



Meeting Agenda

Public Protection Committee
Town Hall, St Annes
24 November 2010, 2:00p.m.

PUBLIC PROTECTION COMMITTEE

MEMBERSHIP

CHAIRMAN - Councillor Angela Jacques
VICE-CHAIRMAN – Councillor Dawn Prestwich

Councillors

Christine Akeroyd	Elizabeth Clarkson
Barbara Douglas	Leonard Davies
John Davies	Kiran Mulholland
Keith Beckett	Ken Hopwood
Frank Andrews	

Contact: Annie Womack, St. Annes (01253) 658423,
Email: anniew@fylde.gov.uk



Our Vision

Fylde Borough Council will work with partners to provide and maintain a welcoming, inclusive place with flourishing communities.

Our Corporate Objectives

- To Promote the Enhancement of the Natural & Built Environment
 - To Promote Cohesive Communities
 - To Promote a Thriving Economy
- To meet the Expectations of our Customers

The Principles we will adopt in delivering our objectives are:

- To ensure our services provide value for money
- To work in partnership and develop joint working



A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (For the assistance of Members an extract from the Councils Code of Conduct is attached).</i>	4
2. CONFIRMATION OF MINUTES: <i>To confirm as a correct record the Minutes of the Public Protection Committee held on 5 August 2010.</i>	4
3. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
4. DESIGNATED PUBLIC PLACE ORDERS (DPPO'S) AS AMENDED	7 – 14
5. REQUEST FOR DISPENSATION FROM DISPLAYING PRIVATE HIRE VEHICLE SIGNAGE	15 – 17
6. HACKNEY CARRIAGE DRIVER APPLICATION - WST	18 – 20
7. PRIVATE HIRE DRIVER APPLICATION - KM	21 – 27
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Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
 - (ii) any person or body who employs or has appointed you;
 - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (vii) any land in your authority's area in which you have a beneficial interest;
 - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9.—(1)** Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
 - (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
 - (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

Prejudicial interest generally

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES	PUBLIC PROTECTION COMMITTEE	24 TH NOVEMBER 2010	4

DESIGNATED PUBLIC PLACE ORDERS (DPPO'S) AS AMENDED

Public Item

This item is for consideration in the public part of the meeting.

Summary

To report to the Public Protection Committee the results of the consultation exercise relating to the establishment of a Designated Public Place Order for areas of the Kilnhouse Ward.

Recommendations

To consider the report and approve the Designated Public Place Order.

Report

1. Members may recall that at a meeting of the Public Protection Committee held on the 5th August 2010 a report was considered regarding the establishment of a Designated Public Place Order (DPPO) for an area of the Kilnhouse Ward, St Annes. It was reported that the Criminal Justice and Police Act 2001 (CJPA) gives the local authority power to designate any public place in its area if it is satisfied that nuisance or annoyance to members of the public or a section of the public, or disorder has been associated with the consumption of intoxicating liquor in that place. Once an order is made the police are able to require a person not to consume intoxicating liquor and to surrender any alcohol in his/her possession other than in a sealed container. Failure to comply with these requirements is an offence. It should be noted that a Designated Public Place Order is not a ban on the consumption of alcohol but a tool to deal with issues caused by nuisance or annoyance associated with alcohol.

Continued....

2. The Committee duly considered the report and resolved “*To authorise Officers to commence a consultation process and report back to committee in due course.*”
3. That process has now been undertaken, interested parties have been consulted with and a Public Notice placed in the Lytham St Annes Express on the 15th September 2010. There have been responses from the Police, Fylde Community Safety Partnership and St Annes Town Council to the consultation which are detailed at appendix 1.
4. The proposed designation covered the following areas:

The area of St Annes between the Queensway (B5261), the airport land boundary, Kilnhouse Lane and Leech Lane/Blackpool Road as there is concern that alcohol related annoyance or nuisance occurs in the area.
5. However, as a result of the consultation it is requested that the order is extended to include the open land at the junction of Kilnhouse Lane and Blackpool Road to prevent any displacement.
6. A plan showing the area of proposed designation is attached at appendix 2.
7. The legislation requires the council to be satisfied that the area to be designated has suffered from alcohol-related nuisance, annoyance or disorder. The Police comment that there have been numerous complaints about young persons drinking in the street and in open public spaces on the Kilnhouse estate late at night and in the early hours of the morning.
8. The Guidance on Designated Public Place Orders issued by the Home Office comments that Local Authorities “should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers.” There is a real concern that without introducing this order, instances of annoyance and nuisance will continue

