

## **MINUTES OF THE LICENSING SUB-COMMITTEE**

**20 DECEMBER 2010 AT 10 A.M.**

**Present:**

Councillor K.E. Flurry

**Councillors:**

R.B. Colison-Crawford      M.T. Royer

**388/10            EXCLUSION OF PRESS AND PUBLIC**

**RESOLVED** that under Section 100a(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in the paragraph of part 1 of schedule 12a of the Act indicated below.

**389/10            TO DETERMINE WHETHER MR M. KHAN IS A FIT AND  
PROPER PERSON TO RETAIN A HACKNEY CARRIAGE  
DRIVER LICENCE**

The Chairman introduced Members and Officers present and welcomed Mr Khan to the meeting and asked if he would be represented and/or calling any witnesses. Mr Khan stated that he would represent himself.

The meeting then proceeded in accordance with the procedure which accompanied the Agenda for the meeting.

The Environmental Health Manager (Commercial) presented the report of the Head of Environmental Health and Building Control Services and outlined the matter before the Sub-Committee. The purpose of the hearing was to determine whether Mr Khan was a fit and proper person to retain a Hackney Carriage driver licence, having been licensed since 20 March 2009.

The Council's officers have continued to receive complaints from local businesses and local residents about a high concentration of HC vehicles in the vicinity of the Gresham Road taxi rank at peak as well as quiet times. These have not only related to contraventions of Spelthorne's HC byelaws, but also potential road safety concerns and contraventions of local parking restrictions. These concerns were represented in the written submission from Surrey Police's Spelthorne Casualty Reduction Officer provided with the report.

This had led to Council officers observing the Taxi Stand outside Staines Station and to take enforcement action where necessary.

Spelthorne Byelaw 7(b) required that hackney carriage drivers proceed to another stand if the stand was occupied by the full number of carriages.

Mr. Khan previously had his licence suspended, following previous breaches of Spelthorne's byelaws at the Gresham Road rank. He had since been observed on six separate dates parked outside the markings of the rank and had subsequently received five further written warnings.

Having heard the evidence presented by the Officers Mr Khan began by questioning why he was not being prosecuted, as detailed in paragraph 18 of Spelthorne Borough Council's Hackney Carriage Byelaws. A full copy of the relevant bye-law was not to hand in the chamber, so the Sub-Committee decided to adjourn to allow time for copies to be acquired.

Upon reconvening, the Council's Legal Advisor explained to Mr Khan that prosecution was a route the Council could follow but that the Council had decided to refer the matter to the Sub-Committee. He pointed out to Mr Khan that the option of prosecution was always kept under review by the Council and that this might be something the Council's Licensing Team would wish to pursue in the future, in addition to a Licensing Sub-Committee.

Mr Khan accepted this and proceeded with his representation. He stated that he did not dispute the observations and evidence of the Council Officers. He stated that he did not recall each of the specific occasions referred to in the Report. He explained that on occasions he has approached the rank and parked behind it on the basis that there were passengers loading into vehicles on the rank. He felt that parking behind the rank in this way was justified. In his opinion, he has not breached bye law 7(b).

Mr. Khan also stated the he felt that the Council was restricting his opportunities to ply for hire by not providing a feeder rank. Mr. Watts, Licensing Enforcement Officer clarified that the location, suitability and installation of a feeder rank requires consultation with and consent from the Highways authority, Surrey County Council.

Mr. Khan stated that 95% of the work was to be found at the Gresham road rank and that it was illogical for him to move to another taxi rank.

He explained that he felt that he was of impeccable character and reputation and mentioned that he held an OFT Licence as well as being a mortgage advisor.

Mr. Khan stated that he had not contacted the Council to discuss the warning letters because he had communicated his opinions in respect of the taxi rank in the past. He felt that he would have the opportunity to make his opinions clear at the sub-committee. The Sub-Committee has provided Mr. Khan with ample opportunity to express himself. However, it must consider this matter on the basis of the current bye-laws, policies and relevant issues in place.

The Sub-Committee then resolved to adjourn to consider its decision.

Upon reconvening the Chairman gave the summary decision of the Sub-Committee:-

“This Sub-Committee considered all of the evidence and background information, as well as representations from the Council’s Officers and Mr Khan.

It is persuaded by the evidence presented by the Council’s Licensing department, that Mr Khan had knowingly continued failing to comply with the Spelthorne Byelaws made under the provisions of the Act of 1847, despite having been warned that any further breaches would have severe consequences.

The Sub-Committee gave particular weight to the road and public safety issues outlined in the report of the borough’s casualty reduction officer.

The view of the Sub-Committee is that Mr Khan has fallen below the standards it expects for a fit and proper person to be a Hackney Carriage driver in the borough of Spelthorne.

The Sub-Committee considered Mr. Khan’s actions to be persistent breaches of the bye-laws.

Bearing in mind that Mr. Khan has had his licence suspended before and has received numerous warning letters, revocation of his licence was considered by the sub-committee.

It is felt that Mr. Khan has been given the opportunity to raise his concerns about the Gresham road taxi rank. Bye 7 (b) and the expectations of the Council have been clearly explained to Mr. Khan. He should be in no doubt that any further breaches of bye-law 7(b) may result in a revocation of his licence.

In this instance, the Sub-Committee has therefore decided to suspend Mr Khan’s licence for a period of 42 days.”

**RESOLVED** that the Licence issued to Mr Murad Khan to drive a Hackney Carriage be suspended for a period of 42 days, on the grounds and for the reasons set out in the full decision notice to be provided within fourteen days of this Sub-Committee.