

Taunton Deane Borough Council

Minutes of the Licensing Sub-Committee Hearing for the application of a Scrap Metal Dealers Licence for Mr Ivor Salter held on Monday 8 May 2017 at 10.45am in the John Meikle Room at The Deane House, Belvedere Road, Taunton, TA1 1HE.

Present: Councillor James (Chairman)
Councillors Mrs Hill and Mrs Lees

Officers: Mark Banczyk-Gee (Licensing Officer), Alex Kershaw-Moore (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

Applicant: Mr Ivor Salter

Interested Parties: None

Other: Mr Leo Charalambides (Applicant's Counsel)

(The meeting commenced at 10.45am)

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. An application had been received from **Mr Ivor Salter** for a **Scrap Metal Dealers Licence** to be granted.

The Applicant had held a Scrap Metal Dealers Licence (SMDL) since 2007 and had renewed it every three years. Until 2014, there had been no incidents reported to the Licensing Department.

On 27 November 2014, the Applicant had been found guilty of seven counts of handling stolen goods in the course of his business as a scrap metal dealer. He was sentenced on 9 January 2015 to eighteen month's imprisonment which was suspended for two years. The Police reported this to the Licensing Department, who informed the Applicant of their intention to revoke his licence. The hearing, which was requested by the Applicant, was never arranged.

The Applicant's SMDL had expired on 25 November 2016. An application for a SMDL was received on 5 January 2017 from the Applicant. At this point, the Applicant was not registered with the Environment Agency as dictated he should be. This was rectified on 12 March 2017.

Included in the application was the Applicant's previous convictions, which detailed the seven counts of handling of stolen goods. The Police were consulted on the matter which was required by the regulations which governed the process of issuing a SMDL. Based on the convictions being notifiable offences, the Police opposed the issue of a SMDL to the Applicant.

The Applicant was served the notice of refusal on 14 March 2017 and through his solicitors, LHS, had stated that he wished to make oral representations at a hearing.

Detailed in the Officer's report were the options open to the Sub-Committee. These were:-

1. Issue a licence;
2. Issue a licence with one or both of the licence conditions (which were: that the dealer must not receive scrap metal except between 9am and 5pm on any day; that all scrap

metal received must be kept in the form in which it was received for a specific period, not exceeding 72 hours, beginning with the time when it was received); or

3. Refuse to issue a licence in line with the recommendation of the Police due to previous convictions of the Applicant. This was supported by the report author as the conditions would not stop or necessarily limit the Applicant's ability to handle stolen goods.

The following questions were asked by the Sub-Committee of the Licensing Officer following presentation of their report: (Responses are shown in italics):-

- Members requested clarification on whether this application was classed as a new licence or a renewal. Was a timescale given when a licence had lapsed?
When a licence had expired, this would always be dealt with as a new application. If this was a renewal, the application would have been submitted prior to the expiration date. This was decided by the guiding principles used by the Licensing Department. However, new applications and renewals were dealt with using the same process.
- How would a member of the public find out if a licence had expired?
They would need to contact the Licensing Department. This information was not available on the website.
- Members believed that the Applicant should be given dispensation as he had paid for his licence and had been waiting for a hearing to be set since the Authority had been notified of his offences.
- More information was requested on item 4.8 in the report, which related to the Environment Agency.
When a customer submitted an application to the Licensing Department they had to be registered with the Environment Agency for the certain licence they wanted to obtain. When the Applicant submitted their application in January 2017, they were only registered with a Carrier Licence with the Environment Agency. This was rectified on 12 March 2017.

The following questions were asked by the Legal Representative to the Sub-Committee of the Licensing Officer following presentation of their report: (Responses are shown in italics):-

- The Legal Representative requested a copy of the notice of refusal for the Sub-Committee Members.
- Clarification was requested on the dates the Licensing Department became aware of the Applicant's offences.
The Police had notified the Licensing Department sometime between the 27 November 2014 (which was when the Applicant had been found guilty of the offences) and 9 January 2015.