IMPLICATIONS	
Finance	For any advertising and signage costs should the DPPO be approved, the cost will be met from existing budgets.
Legal	As indicated in the report.
Community Safety	The designation of public places in the Borough will increase the Police’s powers to deal with crime and disorder and anti-social behaviour arising out of the consumption of alcohol in the streets. This will benefit community safety by providing a quick and effective way of reducing any problems relating to alcohol consumption in public places.
Human Rights and Equalities	There are no implications arising directly from this report.
Sustainability and Environmental Impact	There are no implications arising directly from this report.

Health & Safety and Risk Management	There is a risk of legal challenge if it was considered that the evidence of public nuisance, annoyance or disorder was insufficient to justify an area being designated as a designated public place.
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Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	3 rd November 2010	

List of Background Papers		
Name of document		Where available for inspection
Document name		Council office or website address

Attached:

App 1 – Schedule of Responses
App 2 – Area of proposed Designation



**Lancashire
Constabulary**

police and communities together

Divisional Headquarters Bonny Street Blackpool Lancashire FY1 5RL

Telephone 01253 604781 Fax 01253

Email: Laura.Lawler@lancashire.pnn.police.uk

Your ref: CWP/LIC/CH

Our ref:

Mr. C. Hambly

Licensing Officer,
Fylde Borough Council,
The Town Hall,
Lytham St Annes FY8 1LW.

30th September 2010.

Dear Mr. Hambly,

I am writing as the local Geographic Police Inspector to express my full support for the proposed Designated Public Place Order on the Kilnhouse Ward as outlined in your letter.

I can confirm that over recent months there have been numerous complaints about young adults drinking on the street and in open public places on the Kilnhouse estate late at night and in the early hours of the morning. These incidents have clearly caused upset to local residents hence their calls to the police. When dealing with young people drinking in public places officers have a power to seize alcohol however this power does not extend to persons eighteen years of age and over. The proposed order would give officers attending complaints of adults drinking on the street the power to seize any alcohol and order that drinking should cease. Failure to hand over the alcohol or stop drinking would constitute an offence which can be dealt with by the issue of a fixed penalty for disorder. This extended power would provide an extremely useful and proportionate response to the problems encountered.

I would stress that although the problems reported to us have all been on the Kilhouse Estate it is important that the Designated Area extends beyond the estate as per the proposal to prevent simple displacement. I would request that consideration be given to extend the proposed area slightly to include the open land and the junction of Kilnhouse Lane and Blackpool Road North opposite the garage as highlighted on the map enclosed.

Yours faithfully,

Inspector Laura Lawler,

Fylde Geographic Police Inspector.



Proposed DPPO

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Date: 04/03/2010



Chris Hambly
Licensing Officer
Licensing Section
Town Hall
Lytham St Annes
FY8 1LW

<i>Our Ref</i>	<i>BW/JC</i>
<i>Your Ref</i>	
<i>Please ask for</i>	<i>Bryan Ward</i>
<i>Direct Dial</i>	<i>01253 658467</i>
<i>Email</i>	<i>Bryanw@fylde.gov.uk</i>
<i>Date</i>	<i>01 October 2010</i>

Dear Mr Hambly,

Designated Public Place Order, Kilnhouse Ward, St Annes

On behalf of the Fylde Community Safety Partnership we would like to support the proposal to make a Designated Public Place Order in the defined area of Kilnhouse Ward, St Annes.

On the grounds that complaints and concerns have been raised at local Police and Communities Together(PACT) Meetings and there have been several issues regarding street drinking in that area, this measure would be beneficial to the local residents and to the Police in dealing with such alcohol related disorder.

This letter of support serves to reinforce the original request submitted by the Community Safety Partnership to the Public Protection Committee on the 5th August, 2010.

Yours sincerely

Community Safety Manager

From: Town Clerk [townclerk@stannestowncouncil.gov.uk]
Sent: 19 October 2010 10:54
To: Licencing
Subject: Criminal Justice & Police Act 2001 - Designated Public Places Order
Dear Mr Hambly,

Referring to your letter of the 13th September. I am sorry that the Town Council have missed your deadline date for responses.

