



Regulatory Subcommittee

14:00 to 14:50

17 September 2018

Present: Councillors Malik (chair), Bradford, Brociek-Coulton and Fullman

Apologies: Councillor Henderson

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 - The Iron House, 1 St John Maddermarket Norwich NR2 1DN

(The applicant and his agent attended the meeting for this item.)

The licensing assistant presented the report and highlighted that extra papers had been provided by the council's highway department who were represented at the meeting. This included measurements of the highway around the restaurant and a newspaper article featuring the applicant.

The applicant addressed the committee and answered their questions in relation to the application. He said the application aimed to improve the dining experience for customers by offering al fresco seating. He said the area outside the restaurant where the tables and chairs would be situated was a mainly pedestrian area.

The applicant noted that other businesses in the area had tables and chairs outside and presented photos to the committee. (The licensing assistant clarified in response to a question from the legal advisor to the committee that the businesses referred to did not have relevant legal applications in place. The legal advisor requested a letter be sent to the businesses advising them of such.)

The applicant referred to the newspaper article provided by the transport planner and acknowledged the concerns raised in relation to the application. He confirmed that there had been past problems with lorries on Lobster Lane clipping the building in which the restaurant was located but that this had been resolved by bollards being placed at the edge of the structure. Discussion ensued regarding the nature of the area and its level of use by lorries.

The transporter planner addressed the meeting; he said he strongly objected to the application because it placed the public at risk. He said that there was a statutory duty to protect the public on the highway and applications for tables and chairs were discretionary. He said the dimensions of the streets were constrained and there were a number of competing priorities made on the space.

The transport planner said St John Maddermarket was an access only road, vehicles were permitted to travel in one direction but there was no restriction on access times. Footfall in the area was high and cycling happened in both directions. He stated that the risk was that a lorry could come past and push pedestrians into the margins of the road where the tables and chairs were proposed to go.

Discussion ensued regarding barriers in the restricted space. The applicant said that barriers could be used to “book end” the tables and chairs and therefore would not add to the space required. The applicant and his agent emphasised that they wanted to work with the council; they would consider amending the application, including numbers of tables and chairs, spaces and times of day.

Debate ensued regarding the dimensions of the space for the application and that the application listed different measurements than that provided by the council’s highways department. The legal advisor to the committee asked if the applicant and his agent accepted the measurements in the plan provided by the council’s highways department. After debate the measurements were accepted to be accurate by the applicant.

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

RESOLVED, unanimously, to refuse the application to place tables and chairs on the highway – The Iron House, 1 St John Maddermarket Norwich NR2 1DN due to the risk to highway safety after consideration of evidence including comments from the council’s highways department.

(The applicant, his agent and the licensing assistant were readmitted to the meeting and the applicant informed of the resolution above.)

CHAIR



Regulatory Subcommittee

14:00 to 14:45

8 October 2018

Present: Councillors Malik (chair), Driver (substitute for Councillor Fulton – McAlister (E)), Huntley, Maxwell and Price

Apologies: Councillor Fulton-McAlister (E)

1. Declarations of Interest

There were no declarations of interest.

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item 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.

4*. Application for Grant of Private Hire Drivers' Licence – Application ref 1800701 PHDRIV

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. The licensing assistant confirmed that a copy of the report had been sent to the applicant with a letter about the meeting. A full copy of the agenda was provided to the applicant at the meeting. The applicant confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The licensing assistant presented the report and appendix A of the report which contained the Disclosure and Barring Service certificate that listed the applicant's convictions.

The applicant answered members' questions and explained that he had considered that it was only necessary to declare his unspent conviction dated 16 June 2017 on the application form. (A copy of the application form was circulated at the meeting.) Members referred to the list of convictions contained in appendix A and asked the applicant to explain the circumstance for the unspent conviction for three charges of assaulting a constable on 16 June 2017 and clarification of the dismissal of a drink/drug driving conviction on appeal on 22 February 2012. The applicant said that he was now clean of drugs and no longer took cannabis. He considered that the rehabilitation courses he had attended had been beneficial. The *Thinking Skills*

course had helped him to recognise other people's emotions and to exercise self-control, manage his anger and not retaliate.

