



### Regulatory Subcommittee

**10:00 to 12:45**

**10 June 2019**

Present: Councillors Stutely (chair), Ackroyd, Brociek-Coulton

#### **1. Declarations of Interest**

There were no declarations of interest.

#### **2. Highways act 1980: application for licence to place tables and chairs on the highway - Gardeners Arms, 2-8 Timberhill, Norwich, NR1 3LB.**

(Consideration of this item had been adjourned at the meeting of the subcommittee meeting held on 13 May 2019. This subcommittee meeting is the reconvened subcommittee meeting to consider the outstanding issues from the previous meeting.)

(Copies of the applicant's revised Tables and Chairs Operating Schedule were circulated at the meeting.)

The chair welcomed the applicant and the members of the public to the reconvened subcommittee meeting. He said that members would like to undertake a site visit to further their understanding of the applications and issues raised in objection. The applicant and members of the public were welcome to attend the site visit. He reminded all parties that this was a continuance of the previous hearing and that it was an opportunity to consider the outstanding issues set out in the new information before the subcommittee.

(The meeting was adjourned to enable members to undertake a site visit to the proposed seating area, accompanied by Mr Philip Cutter (the applicant) and members of the public, the Norfolk Constabulary's licensing officer and council officers and legal advisor in attendance.)

(The meeting reconvened at 10:45.)

The chair said that the subcommittee would be taking into consideration the information presented to it at the meeting on 13 May 2019 when making its decision. It was therefore not necessary to repeat the grounds covered at the last meeting and was an opportunity to consider the new information that had been submitted for this

hearing. The subcommittee would listen to comments from all parties on the new information.

The applicant referred to the operating schedule and answered questions from the chair and members of the subcommittee. He explained that the seating area was for 30 diners who would be clearly seated at the tables. In reply to a question from the chair, the applicant explained that he considered that pigeons would not be a problem. He considered that the "Stop Bird Pro" would deter birds from the area despite the chair's concern that reviews of the product was that it was ineffective. People tended to feed the birds at present. The number of birds was not excessive. During questions from members, the applicant confirmed that the tables would seat 3 people and that larger groups of 9 or 10 would likely be directed into the public house rather than be seated in this area. He explained that he did not envisage using plastic rather than glass for drinks as he wanted to create a good dining experience. He explained how diners would place orders for food and drinks through an online food ordering system, using an Ipad or phone, and that staff would not need to leave the area to put orders through to the kitchens. He confirmed that his staff were experienced and used to carrying 3 to 4 plates at a time and that the slope from the public house and navigating between members of the public would not be a problem. In reply to a members' question, the applicant referred to the operating schedule and said that the seating area was surrounded by an open area where people could sit at the benches and smoke. It was therefore unreasonable not to allow diners to smoke and the area at the front of the seating area would be reserved for smokers and it would be monitored. The current licence for tables and chairs outside the public house did not have any restrictions on smoking. The public house itself was a non-smoking area. He explained that the seating area would be kept clean with jet washing, bleach and regular sweeping and removal of rubbish. The area was currently unkempt.

In reply to the subcommittee's legal advisor in relation to the operating schedule, the applicant confirmed that:

- The proposed area of seating was exclusively for diners;
- Last orders for food was 19:00;
- Staff to replace tables and chairs from the seating area to behind the premises by 21:00;
- Customers would be directed to the single point of access (by the lectern);
- Diners would be seated by staff;
- No alcohol to be consumed outside the seating area, with the exception of diners who have completed their meals and were returning to the public house, where they could be escorted by a member of staff;
- There would be two dedicated members of staff on duty in the seating area;
- The area would never be left without a member of staff during operating hours.

The applicant then answered questions from members in relation to the practical staffing of the site. He did not consider that rowdiness would occur in a seating area where most reasonable people who had finished dining would accept that they could not continue to drink and not eat in this area. He reiterated that the only access would be near the lectern.

The licensing officer, Norfolk Constabulary, referred to her response as set out in Appendix C and referred to the conditions set out in the letter. She commented that the applicant had reassured her that on Norwich City Football Club home match days the seating area would not be used and asked that this could be a condition of the licence. In reply to the chair, the licensing officer said that the seating area should not be available in the 2 hours before and after home matches. She also asked that the seating area would not be in operation on the day Lord Mayor's parade.

Responding to the request, the applicant said that in all likelihood the inside of the public house would be too busy to manage the outside dining area and games were played in the winter season. The premises had been very busy inside during the World Cup and it would have been unfeasible to operate the outside dining area. In reply to further questions, the applicant asked that he could use discretion to close the seating area for 2 hours before and after sporting events and when England were playing. The environmental protection, licensing and markets manager said that the applicant should be able to use his discretion after conducting risk assessments in advance of significant cultural and sporting events, which could be available to Norfolk Constabulary and the licensing authority.

