

EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at SAFFRON WALDEN TOWN HALL, MARKET SQUARE at 10am on 6 MAY 2014

Present: Councillor D Perry (Chairman)
Councillors J Davey and J Salmon

Officers in attendance: M Chamberlain (Enforcement Officer), M Hardy (Licensing Officer), C Nicholson (Solicitor) and A Rees (Democratic Services Support Officer)

Also Present: Michael Eldred (Manager – Walden Ladies Football Club)

LIC79 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor V Ranger.

It was decided that Item 2 would be determined in the absence of Mrs Excell.

Mr Eldred left the room for the consideration of Item 2.

LIC80 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – MRS EXCELL**

The Enforcement Officer circulated an e-mail sent to him by Mrs Excell, which provided information about her personal circumstances. Mrs Excell was licensed as a private hire/hackney carriage driver with this authority on 1 September 2011. Her license was due to expire on 31 August 2014. On 25 July 2011, Mrs Excell was caught by police using a mobile phone whilst driving. She declined a fixed penalty notice. On 8 December 2011 she was convicted of the offence and received three points on her licence and was ordered to pay £73 plus costs. She failed to disclose this within seven days to the Council and met with the Assistant Chief Executive – Legal on 16 January 2012. It became apparent she had failed to notify the Council of other offences and had made a false statement when renewing her licence. On 4 October 2013 she was carrying out an Essex County Council school contract and was stopped on a routine inspection. She was found to be displaying private hire vehicle plates which expired on 31 August 2013. This was an offence under section 48(6) Local Government (Miscellaneous Provisions) Act 1976. It carried a maximum fine of £1000. On 5 November 2013 she attended the Council Offices for an Interview Under Caution. She confirmed she was driving the vehicle on that day, but was not aware that private hire plates had expiration dates. She had been driving the vehicle since 5 September 2011. Once she was stopped she went to her employer (Excellent Connections Limited T/A Fargolink) and had new plates installed. She accepted the offence but initially did not realise it was an offence. In accordance with the

Council's licensing policy, the Committee prosecuting her for the offence of using a private hire vehicle whilst failing to display a valid private hire vehicle plate. On 8 April 2014, she appeared in front of Colchester Magistrates Court for the alleged offence and pleaded guilty. She was fined £90 with a victim surcharge of £20 and ordered to pay costs of £50. She did not meet the Council's licensing standards as she had an unspent conviction under the Rehabilitation of Offenders Act 1974. Under paragraph 6.16 of the Council's Licensing Policy Relating to the Hackney Carriage and Private Hire Trades, suspension would rarely be suitable. The Committee had to decide whether Mrs Excell remained a fit and proper persons to hold a licence. If she was not deemed a fit and proper persons then her licence should be revoked.

LIC81 **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100I of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

The Enforcement Officer and the Licensing Officer left the room at 10.10am so the Panel could consider their decision. They were invited back into the room, along with Mr Eldred at 10.20am when the Committee gave their decision.

DECISION

Councillor Perry said that the Committee considered Mrs Excell remained a fit and proper person to hold a private hire drivers licence.

LIC82 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE – WALDEN LADIES FOOTBALL CLUB, CRABTRESS, SAFFRON WALDEN**

The Licensing Officer informed members that a letter had been sent to the applicant and the objector (Mr Turner) informing them of the time and date of the meeting. The Pavilion was situated on the playing fields at Crabtrees, Saffron Walden. The applicant had had outlined the licensable activities being sought. They were as follows:

Recorded Music (Indoors Only)

Monday to Friday	6pm to 10pm
Saturday	12 noon to 10pm
Sunday	12 noon to 8pm

The sale of alcohol by retail for consumption both on and off the premises

Monday to Friday
Saturday
Sunday

6pm to 10pm
12 noon to 10pm
12 noon to 8pm

The applicant had to demonstrate how the four licensing objectives would be met. Regarding the prevention of crime and disorder, those who became offensive or abusive would be asked to leave. No sales would be made to people already intoxicated. To meet the public safety objective no more than 80 people would be allowed onto the premises at any one time. First Aid facilities would be provided along with a qualified first aider. To prevent public nuisance measures would be taken immediately upon receiving a noise complaint. A Challenge 25 policy would be in place to protect children from harm. The Committee could grant the application, modify the application by inserting a clause, remove a licensable activity from the application, refuse to specify a person in the licence as the designated premises supervisor, or reject the application. Regard should be given to the Council's licensing policy and guidance from the Secretary of State issued in accordance of the Act.

In response to questions from members, Mr Eldred said that money made from the licensable activities was intended to help ensure the football club's future. It was unlikely people would be in the premises at the end of the licensable hours. The intention was to facilitate the football club and the adjacent sporting clubs after they had finished. This would ordinarily be from 4pm until the early evening. Any other fund raising activities would happen early in the day. An environmental health officer had visited the site and said the current arrangements for noise reduction were adequate given the size of the premise. The designated premises supervisor would not be at the premises all the time, however there would always be a responsible person present.

LIC83 **EXCLUSION OF THE PUBLIC**

RESOLVED that under section 100l of the Local Government Act 1972, the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

Mr Eldred, The Enforcement Officer and the Licensing Officer left the room at 10.45am so the Panel could consider their decision. They were invited back into the room at 10.50am when the Committee gave their decision.

DECISION

Whilst the Committee acknowledges the legitimate concerns of Mr Turner set out in his letter of representation, there is an absence of any evidence that problems would arise if a licence were to be granted. Mr

Turner's objections are based on what he thinks might occur and not evidence.

The Committee are aware of the Thwaites case which underlined that decisions on licensing applications must be based on evidence. The Licensing Act 2003 contains mechanisms where by licences can be reviewed on the application of anyone if there is behaviour that is infringing the licensing objectives. The case also suggested that greater weight should be given to representations made by the responsible authorities than to those made by others.

The Committee note that none of the responsible authorities have made representations.

Having considered the submissions on the issue of crime and disorder, the Committee were not satisfied on the evidence that there was likely to be a significant problem of crime and disorder, and that it was not necessary or proportionate to take any steps in that regard either by refusing the application or imposing conditions.

Likewise, in terms of the submissions on the issue of public safety, Members were not satisfied that there is a real likelihood of harm to public safety arising from the anticipated increase in traffic, and therefore it was not necessary or proportionate to take any steps in that regard either by refusing the application, or imposing conditions.

The objection relating to prevention of public nuisance is more relevant, as the Committee note that the premises are very close to residential properties, and the Council's Licensing policy at paragraph 5.7 points to factors that should be considered that might impact on the likelihood of public nuisance, including the proximity to residential areas, hours of activity, the nature of the activities and if activities are outside.

The Committee are of the view, given the very close proximity of the premise to residential properties, that the promotion of the licensing objective of the prevention of public nuisance can be met by conditions tailored to the type, nature and characteristics of the premises, which are proportionate and in this case consider that it would be reasonable to add a condition to the licence in the following terms:

Prominent and clear signage shall be displayed near exits and around the site requesting patrons and guests to leave the premises and area quietly

In the absence of any other evidence or any other obvious areas for concern that the grant of a licence is likely to adversely impact on the licensing objectives, and on the basis of the decision in Thwaites the Committee will grant the licence in the terms applied for with the addition of the condition above, and including the conditions set out in the operating schedule of the application.

Residents, and Mr Turner especially, should note that once the licence is granted and licensable activities are taking place, if evidence arises

showing the licensing objectives being adversely affected then a review may be applied for.

Mr Eldred was advised of his right to appeal against the decision of the Committee by application to the Magistrates Court within 21 days of the written notice of the decision.

The meeting ended at 10.55am