granted, the applicant would be responsible for ensuring that he complied with the conditions and pre-conditions as laid out in paragraph 4.3 of the report, with the exception of any conditions that were relaxed by Members as a result of the application.

The nature of the business being operated by the applicant was such that it was not likely to raise any concern should the pre-licensing conditions be relaxed on this occasion. The nature of delegation however, was such that only a Sub-committee had the power to divert from pre-licensing requirements and conditions.

The matters for consideration were set out in note 2 of the pre-conditions which stated:

'All relevant information will be taken into account when consideration is given to an application for a Private Hire Vehicle Operator's Licence, and it may be that the standards and requirements are waived or amended or added to at the discretion of the Council'.

There was a duty for each application to be considered on its own merits and this meant that pre-licensing conditions were able to be diverted from if Members considered it appropriate to do so in the individual circumstances of the application.

One of the key considerations in determination of this application was whether the nature of the business that Mr Heggie wished to operate was such that Members did not consider there to be any relevance to applying the restriction

in this case on the basis that this business was not a standard Private Hire business.

The Sub-committee considered the matter and decided to exercise its discretion to deviate from the Council's policy and **RESOLVED** to grant the application for a Private Hire Operator's Licence as applied for.

The meeting ended at 10.20am
