

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

3rd DECEMBER 2018 (10.30AM)

Present:

Councillors: J Baker (Chairman), P Harrison (Vice-Chairman), M Cheeseman, P Dyke, I Hardiman, J A Hart, K Henderson, V Higgs, N Martin, F M Oborski MBE, J D Smith and S J Williams.

Observers:

There were no members present as observers.

LIC.25 Apologies for Absence

Apologies for absence were received from Councillor M Rayner.

LIC.26 Appointment of Substitutes

Councillor N Martin was a substitute for Councillor M Rayner.

LIC.27 Declaration of Interests

No declarations of interest were made.

LIC.28 Minutes

Decision: The minutes of the meeting held on 1st October 2018 be confirmed as a correct record and signed by the Chairman.

The meeting was adjourned at 10:31am and resumed at 11:05am.

The Solicitor to the Council made a statement on the Chairman's behalf reiterating that Members came to the meeting with an open mind and after conferring with the Assistant Committee Services Officer, who remained in the Council Chamber during the adjournment, confirmed that no conversations were had between Members and members of the public present during the time the meeting was adjourned.

LIC.29 Review of Street Amenity Permissions The Arches, Bewdley

The Committee received a report from the Head of Worcestershire Regulatory Services (WRS) on behalf of Wyre Forest District Council to review the Street Amenity Permissions for The Arches, 1 Severn Side South, Bewdley, Worcestershire, DY12 2DX following a number of complaints received by the Council.

The Senior Practitioner - Licensing reminded the Committee that as part of the enforcement policy for Worcestershire Regulatory Services, who administer the licensing function on behalf of Wyre Forest District Council, any matters in relation to licences are referred back to the Licensing & Environmental Committee as they are the decision making body. He then led Members through the report and explained the documents circulated with it. He explained the history of the Street Amenity Permissions being issued to The Arches and summarised the complaints that had been received. The Senior Practitioner - Licensing informed Members that the benches on the footpath immediately outside the premises were not to be considered as part of this meeting.

Mr Preece, the premises licence holder, was made aware of these concerns and a site visit took place. He was informed the issue would be brought back to the Licensing and Environmental Committee. His response was included at appendix 8 of the report and Mr Preece and his legal representative were present at the Committee.

The Committee were now obliged to review the street amenity permissions granted in accordance with the Highways Act and also the Councils Public Realm Streets scene Control of Street Furniture Policy. The Senior Practitioner – Licensing informed Members that following a review by Officers the matters in question were Sections 13, 17, 19, 24, 29 and 35. Officers have also reviewed the conditions of the licence and the following matters are in question: Conditions 1, 4, 6, 10 and 16.

The Senior Practitioner - Licensing reminded Members that in making their decision they must have regard for the Councils Policy for Control of Street Furniture and have regard to the representations they hear and summarised the terms of the Policy. Any approval outside of the Policy must be approved by Worcestershire County Council.

The Senior Practitioner - Licensing summarised the decision options available to Members and concluded the information.

Members asked questions on the objections provided by Worcestershire County Council Highways department and the Senior Practitioner - Licensing confirmed to Members that these objections would have been taken into account had they been received prior to the permissions being granted.

Mr Preece's legal representative asked the Senior Practitioner - Licensing to clarify 3 points from the report he had delivered. The Senior Practitioner - Licensing confirmed that the Worcestershire Regulatory Enforcement Policy (point 8.12) stated which issues were referred back to the Licensing and Environmental Committee and a copy had been given to Mr Preece's legal representative before the start of the meeting. He also confirmed that under the Conditions of Licence, condition 22 of the Enforcement Policy covered the obligation of the Licensing and Environmental Committee to review premises licences rather than Officer delegation.

The legal representative made a preliminary legal application about the legality of the Licensing Committee to deal with the matter and suggested that Mr Preece should have received a 'notice after breach' instead of the matter

coming before the Committee and made a legal submission to ask that the Committee be adjourned and the matter dealt with under a notice after breach.