(The legal advisor to the subcommittee refused Mr Foskett's request to take into consideration the magistrates' decision in 2009 on St Andrew's Plain because it related to a premises licence, under the Licensing Act 2003 and not a tables and chairs licence under the Highways Act, 1980 and had different requirements and considerations.)

Mr Foskett then referred to the operating schedule and asked questions about staffing and how the applicant would manage staff during bad weather conditions when the seating area was not in operation. The applicant confirmed that he would be able to manage the staffing and that it was a service led industry, driven by supply and demand. The applicant answered further questions from members on this issue. In reply to Mr Foskett, the applicant said that people booking a table outside would be aware that it might not be available if the weather was bad. He also said that it was usual to have a contact number for bookings. In response to Mr Foskett, the applicant said that there had never been an issue with drinks being unattended and that it would be unusual for everyone at a table to leave to go to the toilets at the same time. The applicant said that it was unlikely that drinks would be stolen from tables as the area would be staffed and monitored. It would also be mainly open during daylight hours. He said that there had been no complaints about the existing seating area outside the public house for four years and that, as a consequence of the new seating area it was not considered that the area outside Mr Foskett's opticians would concentrate drinkers and result in antisocial behaviour.

Marilyn Thompson, an employee at the opticians, asked whether people seeking a fine dining experience would like the pigeons congregating in the area. She considered that people eating food and feeding the pigeons would make the situation worse. The applicant referred to his initial response that the bird scarer would scare the birds away and that he did not consider the birds to be a massive problem, but if it were a separate application would be made for parasols or covering for the seating area. In reply to the chair, the legal advisor for the subcommittee pointed out that if concerned about health and safety of food eaten outside and would ensure that food hygiene standards were maintained. The environment protection, licensing and

markets manager concurred with this advice confirmed that the environmental protection team were familiar with this premises and would bring to the applicant's attention any concerns about food hygiene.

In reply to a question on traffic noise, the applicant said that the site was in a busy city centre and would give members of the public an opportunity to sit outside. People already sat on the benches to eat sandwiches and as city centre location there were other noises from construction and traffic in the area.

Marilyn Thompson commented on an article in the local press about the erosion of public spaces. The chair confirmed that the loss of a public space would be taken into consideration alongside the other matters raised.

(Members of the subcommittee resolved to exclude the public from the meeting during their deliberation and consideration of the matters raised at this and at the subcommittee meeting on 13 May 2019 in relation to this application and to seek advice from the subcommittee's legal advisor. The applicant, his advisor, the licensing officer (Norfolk Constabulary), the environment protection, licensing and markets manager and members of the public left the meeting at this point.)

**RESOLVED**, unanimously, to approve the grant of a licence to place tables and chairs on the highway under the Highways Act 1980, S115E, in accordance with the application submitted in respect of an area on Timberhill, Norwich, NR1 3LB (as set out on the plan (appended to the report) having considered all matters raised by the applicant, statutory consultees and members of the public, and following a site visit to the location of the tables and chairs, subject to the standard conditions for tables and chairs licence amended and added to incorporate the requests from the police and to bring it into line with the applicant's operating schedule, as follows:

- (1) The licensed area will be exclusively for the use of patrons ordering food with no access to casual drinkers;
- (2) Amending condition 9 to ensure that last orders for food must be placed by 19:00 and the licensee must ensure that all tables, chairs and other items are removed from the area by 21:00;
- (3) Diners will be seated by staff allocated to the area and all service will be provided by the staff from the table, including payments, with appropriate signage to inform patrons of this;
- (4) There will be two dedicated members of staff looking after these tables and at least one member of staff present in the area at all times during operating hours, the other member of staff may leave the area on a temporary basis for any reason;
- (5) Substantial table meals will be served at all times when the licence is in use;
- (6) The area will be used for table service only and there will be signage on display informing patrons of this;
- (7) Customers are not to use this area unless seated;
- (8) The tables and chairs will not be in use on the day of the Lord Mayor's Procession and during any Norwich City Football Club home match for two hours prior and two hours after the game; and for all other significant cultural and sporting events, the licensee must conduct a risk assessment on whether to use the tables and chairs seating area which should be available to the police and the licensing authority upon request;

- (9) The access point to the seated area shall be sufficiently wide for wheelchairs and buggies;
- (10) Customers wishing to leave the area will not be allowed to take their alcohol with them save for patrons having finished their meals and wishing to relocate to the public house with their drinks may do so if escorted by a member of staff to the premises.
- (11) Amend the standard condition 15, to include the lectern.

Reasons for approval:

- 1. The applicant has satisfied the subcommittee with the submission of the schedule of operation that the area will be managed professionally.
- 2. The committee took into consideration concerns about the erosion of the public open space. The benches surrounding the site would still be available for public use. The site was poorly maintained at present. The grant of the licence would improve this amenity space.
- 2. No issues had been raised about any by the loss of needed highway by the statutory consultees in terms of access;
- 3. The site is in a busy city centre where people currently sit outside. The use of this area for dining will not make a significant increase to noise levels. Also there is other noise from traffic and construction in the area which is acceptable.

