

## Licensing Committee Minutes

The minutes of the Licensing Committee meeting of Wyre Borough Council held on Thursday, 29 November 2018 at the Civic Centre, Poulton-le-Fylde.

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### **Licensing Committee members present:**

Councillors C Birch, Cartridge, Catterall, Pimbley, Robinson, A Turner, S Turner, Matthew Vincent and Walmsley

### **Apologies for absence:**

Councillor(s) Barrowclough, Lees, Ormrod, Smith and Wilson

### **Other councillors present:**

Councillor Berry on behalf of Councillor McKay for Item 4 only.

### **Officers present:**

Niky Barrett – Senior Licensing Officer

Mary Grimshaw – Legal Services Manager

Mandy Seddon – Manager of Food Health & Safety & Licensing

Neil Greenwood – Head of Environmental Health & Community Safety

Carole Leary – Democratic Services Officer

### **Members of the public present:**

Applicant's for Item 4 only.

Applicant for item 8 only.

No members of the press were present.

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## **37          Declarations of Interest**

Councillor Robinson declared an Other Significant Interest in Item 4 – Application to vary Premises Licence PL(A)0342 in respect of The Cube, 2 Breck Road, Poulton-Le-Fylde, Lancashire, FY6 7AA as she knows the Applicant. She was satisfied though, that this would not prejudice her judgement, nor give rise to a conflict of interest and therefore she stayed in the meeting and took part in the decision making.

All the Councillors present declared an Other Significant Interest in Item 7 – Complaint about a Wyre dual driver licence holder, as it involved the child of one of the Councillors on the Licensing Committee. The Solicitor advised that this would not prejudice their judgement, nor give any rise to a conflict of

interest, therefore all the Councillors present took part in the decision making.

**38 Confirmation of minutes**

The minutes of the Licensing Committee meeting, held on 25 October 2018, were confirmed as a correct record.

**39 Application to vary Premises Licence PL(A)0342 in respect of The Cube, 2 Breck Road, Poulton-Le-Fylde, Lancashire, FY6 7AA**

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Committee with information to assist them at a hearing to determine an application to vary a premises licence at The Cube, 2 Breck Road, Poulton-Le-Fylde, Lancashire, FY6 7AA.

Mr P Mellor and Ms D Mellor (Applicants) were present at the meeting.

Councillor Berry read out the representation submitted by Councillor McKay who was the ward councillor, but was unable to attend.

No further information or documents were submitted.

The Licensing Manager introduced the report.

Both Mr and Ms Mellor spoke to the Committee, explaining the circumstances around the recent application for extending the time for licensable activity at this venue, on a Thursday night. This was to vary the permitted times for licensable activities and opening hours on a Thursday night until 02.00 and 02.30 hrs respectively and confirmed that no other changes were proposed to the licence.

The Committee asked questions of the Applicants and they responded to both the Members of the Committees questions as well as Councillor McKay's written statement.

When considering the application, Members also had regard to:-

1. The Licensing Act 2003 (the Act)
2. The Guidance published by the Secretary of State under s182 of the Act
3. The Council's Licensing Policy
4. Human Rights Act 1998

Members retired to consider the application in closed session. The Licensing Committee then reconvened and the Chairman announced the Committee's decision.

**RESOLVED** that the Committee decided to grant the variation for the times applied for and permit licensable activities and opening hours on a Thursday night until 02:00 and 02:30 hrs respectively. In respect of the premises licence PL(A)0342, The Cube, 2 Breck Road, Poulton-Le-Fylde, Lancashire, FY6 7AA and also amended the Operating Condition, number 17 by requiring 1 x SIA

door staff from 21.30 every Thursday when licensable activities are provided after 1am.

The amended condition is stated below:

17. 1 x SIA door staff from 21:30 hours every Friday and Saturday, Sundays prior to Bank Holiday, Maundy Thursday, Christmas Eve, New Year's Eve and each Thursday night when licensable activities are provided after 1am, with an additional 1 x SIA door staff from 22:00 hours from the first 100 customers. There must then be an additional 1 X SIA door staff for every part thereof 150 customers.

### **Reasons for the Decision**

- The Committee has considered all the evidence before it, including the written representation from Councillor McKay, concerning the potential for noise nuisance and public disorder in the local area.
- Although, it is accepted that there are residential properties in the vicinity of the premises, the Committee notes that the Licensing Authority has not received any complaints that directly relate to these premises in recent years, despite the premises being open until this hour through the use of TENs many times on a Thursday night in the last ten years.
- The Committee heard from the applicant that he had a good working relationship with the police, local residents and Responsible Authorities and the Committee also noted that there have been no objections from the police or any other Responsible Authority.
- The Committee decided to modify condition 17 so that a 1 x SIA doorman is on the premises on a Thursday night from 21.30 when licensable activities are provided after 1am. Whilst the Committee considered the rights of the licensed premises to develop their business potential, the Committee decided that this modification was proportionate and reasonable and would minimise the potential for public nuisance in the area.
- The Committee concluded that the variation of hours with the modified condition would not undermine the Licensing Objectives.
- The Committee acknowledged that Poulton does have a concentration of mainly on-licensed premises, but as there is no Cumulative Impact Policy for Poulton, there is no presumption against the grant of new licensable activities.
- However, if any resident had issues in the future regarding disorder or nuisance from the premises, the Committee noted that they can apply to the Licensing Authority for a review of the premises licence.

