

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

3 OCTOBER 2022 (10.30AM)

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**Present:**

Councillors: L Whitehouse (Chairman), A Coleman (Vice-Chairman), G W Ballinger, J F Byng, R H Coleman, I Hardiman, K Henderson, F M Oborski MBE, M Rayner, C Rogers and P W M Young.

**Observers:**

There were no members present as observers.

**LIC.09 Apologies for Absence**

There were no apologies for absence.

**LIC.10 Appointment of Substitutes**

No substitutes were appointed.

**LIC.11 Declaration of Interests**

As recorded later in the minutes, Councillor F Oborski MBE declared in respect of exempt agenda item no. 8 – Review of a Hackney Carriage / Private Hire Driver's Licence, that the applicant may be a member of her political party but she had not met him at meetings. She said that she may have been in his taxi as she has used most of the taxis across the district.

**LIC.12 Minutes**

**Decision: The minutes of the meeting held on 6 June 2022 be confirmed as a correct record and signed by the Chairman.**

**LIC.13 Licensing Committee and the role of Licensing Sub-committees**

As requested by members, the Committee received a report from the Head of Worcestershire Regulatory Services to enable them to consider whether the Council should continue the use of Licensing Sub-committees to consider applications.

The Principal Officer – Licensing, presented the report and outlined the key issues. He explained that any proposed amendment to the Council's Constitution, in relation to ceasing to operate Licensing Sub-committees and referring general licensing applications to the full Licensing and Environmental Committee for consideration and determination, may lead to the Council being in a position where it would be unable to fulfil its legal responsibilities under the

Licensing Act 2003 and the Gambling Act 2005.

He added that it was Officers' strong professional advice that members should not recommend altering the Council's current decision making structure in relation to licensing and gambling applications and the referral to Licensing Sub-committees for consideration and determination.

The Committee discussed the report. Several members expressed concern that members are currently excluded from sitting on a Sub-committee if the application is in their respective ward. Members felt that in order to fully represent their wards, they should be able to participate.

**Decision: The Committee noted the content of the report and agreed to operate under the Council's current Constitution in respect of licensing functions, in relation to the Licensing and Environmental Committee and Licensing Sub-committees.**

**Moving forward, when arranging a Licensing Sub-committee, all members, whether a member in the Ward or not, could be invited to the Sub-committee. However, the member would need to ensure they do not have any reasons why they could not openly and transparently take part in such a meeting. If the member has any doubt, at the earliest opportunity they must ensure they take the relevant legal advice and advise Committee Services at their earliest opportunity if they are unable to take part in the Sub-committee.**

**LIC.14 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.**

**LIC.15 Review of a Hackney Carriage / Private Hire Driver's Licence**

The Committee received a report from the Head of Worcestershire Regulatory Services that asked member to consider and determine whether a licence holder remained a fit and proper person to hold a licence to drive hackney carriage and private hire vehicles.

The Chairman welcomed the applicant and his legal representative to the meeting. The applicant's legal representative confirmed that the applicant had received and understood the procedure note for the hearing.

Councillor F Oborski MBE made her declaration at this point.

A copy of the applicant's Disclosure and Barring Service (DBS) certificate and a personal statement from the applicant was circulated to members.

The Principal Officer – Licensing, presented the report and outlined the key issues. He advised members that the Hackney Carriage and Private Hire

Policy Standard conditions attached to a licence to drive a hackney carriage and / or private hire vehicles states that a licence holder must notify the licencing authority as soon as reasonably practicable and within no more than 48 hours if they receive a conviction, caution or fixed penalty in relation to any offence. He added that at the time of the applicant's caution, the notification period was within 7 days.

The applicant's legal representative addressed the Committee. She read out a personal statement on behalf of the applicant. Following questions from members the applicant's legal representative explained the circumstances surrounding the offence.

The Principal Officer – Licensing, applicant and his legal representative left the meeting at this point, (11.44am) for members to deliberate their decision. The Solicitor and the Principal Committee and Member Services Officer stayed in the meeting whilst the Committee reached their decision.

The Principal Officer – Licensing, applicant and his legal representative re-entered the meeting at 12.18pm. The Solicitor read out the decision of the Committee.

**Decision: Having reviewed the applicant's Hackney Carriage/Private Hire Driver's Licence and carefully considered whether the applicant is a fit and proper person to continue to hold such a licence, the Committee have decided, with due consideration of the Hackney Carriage and Private Hire Licensing Policy and the 'Guidelines on the Assessment of Previous Convictions' contained therein:**

**That notwithstanding the applicant's caution for battery which was issued to him by West Mercia Police on 8 October 2020 and his failure to declare his caution on his renewal application and the Guidelines on the Assessment of Previous Convictions, they are satisfied, that the applicant is a "fit and proper person" to continue to hold a Hackney Carriage/Private Hire Driver's Licence and they are justified in departing from the Council's Guidelines on the Assessment of Previous Convictions because of the exceptional circumstances presented to the Committee that:**

- 1. The applicant has no previous convictions or cautions, and this is his first offence. There were no complaints received against him in the 10 years he has been a taxi driver.**
- 2. The circumstances of the offence that were explained to the committee during the hearing by the applicant's representative do not indicate that the applicant is a danger to the travelling community as the circumstances arose from the applicant's desire to protect the public in the circumstances of Covid - 19 restrictions.**
- 3. The applicant remains a respected member of his worshipping community.**
- 4. The applicant admitted the offence during the investigation, as a**

**result of which the matter was dealt with through the issue of a simple caution, rather than the more serious criminal proceedings in the court.**

- 5. The applicant was given the opportunity to declare his previous convictions on the licence application and he accepts that he should have declared his caution.**

**Whilst the committee considers that the applicant remains a “fit and proper person” the committee also considers that given the circumstances and the applicant’s standing in the community a verbal warning is appropriate and a reminder that should a further incident of violence occur the matter would have to come back to the committee.**

The meeting ended at 12.21pm.