

LICENSING COMMITTEE AGENDA



Wednesday 12th April 2006

at 11.00 am

in Committee Room “B”

MEMBERS: LICENSING COMMITTEE:

Councillors Cambridge, Cook, Flintoff, Griffin, Hall, Jackson, Kaiser, Lilley, Morris, Rayner, Richardson, Rogan, Tumilty, Wallace and Worthy

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To confirm the Licensing Committee minutes of the meeting of 15th March (adjourned and reconvened on 16th March).

4. ITEMS REQUIRING DECISION

- 4.1 Application for Street Trading Consent – Red Gap Farm Lay-By – Head of Public Protection and Housing

5. ITEMS FOR INFORMATION

None.

6. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985”.

6. ITEMS REQUIRING DECISION

None.

7. ANY OTHER CONFIDENTIAL ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

<p style="text-align: center;">LICENSING COMMITTEE</p> <p style="text-align: center;">MINUTES AND DECISION RECORD</p> <p style="text-align: center;">15th March 2006</p>
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Present:

Councillor Stan Kaiser (In the Chair)

Officers: Ralph Harrison, Head of Public Protection & Housing
Tony MacNab, Solicitor
David Cosgrove, Principal Democratic Services Officer
Angela Hunter, Principal Democratic Services Officer

Also Present:

Mr and Mrs Masterman
Mr S Catchell, Legal Representative
PC Paul Hanson
PC Mick Beard

55. Apologies for Absence

Apologies for absence were submitted on behalf of Councillors John Cambridge, Rob Cook, Bob Flintoff, Sheila Griffin, Gerard Hall, Peter Jackson, Geoff Lilley, George Morris, Pat Rayner, Carl Richardson, Trevor Rogan, Victor Tumilty, Steve Wallace and Gladys Worthy.

56. Adjournment of Meeting

In the absence of a quorum, the meeting was adjourned and the Chair determined that the meeting be reconvened on Thursday 16th March 2006 at 10.00am. During the discussions that followed, the applicant's legal representative indicated that costs had been incurred by the applicant due to their attendance at today's meeting.

Upon Reconvening the meeting on Thursday 16th March 2005 at 10.00am, the following Members were present:

Councillor Stan Kaiser (In the Chair)

Councillors: John Cambridge, Rob Cook, Bob Flintoff, Gerard Hall, Geoff Lilley, George Morris, Pat Rayner, Victor Tumilty

Officers: Tony MacNab, Solicitor
David Cosgrove, Principal Democratic Services Officer
Angela Hunter, Principal Democratic Services Officer

57. Apologies for Absence

Apologies for absence were submitted on behalf of Councillors Sheila Griffin and Gladys Worthy.

58. Declarations of Interest by Members

None.

59. Confirmation of the minutes of the Licensing Act Committee held on 25th January 2006 and the Licensing Committee on 15th February 2006.

Confirmed.

60. Application for Street Trading Consent (*Head of Public Protection and Housing*)

Purpose of report

To consider an application for a Street Trading Consent for the A19 northbound lay-by near to Red Gap Farm.

Issue(s) considered by the Committee

The applicants and their legal representative attended the Licensing Committee yesterday which was adjourned. They indicated at yesterday's meeting that they were unable to attend today and were agreeable to the application being deferred until the next Licensing Committee on 12th April. However, the Police had suggested a site meeting for Members of the

Committee may prove useful in their deliberations.

The Council's Solicitor indicated that it was necessary for all Members who would participate in the decision-making on this application, to attend the site visit. It was suggested therefore, that the site visit be immediately prior to the next meeting of this Committee on 12th April.

Decision

- i) The decision on this item would be deferred until the next meeting of the Licensing Committee on 12th April 2006.
- ii) A site visit would be arranged to take place immediately prior to the commencement of this Committee, with the Committee commencing at 11.00am or immediately after the site visit, whichever was the later.

61. Licensing Committee: Terms of Reference and Establishment of Sub-Committee – Assistant Chief Executive

Purpose of Report

To outline the new terms of reference for the new Licensing Committee following its establishment by Council on 16th February 2006 and to seek appointments to a new sub-committee to deal with Hackney Carriage and Private Hire licences.

Issue(s) considered by the Committee

At its meeting on 16th February 2006, Council agreed that the new Licensing Committee should consist of fifteen members that formed the membership of the previous Licensing Act Committee. As the bulk of the work of the new Licensing Committee would be undertaken by the new sub-committee, it was proposed that the new Licensing Committee be scheduled in the Council diary on a quarterly basis. Should any matters need an early resolution, additional meetings may be called, although that was not expected to occur often. The terms of reference for the new Licensing Committee were attached to the report by way of appendix.

