

Date of issue: Tuesday 16th March 2021

MEETING:	LICENSING SUB-COMMITTEE (Councillors Davis (Chair), S Parmar and Strutton)
DATE AND TIME:	THURSDAY, 25TH MARCH, 2021 AT 11.00 AM
VENUE:	VIRTUAL MEETING
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 07821 811 259

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



JOSIE WRAGG
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	<u>CONSTITUTIONAL MATTERS</u>		
1.	Declarations of Interest	-	
	<i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i>		
2.	Guidance on Predetermination/ Predisposition – To Note	1 - 2	

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
3.	Minutes of the Last Meeting held on 5th November 2020 and 11th November 2020	3 - 6	

LICENSING ISSUES

4.	Exclusion of the Press and Public	-	
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It is recommended 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 Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

PART II

This 'General' Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers' licences, hackney carriage/private hire vehicle licences and street trading consents.

5.	Private Hire Driver Conduct Hearing (Reference 01-21)	7 - 30	
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Press and Public

This meeting will be held remotely in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Part I of this meeting will be live streamed as required by the regulations. The press and public can access the meeting from the following link (by selecting the meeting you wish to view):

<http://democracy.slough.gov.uk/mgCalendarMonthView.aspx?GL=1&bcr=1>

Please note that the meeting may be recorded. By participating in the meeting by audio and/or video you are giving consent to being recorded and acknowledge that the recording will be in the public domain.

The press and public will not be able to view any matters considered during Part II of the agenda.

PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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Licensing Sub-Committee – Meeting held on Thursday, 5th November, 2020.

Present:- Councillors S Parmar (Chair), Dhaliwal and Strutton.

Officers Present:- Mrs Kauser (Democratic Services), Mr Lucas (Legal Services) and Mrs Rumney (Licensing).

PART 1

5. Declarations of Interest

None were received.

6. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

7. Minutes of the Last Meeting held on 28th September 2020

Resolved - That the minutes of the meeting held on 28th September 2020 be approved as a correct record.

8. 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 contained exempt information relating to individuals as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act 1972 (as amended)

9. Revocation/Suspension of a Personal Licence

Below is a summary of the matter considered in Part II.

The Chair welcomed all parties to the meeting and explained the procedure for the hearing. The Appellant confirmed that he had received a copy of the paperwork.

The Senior Licensing Officer introduced the report, requesting that Sub-Committee Members consider whether the Appellant should continue to hold a personal licence, following a conviction in August 2020 for being in charge of a motor vehicle above the legal alcohol limit . Details of the conviction and subsequent sentencing were detailed for the Sub-Committee.

The Appellant outlined details of the incident which had led to his conviction and explained that although he hadn't used his personal licence since 2012; he was in the process of purchasing a business for which it was required. Furthermore, there had been no issues relating to his personal licence whilst

managing a licensed premises in that he had passed all test purchases. The Licensing Officer confirmed that this was correct.

Following a short summary by the Senior Licensing Officer and Appellant, both parties were asked to leave the meeting.

Resolved - That the Personal Licence be suspended for a period of six months.

10. Private Hire Driver Conduct Hearing (Appellant Reference 04-19)

The Chair welcomed all parties to the meeting which included the Appellant and his legal representative. The Sub-Committee were asked to give consideration to adjourning the hearing to allow the Appellant's legal representative an opportunity to review the matter, who submitted that she had only been instructed to represent the Appellant earlier that morning. Furthermore the Appellant stated that he had not received a copy of the paperwork for the hearing.

The Senior Democratic Services Officer informed Members the hearing notice and associated paperwork had been sent in the post on 23rd October 2020. There had been further email correspondence with the Appellant on 2 November and 3 November and a virtual meeting test held on 4 November. No reference was made on any of these occasions that paperwork for the meeting had not been received.

The Sub-Committee decided that in order to ensure that the Appellant had the opportunity of a fair hearing with representation, the Private Hire Driver Conduct hearing would be adjourned. All parties present agreed that the matter would be re-scheduled for Wednesday 11 November at 12 noon and that a hard copy of the report would be hand delivered to both the Appellant and legal representative later that day.

Resolved – That the Private Hire Driver Conduct hearing 04-19 be adjourned until 11th November at 12 noon.

(Note: The Meeting opened at 10.30 am and closed at 12.20 pm)

Adjourned Licensing Sub-Committee – Meeting held on Wednesday, 11th November, 2020.

Present:- Councillors S Parmar (Chair), Dhaliwal and Strutton.

Officers Present:- Mrs Kauser (Democratic Services), Mr Lucas (Legal Services) and Mrs Rumney (Licensing).

PART 1

Below is a summary of the matter considered in Part II.

The Chair welcomed all parties to the hearing and it was confirmed that all had received a copy of the paperwork.

At the outset of the meeting, the Appellant requested that the hearing be adjourned as his legal representative was ill and unable to attend. The Sub-Committee retired to consider the request and having deliberated, resolved to continue with the meeting given that it had been adjourned on two previous occasions and no evidence was adduced in support of the request for an adjournment.

The Senior Licensing Officer introduced the report and reminded the Sub-Committee that they had to determine whether or not the Appellant was a fit and proper person to hold a private hire driver licence. It was noted that the hearing did not relate to the private hire vehicle licence held by the Appellant.

It was explained that as the report to the Sub-Committee was written for the hearing in March both the driver and vehicle licence had been renewed in the interim.

Details of why the matter had been referred to the Sub-Committee were outlined and related to the Appellant's submission of personal details to the licensing department. The matter was investigated by the Council's fraud investigation team, which had led to the Appellant being prosecuted for four counts of fraud against the Council; to which he had pleaded guilty.

The Appellant explained the circumstances relating to his convictions and submitted that his family relied on his income.

The Appellant and Senior Licensing Officer were given the opportunity to provide a short summary, following which they left the meeting.

Having taken into account all the written and verbal information presented, the Sub-Committee -

Resolved – That Appellant Reference 04-19's Private Hire Driver Licence be revoked.

Chair
(Note: The Meeting opened at 11.55 am and closed at 12.50 pm)

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