
Meeting	Licensing & Regulatory Committee
Date	17 November 2020
Present	Councillors Mason (Chair), Barker, S Barnes, Galvin, Hook, Hunter, Melly, D Myers, Norman, Orrell, Pearson, Warters and D'Agorne
Apologies	Councillor Wells

Election Of Vice Chair For The Meeting

Due to Cllr Wells, Vice Chair giving apologies for the meeting, there was a requirement to elect a Vice Chair for the meeting. Cllr Melly nominated Cllr Myers as Vice Chair for the meeting. This was seconded by Cllr Norman. Following a unanimous vote in favour it was:

Resolved: That Cllr Myers be elected as Vice Chair for the meeting.

Reason: In order that there be a Vice Chair for the meeting.

47. Declarations Of Interest

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that they might have in respect of business on the agenda. None were declared.

48. Minutes

Resolved: That the minutes of the meeting held on 25 September 2020 be amended to reflect the timescales agreed by Members in resolution (ii) of minute 44 [Taxi Licensing Public Consultation - Vehicle Licences].

49. Public Participation

It was reported that there had been one registrations to speak on Agenda Item 6 'Review of a Private Hire Operators Licence –

Mohammed Iqbal t/a York Cars (52/2016) at the meeting under the Council's Public Participation Scheme.

Will Swords spoke on behalf of a number of members of York's taxi trade. He asked that Members approve Option 1, to revoke the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. In response to questions from Members he explained that he was speaking on behalf of a number of different members of the taxi trade who had found common ground in their view on the matter.

50. Renewal Of Sex Establishment Licence For Black Orchid, 3-5 Toft Green, York, Yo1 6jt

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sexual Entertainment Venue (SEV) which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Black Orchid, 3-5 Toft Green, York, YO1 6JT York.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and similar venues. She outlined the report and annexes, noting the grounds for refusal of which there were no mandatory grounds for refusal. She outlined the options available to Members in determining the application. She was asked and clarified that the premises had on sales provision only. She explained that the premises had operating for a number of years under a Sex Establishment Licence and the operating hours were approved by the Committee a number of years ago as part of the renewal of that licence.

The Licensing Manager explained that the Premises Licence and Sex Establishment Licence were separate licences but worked together. She added that that the Sex Establishment Licence could work outside the hours of the Premises Licence if other authorisation were in place such as temporary event notices. She was asked and clarified that advertising material for the premises had been approved by the Committee. There were no questions from the Committee for the applicant.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Melly then moved and Cllr Barker seconded approval of the renewal (option 1). In accordance with the revised Standing Orders, a named vote was taken with the following result: Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

51. Renewal Of Sex Establishment Licence For The Adult Shop, 70b Gillygate, York, Yo31 7eq

Members considered a report seeking determination of an application to renew a Sex Establishment Licence for a Sex Shop which had been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of the Adult Shop, 70B Gillygate, York.

The Licensing Manager advised that the application was for the renewal of a Sex Establishment Licence in line with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by Section 27 of the Policing and Crime Act 2009, which allows local authorities to regulate lap dancing clubs and

similar venues. She outlined the report and annexes, noting the grounds for refusal of which there were no mandatory grounds for refusal. She outlined the options available to Members in determining the application. She was asked and clarified that officers had not had the chance to visit the premises this year due to the COVID-19 lockdown.

By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee had the following options available to them in making their decision:

- Option 1 Grant a renewal of the licence as requested.
- Option 2 Renew the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Cllr Barker then moved and Cllr Melly seconded approval of the renewal (option 1). In accordance with the revised Standing Orders, a named vote was taken with the following result: Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That, in accordance with Option 1, Members grant a renewal of the licence as requested.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

52. Review Of A Private Hire Operators Licence – Mohammed Iqbal T/A York Cars (52/2016)

Members considered a report seeking determination of a review of a Private Hire Operators Licence in respect of Mr Mohammed Iqbal t/a York Cars (52/2016). Under section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976, an operator's

licence may be suspended or revoked on any of the following grounds:-

- (a) any offence under, or non-compliance with, the provisions of this Part of this Act;
- (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
- (c) ... or
- (d) any other reasonable cause.

In coming to their decision, Members took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised including:

1. The papers before it, including Mohammed Iqbal's statement and Proposed Undertakings to City of York Council (both dated 12 November 2020).
2. The Head of Public Protection's report and the oral representations by Mr Leo Charlabides (Counsel on behalf of Mr Boxall) at the meeting. This included witness statements from City of York Council Officers: Matthew Boxall, Vicky Vint, Nigel Woodhead, Angela Ruane and Alfie Thompson
3. The oral representations by Mr Gerald Gouriet QC, Counsel on behalf of Mr Iqbal.

In respect of the review of the private hire operator's licence, having regard to the above evidence, the Committee considered the steps which were available to them to take under Section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976:

Option 1 – Revoke the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. This option was approved.

Option 2 – Suspend the licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976. This option was rejected.

Option 3 – Take no further action. This option was rejected.

Reasons for the decision

After carefully reviewing the information presented to them and oral representations by all the parties, the Committee debated the matter.

Cllr Warters then moved option 1 and Cllr Melly seconded this. In accordance with the revised Standing Orders, a named vote was taken with the following result:

Cllrs Barker, Barnes, D'Agorne, Galvin, Hook, Hunter, Melly, Myers, Norman, Orrell, Pearson, Wann, Warters and Mason voted for the motion. The motion was therefore carried and it was

Resolved: That Option 1 be approved, to revoke Mr Mohammed Iqbal's private hire operator's licence in accordance with section 62(1) of the Local Government (Miscellaneous Provisions) Act 1976, for the following reasons:

Reason: The following conduct referred to in the officer's report and supporting statements rendering Mr Iqbal unfit to hold an operator's licence:

- a) Enabling drivers (licensed by another authority) that the council did not consider 'fit and proper' under the City of York Council's Taxi Licensing Policy to work as private hire drivers in York.
- b) Blaming the council for his stance over Uber for the position, when this was not the case.
- c) Operating '690 Taxis' and 'Street Cars' in York without an operator's licence.
- d) False or misleading customer testimonials.

All of the above gave rise to concerns with regards to Mr Iqbal's honesty and integrity, going to the heart of the 'protection of the public' consideration which is the reason for licensing private hire operators. This gave Members a reasonable cause to believe he was not 'fit and proper' to hold a private hire operator's licence.

Members did not consider Mr Iqbal 'unfit' purely on the basis that he obtained a private hire operator's licence from Wolverhampton City Council and was subcontracting work to

drivers and vehicles licensed by Wolverhampton. Members accepted that such a practice was lawful, and was a model operated by other firms. It was the motivation behind this and the other reasons summarised above that Members no longer consider Mr Iqbal are a fit and proper person to hold an operator's licence in York.

53. Workplan

Members considered the work plan for the remainder of the municipal year.

Resolved: That unmet demand and test purchased be added as agenda items for the next meeting.

Reason: To ensure that the committee has a planned schedule of work for the year.

Cllr A Mason, Chair

[The meeting started at 5.30 pm and finished at 9.42 pm].