Council approved that the five three-member Licensing Act Sub-Committees continue to deal with those matters delegated to them under the requirement of the Licensing Act 2003. The creation of a new sub-

committee which was required to be politically balanced and known as the “Hackney Carriage and Private Hire Licensing Sub-Committee” was also approved by Council. This sub-committee would have delegated powers in relation to hackney carriage and private hire licensing so far as they relate to vehicles and drivers, but not matters of policy which would remain with the main committee.

Following consideration of this report, it was suggested that three 5-Member Sub-Committees be created, with a quorum of 3, in order to share the workload across all the Licensing Committee Members. Members suggested that the Licensing Committee receive reports of the decisions made by the Sub-Committees and through officers delegated powers on a regular basis to ensure consistency across all licensing decision-making.

The Sub-Committees would operate on a rota basis and the following membership was agreed:

Sub-Committee 1	Sub-Committee 2	Sub-Committee 3
Councillor S Kaiser (Ch)	Councillor G Morris (Ch)	Councillor R Cook (Ch)
Councillor B Flintoff	Councillor V Tumilty	Councillor G
Worthy		
Councillor G Hall	Councillor C Richardson	Councillor G Lilley
Councillor P Jackson	Councillor S Griffin	Councillor P Rayner
Councillor S Wallace	Councillor T Rogan	Councillor J
Cambridge		

Decision

- (i) That the terms of reference for the new Licensing Committee were noted.
- (ii) That the Licensing Committee meets at least quarterly.
- (iii) That the new Sub-Committees be known as the “Hackney Carriage and Private Hire Licensing Sub-Committee” with the membership agreed as above in accordance with political balance.
- (iv) That the functions of the main committee relating to hackney carriage and private hire licensing so far as they relate to vehicles and drivers but not matters of policy, be delegated to the Hackney Carriage and Private Hire Licensing Sub-Committee.
- (v) That the Licensing Committee receive a quarterly report on the matters considered by the Licensing Act Sub-Committees and the Hackney Carriage and Private Hire Licensing Sub-Committees.

62. Local Government (Access to Information) Act 1985

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 63 – Any Other Business – Adjournment of Licensing Committee – 15th March 2006 (Para 1 – Information relating to any individual)

63. Adjournment of Licensing Committee – 15th March 2006

Details were set out in the exempt section of the minutes.

STAN KAISER

CHAIRMAN

Report of: Head of Public Protection and Housing

Subject: APPLICATION FOR STREET TRADING CONSENT –
RED GAP FARM LAY-BY

1. PURPOSE OF REPORT

- 1.1 To consider an application for a Street Trading Consent for the A19 northbound lay-by near to Red Gap farm.

2. DETAILS OF APPLICATION

Applicant: Mr Gary Masteman
17 Greylands Avenue
Norton
Stockton

Location details: A19 Northbound lay-by, near to Red Gap Farm

Permissions requested: - Hot sandwiches and drink

Times requested: - Monday – Friday 0730 until 1400
Saturday 0730 until 1200

2. BACKGROUND

- 2.1 On 2nd March 2005 it was resolved that parts of the Local Government (Miscellaneous Provisions) Act 1982 be adopted to have the effect of requiring permissions to be obtained for street trading in Hartlepool.
- 2.2 Anyone wishing to trade from any street in Hartlepool, except a prohibited street, is required to obtain from the Council a Street Trading Licence or a Street Trading Consent.
- 2.3 An application for a Street Trading Consent has been received from Mr Gary Masterman concerning a proposed trading site at the A19 northbound lay-by near to Red Gap farm.
- 2.4 Mr Masterman claims to have traded from this site since 1982 but, until the adoption of street trading controls in Hartlepool last year, no trading permit has previously been required.

- 2.5 Following a consultation period, objections have been received to the application from the Highways Agency (**Appendix I**) and Cleveland Police (**Appendix II**).

3. ISSUES

- 3.1 Both objections relate to the proposal by the Highways Agency to introduce a Traffic Regulation Order (TRO) to restrict waiting in this lay-by. The effect of this would be to alter the layout of the area, narrowing the road and effectively meaning that the lay-by would become an access road to the farm and neighbouring properties only.
- 3.2 The Police have indicated that if the TRO were to go ahead, and the road be narrowed, any parked vehicle would effectively be obstructing the highway. The Police objection states that 'in view of the proposed alterations it is the view of the Police that it would be both dangerous and obstructive to park a vehicle in this location once the alterations have been carried out'.
- 3.3 The Highways Agency have stated that trading from the proposed area would 'be likely to increase the number of vehicles in the lay-by that will be subject to the TRO'.
- 3.4 Mr Masterman has advised that in 2002 action was taken against him by the Highways Agency for a breach of a 'clearway order' concerning his trading in this lay-by. Mr Masterman maintains that this action was subsequently dropped by the Crown Prosecution Service as it was not in the public interest.
- 3.5 Mr Masterman is aware that a TRO is being considered for this area but has indicated that he would still wish for his application to be considered.
- 3.6 Should a Street Trading Consent be granted, Mr Masterman will be able to apply for a partial refund of the Consent fee if the TRO is introduced and he is forced to leave.
- 3.7 It is understood that both the Highways Agency and the Police have powers available to them to move Mr Masterman from his current trading site and Members may wish to consider why such powers have not been exercised.
- 3.8 As both objections relate to the expected introduction of a TRO and not to Mr Masterman's current trading arrangements, for which no enforcement action has previously been taken, Members may wish to consider whether a Street Trading Consent should be granted until such time as the TRO comes into force.