In reply to further questions, the applicant said that he had applied for a private hire drivers' licence to work evenings and provide additional financial support for his family. The chair asked the applicant whether the officers had pointed out that the council's guidance for committee members was that three years should elapse before a person with a conviction for assault was granted a licence. In reply, the applicant referred to the circumstances that had led to the unspent conviction and, on further questioning from the chair, on the circumstances that had led to his convictions for assault, occasioning actual bodily harm on 12 October 2012. On further questioning, the applicant explained the circumstances for the conviction of being in possession of MDA in 2008.

In reply to the legal advisor, the applicant confirmed that all the convictions listed in Appendix A could be admitted for consideration. He confirmed that he was now 29 years' old and that the first conviction had been when he was only 19. He said that he had taken a long time to grow up and the rehabilitation courses had changed his mind set and the way he reacted to people.

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

RESOLVED, with 1 member abstaining from voting (Councillor Driver), to refuse the grant of a private hire drivers' licence to the applicant (Application ref 1800701 PHDRIV) as the committee considered that the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976, for the reasons as set out in the statement summarised below:

"The members of the committee have carefully considered all the information before them, both in writing and the representations made by the licensing assistant and the applicant, in respect of this application.

The subcommittee has had regard to all the previous convictions recorded against the applicant. The committee is of the view that all the offences listed are relevant to the licence being applied for but have placed less weight to the two convictions relating to the use of disorderly behaviour due to the date of those convictions and the age of the applicant when he committed them.

The subcommittee has considered each of the convictions recorded and the criteria given in the council's licensing criminal convictions' policy in respect of the offences. The subcommittee is aware that this policy is for guidance only and that the committee is not bound by it. Whilst having regard to the policy it has considered this case on its individual merits.

The members have noted the dates of each conviction, their seriousness, the sentences imposed by the court, the number of convictions and the time which has lapsed since the convictions.

The members are concerned that the applicant is not free of some of the convictions for periods being more than 3 years, 5 years and 10 years when applying the criteria in its convictions' policy and particularly noting that the applicant is still subject to the terms of a suspended prison sentence.

The subcommittee has looked at the overall offending history in assessing the application and has taken the view that the offences relating to the drugs form part of a pattern of offending, as do the offences of violence. The members noted these are not isolated convictions but are a series of offences over a not insignificant period.

The members have listened carefully to what the applicant has had to say about the offences and the fact that the applicant has attended courses which he has said he learnt a lot from and found beneficial.

The members are aware of the applicant's age at the date of the convictions, in particular the oldest convictions and his age today.

The committee is mindful that it needs to balance the applicant's interests with the interests of the public and that the overriding consideration is the protection of the public.

Taking into account, all matters the committee is not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence having regard to the overriding aim, which is to protect the safety of the public. The committee does not grant this application."

(The applicant and the licensing assistant were readmitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and read out the statement minuted above. The legal advisor advised the applicant that he would receive written notification of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. The applicant and the licensing assistant then left the meeting.)

CHAIR



Regulatory Subcommittee

14:00 to 16:35

12 November 2018

Present: Councillors Malik (chair), Ryan, Stewart and Thomas

Apologies: Councillor Ackroyd

1. Declarations of Interest

There were no declarations of interest.

2. Agenda order

The environmental protection, licensing and markets manager asked that the agenda order be amended so that the committee could consider the three suspension or revocation of Norwich City Council hackney drivers' licences, as an applicant had been asked to attend for 14:30.

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item 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.

4*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 15/02522/HACKD (Paragraphs 1 and 3)

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The licence holder produced his DVLA licence for inspection by the committee. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. A copy of the report was provided to the licence holder at the meeting. The licence holder confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder's email set out in appendix A.

