

## **Licensing Sub-Committee – Meeting held on Monday, 15th October, 2012.**

**Present:-** Councillors Mittal (Chair) Davis and Wright.

**Officers Present:-** Mrs Kauser (Democratic Services) and Miss Osbourne (Legal Services)

### **PART 1**

#### **17. Declarations of Interest**

None were received.

#### **18. Minutes of the Meeting held on 13th September 2012**

**Resolved** – That the minutes of the meeting held on 13<sup>th</sup> September 2012 be approved as a correct record.

#### **19. Street Trading Application - 'Chargorillas', Colnbrook By-Pass, Colnbrook, Slough.**

The Chair welcomed all parties to the meeting, explained the procedure for the hearing and confirmed that all parties had received the relevant paperwork.

##### Introduction by the Council's Licensing Officer

Miss O'Keefe stated that an application for a Street Trading Consent had been submitted by Mr Kondal. Trading was proposed to take place in Tantric Blue's car park, which was situated on the Colnbrook By-Pass, Colnbrook, Monday to Sunday between 0600 hours and 1500 hours.

A consultation was carried out with all relevant responsible authorities and businesses within 100 yards of the proposed site. Objections were received from two local businesses and Colnbrook Parish Council, details of which were appended to the report.

Options available to Sub-Committee Members were outlined for their consideration.

##### Questions to Licensing Officer

A Member asked whether the site from which trading was being proposed was owned by the Local Authority. The Licensing Officer informed Members that although the site was privately owned, the applicants had received written confirmation from the owners giving them authority to trade from the site.

It was confirmed that there was currently one other street trading consent for the Colnbrook area.

## **Licensing Sub-Committee - 15.10.12**

### Applicants' Case

Mr Sehbat and Mr Kondal confirmed that they had obtained written permission to trade from the site being proposed. Members were informed that they had a number of years experience of trading in the food industry.

Responding specifically to concerns regarding an increase in litter in the area, Mr Sehbat stated that should approval be given, they would be aiming to achieve the Street Approval Awards. In addition, litter bins would be placed in the vicinity of the site and signs erected reminding customers to dispose of their litter carefully. The Applicants submitted that in their opinion, the business would enhance the area as well as creating a number of job opportunities for local people.

It was also highlighted that no objections in relation to crime and disorder concerns were raised regarding the application from Thames Valley Police.

### Questions to the Applicant

A Member asked how the issue of litter would be dealt with. Mr Kondal stated that the immediate area and lay-by would be cleared of litter twice a day. It was brought to Members attention that the car park had 50 parking spaces and it was not envisaged that customers would park in the lay by on the by-pass.

### Representations made on behalf of Colnbrook Parish Council.

Parish Councillor, Mr Burke, stated that another fast food outlet in the Colnbrook area was not acceptable given the increased amounts of litter and traffic that would be generated. Concern was expressed at the number of fast food outlets in the area and that the Council should be encouraging healthy food options.

### Summing Up.

All parties were given the opportunity to provide a short summary, after which they were asked to leave the meeting to allow the Sub-Committee to deliberate.

### Decision.

All parties were asked to re-join the meeting.

Having carefully considered all the representations made at the hearing and including the written objections submitted by local businesses, the Sub-Committee decided to refuse the application for street trading consent. In reaching their decision, Members were of the view that there were sufficient traders in the area selling items of as similar nature.

## Licensing Sub-Committee - 15.10.12

### 20. **Street Trading Application - Kondal Catering, Gibtel Lodge Car Park, Colnbrook By Pass, Colnbrook, Slough**

Prior to consideration of this item, the Applicants requested that the matter be adjourned to allow for it to be determined by another Sub-Committee, given the decision that had been made on the previous agenda item.

The hearing was adjourned in order to allow legal advice to be taken by the Sub-Committee.

Following consideration of the request and taking into account the legal advice that had been given, Members of the Sub-Committee decided that the matter be adjourned and that a fresh Sub-Committee be convened to consider the matter.

**Resolved** – That that the matter be adjourned and that a fresh Sub-Committee be convened to consider the matter.

### 21. **Exclusion of the Press and Public**

**Resolved** – That the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended).

### 22. **Private Hire Driver Conduct Hearing (Reference 01-12)**

The Chair welcomed all parties to the meeting and after introductions explained the procedure for the hearing. The Democratic Services Officer (DSO) informed the Sub-Committee that the Appellant had not received the paperwork for the hearing prior to the meeting, as it had been sent to the incorrect address. The DSO stated that although the Appellant had been provided with a copy of the relevant paperwork prior to the meeting, an adjournment was offered to the Appellant. The Appellant declined the opportunity to have the hearing adjourned and confirmed that he was happy to proceed.