4. RECOMMENDATIONS

- 4.1 That Members approve the application for a Street Trading Consent, subject to Mr Masterman being advised that such a Consent may be withdrawn following the implementation of a Traffic Regulation Order for the site.

Appendix I

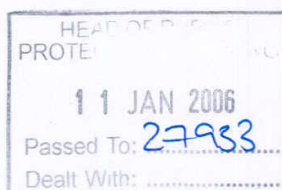
Safe roads, Reliable journeys, Informed travellers



Our ref: NZ 442 295
Your ref: DB/NP/STC028

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City House
New Station Street
Leeds LS1 4UR

Hartlepool Borough Council
Civic Centre
Hartlepool
TS24 8AY



Direct Line: 0113 283 5497

Fax: 0113 283 5367

9 January 2006

For the attention of Dave Barnfather

Dear Dave

A19 APPLICATION FOR STREET TRADING RED GAP FARM LAYBY

I refer to your recent consultation regarding the above application.

Further to my previous letter regarding the above application I have had discussions with colleagues responsible for the maintenance of this section of the A19. There are proposals to introduce a Traffic Regulation Order (TRO) to restrict waiting in the layby at the above location. This proposal has been discussed with representatives of Cleveland Police who are in support of the proposed TRO. Cleveland Police would then undertake enforcement of the waiting restrictions following the implementation of the TRO.

The proposed development would therefore be likely to increase the number of waiting vehicles in the layby that will be the subject of a TRO to restrict waiting and the Highways Agency would therefore object to the proposal. The Highways Agency does not retain powers to direct refusal in these matters, however our recommendation with respect to the application would be one of refusal.

I trust that this will enable you to prepare a response, however should you require any further information please do not hesitate to contact me.

Yours sincerely

Robert Rodger
Development Control
NS (NE)
Email: robert.rodger@highways.gsi.gov.uk

*11/1 Rang R.R and request
some timescale for the
proposed TRO also any
powers the H.A currently
have to move on this
trade.*

Appendix II



"HANSON, Paul"
 <Paul.Hanson@cleveland.pnn.police.uk>
 15/12/05 11:56

To <Licensing@hartlepool.gov.uk>
 cc "BEARD, Michael"
 <Michael.Beard@cleveland.pnn.police.uk>
 bcc
 Subject RE: Street Trading - Gary Masterman (STC028)

Dave,

The police are aware that the Highways Agency have plans to radically and substantially alter the layout of the lay-by in question, effectively resulting in it no longer being a lay-by. It is proposed to narrow the carriageway into a single lane and the parking of any vehicle there would obstruct access to Red Gap Farm and onward access to the A19 Northbound carriageway.

The granting of any permission to trade at this location would ultimately result in what amounts to the wilful obstruction of the highway. If there were no concerns about the safety and legality of placing a vehicle at this location the police might view the application differently, however, in view of the proposed alterations it is the view of the police that it would be both dangerous and obstructive to park a vehicle in this location once the alterations have been carried out. It may also lead to unnecessary complications should Mr Masterman lodge an objection to the proposed development on the grounds that they would adversely affect his livelihood.

The police would wish to object to the grant of this application for street trading on the above grounds.

Paul Hanson.
 Licensing.
 Hartlepool.

20/12/05 - Rang Paul and requested he confirm if the Police have any statutory power to remove applicant.

-----Original Message-----

From: Nicola.Purdy@hartlepool.gov.uk [mailto:Nicola.Purdy@hartlepool.gov.uk] **On Behalf Of** Licensing@hartlepool.gov.uk
Sent: 15 December 2005 11:29
To: HANSON, Paul; ROSS, James; Peter.Frost@hartlepool.gov.uk; Philip.Hepburn@hartlepool.gov.uk; Jane.Kett@hartlepool.gov.uk
Cc: Karen.Oliver@hartlepool.gov.uk
Subject: Street Trading - Gary Masterman (STC028)

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Any problems, please contact infosys@hartlepool.gov.uk

Local Government (Miscellaneous provisions) Act 1982
Application for Street Trading - Gary Masterman (STC028) Layby 1 mile North of Hartlepool (turn off on A19, adjacent to Red Gap Farm)