The following comments and points were presented by the Applicant's Counsel in relation to their written application:-

- The legislation was unclear on the process and whether it should be classed as a renewal or a new application. The Applicant had brought his old licence along to the hearing. On the document it stated that the licence expired on 25 November 2016. However, it did not give any details on the renewal process or timescales for submitting an application for a renewal.
- The 'test' for whether a licence should be renewed was clarified and stated as 'was the person fit and suitable to be granted the licence?' The Applicant had been located in the area for thirty years and had traded in scrap metal for that time. He also lived on site and had documents to show his records and history in the trade.
- It was confirmed that the Applicant was registered to both the Environment Agency and the Traffic Commissioner.
- A Public Inquiry was carried out on 3 February 2017 by the Traffic Commissioner and he decided that the offence committed by the Applicant was a one off and granted his licence.

- The application form was open and gave the Applicant the opportunity to declare the details of his convictions, which he had done.
- The Applicant's Counsel was not impressed with the 'admin chaos' when the notice of refusal had been issued. If the Licensing Department had decided that the offence was of a serious nature, then they would have made sure the Applicant's licence was revoked. This had not happened.
- The Applicant had demonstrated a good standard of record keeping and had brought along several documents to show this. He had even overpaid his income tax.
- The Applicant believed that he was part of a Police Operation and that the mystery shoppers had operated under Police guidance and so therefore the goods were not really stolen. He had felt harassed.
- The Applicant demonstrated he had shown due diligence as he had appointed a solicitor to represent him and his permits were displayed at the premises.

The following question was asked by the Sub-Committee of the Applicant following presentation of their case: (Responses are shown in italics):-

- Were the seven offences all around the same event?
Yes.

The following questions were asked by the Legal Representative to the Sub-Committee of the Applicant following presentation of their case: (Responses are shown in italics):-

- The Applicant's Counsel had briefly eluded to the details of the offence. Could these details be given to the Sub-Committee?
The full details had been requested, however, they had not yet been received from the Police.
- The Applicant was present. Could they describe the details of the event?
Yes. The Applicant explained that he would normally take details such as the customer's name and car registration, however, on that occasion, he had taken a lot more information about the customer and noted it down. He said he believed that he had been part of a Police 'Sting' Operation and had felt harassed by the mystery shoppers who had operated under Police guidance. He had been under the false impression that if the mystery shoppers were Police that the items would not really be stolen goods. He confirmed that he had refused several batches of cable due to the lack of documentation.
- Had you pleaded not guilty?
Yes.
- The Applicant's Counsel explained that the Applicant's defence had revolved around his honesty in the matter.

Closing Statements

The Licensing Authority made a brief closing statement to the Members of the Sub-Committee:-

- The legislation showed that the offence committed by the Applicant was a relevant offence.
- The Licensing Department did not feel they were able to make the decision on whether the Applicant was fit to be granted the licence and so therefore requested the Sub-Committee to do so.
- The question they posed to the Sub-Committee was: 'Was the relevant offence enough to revoke the Applicant's licence?'

The Applicant made a brief closing statement to the Members of the Sub-Committee:-

- The Applicant's Counsel pleaded with the Sub-Committee to grant the licence.

The Sub-Committee Members retired at 11.40am.

The Sub-Committee Members returned at 12.10pm.

The Sub-Committee Decision

The Legal Representative of the Sub-Committee read out the following decision.

“This was the decision of the Licensing Sub-Committee held at The Deane House on 8 May 2017.

The Licensing Sub-Committee was held to assess whether the Applicant was a suitable person to hold a SMDL in light of his recent application and revelations of his previous conduct.

In accordance with the Scrap Metal Dealers Act 2013 the Licensing Authority could only grant site licences to those site managers it had considered to be suitable persons to carry on the business as a scrap metal dealer. In determining this matter, the Licensing Authority was aware that they might have regard to any information they considered relevant which included, in particular, whether the Applicant had been convicted of any relevant offence. Relevant offence was an offence set out in the Schedule to the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action Regulations 2013) and included offences of attempting or conspiring to commit any offence that fell within that Schedule. Handling stolen goods, where the offence related to scrap metal or environmental related matters, was a relevant offence under the Regulations.

The offence arose over a prolonged sting operation by two individuals who acted on behalf of the Police. The Applicant was aware that the goods offered were stolen and knew that they were being offered by Police Officers. He felt pressured to accept the items but also believed that they were not truly stolen because they were being offered by the Police. He had now accepted that this was a mistaken belief.