The licence holder then explained the circumstances of his receiving a conviction for using a mobile phone whilst driving and his subsequent court hearing. In reply to

questions from members of the subcommittee the licence holder confirmed that this was his only employment and that he had failed to notify the council within 7 days of his conviction because he had been seeking advice about appealing it.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, not to revoke or suspend Norwich City Council hackney carriage drivers licence no. 15/02522/hackd. The subcommittee had considered that road safety was a serious matter and noted that the licence holder had received a fine and 6 points on his DVLA licence. The subcommittee, however, considered that this was a single incident in 7 years of working as a hackney carriage driver which the licence holder is not likely to repeat. The committee agreed to give the licence holder a formal warning and advised him to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the "Green Book").

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee's decision. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

5*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 16/00081/HACKD (Paragraphs 1 and 3)

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The licence holder produced his DVLA licence for inspection by the committee. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. A copy of the report was provided to the licence holder at the meeting. The licence holder confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder's email set out in appendix A. He also advised the subcommittee that the licence holder had informed him before the meeting that within the last 7 days he had received a further 3 points on his licence.

The licence holder then explained the circumstances of his receiving a conviction for using a mobile phone whilst driving on 11 September 2017 and subsequent court hearing on 20 August 2018.

The environmental protection and licensing and markets manager said that all drivers have seven days in which to inform the council if the number of points on their DVLA licence exceeds 6 points. The circumstances of this new conviction would need to be considered at the next meeting and would be based on the information provided by the licence holder. The legal advisor asked the licence holder whether he wanted the members to take the other conviction into

consideration at this meeting and asked him whether he wanted legal representation at the meeting. The licence holder confirmed that he was happy to proceed and explained the circumstances that led to his conviction on 8 November 2018 where he had been found guilty of passing through a red light.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, not to revoke or suspend Norwich City Council hackney carriage drivers licence no. 16/00081/hackd. The subcommittee had taken into account that the licence holder had pleaded guilty or been found guilty at trial of two matters of road safety and that this was a serious matter as demonstrated by the fines and points on the licence holder's DVLA licence. The subcommittee had serious concerns about the licence holder's behaviour, but considered that the suspension/revocation threshold had not been reached, and agreed to give the licence holder a formal warning and advise him to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the "Green Book").

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee's decision. The chair reminded the licence holder that he was 3 points away from losing his DVLA licence. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

6*. Suspension/Revocation of Norwich City Council Hackney Carriage Drivers Licence No. 16/00920/HACKD

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The environmental protection, licensing and markets manager confirmed that a copy of the report had been sent to the licence holder with a letter about the meeting. The licence holder confirmed that he had a copy of the report and that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The environmental protection, licensing and markets manager presented the report and referred to the licence holder's email set out in appendix A. The minutes and report of the regulatory subcommittee dated 15 September 2014 relating to the licence holder were circulated at the meeting.

The licence holder explained the circumstances leading to the suspension of his DVLA licence for six months starting from 15 October 2018, following the receipt of 3 points for a SP30. In reply to a question from the chair, the licence holder then explained the circumstances for the other convictions, not listed in the report, which contributed to the total of 12 points. In all cases the licence holder had not had a passenger on board. The environmental protection, licensing and markets manager confirmed the dates of the convictions ranging from October 2016 to January 2018, and confirmed the council's procedures when a licence holder was suspended from driving. He confirmed that the licence holder had ceased operating as a hackney carriage driver when his DVLA licence was suspended. (The legal advisor referred to

the guidance as attached to the committee papers.) The licence holder said in mitigation that his personal circumstances, or when he had been tired or stressed, had led him lose concentration. He advised the committee that he was working as a care support assistant but that the loss of his DVLA licence and being unable to work as a licenced hackney carriage driver had resulted in financial loss. He also confirmed that he had attended a speed awareness course rather than receive points on his DVLA licence.

(The licence holder and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, to suspend the Norwich City Council Hackney Carriage Drivers Licence No. 16/00920/HACKD for a period, to run concurrently with the suspension of the licence holder's DVLA licence. The subcommittee had taken into account the licence holder's financial situation. Members were seriously concerned about the licence holder's conduct but noted that no passengers were on board at the time of each speeding contravention. The subcommittee considered that on balance the licence holder was a fit and proper person to be a taxi driver and that he should be advised to read the Byelaws, Regulations and Conditions applicable to Hackney Carriage and Private Hire Vehicle, Proprietors, Drivers and Operators manual (the "Green Book").

