



Leicester
City Council

Minutes of the Meeting of the
LICENSING ENFORCEMENT SUB-COMMITTEE
(Microsoft Teams Meeting)

Held: TUESDAY, 2 JUNE 2020 at 10:00 am

P R E S E N T:

Councillor Hunter (Chair)
Councillor Pickering (Vice Chair)

Councillor Cank

Councillor Thomas

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60. APPOINTMENT OF CHAIR

Councillor Hunter was appointed as Chair for the meeting.

61. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Sangster.

Apologies were received from Councillor Pickering for agenda item Appendix B1, Determination of Continued Entitlement to Retain a Licence to Store Explosives and a Licence to Supply Adult Fireworks as she had not had opportunity to read the additional information that had been circulated by the legal representative of the licence holder.

62. DECLARATIONS OF INTEREST

Members were asked to declare any disclosable pecuniary interest or other interest they might have in the business on the agenda.

No declarations were made.

63. MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting of the Licensing Enforcement Sub-Committee held on 5th May 2020 be approved as a correct record.

At this point, the live stream of the meeting ended.

64. PRIVATE SESSION

RESOLVED:

That the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act, and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 1

Information relating to an individual.

Paragraph 2

Information which is likely to reveal the identity of an individual.

Paragraph 3

Information relating to the financial or business affairs of any particular person (including the authority).

- B1) Determination of Continued Entitlement to Retain a Licence to Store Explosives and a Licence to Supply Adult Fireworks.
- B2) Determination of Continued Entitlement to Retain a Hackney Carriage and Private Hire Vehicle Driver's Licence.

65. DETERMINATION OF CONTINUED ENTITLEMENT TO RETAIN A LICENCE TO STORE EXPLOSIVES AND A LICENCE TO SUPPLY ADULT FIREWORKS

The Chair confirmed with the Sub-Committee Members that reports for the meeting has been read and additional information for the meeting had been received and read.

The Director of Neighbourhood and Environmental Services submitted a report concerning the determination of continued entitlement to retain a licence to store explosives and a licence to supply adult fireworks held by Party Time (Leicester) Ltd of Prebend House, 72 London Road, Leicester LE2 0RQ in respect of its premises at 26 Melton Road, Leicester, LE4 5SE.

The Shop Manager was present with two legal representatives (Solicitor and Counsel). Ms Lesia Wowczuk (Environmental Health Officer presenting the report) and Mr Gurdeep Dosanjh (Environmental Health Officer) and Legal

Adviser to the Sub-Committee were also present.

Introductions were made and the procedure for the meeting was outlined.

The Environmental Health Officer presenting the report outlined the details contained within the report and answered questions from Counsel for Party Time (Leicester) Ltd.

Counsel for Party Time (Leicester) Ltd. then presented the case as to why the company should retain the licence to store explosives and the licence to supply adult fireworks and answered questions from Members and officers.

All parties were then given the opportunity to sum up and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced and confirmed in writing within five working days. The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officer to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of their decision.

RESOLVED:

That the Licence to Store Explosives and the Licence to Supply Adult Fireworks held by Party Time (Leicester) Ltd of Prebend House, 72 London Road, Leicester, LE2 0RQ at its premises at 26 Melton Road, Leicester, LE4 5EA both be REVOKED.

The Sub-Committee Members had listened carefully to all the representations and taken into account the relevant sections of the Fireworks Regulations 2004, the Explosives Regulations 2014 and the Health and Safety at Work etc. Act 1974. Members had also taken into account Leicester City Council's Health and Safety Enforcement Policy, relevant guidance issued by the Health and Safety Executive and the Regulators' Code made under the Legislative and Regulatory Reform Act 2006.

The Sub-Committee decision was to revoke both the licence to store explosives and the licence to supply adult fireworks.

REASON FOR THE DECISION

The reasons for the decision were:

1. In 2015, Leicester City Council Environmental Health Officers found that Party Time (Leicester) Ltd was storing HT3 fireworks at its shop on Melton Road, Leicester. This was in contravention of the conditions of its licence to store explosives which only authorised the storage of HT4 fireworks. The company was also failing to meet necessary separation distances required in respect of HT3 fireworks and storing fireworks in an unsafe manner, which were all breaches of the Health and Safety at Work etc. Act 1974. The Environmental Health Officers had given verbal and written advice to the company and a Prohibition Notice was issued.
2. In 2016 the company again breached the conditions of its storage licence by storing HT3 fireworks at its premise at 26 Melton Road, Leicester.
3. In 2017 Council Officers again gave advice to the company regarding its unsafe storage of fireworks.
4. On 1st October 2019, a licence to store explosives was issued to the company and within 3 weeks of issue, when its Melton Road shop was subject to inspection, Council Officers once again found that HT3 fireworks were being stored in breach of the licence. Again, the company had failed to meet necessary separation distances required in respect of the H3 fireworks and had stored the fireworks in an unsafe manner. A further Prohibition Notice was issued to the company.
5. The shop premises on Melton Road forms part of a terrace of shops, takeaways and domestic premises.