However, I am sure you will be pleased to know that they are fully supportive of the proposal

Yours sincerely,

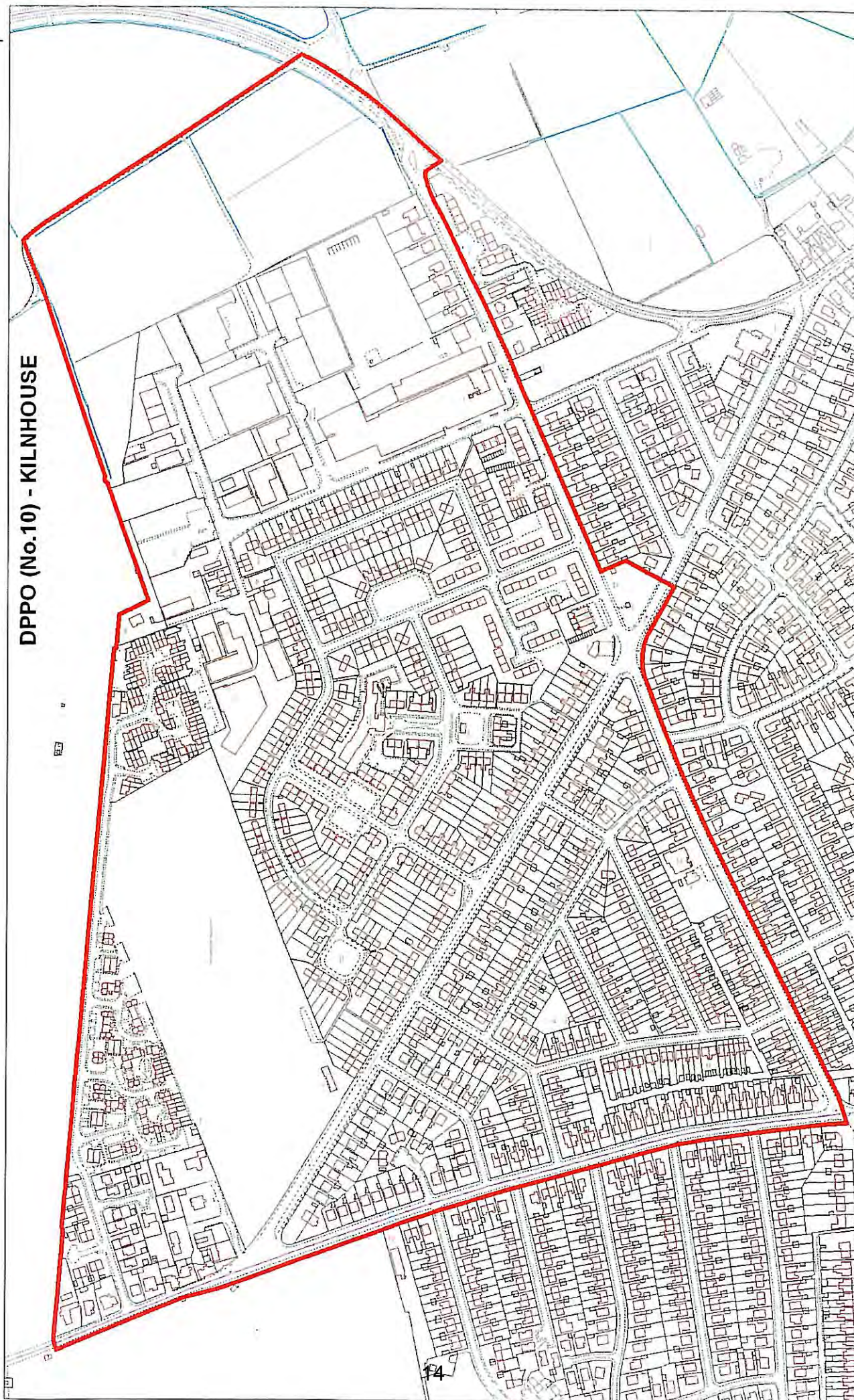
Mr Philip Jackson
Town Clerk
Saint Anne's on The Sea Town Council
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DPPO (No.10) - KILNHOUSE



Scale 1:5000

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	24 TH NOVEMBER 2010	5

REQUEST FOR DISPENSATION FROM DISPLAYING PRIVATE HIRE VEHICLE SIGNAGE

Public

This item is for consideration in the public part of the meeting.

