

HAVANT BOROUGH COUNCIL
PUBLIC SERVICE PLAZA
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HAVANT
HAMPSHIRE P09 2AX

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EXTRAORDINARY LICENSING COMMITTEE AGENDA

Membership: Councillor Wilson (Chairman)

Councillors Edwards, Francis, Farrow, Galloway, Gibb-Gray, Kerrin, Pierce Jones, Ponsonby, Sceal, Shimbart, Smith K (Vice-Chairman), Tarrant and Wade

Meeting: Extraordinary Licensing Committee

Date: Wednesday 22 April 2015

Time: 5.00 pm

Venue: Hollybank Room, Public Service Plaza, Civic Centre Road,
Havant, Hants PO9 2AX

The business to be transacted is set out below:

Jo Barden-Hernandez
Solicitor to the Council

2 April 2015

Contact Officer: *Tristan Fieldsend* (023) 9244 6233
Email: tristan.fieldsend@havant.gov.uk

PART 1 (Items open for public attendance)

1 Apologies

To receive and record apologies for absence.

2 Minutes

To confirm the minutes of the meeting of the Licensing Committee held on 14 January 2015.

3 Matters Arising

To consider any matters arising from the minutes of the last meeting.

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4 Exclusion of the Press and Public

The Committee is asked to consider whether to pass a resolution excluding the public from the meeting during consideration of any of the items on the agenda. If members wish to do so then this could be achieved by passing the following resolution. Members are not required to pass the resolution but the Solicitor to the Council recommends this as to the item set out below.

That the public be excluded from the meeting during consideration of the item headed and numbered as below because:

it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information of the descriptions specified in paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 shown against the heading in question; and

in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Item 7 Consideration of a Hackney Carriage / Private Hire Licence
(Paragraphs 1 to 3)

Paragraph 1 Information relating to any individual

Paragraph 2 Information which is likely to reveal the identity of an individual

Paragraph 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)

5 Declarations of Interests

To receive and record any declarations of interests from members present in respect of any of the various matters on the agenda for this meeting.

6 Chairman's Report

PART 2 (Confidential Items)

7 Consideration of a Hackney Carriage / Private Hire Licence

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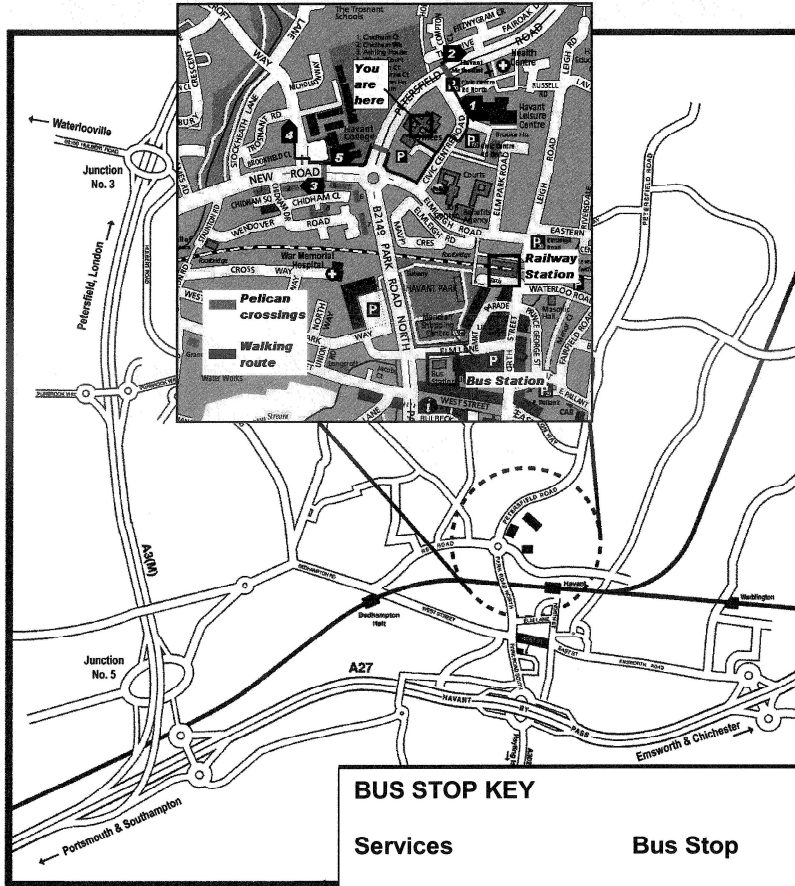
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HAVANT BOROUGH COUNCIL

At a meeting of the Licensing Committee held on 14 January 2015

Present

Councillor Wilson (Chairman)

Councillors Francis, Kerrin, Pierce Jones, Ponsonby, Sceal, Shimbart, Smith K (Vice-Chairman), Tarrant and Wade

24 Apologies

Apologies for absence were received from Councillors Edwards, Farrow and Gibb-Gray.

25 Minutes

RESOLVED that the minutes of the Licensing Committee held on 12 November 2014 be approved as a correct record.

26 Matters Arising

There were no matters arising.

