

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
4.00 P.M., THURSDAY 30 JULY 2009
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

PART 1

PRESENT: Councillors

Bennett, K. L. (Chairman)

Allen, F.W.C.	Holder, M. J.
Ansell, Mrs. P.A.	Todd, Mrs. D. M.
Burnett, J.	

Also Present: Sergeant Jason Dorrington, Staffordshire Police

(Apologies for absence were received from Councillors R. Easton, M. R. Green, Mrs. D. Grice and Mrs. P. Williams).

8. Minutes

RESOLVED:

That the Minutes of the meetings held on 19 June and 7 July 2009 be approved as a correct record.

9. Exclusion of the Public

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraph 2, Part I, Schedule 12A, Local Government Act 1972 (as amended).

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
4.00 P.M., THURSDAY 30 JULY 2009
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 2

(The Chairman agreed that the order of the agenda could be changed as the Driver for the first referral was not currently present).

10. Referral by Head of Environmental Health of Hackney Carriage Driver

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 6.1 – 6.16 of the Official Minutes of the Council).

The driver attended the meeting to present his case.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. She advised that until recently the Licensing Unit's records showed the driver to be living at a different address to the one he lived at now. He had moved in February 2009 but had not informed the Council of the move.

The driver was first licensed by the Authority as a hackney carriage/private hire driver on 15 September 2004 and his current licence expires on 30 November 2009.

The Committee was asked to determine whether the driver was a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence.

On 29 June 2009 the Licensing Unit (LU) received 2 phone calls from members of the public complaining that a taxi driver had been seen kicking a girl in the head whilst she was on the floor fighting with another person. The LU contacted the Police the same day who confirmed that CCTV footage was available of the incident.

On 30 June 2009 the LU received a complaint from the driver's ex girlfriend claiming she had been assaulted by the driver whilst she was on the floor fighting with his current girlfriend.

The Senior Licensing Officer and the Licensing Enforcement Officer, together with a Police Constable, viewed the CCTV footage and considered that at least 1 kick and possibly as many as 3 kicks could be seen.

On 1 July 2009 the driver came into the Civic Centre and was suspended that day. He attended a recorded Police & Criminal Evidence Act 1984 (PACE) interview on 7 July 2009 a transcript of which had been provided to the Committee.

It was reported that in May 2008 the LU had received a complaint with respect to the driver behaving in a violent, aggressive and racist manner in Cannock town centre. The matter had been investigated by the Police but no formal action had been taken by them. The LU had investigated the matter as part of a larger allegation of violent and potentially racist behaviour by several taxi drivers and the Head of Environmental Health had written to the driver at the conclusion of that investigation.

On 16 April 2009 Sergeant Jason Dorrington from Staffordshire Police had telephoned the LU to express concern relating to a fight that had taken place within one of Cannock town centre's late night refreshment houses, the driver being one of the assailants.

The driver was afforded the opportunity of asking questions of the Officer who indicated that he had none. The Committee indicated that they had no questions to ask the Officer.

The Committee was then shown a DVD of CCTV footage of the fight that had taken place.

Sergeant Dorrington informed the Committee that his role involved reducing levels of violence within town centres and that he worked closely with partner agencies, licensees, bar staff, door staff and taxi marshalls. He gave an overview of the witness statement he had provided which had been enclosed with the report.

The driver was then afforded the opportunity to present his case. He informed the Committee that he was protecting himself as his former girlfriend was kicking him. She had said that she had been kicked in the head, but as he had steel toe capped boots on she would have suffered more serious injuries if he had done that.

Members of the Committee were then afforded the opportunity to ask questions of the driver. He was asked why he wore steel toe capped boots and he explained that taxi drivers sometimes rolled their cars to another position and could face the possibility of the car going over their feet.

The Officer asked why he had left the scene and the driver explained that he had taken his girlfriend to hospital as she had hit her head on the road during the fight.

Sergeant Dorrington asked why he had parked on the zig zag lines near to a zebra crossing which was illegal. The driver explained that it was the closest point to where he was dropping his girlfriend off and other taxi drivers did that. He did, however, know it was not correct.

The Officer from the Licensing Authority then summed up the Council's case.

The driver was then afforded the opportunity to sum up his case.

The Committee then deliberated in private accompanied by the Council's Legal Adviser and Secretary to the Committee.