(The applicant, the licensing officer (Norfolk Constabulary), the environment protection, licensing and markets manager and members of the public were readmitted to the meeting. The legal advisor to the subcommittee advised the applicant of the subcommittee's decision. The appellant thanked the subcommittee and said that he would be seeking to implement the seating area in March 2020.)

CHAIR



## Regulatory Subcommittee

14:00 to 17:45

10 June 2019

Present: Councillors Ryan (chair), Brociek-Coulton and Giles

Apologies: Councillors Fulton-McAlister (E) (vice chair) and Price

(Members of the committee received copies of the Byelaws, Regulations & Conditions Applicable to Hackney Carriage and Private Hire Vehicles, Proprietors, Drivers and Operators" (the Green Book) at the meeting.)

### 1. Declarations of Interest

There were no declarations of interest.

### 2. Exclusion of the Public

**RESOLVED** to exclude the public from the meeting during consideration of items 3\* and 4\* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

### 3\* Suspension/revocation of Norwich City Council hackney carriage drivers licence No 16/01887/HACKD (Paragraph 3)

(The licence holder, his solicitor, the chair of the Norwich Hackney Trade Association and two hackney carriage drivers (supporting the licence holder), the civil enforcement officer, and licensing officer were admitted to the meeting.)

The licensing assistant introduced the report and said that the case had been deferred from the meeting on 13 May 2018 to enable the licence holder to obtain legal advice.

The solicitor on behalf of the licence holder said that his client did not agree that he had received a police caution after the incident. A request to the police under Freedom of Information for clarification had not yet been received. He therefore asked the subcommittee to exclude the police statement from consideration, as set out in appendix B to the report, when making its decision, given the confusion on this matter and out of fairness to his client, as a caution would be construed as admission of guilt.

The chair then asked for the licence holder and his supporters, and the civil enforcement officer and licensing officer to leave the room to allow the subcommittee to seek the advice of its legal advisor.

(The licence holder, his supporters, the civil enforcement officer and licensing officer left the meeting at this point. The licence holder, his solicitor, the chair of the Norwich Hackney Trade Association, civil enforcement officer and the licensing officer were then readmitted. It was established that one of the supporters would be called as a witness, and he left the room, together with the other taxi driver in attendance.)

The chair announced that the subcommittee was happy to proceed on the basis that the police caution was not in existence.

The solicitor and licence holder gave their account of the circumstances of the incident which took place on 25 February 2019. The licence holder said that he had lived in Norwich for 22 years and been a taxi driver for the last 10 years. He explained that he pulled into the bus stop outside Primark on St Stephens Street, so as not to obstruct traffic while he waited for a space to become available in the taxi rank, and had become hemmed in by buses on either side. The civil enforcement officer had issued a ticket and put his hand into the licence holder's cab. The licence holder then said that the civil enforcement officer was seen walking up and down the street. When the licence holder finally pulled into the taxi rank he considered that the civil enforcement had followed him there. (The licence holder showed pictures on his phone of the civil enforcement officer showing his hand held device to the licence holder through the cab window and patrolling the pavement.) The civil enforcement officer had reported the licence holder to the police. The licence holder said that he did not normally swear but considered that he had been provoked and was angry at being treated unfairly.

The civil enforcement officer said that he had been instructed to patrol St Stephens Street because a councillor had received a complaint from the bus companies about taxi drivers waiting in the bus stops. All civil enforcement officers received a daily briefing and been briefed to patrol St Stephens Street as their presence would act as a deterrent to prevent taxi drivers parking in the bus stops and creating a hazard to traffic. He then explained that he had taken photographs of the taxi in the bus stop and was only aware the identity of the driver when he went to the driver's window to show him the ticket on the hand held device. He pointed out that the Green book required taxi drivers to proceed to the next taxi rank if it was full rather than stop and wait. The fact that this driver was blocked by buses was that he had no right to be parked in the bus stop. The licence holder had sworn at him in front of members of the public and young people. It was his duty as a council officer to report such behaviour to the police. He had then carried on with his patrol. Another taxi driver had been waiting for a space in the taxi rank and when the civil enforcement officer reached the taxi rank he had received further verbal abuse from the licence holder. A member of the public volunteered to act as a witness to the police. He did not think that the issue of a ticket to this licence holder was unfair.

The licence holder alleged that the civil enforcement officer had discussed the hearing with other taxi drivers in the rank. He said that other taxi drivers had sworn at the civil enforcement officer at the rank on the day of the incident. The civil

enforcement officer responded by saying that some taxi drivers at Gaol Hill had referred to the incident but he had not been obliged to comment.

The civil enforcement officer then answered questions from the chair about the incident and the circumstances where an instant penalty notice would be issued.

Members of the subcommittee then asked questions to the licence holder about his conduct on the day of the incident. The licence holder maintained that other taxi drivers had sworn at the officer and that his had been the only name taken. He reiterated that he did not normally swear but had been provoked by the officer.