The Licensing Officer, Mr Idowu, stated that the Appellant currently held a Private Hire Driver's (PHD) Licence which expired in February 2013. Members were informed that following a Criminal Record Bureau Check, it was confirmed that the Appellant had received cautions for common assault in August 2005, December 2008 and March 2010. It was noted that these cautions were not disclosed on the application form. The Sub-Committee were reminded that the Council's policy regarding convictions and cautions stated that a firm line should be taken with applicants who had a conviction or caution relating to a violent offence.

A Member sought clarification regarding declaration of information on the application form. The Licensing officer explained that whilst the Appellant had

## Licensing Sub-Committee - 15.10.12

provided details of his motoring convictions on the application form, it was also a requirement to detail information regarding any cautions that may have been received.

The Appellant apologised for omitting details of his cautions on the application form, informing Members that he was not aware that these had to be disclosed. An explanation was provided regarding the cautions he had received. The Appellant submitted that he had never had any difficulties with passengers. It was confirmed by the Appellant that he had completed the application form and that he was currently licensed with another local authority.

Both parties were given an opportunity to provide a brief summary. The Appellant stated that he was a fit and proper person to continue holding a private hire driver's licence.

After careful consideration the Sub-Committee

**Resolved** – That Appellant 01-12's Private Hire driver Licence be revoked with immediate effect.

### 23. Private Hire Driver Application Hearing (02-12)

Following introductions, both parties confirmed that they had received the paperwork for the hearing. The procedure for the hearing was outlined.

The Licensing Officer informed Members that the Appellant had made an application in June 2012 for a private hire driver's licence. At the time of submitting his application, the Appellant had informed the Licensing Officer that he had received a caution for battery in January 2011. Following receipt of a Criminal Record Bureau (CRB) check it was confirmed that there were no other convictions or cautions on record.

Members were reminded of the Council's policy regarding convictions and cautions which stated that at least three years free of a conviction or caution relating to violence be shown prior to an application being entertained. The Licensing Officer outlined the options available to the Sub-Committee.

The Appellant explained the circumstances regarding his caution and explained that whilst he had an alternative full time employment, the tough economic climate had meant that he needed an additional income to support his family. The Appellant also submitted that he had not realised that by accepting the caution it would appear on his criminal record.

A brief summary was provided by both parties.

After careful consideration the Sub-Committee

**Resolved** - That Appellant 02-12 be issued with a Private Hire Driver's Licence.

**24. Hackney Carriage Driver Conduct Hearing (Reference 03-12)**

The Chairman welcomed the Appellant and his representative to the meeting. Following introductions, the procedure for the hearing was outlined and it was confirmed that all had received a copy of the paperwork.

The Licensing Officer stated that this was a Hackney Carriage Conduct hearing, following a caution for theft that the Appellant had received in June 2012. Members were reminded of the circumstances regarding the theft, namely that monies to the value of £200 were stolen from a purse that had been left in the Appellant's licensed vehicle. It was brought to Members attention that the Council's conditions applicable to all licensed drivers stated that:

- *The driver should carefully search their vehicle for any property which may have accidentally been left behind after each journey*
- *If the driver finds any property accidentally left in their vehicle they MUST notify their Operator.*
- *The found property MUST be deposited with the Operator or the Police within 48 hours.*
- *The Operator must record all reports of property being lost by a passenger and must make every effort to ensure that the lost property is returned to the passenger.*

The Council's policy regarding convictions and cautions was highlighted for Members consideration.

The Licensing Officer clarified that the hearing related to the HC driver's licence and not the Appellant's HC Vehicle Licence.

Mr Aujla, representing the Appellant stated that he had known the Appellant for over 25 years and that the incident was out of character. It was noted that in the 15 years working as a licensed driver the Appellant had a clean driving licence and no other incidents on his licensing file. The Appellant acknowledged that he had made an error of judgement and submitted that working as a licensed driver was his livelihood. The Appellant clarified that although he had accepted the caution for theft, his view was that although he had the money, he had not stolen it.

In summing up, the Licensing Officer stated that the Appellant was not a fit and proper person to hold a Hackney Carriage Driver's licence as he had failed in his responsibility to report or return the lost property.

Mr Aujla stated that apart from this incident, the Appellant had a clean employment history and was very remorseful of what had happened.

## **Licensing Sub-Committee - 15.10.12**

**Resolved** – That Appellant 03-12's Hackney Carriage Driver licence be revoked.

Chair

(Note: The Meeting opened at 9.30 am and closed at 2.00 pm)