27 Exclusion of the Press and Public

RESOLVED that the public be excluded from the meeting during consideration of the minutes headed and numbered as below because:

- (a) it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during those minutes there would be disclosure to them of exempt information of the descriptions specified in paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 shown against the heading in question; and
- (b) in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Minute 30 Private Hire Vehicle Driver's Licence
(Paragraphs 1 to 3)

28 Declarations of Interests

There were no declarations of interests from any of the members present.

29 Chairman's Report

The Chairman provided an update on a street trading consent in Waterlooville.

30 Hackney Carriage / Private Hire Driver Licence

(this minute was taken in camera)

The Committee was requested to consider whether the licensed driver DT continued to be a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

The relevant legislation stated that a district council shall not grant a licence "unless they are satisfied that the Applicant is a fit and proper person to hold a driver's licence".

There was no statutory definition of "fit and proper person" but case law suggested that the issue of whether an applicant was a fit and proper person should be approached by proper consideration of the objectives of the licensing regime. These objectives were intended to ensure that, so far as possible, those licensed to drive private hire vehicles were:

- safe drivers with good driving records and
- adequately experienced and
- sober and
- mentally and physically fit and
- honest and
- not persons who would take advantage of their employment to abuse or assault passengers and
- not persons who would take advantage of their employment to engage in criminal activity

The Chairman outlined the Committee's procedure for dealing with the possible revocation of a Hackney Carriage/Private Hire driver's licence.

The Licensing Officer presented her confidential report to the Committee.

The Committee viewed CCTV footage of, and events prior to, the incident.

Driver DT was given an opportunity to address the Committee in support of his case and answered members' questions. A character witness appeared and spoke on behalf of driver DT.

The driver and the licensing officers left the meeting during consideration of the application and were invited back into the meeting to receive the Committee's decision.

RESOLVED that the Committee had considered all the evidence before it, in particular the interview under caution and the CCTV footage.

The Committee was satisfied that a violent incident had taken place which was admitted under caution, repeated to the Committee and evidenced in the CCTV footage.

Licensing Committee (14.1.15)

The Committee believed that violence was always unacceptable, particularly for holders of a Hackney Carriage/Private Hire Driver's Licence issued by Havant Borough Council, and in this instance it was apparent that members of the public were present to witness the altercation.

The Committee strongly considered revocation of the licence but felt that in all the circumstances a penalty point was the most appropriate action.

The Committee accordingly awarded one penalty point.

The meeting commenced at 5.00 pm and concluded at 7.11 pm

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HAVANT BOROUGH COUNCIL

LICENSING COMMITTEE

22 April 2015

CONSIDERATION OF A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE

Report of the Licensing Officer

1.0 PURPOSE OF REPORT

1.1 To consider case X for a Hackney Carriage/Private Hire Driver's Licence.

2.0 RECOMMENDATION

2.1 That case X licence retention be considered by the Licensing Committee.

3.0 SUMMARY

3.1 The Committee to consider the fitness of case X to continue to hold a driver's licence.

3.2 The relevant legislation states that a district council shall not grant a licence "unless they are satisfied that the Applicant is a fit and proper person to hold a driver's licence".

3.3 There is no statutory definition of "fit and proper person" but case law suggests that the issue of whether an applicant is a fit and proper person should be approached by proper consideration of the objectives of the licensing regime. These objectives are intended to ensure, so far as possible, that those licensed to drive private hire vehicles are:

- Safe drivers with good driving records and
- Adequately experienced and
- Sober and
- Mentally and physically fit and
- Honest and
- Not persons who would take advantage of their employment to abuse or assault passengers and
- Not persons who would take advantage of their employment to engage in criminal activity

3.4 The recent allegations recorded against him bring into question as to whether the driver continues to be a 'fit and proper person' to hold a hackney carriage / private hire driver licence with Havant Borough Council.

3.6 The Committee is therefore requested to consider whether the driver should retain his licence in light of the recent incidents.

4.0 IMPLICATIONS

Financial

4.1 None arising directly from this item

Legal

4.2 Sections 61 of the Local Government (Miscellaneous Provisions) Act 1976 states that a District Council may suspend or revoke the licence of a driver of a hackney carriage and private hire vehicle on any of the following grounds:

- a) that he has since the grant of the licence—
 - i) been convicted of an offence involving dishonesty, indecency or violence; or
 - ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
- b) any other reasonable cause.

Should the Committee decide to revoke or suspend the licence the driver would have a right of appeal to the Magistrates Court.

Strategy (Community and Corporate)

4.3 None arising directly from this item

Equalities/Customers

4.4 None arising directly from this item

Risk

4.5 None arising directly from this item

Communications/Public Relations

4.6 None arising directly from this item

Appendices:

- (A) Licensing Officers Report
- (B) Copy of Renewal Application
- (C) Copy of Criminal Record Report – (To Follow)

Agreed and signed off by:

Legal: 1 April 2015

Service Manager: 26 March 2015

Contact Officer: Gerry Thorne, Licensing Officer
Tel: 023 9244 6653
Email: gerry.thorne@havant.gov.uk

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