The civil enforcement officer then reiterated that he had been carrying out his duties as requested and that the licence holder had been the only driver that had sworn at him. He then answered members' questions about the sequence of events leading to him reporting the licence holder to the police. He had provided the police with the witness's details.

In reply to the subcommittee's legal advisor, the licence holder confirmed that he had not appealed against the parking ticket. He also said that other taxi drivers had also sworn at the civil enforcement driver that day and that it was unfair that he was the only driver who had received a penalty.

(The witness for the licence holder was then admitted to the meeting.)

The witness explained that he also had been waiting for a space on the taxi rank that day and had been told by the civil enforcement officer that he was blocking the highway. There were only 6 spaces for 20 taxis working from the rank. He answered questions from the chair and said that he had seen the incident at the taxi rank and no other taxi drivers had sworn at the civil enforcement officer.

The civil enforcement officer said that the taxi rank was full at the time and that the witness had been driving at a slow pace waiting for a space to become available. He pointed out that this meant that buses were behind schedule. He pointed out that buses needed to stop at bus stops where there was a raised platform. He explained that the licence holder had been issued a ticket because he had prevented buses from accessing the bus stop.

(The witness left the meeting at this point.)

The chair of the Norwich Hackney Trade Association gave a character witness of the licence holder's record of good service to his passengers, many of them vulnerable people and that he was a credit to the industry. The solicitor produced a letter from the licence holder's employers also stating that the licence holder was of good character.

The solicitor summed up on behalf of the licence holder reiterating the evidence that had been considered at the meeting. In mitigation he said that his client admitted to swearing but considered that he had been provoked by the civil enforcement officer. The member of the public who had offered to become a witness had not come forward. He asked members to take into account the licence holder's character references and previous good conduct and that as this was a one-off incident the



subcommittee should consider issuing a warning rather than revoking the licence holder's licence.

The chair invited the civil enforcement officer to explain what had been the purpose of showing the licence holder his hand held device when he was still parked in the bus stop. The civil enforcement officer said that it was normal practice when issuing a ticket to show the photographic evidence. At that point the licence holder had been swearing at him. He could see that the licence holder was blocked in by the buses. The purpose of showing the hand held device was to demonstrate that he had evidence that the licence holder was parked in the bus stop. The licence holder commented that the production of the evidence that he was in a bus stop when he was still in the bus stop was superfluous. The solicitor said that this action could be deemed as provocative.

In answer to a question, the solicitor said on behalf of his client that the witness had said that he had not heard any other taxi drivers swear at the civil enforcement officer and pointed out that St Stephens Street was a busy thorough fare and it was probable that the witness probably had not heard it.

(The licence holder, his solicitor and the chair of the Norwich Hackney Trade Association, civil enforcement officer and the licensing assistant left the meeting at this point.)

**RESOLVED**, unanimously, having taken into consideration the licence holder's previous good character, not to take any further action but to issue a strong warning to the licence holder No 16/01887/HACKD regarding his future conduct and that hackney carriage drivers are expected to conduct their selves in a professional manner and to never use swear words.

(The licence holder, his solicitor and the licensing assistant were readmitted to the meeting and informed of the subcommittee's decision. The licence holder was asked to produce his DVLA licence for inspection by the committee. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the contents of the Green book. The licence holder, his solicitor and the licensing assistant left the meeting.)

**4\* Application for Renewal of a Hackney Carriage Drivers Licence: Case Number 19/00123/HACKD (Paragraph 3)**

(The applicant, his translator and the licensing assistant were admitted to the meeting. The applicant confirmed that he was aware that he could have legal advice but had chosen not to be represented. The applicant produced his DVLA licence and confirmed his address.)

The licensing assistant presented the report.

The applicant explained the circumstances relating to his convictions on 3 September 2018 and 14 February 2017 and answered members' questions. He explained that the incident leading to the conviction on 14 February 2017 related to his divorce and the custody of his children. In relation to the speeding conviction dated 3 September 2018, the applicant confirmed that there were no passengers at

the time.

(The applicant, his translator and the licensing assistant left the meeting but were then readmitted to allow further questioning of the applicant.)

The applicant explained that he had failed to contact the council within 7 days of his convictions because he had rang the council's licensing office to be told that he only needed to raise the issue of his convictions when he renewed his licence. The translator provided further information about the applicant's domestic situation.

(The applicant, his translator and the licensing assistant left the meeting.)

**RESOLVED**, with 2 members voting in favour and 1 against, to grant a hackney carriage drivers licence (case number 19/00123/HACKD) initially for a period of 12 months and to delegate the renewal for a further two years licence to the licensing manager, and to advise the applicant that he should familiarise himself with the Green book, in relation to his conduct and reporting convictions to the licensing authority within 7 days.

(The applicant, his translator and licensing assistant were readmitted to the meeting and advised of the subcommittee's decision. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the contents of the Green book. The licence holder, his translator and the licensing assistant left the meeting.)