The repeated unauthorised storage of HT3 fireworks at the shop, with the consequent failure to meet the necessary separation distances between its storage areas and relevant features, including minor and major roads as well as domestic and commercial buildings, put employees, customers and everyone working, visiting and living in the vicinity of the Melton Road shop, at risk of serious injury and even death. Additionally, the repeated unsafe storage of the fireworks had served to increase the risks. Extremely serious failings had occurred despite the previous advice and action taken in 2015, 2016 and 2017.

6. In relation to the revocation of the licence to store explosives, the Sub-Committee Members were of the opinion that the repeat of the 2015, 2016 and 2017 failings on such a serious basis in October 2019 was such that Party Time (Leicester) Ltd was not a fit person to store explosives. As Party Time (Leicester) Ltd was a corporate body, in reaching their conclusion, Members had considered the company as a family run business, with control and decisions shared between family members including the Shop Manager.

In taking account of the history of non-compliance, Sub-Committee Members

had no confidence in the willingness or ability of Party Time (Leicester) Ltd to abide by the appropriate Regulations or licence conditions. Members were of the opinion that there was a significant risk of breach and risk to public safety.

The Sub-Committee therefore revoked the licence to store explosives in accordance with regulation 23(1)(b) of the Explosives Regulations 2014.

7. In relation to the revocation of the licence to supply adult fireworks, the October 2019 breaches of regulations 7(1), 26(1) and 27(1) of the Explosives Regulations 2014 were offences in relation to the use, storage or keeping of fireworks under the Health and Safety at Work etc. Act 1974. Members considered the circumstances of the offending were so serious that revocation of the licence was appropriate in this case.

The Sub-Committee therefore revoked the licence to supply adult fireworks in accordance with regulation 9(5)(d) of the Fireworks Regulations 2004.

8. The revocations would take effect on 3rd July 2020.

Party Time (Leicester) Ltd would be advised of the right to appeal against the decision in respect of each licence.

66. DETERMINATION OF CONTINUED ENTITLEMENT TO RETAIN A HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER'S LICENCE

Councillor Pickering joined the meeting at this point.

The Chair confirmed with the Sub-Committee Members that the report for the meeting has been read.

The Director of Neighbourhoods and Environmental Services submitted a report concerning the determination of continued entitlement to retain a Hackney Carriage and Private Hire Vehicle Driver's Licence.

The applicant was present. The Licensing Team Manager, Licensing Officer and Legal Adviser to the Sub-Committee were also present at the meeting.

Introductions were made and the Chair outlined the procedure for the meeting to those present.

The Licensing Team Manager outlined the details of the application, including the relevant City Council Policy Guidelines. It was brought to the attention of the Sub-Committee that the applicant had been convicted for an offence which fell into the category of violence in the Council's Policy Guidelines and required that the driver be five years free from conviction.

The applicant set out the reasons why he thought he should be allowed to continue to hold a Hackney Carriage and Private Hire Vehicle Driver's Licence and answered questions from Members, the Licensing Team Manager, and the Legal Adviser to the Sub-Committee.

All parties were then given the opportunity to sum up and make any final comments.

The Sub-Committee received legal advice from the Legal Adviser to the Sub-Committee in the presence of all those present.

In reaching their decision, Members felt they should deliberate in private on the basis that this was in the public interest, and as such outweighed the public interest of their deliberation taking place with the parties represented present.

The Chair announced that the decision and reasons made during private deliberation would be publicly announced and confirmed in writing within five working days. The Chair informed the meeting the Legal Adviser to the Sub-Committee would be called back to give advice on the wording of the decision.

The Chair then asked all but Members of the Sub-Committee and Democratic Support Officer to disconnect from the meeting. The Sub-Committee then deliberated in private to consider their decision.

The Sub-Committee recalled the Legal Adviser to the Sub-Committee to give advice on the wording of their decision.

RESOLVED:

That the applicant's Hackney Carriage and Private Hire Vehicle Driver's Licence be revoked.

The Sub-Committee Members had carefully considered the Committee Report placed before them and had taken into account the Regulators' Code, the Council's "Guidelines on relevance of convictions Hackney Carriage and Private Hire Vehicle Drivers" and the oral and written representations.

The Sub-Committee were informed the applicant had held a Hackney Carriage and Private Hire Vehicle Driver's Licence since 2008.

On 17th February 2020, the applicant was convicted at Leicester Crown Court of making threats to kill and stalking. On 23rd March 2020, he was sentenced to 18 months imprisonment suspended for a period of 18 months, was made subject to a 5-year Restraining Order, and was required to participate in offending behaviour and rehabilitation activities.

The conviction of an offence involving violence gave grounds under section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976 to suspend or revoke the licence.

The Sub-Committee Members' overriding consideration was the protection of the public. Members believed the seriousness of the sentence imposed on 23rd March 2020 clearly reflected the seriousness of the offending, which fell into the category of violence under Leicester City Council's Guidelines on the relevance of convictions. For such offending, the Guidelines required a period

free from conviction of five years.

The Members were of the opinion there were no exceptional circumstances to act outside the Guidelines and found in the circumstances that it was appropriate to revoke the licence under section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

The applicant would be advised that he could appeal the decision to the Magistrate's Court within 21 days of the decision.

67. CLOSE OF MEETING

There being no other items of urgent business, the meeting closed at 1.08pm.