(The licence holder and the environmental protection, licensing and markets manager were admitted to the meeting. The legal advisor informed the licence holder of the subcommittee's decision and listed the reasons for this decision as minuted above. The legal advisor advised the licence holder that he would receive written notification of the subcommittee's decision and had up to 21 days from receiving this to appeal to the magistrates' court. The licence holder and the environmental protection, licensing and markets manager then left the meeting.)

(The committee having considered all the exempt items on the agenda then admitted the public to the meeting for the following item.)

7. Highways Act 1980: Application For Licence To Place Tables And Chairs On The Highway - Ribs Of Beef, 24 Wensum Street Norwich Nr3 1hy

(Roger Cawdron, the applicant, Philip Sneddon his agent and Susan Kyd, the objector, and Ian Paveley, two local residents attended the meeting for this item.)

General introductions ensued in which it was ascertained that Susan Kyd was acting as a proxy for the following residents, Moire Lennox and Rob Murphy; and Virginia Vacy-Ash, who had all submitted representations as part of the consultation. The legal advisor advised all parties that they should restrict their comments to the issues that had already been raised in response to the consultation and circulated with the papers for the meeting.

In response to a query from the chair, the environmental protection, licensing and markets manager explained that the application form did not have a signature because it had been received electronically.

The environmental protection, licensing and markets manager presented the report. He explained that the applicant had reduced the proposed hours of operation from

midnight to 23:00.

The agent addressed the subcommittee in support of the application. The applicant was the freeholder of the public house since 1987. It had been a public house since the fourteenth century. Its patrons were families, older and more mature clients and the publican hosted charitable events such as Christmas carols and duck races. The application originally had been made for 6 tables and 12 chairs to be located directly outside the public house. The council's transport planner had advised that there was insufficient space in front of the pub. The applicant had then reapplied, paying an additional fee, for the same number of tables and chairs to be located on the adjacent bridge. This area was covered by CCTV cameras and the licence requested was to 23:00. There had been no objections from the fire service or access groups.

The agent then referred to the four letters of objections received from local residents and said that in response to their concerns about noise, the applicant had reduced the requested hours of operation from midnight to 23:00. The area would be well staffed and served from the cocktail bar. He explained that the area to the rear of the premises was no longer available for outside seating. The premises did have an outside balcony which was used for seating. The bridge was further away from residential properties. There were no proposals for a cycle path at this location. There had been no objections from the statutory consultees. The applicant had taken into consideration of the comments from residents.

Members of the subcommittee then asked the applicant and agent questions about the application. The applicant confirmed that the highway had been used for charitable events in the summer where a table and chairs had been used for 2 to 3 hours. The agent explained that the balcony was accessible by a narrow staircase and was about a metre wide. The agent explained that the seating for 37 people to the rear of the public house was no longer available as there was a civil dispute relating to its ownership. This was the main reason for the current application so that the public house could continue to provide outside seating to its patrons. In response to whether older people would require outside seating at 23:00, the applicant said that the pub had a mixed clientele, including local residents, who dropped in for a nightcap after an evening out. The premises had a 24 hour licence but usually closed at midnight or 23:00 at weekends.

Discussion then ensued on the application to place the tables and chairs on the highway on the bridge and the reasons why this had been suggested by the transport planner. The environmental protection, licencing and markets manager explained that the transport planner had made the proposal because there was insufficient room on Wensum Street outside the premises. Members then sought reassurance how the licensed area on the bridge would be monitored. The agent confirmed that the area was covered by CCTV cameras and was in a visible location where the street was at its widest with a wide pavement. The proposal to use A-boards as a barrier had been in response to confusing advice. The applicant said that there had been a GoGo Hare on the bridge and it had not caused any obstructions.

On the advice of the legal advisor a question from a member relating to the operation of other tables and chairs licences on the highway in the area was withdrawn.