The Applicant noted that the offence was a relevant offence but asked that his licence was renewed and that he could continue to operate his business as he had done in the past without any other incident.

After careful consideration of all the circumstances of this matter, the Sub-Committee had concluded that the Applicant **WAS** a suitable person, in accordance with the Scrap Metal Dealers Act 2013 to carry on a business as a Scrap Metal Dealer and therefore the licence **SHOULD** be granted. The reasons for reaching this conclusion were that in view of the representations he had made during the hearing and his longevity in business for over thirty years, the Sub-Committee was satisfied that he was suitable. In particular the Sub-Committee had noted the decision made by the Traffic Commissioner in February 2017 and noted that he did not feel it necessary to refuse his licence.

Because of the Applicant's conviction, however, the Sub-Committee believed that it was appropriate to impose the following condition: that all scrap metal received must be kept in the form in which it was received for a period not exceeding 72 hours, beginning with the time when it was received.

That was the decision of this Licensing Sub-Committee.”

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates' Court within 21 days following notification of the decision.

The Chairman declared the meeting closed.
(The meeting closed at 12.30pm)

Taunton Deane Borough Council

Minutes of the Licensing Sub-Committee Hearing to consider a Hackney Carriage/Private Hire Drivers Licence held on Wednesday 10 May 2017 at 1.30pm in the John Meikle Room at The Deane House, Belvedere Road, Taunton, TA1 1HE.

Present: Councillor James (Chairman)
Councillors Mrs Hill and Morrell

Officers: Mark Banczyk-Gee (Licensing Officer), Fern Avis (Licensing Officer), Lesley Dolan (SHAPE Legal Services) and Clare Rendell (Democratic Service Officer).

Applicant: Taxi Driver A

Other: Taxi Driver A's Solicitor

(The meeting commenced at 1.30pm)

The Chairman introduced himself and his fellow Sub-Committee Members and officers then explained their roles. As well as acknowledging the documents he explained the procedure to be followed during this meeting of the Sub-Committee.

The Licensing Officer introduced his previously circulated report. Members were requested to consider whether a Hackney Carriage/Private Hire Licensed Driver, **Taxi Driver A**, should continue to be licensed by Taunton Deane Borough Council (TDBC).

Taxi Driver A was currently licensed by TDBC to act as a Hackney Carriage/Private Hire Vehicle Driver and his current licence was due to expire on 25 October 2017.

On the 28 March 2017, Taxi Driver A reported to the Licensing Department that he had six points on his driving licence.

Further details of events were given during the Licensing Officer's report.

Taxi Driver A's Solicitor presented his case to the Sub-Committee.

During the proceedings various questions were asked of Driver A by Members of the Sub-Committee, the Council's Legal Representative and the Licensing Officer. Driver A was also given the opportunity to ask questions.

Closing Statements

Taxi Driver A's Solicitor made a brief closing statement to the Members of the Sub-Committee.

The Sub-Committee Members retired at 2.40pm.

The Sub-Committee Members returned at 3.00pm.

The Sub-Committee Decision

The Legal Representative of the Sub-Committee read out the following decision:-

“This was the decision of the Licensing Sub-Committee held at The Deane House on 10 May 2017.

To consider the matter of Taxi Driver A, a licensed Hackney Carriage/Private Hire Driver with this Authority.

The Sub-Committee had reached its decision after representations from the Licensing Department and Taxi Driver A, via his Solicitor, were heard.

The Sub-Committee would allow Taxi Driver A to continue to be a Hackney Carriage/Private Hire Licensed Driver with this Authority.

These proceedings would not prejudice Taxi Driver A’s renewal application which was due in October 2017. This was subject to Taxi Driver A not accruing any further penalty points on his driving licence and also provided that in the meantime Taxi Driver A would undertake a speed awareness course.

The fit and proper person test had not been breached in this case.

There was a right of appeal against this decision. Any appeal must be lodged with the Magistrates’ Court within 21 days following notification of the decision.

That was the decision of this Licensing Sub-Committee.”

The Chairman declared the meeting closed.

(The meeting closed at 3.05pm)