**5\*      Application for Grant of Private Hire Drivers Licence – Application ref. 19/01052/PHDRIV (Paragraph 3)**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced a copy of his DVLA licence which was circulated for inspection. A supplementary report was circulated at the meeting with the consent of the applicant. The applicant confirmed that he had received copies of the reports and that he was aware that he could have legal advice but had chosen not to be represented.)

The licensing assistant presented the report.

The applicant then explained the circumstances of his convictions and answered members' questions. He said that following the hearing at Broadland District Council, he had made a statutory declaration at Norwich Magistrates' Court in relation to the conviction on 11 November 2018. He explained that he had been living with his parents and a family member had been driving the car at the time of the offence. The applicant had not changed the address on his licence, had not received any notifications from the DVLA and therefore was unaware of the offence. The court could decide to prosecute him for failure to advise the DVLA of his change of the address but this would only be 3 points on his licence and not the 6 points awarded for failing to give information on the identity of a driver. The applicant advised the subcommittee of his family responsibilities. He confirmed that at the time of the speeding conviction there had been no passengers in the vehicle.

(The applicant produced a character reference from his employer which was

circulated at the meeting.)

(The applicant and the licensing assistant left the meeting.)

**RESOLVED**, unanimously, to grant a grant of private hire drivers licence – Application Ref. 19/01052/PHDRIV, initially for a period of 12 months and to delegate the renewal for a further two years licence to the licensing manager, and to advise the applicant that he should familiarise himself with the Green book, in relation to his conduct and reporting convictions to the licensing authority.

(The applicant and licensing assistant were readmitted to the meeting and advised of the subcommittee's decision. The chair advised the licence holder that he would receive written notification of the subcommittee's decision, together with a strong warning regarding his behaviour and was directed to familiarise himself with the Green book. The legal advisor to the subcommittee advised the applicant that he was obliged to notify the council's licensing authority within 7 days of any convictions imposed upon him.)

CHAIR



## Regulatory Subcommittee

10:15 to 16:00

8 July 2019

Present: Councillors Stutely (chair), Brociek-Coulton, Huntley, Oliver, Schmierer (for items 3-\*6 only)

### 1. Declarations of Interest

Councillor Brociek-Coulton declared that she was a member of Norwich Access Group a party who had put in objections to all three tables and chairs applications, she was not pre-determined

### 2. Highways act 1980: application for licence to place tables and chairs on the highway – The Last Wine Bar, 70-76 St Georges Street, NR3 1AB

(The transport planner attended for this item)

The chair welcomed the applicant and the members of the public to the subcommittee meeting. The licensing assistant presented the report. The applicant said it was a commercially difficult time for independent restaurants who were competing against national chains. The outside tables and chairs suited the contemporary brassier culture of the restaurant and provided an offer of outside dinning for customers. The applicant hoped that the licensed area would be a pleasant addition to the streetscape and would work to reinvigorate the area.

In response to member questions the applicant confirmed that the tables and chairs were accessible to wheelchair users. The tables and chairs were not on a raised platform, the area would be demarcated by canvas barriers and all the tables and chairs and barriers would be taken in at night when the restaurant closed. The barriers would be waist height, straight lined and would go to the ground with a tapping rail at the bottom to assist blind and partially sighted individuals to navigate the area. The tables and chairs would be used in spring and summer and no heating lamps or umbrellas had been applied for. Three planters were included in the application.

The chair asked the transport planner if the measures taken by the applicant would mitigate the concerns raised in the Norwich Access Group objection. The representation raised a concern regarding tables and chairs being on a pavement board which would be a trip hazard and that it would not be accessible to wheelchair users. The applicant advised this was not the case. The transport planner said that

the application followed standard practice in that the tables and chairs would hug the building line and were flanked by barriers. The area was open to vehicular movements for access only; predominately the area was used by pedestrians and cyclists and was slow moving. The applicant advised that the design was not finalised and they would be happy to consider the views of interested parties.

The transport planner said there was national guidance published by the Department of Transport entitled: Inclusive mobility. The application plan showed there was a 5.3m width from the gutter line to the building line which provided adequate space for the tables and chairs and pedestrian, cyclist and access movements of vehicles. He noted that the plan provided by the applicant was slightly inaccurate in that it showed the area for tables and chairs to be opposite a parking space. The applicant agreed this was inaccurate and the plan was amended accordingly.

(Members of the subcommittee resolved to exclude the public from the meeting during their deliberation and consideration of the matters raised in relation to this application and to seek advice from the subcommittee's legal advisor. The applicant, licensing assistant, transport planner and members of the public left the meeting at this point.)

**RESOLVED**, unanimously, to approve the grant of a licence to place tables and chairs on the highway under the Highways Act 1980, in accordance with the application submitted in respect of The Last Wine Bar, 70-76 St Georges Street, NR3 1AB as set out on the amended plan (appended to these minutes) having considered all matters raised by the applicant, statutory consultees and members of the public, subject to the standard conditions for tables and chairs licence amended, as follows:

The licensed area to include permission for three planters.