Summary

A request has been received from a licensed Private Hire Operator seeking dispensation from displaying the required private hire vehicle signage.

The signage requirements set within the Borough are for the protection of the public with regards to the ease of recognising private hire vehicles. However, it is understood that the vehicles for which the dispensation is sought is to operate as Chauffeur or Executive hire.

Recommendation/s

1. That the Committee considers the report and determines the requests.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Community and Social Wellbeing: Councillor Cheryl Little

Report

1. A formal request has been received from "Terminal One", a licensed Private Hire Operator operating in the Borough, for dispensation from displaying the required signage upon their private hire vehicles.

Continued....

2. A copy of the request is appended for the information of members and it is confirmed that at this time, 2 vehicles are affiliated to the operator, both silver Volvo V70's, one registered in 2008 and the other 2005.
3. Private Hire vehicles are currently required to display the Fylde Borough Council door stickers and identity plates to the front and rear of the vehicle.
4. However, S75 (3) of the Local Government (Miscellaneous Provisions) Act 1976, does provide Local Authorities with the discretion to provide dispensation from displaying signage, in writing.
5. Dispensation is currently granted to some Private Hire Operators in Fylde Borough involved in the Chauffeur Business. The proprietors of vehicles are still required to display a disc confirming the vehicle to be licensed as a Private Hire vehicle, whilst all signage such as the identity plates and door signs must be conveyed in the boot of the vehicle.
6. The Hackney Carriage and Private Hire Licensing Policy deals with dispensation requests at Appendix A, paragraph 13.5 which states,

"All applications for dispensation from the requirements to display external vehicle licence plates will be considered by the Public Protection Committee who will take account of the individual circumstances of the case. Dispensations are unlikely to be granted unless the applicant can satisfy the committee that their vehicle(s) are of such a type and age that they would be appropriate for executive travel and that such work represented at least 80% of their total business (verified by operator records in the case of existing vehicles). Such vehicles must display a windscreen badge, provided by the council. These badges will show the details of the vehicle as they appear on the plate. Vehicle licence plates and door signs will be provided and must be carried in the boot of the vehicle at all times. Vehicles given this exemption will normally be limousines, executive type cars, such as top range Mercedes, BMW's etc."
7. As such, the matter is referred to the Public Protection Committee so that consideration may be given to the request.
8. The applicants have been invited to attend the meeting.

IMPLICATIONS	
Finance	There are no implications arising directly from the report.
Legal	<p>The requirement to display a licence plate is imposed in the interests of public safety and is intended to enable anybody picked up by a private hire vehicle to verify that the vehicle is a genuine licensed PHV. A further reason for plates being required is to enable a passenger or other member of the public to identify the vehicle in the event of an incident or cause for complaint. Allowing vehicles to operate without complying with the normal requirements to display a plate compromises these protections.</p> <p>In summary, members should, in considering whether to</p>

	grant the dispensation, satisfy themselves that the lowering of the level of protection offered to the public is offset by some advantage offered by allowing the requests. None has been identified in the report, but no doubt the applicants will be able to provide more information to support their request.
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	9 th November 2010	

List of Background Papers		
Name of document	Date	Where available for inspection
Taxi Policy	September 2006	www.fylde.gov.uk and licensing office

Attached documents

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	24 TH NOVEMBER 2010	6

HACKNEY CARRIAGE DRIVER APPLICATION - WST

Public Item

This item is for consideration in the public part of the meeting.

Summary

Following an application made to the Licensing Team for the grant of a Hackney Carriage Drivers Licence, the Committee is requested to consider the application and determine if they consider the applicant fit and proper to hold such a licence.

Recommendation/s

1. That the Committee considers the report and determines the application.

Executive brief

The item falls within the following Cabinet Portfolio:

Community & Social Wellbeing

Councillor Cheryl Little

Report

1. An application has been made by WST for the grant of a Hackney Carriage Drivers Licence.
2. In accordance with the standard procedure for all applications, the applicant was requested to submit a Criminal Records Bureau check and undergo a medical examination.
3. The Disclosure has revealed matters of concern as detailed below:

Continued....