The objector addressed the subcommittee and outlined her neighbours' objections to

the proposed tables and chairs licence. She expressed concern that noise from the seating area would carry down the river and late at night disturb resident's sleep.

Referring to Mrs Vacy-Ash's concerns, the objector said that there was concern that there were too many outside drinking places and that as a public house would be rowdy and noisy. She said that The Glasshouse closed its seating area at 22:00 because of the residents. Residents were concerned about antisocial behaviour and drug taking in the area as people "spilled out" of the public houses and the detrimental impact on their homes with people using gardens to relieve themselves. The objector then answered members' questions on the residents' concerns and asked whether any complaints had been made to the Ribs of Beef. She said that lots of her neighbours had complained about an incidence of loud music one Sunday evening. The Ribs of Beef was one of the public houses in the area which included The Mischief, the Glasshouse and The Lawyer. The objector said that she had not personally commented on this application because she had not seen it advertised and only become aware of it through social media. A member of the subcommittee advised residents that they should contact the police about incidents of antisocial behaviour.

In response the agent reiterated that there was a dispute about the ownership of the land to the rear of the public house which had been used by the premises for external seating. He confirmed that some of the noise that the residents were concerned about could come from the neighbouring public house where there was a younger clientele. The agent and applicant then answered questions from the chair relating to the management of the proposed licensed area in terms of monitoring the CCTV camera and maintaining a good level of staff with a minimum of two to three on duty. The applicant said that during hot weather everyone wanted to be outside and bar staff would have fewer people inside to look after. The applicant confirmed that the licence application had been advertised twice. He also said that people could stand outside the premises at any time and were not restricted to midnight or 23:00.

At the request of the chair, the comments from the transport planner relating to the width of the footpath adjacent to the premises being unacceptable because of its "narrow extent of approx. 1.4 metres" and that it would impede pedestrians and proposing "an alternative layout making use of the wider section of footway across the bridge" were circulated at the meeting. The objector said that the bridge was a "beauty spot" and was used by visitors to take photographs. The use of barriers would be very unattractive and ruin the view.

The legal advisor advised members and all parties present about the decision making process and that there was no right of appeal other than judicial review.

The agent reiterated the reasons for approving this application including that the location of the seating area had been recommended by the transport planner, that there were other premises in the area that he considered were responsible for the noise that the residents had reported, that the applicant had been running the public house since 1987 and tried to work with people and had reduced the application to 23:00. In reply to a further question from the chair, the applicant confirmed that the food was available until 20:00.

The chair moved and Councillor Ryan seconded that members of the public be excluded from the meeting in order for the subcommittee to receive legal advice:

RESOLVED to exclude the public from the meeting during consideration of item 4* below on the grounds contained in paragraph 5 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

(The applicant, agent, environmental protection, licensing and markets manager and the members of the public left the meeting at this point. The subcommittee having considered the application and received legal advice then readmitted the applicant, agent, environmental protection, licensing and markets manager and members of the public to the meeting.)

The chair advised members of the public that if they had any concerns about the operation of licensed premises they could submit a request to the council's licensing service for a review under the Licensing Act 2003.

Councillor Ryan proposed and Councillor Thomas seconded that the application for tables and chairs be granted subject to reducing the hours of operation to end at 22:00.

RESOLVED, with 3 members voting in favour (Councillors Ryan, Thomas and Stewart) and 1 member voting against (Councillor Malik) to approve the application to place tables and chairs on the highway in respect of the Ribs of Beef, 24 Wensum Street, Norwich, NR3 1HY subject to amending the opening times to 12 midday to 22:00.

The legal advisor read out the subcommittee's reasons for approval. Members considered that the tables and chairs on the highway in the location as stated in the application was not detrimental to pedestrians or other road users and did not compromise highway safety. Members had noted the residents' concerns about noise and had restricted the hours of operation of the licence to end at 22:00.

The chair advised residents that if they had concerns about noise and the operation of the licence they could request the council for a licence review and should keep a log.

CHAIR