(The applicant, licensing assistant, transport planner and members of the public were readmitted to the meeting. The chair advised the applicant of the subcommittee's decision.)

## **2. Highways act 1980: application for licence to place tables and chairs on the highway – The Café Club, 41 King Street, NR1 1PH.**

(The transport planner attended for this item)

The chair welcomed the applicant and the members of the public to the subcommittee meeting. The licensing assistant presented the report. The applicant said she had spoken with her customers and other local businesses who were supportive of the application. The aim was to create an outdoor eating area which would improve the local streetscene. The road had been widened following recent roadworks and there was space on Rose Lane for tables and chairs and mobility scooters and prams to pass. Whilst the area of pavement on King Street was narrower there was less traffic and pedestrian flow on that street.

In response to member questions in relation to spacing on the pavement the transport planner said that on Rose Lane the pavement measured 2.8m in width from the kerb to the building line. The tables and chairs proposed to be located there would require 1m width; this left a usable pavement width of 1.8m. The

Department of Transport guidance entitled: Inclusive mobility stated that 1.5m width was required for a wheelchair and a pedestrian to comfortably pass on the pavement. It was noted that there was a pinch point where the traffic signals were on the pavement which reduced the usable width of the pavement.

On King Street the width from the building line to the gutter was 1.8m in total. In response to member questions the transport planner confirmed that it was possible to turn left from Rose Lane onto King Street and that traffic on King Street was two way. Members expressed concern that turning vehicles meeting a car would be pushed towards the seated area on King Street. Referring to the guidance on inclusive mobility, members expressed concerned that the tables and chairs on King Street would not afford enough useable pavement for highway users. Discussion ensued regarding pedestrian traffic in the area; it was noted that this was not a high volume area but that on days when football matches were held footfall increased.

The applicant said they had taken advice on barriers for the seating area which would assist blind and partially sighted individuals to navigate. The applicant confirmed they were applying for four planters to be included within the licensed area this would edge the tables and chairs creating a natural barrier. Equally the applicant proposed to keep their existing A Board within the licensed area.

(Members of the subcommittee resolved to exclude the public from the meeting during their deliberation and consideration of the matters raised in relation to this application and to seek advice from the subcommittee's legal advisor. The applicant, licensing assistant, transport planner and members of the public left the meeting at this point.)

**RESOLVED**, unanimously, to approve the grant of a licence to place tables and chairs on the highway under the Highways Act 1980, in respect of The Café Club, 41 King Street, NR1 1PH on Rose Lane for two tables and four chairs subject to the licenced area allowing a minimum passing space of 1m width between it and the traffic light signal post. On King Street to licence a bench against the wall of the café having considered all matters raised by the applicant, statutory consultees and members of the public, subject to the standard conditions for tables and chairs licence amended, as follows:

- That the tables and chairs in the licensed area be removed two hours before, during and two hours after any Norwich City Football Club home match.
- To include four planters within the licensed area.

(The applicant, licensing assistant, transport planner and members of the public were readmitted to the meeting. The chair advised the applicant of the subcommittee's decision.)

**3. Highways act 1980: application for licence to place tables and chairs on the highway – Haggie Restaurant, 13 St Benedicts Street, NR2 4PE.**

(Councillor Schmierer joined the meeting at this point)

(The transport planner attended for this item)

The chair welcomed the applicant, the applicant's representative and the members of the public to the subcommittee meeting. The licensing assistant presented the report. The applicant's representative said that the restaurant was a high end establishment with an authentic Middle Eastern theme. The applicant had invested in the building, business and the area. He was requesting limited use of the area outside the restaurant with an application requesting three tables and six chairs. The seated area would leave 1.25m of pavement. The applicant highlighted that the pavement was in good condition in the area.

Susan Seddon addressed the committee. Her residence shared a courtyard with Helgate Court and many of her neighbours used mobility scooters and used St Benedicts Street as their main access route into the city. The pavement on Westwick Street was in a poor state of repair and was often obstructed by large commercial wheelie bins and was not a feasible route to use. The opposite side of St Benedicts Street from Haggie was not an option as in places it was only wide enough to allow one pedestrian to pass. The tables and chairs, if approved, would inconvenience other highway users and would not be available for anyone in a wheelchair or mobility scooter to use. The tables and chairs would take up a greater area than the plans showed because the waiting staff serving the tables were not accounted for and would add to the obstruction.

Helena Hudson addressed the committee. She used St Benedict's as her route into the city and was the user of a mobility scooter. She said it was difficult to manoeuvre along the route currently due to the restricted space available and objected to the table and chairs application as it was an obstruction which would impinge on her use of that section of the highway.