DATE	COURT	OFFENCES	SENTENCE OR ORDER OF COURT
11 th February 2009	Lancashire Constabulary	Battery on 3 rd May 2008 Battery on 3 rd May 2008 Criminal Justice Act 1988 S39	Caution

4. Section 59 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, "a district council shall not grant a licence to drive a hackney carriage ... unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence."
5. Appendix F of the Council's Statement of Taxi and Private Hire Licensing Policy comments in Appendix F, point 3.7 in relation to violence,

3.7 Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for offences involving violence. Applicants with a conviction or caution for grievous bodily harm, wounding, serious assault, possession of a dangerous weapon or other serious offence involving violence or where the offence involved loss of life, will normally be refused a licence. At least 5 years free of such conviction or caution, from either the date of conviction or caution, or from completion of any custodial sentence imposed, which ever is the latter must be shown before an application is entertained and even then careful consideration will be given to the circumstances of the offence and a strict warning will be administered. Convictions for minor violence related offences, e.g. threatening, abusive or insulting behaviour will not necessarily prevent a person from proceeding with an application. In deciding whether to grant such an application the authority will consider the nature of the offence, how long ago it was and what age the applicant was when it was committed and any other factors, which may be relevant.

6. The applicant has been invited to attend the hearing and the Committee is therefore asked to determine the application.

IMPLICATIONS	
Finance	There are no implications arising directly from the report.
Legal	The Committee should have regard to the requirements of fairness and proportionality and to the European Convention on Human Rights in reaching its decision.
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	8 th November 2010	

List of Background Papers		
Name of document	Date	Where available for inspection
Statement of Hackney Carriage and Private Hire Vehicle Licensing Policy		Licensing Office, Town Hall, St Annes and www.fylde.gov.uk/licensing

Attached documents

NONE

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	24 th NOVEMBER 2010	7

PRIVATE HIRE DRIVER APPLICATION - KM

Public Item

This item is for consideration in the public part of the meeting.

Summary

Following an application made to the Licensing Team for the grant of a Private Hire Drivers Licence, the Committee is requested to consider the application and determine if they consider the applicant fit and proper to hold such a licence.

Recommendation/s

1. That the Committee considers the report and determines the application.

Executive brief

The item falls within the following Cabinet Portfolio:

Community & Social Wellbeing

Councillor Cheryl Little

Report

1. An application has been made by KM for the grant of a Private Hire Drivers licence.
2. In accordance with the standard procedure for all applications, the applicant was requested to submit a Criminal Records Bureau check and undergo a medical examination.
3. The Disclosure has revealed matters of concern as detailed below:

Continued....

DATE	COURT	OFFENCES	SENTENCE OR ORDER OF COURT
3 rd July 2002	Blackpool Magistrates	<p>Driving a motor vehicle with excess alcohol on 30/3/02</p> <p>Road Traffic Act 1998 S5(1)(A)</p> <p>Driving without due care and attention on 30/3/02</p> <p>Road Traffic Act 1998 S5(3)</p>	<p>Fine £200</p> <p>Disqualification from driving 12months</p> <p>No separate penalty</p>
10 th June 2003	Preston Crown Court	<p>Possess a controlled drug with intent to supply – Class B – Cannabis resin on 1/2/03</p> <p>Misuse of Drugs Act 1971 S5(3)</p> <p>Possessing controlled drug with intent to supply – Class A – MDMA on 1/2/03</p> <p>Misuse of Drugs Act 1971 S5(3)</p> <p>Possessing controlled drug with intent to supply – Class B – Cannabis 1/2/03</p> <p>Misuse of Drugs Act 1971 S5(3)</p>	<p>Imprisonment 2 years</p> <p>Forfeiture/Destruction/ Disposal of the drugs in default to serve 9months imprisonment consecutive.</p> <p>Imprisonment 2 years consecutive,</p> <p>Imprisonment 2 years concurrent</p>

4. Section 51 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that, “a district council shall not grant a licence to drive a private hire vehicle unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence.”
5. Appendix F of the Council’s Statement of Taxi and Private Hire Licensing Policy, concerning the Relevance of Convictions to Applications is attached for members information and use.

6. The applicant has been invited to attend the hearing and the Committee is therefore asked to determine the application.