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### **Review of Discretionary Fees and Charges 2019/20**

The Service Director Health and Wellbeing submitted a report to provide Members of the Licencing Committee with information to assist them at a hearing to consider and set the level of discretionary fees and charges for licences, permits, registrations and consents to be effective from 1 April 2019.

The Senior Licensing Officer introduced the report.

The Committee asked questions of the Senior Licensing Officer.

#### **RESOLVED** that:-

1. The proposed fees and charges set out within the report be implemented on 1 April 2019.
2. A new Group 2 medical certificate will be required for each three year dual driver licence granted.
3. Licensed drivers over 65 years of age, will only be eligible for a one year dual driver licence, to run concurrent with their annual Group 2 medical.

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

That the public and press be excluded from the meeting whilst agenda items 7 & 8 were being considered, because they referred to exempt information as defined in category 1 (information relating to any individual) of Part 1 of Schedule 12(a) of the Local Government Act, 1972, as amended by the Local Government (Access to Information) Variation Order 2006 and, that the public interest in maintaining the exemptions outweighs the public interest in disclosing the information.

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### **Complaint about a Wyre dual driver licence holder**

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Committee with information to assist them at a hearing.

The Wyre Council Licensed Driver did not attend the meeting, however an invitation to attend the hearing had been sent out, with a copy of the report and the hearing procedures and a copy of the Council's Policy on Convictions and other Relevant Matters. The Senior Licensing Officer confirmed that the driver had not contacted the Council to offer any apologies.

The Licensing Committee deliberated whether to proceed with the hearing at this time and it was decided unanimously to hear the case before it.

Additional paperwork had been received just prior to the meeting, which was circulated to Members of the Committee.

The Senior Licensing Officer introduced the report and then everyone present reviewed the CCTV footage.

The Senior Licensing Officer, the Manager of Food Health & Safety & Licensing and The Head of Environmental Health & Community Safety left the room whilst the Committee Members considered all the facts of the case.

The Senior Licensing Officer, the Manager of Food Health & Safety & Licensing and The Head of Environmental Health & Community Safety were brought back into the room and the Licensing Committee reconvened and the Chairman announced the Committee's decision to everyone.

**RESOLVED** that the Wyre Council Dual Driver's Licence WDL0597 is revoked under Section 61 (1) (B) of the Local Government (Miscellaneous Provisions) Act 1976 and that revocation should take immediate effect in accordance with section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.

**The reasons for the decision were:**

After considering all the evidence before it, the Committee decided that the driver was no longer a fit and proper person to hold a taxi licence. The Licensing Authority's overriding aim is to protect the safety of the public and the Committee considered that the licensed driver would be a risk to the public, if he continued to work as a licensed driver and therefore in the interests of public safety decided to revoke his licence immediately.

A decision letter setting out the Committee's reasons would be sent to the driver.

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**New applicant for a Wyre dual driver's licence with a conviction for no insurance**

The Service Director Health and Wellbeing submitted a report to provide members of the Licensing Committee with information to assist them at a hearing to determine whether or not the applicant is a fit and proper person to hold a Wyre Council Dual Driver's Licence.

The Applicant was present at the meeting, but was not legally represented.

The Senior Licencing Officer introduced the report.

The applicant spoke to the Committee, explaining the circumstances of the conviction, as referred to within the report.

Members of the Committee and the Senior Licensing Officer asked questions of the applicant, who provided explanations of the incident and confirmed he had no further convictions or driving offences.

In reaching its decision, the Committee had regard to:

1. The Local Government (Miscellaneous Provisions) Act 1976.

2. The Council's Hackney Carriage and Private Hire Licensing and Convictions and other Relevant Matters Policy- April 2018.

The applicant, the Senior Licensing Officer, The Manager of Food Health & Safety & Licensing and the Head of Environmental Health & Community Safety then left the room whilst the Committee Members considered the application in closed session.

The Licensing Committee then reconvened and the Chairman announced the Committee's decision to everyone.

**RESOLVED** that Wyre Council decided to grant a one year Wyre Dual Driver's Licence subject to the applicant being able to provide evidence that there is a valid insurance policy in place in respect of the licensed vehicle that he will be driving.

**Reasons for the Decision**

The Committee were satisfied that the applicant was a fit and proper person to be a licence holder in Wyre at the present time and found that there were exceptional reasons to depart from the policy under this section namely that the applicant had driven as a HGV driver and drove a club's mini bus for many years and apart from this one incident, had no other convictions. A decision letter setting out the Committee's reasons would be sent to the driver.

The meeting started at 6.00 pm and finished at 7.56 pm.

**Date of Publication:** Wednesday 5 December, 2018