In response to member questions, the transport planner noted that the application was at the limit of what could be considered acceptable. The guidance indicated that a constrained pavement width could be acceptable for a short duration with the guidance stating 6m and the application was for 5m. He noted that any adjacent application for tables and chairs on the highway, would need to be refused or offer a passing place as it would be unreasonable to narrow the pavement space for every business. In response to a member question regarding obstructions caused by commercial bins the transport planner said that it was a question of fact and degree. A bin being placed out for collection and causing an obstruction for a limited period would be deemed reasonable.

(Members of the subcommittee resolved to exclude the public from the meeting during their deliberation and consideration of the matters raised in relation to this application and to seek advice from the subcommittee's legal advisor. The applicant, applicant's representative, licensing assistant, transport planner and members of the public left the meeting at this point.)

**RESOLVED**, unanimously, to refuse the grant of a licence to place tables and chairs on the highway under the Highways Act 1980, in accordance with the application submitted in respect of Haggie Restaurant, 13 St Benedicts Street, NR2 4PE. The subcommittee considered the current geography, layout and usages of this section of the highway did not make a licence for tables and chairs appropriate. The highway was of insufficient width to afford the space, the footfall in the location was high and set to increase and on balance the benefit to the restaurant of three tables

and chairs was not outweighed by the impact on the safety and comfort of highway users.

(The applicant, applicant's representative, licensing assistant, transport planner and members of the public were readmitted to the meeting. The chair advised the applicant of the subcommittee's decision.)

(The committee adjourned for lunch and reconvened at 2pm)

**\*4. Exclusion of the Public**

**RESOLVED** to exclude the public from the meeting during consideration of items 5\* and 6\* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

**\*5. Application for grant private hire drivers licence – application ref: 19/01234/PHDRIV**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the convictions against the applicant. The committee reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test. The subcommittee considered the offences serious. They noted that the applicant's conduct since had been clear of convictions and were encouraged by his approach to avoiding any future similar situations. They considered that the applicant should receive a formal warning about his conduct.

**RESOLVED**, unanimously, to:

(1) grant private hire drivers licence application ref: 19/01234/PHDRIV for one year and to delegate authority to officers to renew for two years without fees subject to the applicants good conduct; and

(2) ask the licensing assistant to issue a formal warning regarding conduct to the applicant in due course.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)



**\*6. Application for grant private hire drivers licence – application ref: 19/00513/PHDRIV**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the conviction against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

CHAIR



## Regulatory Subcommittee

14:00 to 16:20

16 September 2019

Present: Councillors Stutely (chair), Ackroyd, Fulton-McAlister (E) and Schmierer

### 1. Declarations of Interest

There were no declarations of interest.

### \*2. Exclusion of the Public

**RESOLVED** to exclude the public from the meeting during consideration of items 5\* and 6\* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

### \*3. Application for renewal of a private hire drivers licence – application ref: 19/01348/PHDRIV

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The report did not detail the fact that the applicant failed to report his convictions within seven days to the council and failed to list all relevant convictions which would be considered.

**RESOLVED**, unanimously, to:

- (1) defer the matter to the next meeting of regulatory subcommittee; and
- (2) ask the licensing assistant to review the report to ensure all relevant matters were included.

### \*4. Application for renewal of a private hire drivers licence – application ref: 19/01023/PHDRIV

(The applicant and the licensing assistant were admitted to the meeting. The applicant was accompanied by the proprietor of the taxi firm at which he worked.

The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the conviction against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to renew private hire drivers licence application ref: 19/01023/PHDRIV.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

**\*5. Application for renewal of a private hire drivers licence – application ref: 19/01229/PHDRIV**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the conviction against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to:

- (1) renew private hire drivers licence application ref: 19/01229/PHDRIV;  
and
- (2) ask the licensing assistant to issue a formal warning regarding conduct to the applicant in due course.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this

decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

**\*6. Application for renewal of a private hire drivers licence – application ref: 19/00720/HACKD**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the conviction against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to renew private hire drivers licence application ref: 19/01229/PHDRIV for one year and to delegate authority to officers to renew for two years without fees subject to the applicants good conduct.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

**\*7. Application for renewal of a private hire drivers licence – application ref: 19/00479/PHDRIV**

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the conviction against him and confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to:

- (1) renew private hire drivers licence application ref: 19/00479/PHDRIV;  
and
- (2) ask the licensing assistant to issue a formal warning regarding conduct to the applicant in due course.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

CHAIR



## Regulatory Subcommittee

14:00 to 16:15

11 November 2019

Present: Councillors Stutely (chair), McCartney-Gray, Price and Ryan  
Schmierer

Apologies: Councillor Oliver

### 1. Declarations of Interest

There were no declarations of interest.

### \*2. Exclusion of the Public

**RESOLVED** to exclude the public from the meeting during consideration of items \*3 to \*5 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

### \*3. Application for renewal of a private hire drivers licence – application ref: 19/01099/HACKD

(The applicant and the public protection manager were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

(The applicant and the public protection manager left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to renew private hire drivers licence – application ref: 19/01099/HACKD with the following conditions:

- 1) an annual Disclosure and Barring Service check to be completed for the duration of this licence period;
- 2) the applicant not to engage in regulated activity with children; and
- 3) to delegate authority to officers to renew the licence.