IMPLICATIONS	
Finance	There are no implications arising directly from the report.
Legal	The Committee should have regard to the requirements of fairness and proportionality and to the European Convention on Human Rights in reaching its decision.
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	16 th December 2009	

List of Background Papers		
Name of document	Date	Where available for inspection
Statement of Hackney Carriage and Private Hire Vehicle Licensing Policy		Licensing Office, Town Hall, St Annes and www.fylde.gov.uk/licensing

Attached documents

APPENDIX F

APPENDIX F

RELEVANCE OF CONVICTIONS TO APPLICATIONS

The following guidelines will be used to determine the relevance of criminal convictions in relation to applications for hackney carriage and private hire driver's licences. In so stating, this Authority has adopted the guidelines set out in the DOT Circular 2/92 and HO Circular 13/92, subject to certain limited modifications.

General Policy

1. Each application will be determined on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but will be expected to remain free of conviction for 3 to 5 years, according to the circumstances of the offence, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. Listed below are some general principles relating to the determination of applications for drivers and operators of hackney carriages and private hire vehicles which will generally be followed where convictions are admitted.

3.1 Minor Traffic Offences

Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc will not prevent a person from proceeding with an application. Multiple occurrences of similar current offences, however, merit the issue of a warning as to future driving standards. If sufficient penalty points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle driver's licence may be granted after the restoration of the DVLA driving licence, but only after a period of 12 months has elapsed since the expiry of the disqualification or from the date of any subsequent conviction. A warning will, however, be given about future driving standards.

In circumstances where a driver acquires 12 or more penalty points on his DVLA driving licence but is not disqualified from driving because of the mitigating circumstances put before the magistrates' court, the driver's hackney carriage or private hire licence may still be revoked or suspended. Such a matter will always be dealt with by way of a disciplinary hearing (see Appendix M).

3.2 Major Motoring Offences

An isolated conviction for reckless driving or driving without due care and attention etc will normally merit a warning as to future driving and advice on the standard expected of hackney carriage and PHV drivers. More than one conviction for this type of offence within the last 2 years will normally merit refusal with no further application then being considered until a period of 1 to 3 years free from convictions has elapsed. A single conviction for causing death by careless driving or by dangerous driving will be reported to the Public

Protection Committee for determination on the merits of the case.

3.3 Applications where Minor Traffic Offences are not Declared

Where an applicant has failed to disclose one or more of the offences mentioned above on their application form but such offences are subsequently uncovered during a DVLA check or by any other means, the licensing officer may, if he thinks fit, still issue the licence subject to a warning regarding future conduct. If, however, he considers that there was a premeditated intent to deceive, he will normally refer the matter to the Public Protection Committee to be dealt with by way of a disciplinary hearing (see Appendix M).

3.4 Drunkenness

3.4.1 With a motor vehicle

A serious view will be taken of convictions of driving or being in charge of a vehicle whilst under the influence of drink. Where a disqualification has been imposed as a result of a drink-driving offence, an application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence. More than one conviction for such offences will raise grave doubts as to the applicant's fitness to hold a licence and will normally require at least a 10 year clear period from conviction before an application is likely to be considered favourably. If there is any suggestion that the applicant is an alcoholic, a special medical examination will be arranged before the application is entertained. If the applicant is found to be an alcoholic, a period of 5 years must elapse after treatment is complete before a further licence application is considered.

3.4.2 Not in a motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

3.5 Drugs

An applicant with a conviction for a drug related offence is required to show a period of at least 3 years free of convictions before an application is entertained or 5 years after detoxification treatment if he/she was an addict.

3.6 Sexual or Indecency Offences

The drivers of hackney carriages and private hire vehicles often carry passengers who are alone or may be vulnerable. Applicants who have convictions for rape, indecent assault, any sexual offence involving children or other vulnerable victims or any conviction for an offence under the Sexual Offences Act 2003, will, therefore normally be refused a licence. No application will be considered from a person currently on the Sex Offender's Register. Where an applicant has a conviction for a lesser sexual offence, such as indecent exposure, they will normally be refused a licence until they can show a substantial period, usually at least 5 years, free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed. More than one conviction of this kind will raise grave doubts as to the applicant's fitness to hold a licence and will normally require at least a 10 year clear period from conviction before an application is likely to be considered favourably. In all cases, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a fit and proper person to hold a licence. When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a fit and proper person to hold a licence.