RESOLVED:

That having regard to all the circumstances, the Hackney Carriage/Private Hire Driver's Licence be revoked as the Committee did not consider that the driver was a fit and proper person to hold such a Licence.

Reason for the decision

The Committee carefully considered the licensing report, the information it had received, the CCTV footage, along with Sergeant Dorrington's observations and the driver's previous history of violence, assaults and his response to all the questions posed to him as well as the manner in which he had responded.

The Committee also took into consideration the issue of Public safety, the image of the profession projected to the public and its reflection on the Town as a whole. They also considered what a fit and proper person was noting that there was no definition as such and reached a decision to revoke the driver's license as they did not see him as a fit and proper person to hold a Hackney Carriage/Private Hire Drivers License.

11. Referral by Head of Environmental Health of Hackney Carriage Driver

(Prior to consideration of this referral Councillors J. Burnett and M. Holder left the meeting)

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 5.1 – 5.14 of the Official Minutes of the Council).

The driver attended the meeting to present his case.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. She advised that the driver had been seen plying for hire in a licensed taxi outside a busy nightclub in the early hours of Bank Holiday Monday, 25 May 2009. He was not wearing his hackney carriage/private hire driver's badge and was therefore clearly compromising public safety. When challenged he produced his badge from the driver's side door pocket and put it on. This was the third occasion on which the driver had been seen plying for hire without wearing his badge and his licence had been suspended on both previous occasions.

The driver was first licensed by the Authority as a hackney carriage driver on 17 March 2003 and had been licensed continuously since then, his current licence expiring on 30 November 2009.

Members were asked to determine whether the driver was a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence.

The driver was afforded the opportunity of asking questions of the Officer and then the Members of the Committee. There being none the driver was then asked to present his case.

He reported that he had no previous criminal or motoring convictions. He was employed as a trainee solicitor and hoped to qualify next year. He had been driving a taxi for approximately 6 years on a part time basis as a 'means to an end' to pay bills and associated costs towards his academic career. He stated that he was embarrassed to have to appear before the Committee and sincerely apologised. He stated that it would not happen again. He had removed his badge as it had kept falling into his food when he was on a break and had forgotten to put it back on. In relation to another occasion when his badge was not clearly visible he had been wearing a top which he had zipped up. He did not condone his behaviour and realised that he was in breach of the regulations and asked for leniency from the

Committee. He had changed the badge from being on a cord to being on a pin which he put on his top layer of clothing.

Members of the Committee were then afforded the opportunity to ask questions of the driver. He was asked why he had not put his badge around to his back when it was dropping into his food. The driver explained that with hindsight he should have done that, but it was a very busy night and he regretted not putting it back on. Concern was expressed that it was not an isolated incident but had happened previously. The driver reported that it was a mistake that would not happen again.

The Officer of the Licensing Authority was afforded the opportunity to ask questions of the driver. She reported that there had been three occasions when he had been seen not to be wearing his badge and asked for an explanation of the other incident. The driver explained that it had been in March 2008 and he could not remember why he was not wearing it. He was asked how often he drove his taxi, to which he replied that normally it was one day a week on a Saturday night. The Officer reported that Licensing Officers were not always out on Sunday nights and asked if it was common practice that he wore his badge. The driver replied that as far as he was aware he wore his badge. The Officer asked if the driver was aware that the referral could have been heard at the Magistrates Court. The driver explained that he was hopeful it would not go to the Magistrates Court and was pleased that it was being heard by the Council as it could have an affect on his future and he had taken on board the Committee's comments.

The Officer from the Licensing Authority then summed up the Council's case.

The driver was then afforded the opportunity to sum up his case.

RESOLVED:

That a condition be attached to the remaining period of the driver's current Hackney Carriage/Private Hire Licence, that should any further breach of the licensing regulations occur before it expired, that the matter be brought before the Committee for consideration.

Reason for the decision

The Committee carefully considered the licensing report, the history of suspensions, the driver's testimony and explanations along with the issue of public safety and awareness and the Councils policy as well as Section 54 of The Local Government (Miscellaneous Provisions) Act 1976 in reaching its decision.

The Committee also considered what a fit and proper person was noting that although they considered the driver to be a fit and proper person to hold a Hackney Carriage/Private Hire Drivers License, a condition should be attached to the rest of his current Hackney Carriage/Private Hire License that "If he commits any breach of the Licensing Regulations, he should be brought straight back before the Licensing Committee to explain himself"

CHAIRMAN