Councillor V Higgs left the meeting at this point (11:42am). Mr Preece's legal representative questioned what Councillor V Higgs had said to the Senior Practitioner - Licensing and the Chairman as she left the meeting. The Senior Practitioner - Licensing confirmed that Councillor V Higgs had offered her apologies for having to leave the meeting early. The legal representative raised issues about the fairness of the Committee; the Solicitor reiterated again that every Member sits on the Committee with an open mind and remains with an open mind for the whole of the decision making.

The meeting was adjourned to investigate the legal point further at 11:46am and resumed at 12:11pm.

The Solicitor advised the Committee that the matter would require further investigation due to the detailed submissions only being made at the meeting and the item would be deferred for one cycle. Mr Preece's legal representative confirmed he would submit full written submissions and also a draft of the renewal application, prior to the next meeting of the Licensing & Environmental Committee.

Councillors N Martin and P Dyke left the meeting at this point (12:12pm)

Decision: The matter be deferred for one cycle to allow legal submissions to be considered.

LIC.30 Exclusion of the Press and Public

Decision: Under Section 100A(4) of the Local Government Act, 1972 the press and public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of "Exempt Information" as defined in paragraphs 7 of Part I of Schedule 12A of the Act.

The Solicitor and the Senior Practitioner – Licensing left the meeting at this point (12:14pm). The Solicitor returned at 12:19pm followed by the Senior Practitioner – Licensing at 12:22pm.

LIC. 31 Review of a Hackney Carriage/Private Hire Driver's Licence

The Solicitor and the Senior Practitioner – Licensing left the meeting at this point (12:23pm). The Solicitor returned at 12:26pm followed by the Senior Practitioner – Licensing at 12:33pm.

The Senior Practitioner - Licensing informed Members that the licence holder was not present at the Committee and had been offered the choice to defer the decision but had asked that the review take place in their absence.

The Committee received a report from the Corporate Director: Economic Prosperity and Place that asked Members to review a Hackney Carriage/Private Hire Driver's Licence.

A copy of the Police request for information form relating to the licence holders Offences was circulated to Members.

The Senior Practitioner - Licensing led members through the report. On the 1st August this year, the Licensing Manager at Worcestershire Regulatory Services received information from the Police that the licence holder had been arrested and charged with a number of offenses against another person. Due to the seriousness of the offences WRS suspended the licence under delegated powers and were later informed by Police that the licence holder had received a caution and community order for the offences.

The licence holder had not informed WRS of these offences as is required in the Guidelines Relating to the Relevance of Convictions. The Senior Practitioner - Licensing answered Members questions and informed them it was up to the Committee to decide if the licence holder was a 'fit and proper person' to hold a Hackney Carriage/Private Hire Driver's Licence.

The Senior Practitioner - Licensing left the meeting at this point (12:50pm) for Members to deliberate their decision. The Solicitor and Assistant Committee Services Officer stayed in the meeting whilst the Committee reached their decision.

The Senior Practitioner - Licensing returned at this point (12:53pm) and the Solicitor read out the decision of the Committee.

Decision: Having reviewed the licence holders Hackney Carriage/Private Hire Driver's Licence and carefully considered whether they are a fit and proper person to continue to hold such a licence, the Committee have decided, with due consideration of the guidance contained in the Council's "Guidelines relating to the Relevance of Convictions", that:

The licence holders Hackney Carriage/Private Hire Driver's Licence is revoked on the grounds that the Committee are not satisfied that they are "a fit and proper person" to continue to hold such a Licence in light of:

- 1. Their conviction for offence of violence, namely battery, on 17 September 2018.**
- 2. Their convictions for intimidatory offences, namely disclosing private sexual images and films and stalking, on 18 August 2018 and 17 September 2018 respectively.**
- 3. And their failure to disclose the above convictions within 7 days as required by the "Guidelines Relating to the Relevance of Convictions".**

Furthermore, in light of the licence holders conviction for an offence of violence, namely, battery, it appears to the Committee that the interests of public safety require that the revocation of their driver's licence should have an immediate effect. As a result the Committee, using its power under s 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976, have decided that the revocation of the licence holders Driver's Licence shall take an immediate effect.

There being no further business the meeting ended at 12:55pm.