3.7 Violence

As hackney carriage and PHV drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for offences involving violence. Applicants with a conviction or caution for grievous bodily harm, wounding, serious assault, possession of a dangerous weapon or other serious offence involving violence or where the offence involved loss of life, will normally be refused a licence. At least 5 years free of such conviction or caution, from either the date of conviction or caution, or from completion of any custodial sentence imposed, whichever is the latter must be shown before an application is entertained and even then careful consideration will be given to the circumstances of the offence and a strict warning will be administered. Convictions for minor violence related offences, e.g. threatening, abusive or insulting behaviour will not necessarily prevent a person from proceeding with an application. In deciding whether to grant such an application the authority will consider the nature of the offence, how long ago it was and what age the applicant was when it was committed and any other factors, which may be relevant.

3.8 Dishonesty

Hackney carriage and PHV drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for dishonest drivers to defraud the public, for example, by demanding more than the legal fare. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view will be taken of any convictions involving dishonesty. In general, a period of 5 years free of convictions will be required before an application is entertained.

3.9 Persistent Criminality

Due to the potential risks to the public, applications from persons with a persistent record of criminality, where the record suggests a persistent lack of regard for the well-being of others or for their property rights, would normally be refused.

3.10 Other Offences and special circumstances

If the applicant has declared any other offences not listed above or the circumstances of the case justify it, the licensing officer will, if he considers it appropriate, refer the application to the Public Protection Committee for determination.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	PUBLIC PROTECTION COMMITTEE	24 th NOVEMBER 2010	8

PRIVATE HIRE DRIVER APPLICATION - RM

Public Item

This item is for consideration in the public part of the meeting.

Summary

Following an application made to the Licensing Team for the grant of a Private Hire Drivers Licence, the Committee is requested to consider the application and determine if they consider the applicant fit and proper to hold such a licence.

Recommendation/s

1. That the Committee considers the report and determines the application.

Executive brief

The item falls within the following Cabinet Portfolio:

Community & Social Wellbeing

Councillor Cheryl Little

Report

1. An application has been made by RM for the grant of a Private Hire Drivers licence.
2. RM has previously been licensed by this Authority as a Private Hire driver but that licence expired on the 11th October 2010. An application to renew the licence was not submitted and on the 9th November 2010, RM was found to be working as a private hire driver, despite not holding the required licence.

Continued....

3. RM has been formally interviewed regarding the offence committed under S46(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976 and a report has been submitted with a view to taking formal legal action.
4. For information, a satisfactory CRB Disclosure Certificate for RM was last received on the 12th January 2010 and a medical received on the 8th February 2010.
5. However, members may wish to be aware that on the 14th October 2008, the Licensing Office wrote to RM pointing out that renewal applications in 2006, 2007 and 2008 had all been submitted after the expiry date of the licence.
6. Furthermore, in August 2008 numerous messages were left for RM relating to the expiry of his vehicle insurance and on the 9th and 29th October and 12th November 2009 the licensing office had cause to write to RM relating to his failure to submit a CRB Disclosure application.
7. The applicant has been invited to attend the hearing and the Committee is therefore asked to determine the application.

IMPLICATIONS	
Finance	There are no implications arising directly from the report.
Legal	The Committee should have regard to the requirements of fairness and proportionality and to the European Convention on Human Rights in reaching its decision.
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	11 th November 2010	

List of Background Papers		
Name of document	Date	Where available for inspection

Statement of Hackney Carriage and Private Hire Vehicle Licensing Policy		Licensing Office, Town Hall, St Annes and www.fylde.gov.uk/licensing
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Attached documents

APPENDIX F

Public Protection Committee



Date	5 August 2010
Venue	Town Hall, St Annes
Committee members	Angela Jacques (Chairman) Dawn Prestwich (Vice-Chairman) Christine Akeroyd, Keith Beckett, John Davies, Leonard Davies, Ken Hopwood
Other Councillors	Cheryl Little
Officers	Ian Curtis, Chris Hambly, Michael Duck, Annie Womack,
Others	PC Scott, A Winston, Ross Etchells, Clive Holt (LCC), Roger Wightman, Robin Atkinson, Charles Furnell

1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

Councillor Beckett declared a personal interest in Item 6 of the agenda, as he knew the person making the application.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the Public Protection Committee held on 29 March 2010 as a correct record for signature by the chairman.

3. Substitute members

None

4. Designated Public Place Order (DPPO)

Chris Hambly (Licensing Officer) introduced a report to advise the members of a request for the introduction of a DPPO within the Kilnhouse. The report sought the authority of the committee to commence consultation with a view to introducing the DPPO.

