

MINUTES OF THE LICENSING SUB-COMMITTEE

30 NOVEMBER 2010 AT 10 A.M.

Present:

Councillor R.W. Sider (Chairman)

Councillors:

Mrs I. Napper

Mrs V.J. Leighton

346/10 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.

347/10 TO DETERMINE WHETHER MR M. BIRD IS A FIT AND PROPER PERSON TO RETAIN A HACKNEY CARRIAGE DRIVER LICENCE

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

In response, Mr Bird requested an adjournment - claiming that he had not had sufficient time to obtain legal advice.

The Sub-Committee decided that Mr Bird had had sufficient time. He had received the Notice 14 days prior to the hearing and the agenda and report 7 days prior to the hearing, which is in accordance with the Council's Access to Information Rules. The issues in the report were not considered to be complex and it was felt that Mr Bird would be able to provide explanations as the report described Mr Bird's own activities.

Mr. Bird then stated that he had agreed to take his wife to see the doctor and that he would not be able to stay at the hearing. The Sub-Committee took a short recess and it was established that Mr. Bird could take his wife to the doctor later in the day.

The Sub-Committee decided to proceed with the hearing as originally planned. The Sub-Committee reconvened and Mr. Bird agreed that he would take his wife to the doctor later in the day and the meeting then proceeded in accordance with the procedure which had accompanied the Agenda.

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 Bird was a fit and proper person to retain a Hackney Carriage driver licence.

Mr. Bird has been licensed as a hackney carriage driver since 24 June 2004.

The Council had received persistent complaints from local businesses and residents about a high concentration of hackney carriage vehicles in the vicinity of the Gresham Road taxi rank at peak as well as quiet times. These complaints had not only related to contraventions of Spelthorne's hackney carriage byelaws, but also potential road safety concerns and contraventions of local parking restrictions. The Council had consulted Surrey County Council (Highways Authority) and Surrey Police in respect of these issues and a statement from Surrey Police's Spelthorne Casualty Reduction Officer was submitted.

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. Bird previously attended a formal interview under the Police and Criminal Evidence Act 1984 on 22 May 2009, following previous breaches of Spelthorne's byelaws at the Gresham Road rank. He had since been observed on six separate occasions parked outside the markings of the rank and had subsequently received three further written warnings.

Accordingly the matter was referred to this Licensing Sub-Committee.

Having heard the evidence presented by the Officers Mr Bird did not deny that his vehicle was involved in the breaches outlined in the report and that he was at the locations on the dates and times as detailed. Mr Bird was questioned about the various breaches and provided the explanation that on some occasions he had pulled up behind the full rank as a train was about to arrive at the station and he expected that passengers would exit the station looking for taxis.

In particular, he claimed that on occasions, he had only stopped behind the rank momentarily while the children (travelling to Thorpe Park) exited Staines train station to load into taxis at the front of the rank. He believed the Council Officer witnesses had been confused by this and had mistaken his intentions for those of someone intentionally and knowingly over-ranking. He said he believed it sometimes took five or ten minutes for this process to occur and that to expect him to proceed to another rank in that time was unreasonable, because the amount of work at other ranks in the borough is limited.

Mr. Bird went on to admit that he had parked behind the rank in the past (in breach of Bye Law 7(b), for five or ten minutes whilst waiting for trains to arrive, but that he "goes to the front and sits there now, facing the other way".

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, which included the following:-

- The contents of the Report of the Head of Environmental Health & Building Control
- The witness statements of the Council officers
- Representations by the Council officers at this hearing
- Representations and responses from Maurice Bird

This Sub-Committee has considered the background information provided in the Report.

The key issues in this matter are:

- Breaches of Spelthorne’s hackney carriage byelaws
- Potential road safety concerns
- Contraventions of parking restrictions

Mr Bird has been observed on six separate occasions:-

- 2 July 2010
- 16 July 2010
- 19 July 2010
- 6 August 2010
- 6 October 2010

The Sub-Committee is persuaded by the evidence presented by the Council’s Licensing department, that Mr Bird had knowingly or recklessly failed to comply with the Spelthorne Byelaws made under the provisions of the Act of 1847.

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

A period of suspension at the least is something which sends a strong message to both licensed drivers and the public about the standards required. Hackney Carriage drivers are expected to be persons of integrity, trust and to work within the relevant laws and regulations.

A suspension should also serve as a warning to Mr Bird as to his future conduct.

The Sub-Committee has therefore decided to suspend Mr Bird’s licence for a period of 30 days.”

RESOLVED that the Licence issued to Mr Maurice Bird to drive a Hackney Carriage be suspended for a period of 30 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.