(The applicant and the public protection manager were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision and that he was entitled to appeal the decision of the subcommittee within 21 days and any appeal should be made to Norwich magistrates court. The applicant and the public protection manager left the meeting.)

**\*4. Application for renewal of a private hire drivers licence – application ref: 19/01335/PHDRIV**

(The applicant and the public protection manager were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He confirmed he had no outstanding charges or offences to answer to. He understood he was able to seek legal representation and have a representative attend with him.

The applicant failed to report his conviction within seven days to the council, these were declared at the point where he request to renew his licence was made.

(The applicant and the public protection manager left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to renew private hire drivers licence application ref: 19/01335/PHDRIV.

(The applicant and the public protection manager were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the public protection manager then left the meeting.)

**\*5. Application for renewal of a private hire drivers licence – application ref: 19/01348/PHDRIV**

(The applicant and the public protection manager were admitted to the meeting. The applicant was accompanied by his legal representative. The applicant produced his

DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He confirmed he had no outstanding charges or offences to answer to.

(The applicant, his legal representative and the public protection manager left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant, the committee had reviewed the evidence and did not speculate on information they did not have and considered the applicant passed the fit and proper person test.

**RESOLVED**, unanimously, to:

- 1) renew private hire drivers licence application ref: 19/01348/PHDRIV for one year; and
- 2) delegate authority to officers to renew for two years without fees subject to the applicants good conduct.

(The applicant, his legal representative and the public protection manager were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant, his legal representative and the public protection manager then left the meeting.)

CHAIR





## Regulatory Subcommittee

14:15 to 15:45

9 December 2019

Present: Councillors Stutely (chair), Brociek-Coulton, Fulton-McAlister (E),  
Grahame and Neale (substitute for Schmierer)

Apologies: Councillor Schmierer

### 1. Declarations of Interest

There were no declarations of interest.

### \*2. Exclusion of the Public

**RESOLVED** to exclude the public from the meeting during consideration of items \*3 to \*5 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

### \*3. Application for renewal of a private hire drivers licence: case numbers 19/01874/PHDRIV

The licensing assistant advised that the application had written to and requested that his application be defer to a later committee meeting as he was out of the country.

**RESOLVED**, unanimously, to defer renewal of a private hire drivers licence: case numbers 19/01874/PHDRIV to a later meeting of regulatory subcommittee.

### \*4. Application for renewal of a hackney carriage drivers licence – application ref: 19/01107/HACKD

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. A copy of the report was provided to the applicant at the meeting.)

The applicant explained the circumstances of the convictions against him and answered member's questions. He understood he was able to seek legal representation and have a representative attend with him. The applicant advised he had a pending matter outstanding which he disputed.

(The applicant and the licensing assistant left the meeting at this point.)

The subcommittee considered the circumstances surrounding the conviction against the applicant. The committee were concerned regarding the outstanding matter declared by the applicant and to whether this would result in a conviction against him. The committee had reviewed the evidence and did not speculate on information they did not have.

**RESOLVED**, unanimously, to:

- (1) renew temporarily for a period of three months hackney carriage drivers licence – application ref: 19/01107/HACKD;
- (2) ask the licensing assistant at the end of the three month period to check the applicant's convictions and if no further convictions were found to renew temporarily for a period of three months hackney carriage drivers licence – application ref: 19/01107/HACKD;
- (3) ask the licensing assistant at the end of a further three month period to check the applicant's convictions and if no further convictions were found to renew hackney carriage drivers licence – application ref: 19/01107/HACKD for two and a half years at no extra fee to the applicant if no convictions were found; and
- (4) ask the licensing assistant to write to the applicant and advise of the obligation to report convictions to the council as licensing authority.

(The applicant and the licensing assistant were admitted to the meeting. The chair informed the applicant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision. The applicant and the licensing assistant then left the meeting.)

**\*5. Application for renewal of a private hire drivers licence: case numbers 19/01617/PHDRIV**

(The applicant and the licensing assistant were admitted to the meeting.)

The applicant requested that his application be deferred to the next meeting of regulatory subcommittee. He had been advised to attend the meeting at 14:00 and had not expected to wait for an hour and a half before coming in front of committee. He had not been advised how long the matter would take and had a prior commitment.

**RESOLVED**, unanimously, to:

- (1) defer the application for renewal of a private hire drivers licence: case numbers 19/01617/PHDRIV to another meeting of regulatory subcommittee; and
- (2) to ask the licensing assistant to advise applicants attending regulatory subcommittee of an approximate time committee will hear their application and to advise applicants that the committee can last to 17:00.

(The applicant and the licensing assistant left the meeting at this point.)

CHAIR