The local authority has the power to so designate a public place if it is satisfied that nuisance or annoyance to the public, or disorder has been caused due to the consumption of intoxicating liquor in that place. He reminded the committee that a DPPO is not a ban on the consumption of alcohol, but is a tool for the police to deal with issues arising from nuisance or annoyance associated with alcohol consumption.

Members were provided with a map showing the boundaries of the proposed DPPO.

After a discussion, the committee RESOLVED:

1. To authorise officers to commence a consultation process and report back to committee in due course.

The Chairman indicated that she felt the matter was not controversial and that no useful purpose would be served by having a recorded vote. The resolution was carried by a show of hands.

5. Request for Dispensation from Displaying Private Hire Vehicle Signage

Mr Hambly also introduced this report which related to the requests from 2 licensed Private Hire Operators to have dispensation from displaying the required private hire vehicle signage.

Copies of the requests (from Mr Winston of Fylde Limousines, and Mr Etchells of Gentley Bentley) were appended to the report.

Mr Hambly explained that members should be satisfied that the vehicles were of such a type and age that they would be appropriate for executive travel and that such work represented at least 80% of their business. He also told members that the Operators must still display a windscreen badge, and must carry licence plates and door signs in the boot of the car.

Members declared themselves satisfied that the cars met the appropriate criteria and after discussion RESOLVED:

1. To permit the dispensation for both Operators.

The Chairman indicated that she felt the matter was not controversial and that no useful purpose would be served by having a recorded vote. The resolution was carried by a show of hands.

6. Private Hire Driver Application - GRW

Mr Hambly advised the committee that GRW was not able to be present and the committee RESOLVED:

1. To adjourn the matter until the next Public Protection committee meeting.

7. Application for a Pavement Café Licence

An application had been received for the grant of a pavement licence outside Henry's, 5-7 Lytham Street, Lytham. Mr Hambly advised the committee that objections had been received from the Highways Authority, Health and Safety Team and members of the public (although one objection had subsequently been withdrawn), and that one positive representation had been made by Lytham in Bloom. Most of the objections concerned the amount of space which would be available for pedestrians to pass by safely, and the potential for obstruction of the pavement. In particular there were concerns that there was a car parking bay (limited stay) along the frontage of the premises which could further restrict space with car doors opening regularly over the footway.

Fylde Borough Council's policy relating to Pavement Café Licences states that there should be at least 1.8 metres (6 feet) of unobstructed space between the carriageway and the front of the café. Measurements taken indicated that this condition would be met provided that the proprietors only took a width of 3 feet in which to operate the café. Plans provided by the licensees showed that this was achievable.

Mr Clive Holt of Lancashire County Council expressed some concerns about the length of the proposed serving area, as well as the width remaining on the pavement being insufficient.

Representatives for the license application were present and gave the committee assurances that service that customers would be seated from within the premises and all service to customers would also take place from within, thus minimising potential obstruction for passers-by. It was argued that the application fully met guidance.

Members raised a query regarding the height of the step from the premises down to the outside café tables, from a health and safety perspective both for customers and staff. They suggested that if the licence were to be granted that the operation of it should be monitored.

After an in-depth discussion the committee RESOLVED:

1. To grant the licence subject to its renewal in 12 months, and subject to a full health and safety risk assessment

The Chairman advised that she felt that the decision was not controversial, the committee agreed and the resolution was carried by a show of hands.

8. Private Hire Operator

Mr Hambly reported that a request had been received from Premier Fylde to amend their licence so that instead of operating out of offices in St Annes Pier, they would use as their operating base for telephone bookings the company's main address on Lytham Road Blackpool.

He advised the committee that the legislation was unclear as to whether this was lawful, but on balance, officers believed it was implied that operators may be licensed outside the Borough. However, Fylde's Policy states that the Authority will not grant an operators licence with an operating base which is outside the Borough. The main purpose of this restriction was to ensure proper regulation and enforcement.

The intention of the company was to modernise and centralise the business, and it was stated that computer software would ensure that only Fylde licensed vehicles and drivers would be sent to Fylde customers.

In response to questions from committee members, Mr Hambly confirmed that the operator's licence would need to be renewed annually, and that the service could be tested to ensure that the right car was sent to the right place.

The committee considered the matter and RESOLVED:

1. Subject to monitoring, and to review at renewal of the licence, to allow the request.

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