

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
THURSDAY, 29 JANUARY 2009 AT 10.00 AM
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Bennett, K.L. (Chairman)
Williams, Mrs. P. (Vice-Chairman)

Burnett, J. Todd, Mrs. D.M.

(Apologies for absence were received from Councillors F.W.C. Allen, Mrs. P.A. Ansell, I.R. Carr, M.R. Green and M.J. Holder).

13. Minutes

RESOLVED:

That the Minutes of the meeting held on 12 December 2008 be approved as a correct record.

14. Exclusion of the Public

RESOLVED:

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 1, Schedule 12A, Local Government Act 1972 (as amended).

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PART 2

15. Hackney Carriage/Private Hire Drivers' Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 5.1 – 5.6 of the Official Minutes of the Council).

The Applicant 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 reported that between April 2008 and September 2008 the Applicant was seen smoking in his vehicle on two separate occasions by an authorised officer of the Council, and on one occasion seen with a cigar in his mouth. The Applicant had also been prosecuted, following the second occasion, on 4 December 2008. The Committee were advised that Council policy did not permit drivers or passengers to smoke in any vehicle and that it was an offence under the Health Act 2006 to smoke in a smoke free place. For the purposes of the legislation a taxi was considered to be a smoke free place.

Having checked the Applicant's driving licence, the Officer confirmed that the Applicant had no additional convictions.

Following this, the Applicant along with Members of the Committee were afforded the opportunity of asking questions of the Officer. There being none the Applicant was then asked to present his case. He indicated that although he was a heavy smoker he had endeavoured to give up. He also added that on the occasions he had been seen smoking the cigarettes had not been lit and that he no longer carried cigarettes or cigars in his vehicle.

Members of the Committee and the Officer were then given the opportunity of asking questions of the Applicant.

The Officer then summed up the Council's case, indicating that whilst the applicant had not fully appreciated the Council's policy which prohibited smoking in a taxi vehicle, she appreciated that the Applicant had taken steps to address the temptation of smoking and would monitor the situation in the future.

The Applicant was then afforded the opportunity to sum up his case. He was of the opinion that he had been deliberately victimised by one of the Council's Licensing Officer's who, he believed, was intent on preventing him from holding a hackney carriage/private hire drivers licence.

The Legal Advisor indicated that the allegations made by the applicant were of a serious nature and that should he wish to make a formal complaint he should do so via the Council's official complaints procedure.

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, and in particular the Applicant's repeated offences of smoking in his vehicle, the Applicant's Hackney Carriage/Private Hire Driver's licence be suspended for a period of one calendar month.

Reason for the Decision

The Committee carefully considered all relevant factors, issues and representation made by the applicant and the Licensing Officer.

The Committee had regard to the applicant's previous driving history, the period of time he had been driving a taxi and the explanation given for the incidents forming the basis and reasons for his appearance before the Licensing and Public Protection Committee.

The Committee was concerned by the applicant's failure to understand and appreciate the importance and reasons why taxi drivers cannot smoke in their licensed vehicles. This concern was aggravated by the applicant, within a relatively short period of time, being seen on two separate occasions breaching the condition not to smoke in his taxi and on a third occasion seen with a cigar in his mouth.

The Committee takes any breaches of taxi licensing conditions seriously and had concerns that the applicant failed to recognise his wrong doing. The Committee did not find the explanations for his wrong doing credible in the circumstances and in any event the Committee was of the opinion that they provided no satisfactory justification for the breaches of the applicable licensing conditions.

Accordingly, the Panel did not agree that the applicant was a fit and proper person to hold a hackney carriage driver's licence in the district of Cannock having regard to all the circumstances, in particular his propensity to breach the Council's licensing conditions in relation to smoking in a taxi. As a result the Committee agreed that his hackney carriage/private hire drivers licence be suspended for one calendar month as soon as lawfully permitted.

CHAIRMAN