



General Licensing Sub-Committee

Agenda and Reports

For consideration on

**Wednesday, 4th February
2009**

in the Council Chamber, Town Hall, Chorley

At 10.00 am



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28 January 2009

Dear Councillor

GENERAL LICENSING SUB-COMMITTEE - WEDNESDAY, 4TH FEBRUARY 2009

You are invited to attend a meeting of the General Licensing Sub-Committee to be held in the Council Chamber, Town Hall, Chorley on Wednesday, 4th February 2009 commencing at 10.00 am.

AGENDA

1. **Apologies for absence**

2. **Declarations of Any Interests**

Members are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda. If the interest arises **only** as result of your membership of another public body or one to which you have been appointed by the Council then you only need to declare it if you intend to speak.

If the personal interest is a prejudicial interest, you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

3. **Minutes (Pages 1 - 4)**

To confirm as a correct record the minutes of the meeting of the General Licensing Sub-Committee held on 7 January 2009 (enclosed).

4. **Local Government (Miscellaneous Provisions) Act 1982 - Application for the renewal of a Sex Establishment Licence (Pages 5 - 12)**

To receive and consider the attached report of the Director of Corporate Governance, with enclosed copy letter and location plan.

5. **Any other item(s) that the Chair decides is/are urgent**

6. **Exclusion of the Public and Press**

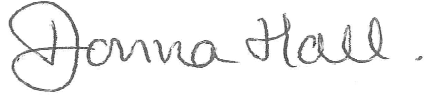
To consider the exclusion of the press and public for the following item of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

7. **Private Hire Driver's Licence - Convictions** (Pages 13 - 28)

To receive and consider the enclosed report of the Director of Corporate Governance.

The procedure for licensing hearings is also attached, together with the conditions imposed on private hire drivers' licences.

Yours sincerely



Donna Hall
Chief Executive

Tony Uren
Democratic and Member Services Officer
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Distribution

1. Agenda and reports to all Members of the General Licensing Sub-Committee (Councillor Iris Smith (Chair) and Councillors Anthony Gee, Debra Platt, Ralph Snape and John Walker) for attendance.
2. Agenda and reports to Chris Moister (Legal Services Manager), Stephen Culleton (Licensing Manager), Bob Beeston (Licensing Enforcement Officer), Janet Brereton (Legal Assistant (Licensing and Registration)) and Tony Uren (Democratic and Member Services Officer) for attendance.

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

General Licensing Sub-Committee**Wednesday, 7 January 2009**

Present: Councillor Edward Smith (Chair) and Councillors Anthony Gee, Iris Smith and Ralph Snape

09.LSC.23 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Keith Iddon.

09.LSC.24 DECLARATIONS OF ANY INTERESTS

Councillor Anthony Gee declared a prejudicial interest in the case considered at Minute No. 08.LSC.27 and left the meeting during the discussion and deliberations on the matter.

09.LSC.25 MINUTES

Resolved - That the minutes of the meeting of the General Licensing Sub-Committee held on 2nd December 2008 be confirmed as a correct record and signed by the Chair.

09.LSC.26 EXCLUSION OF THE PUBLIC AND PRESS

Resolved - That the press and the public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of part 1 of Schedule 12A to the Local Government Act 1972.

(Councillor Anthony Gee declared a prejudicial interest in the following item. He left the meeting during the debate on the item and the subsequent deliberations.)

09.LSC.27 PRIVATE HIRE DRIVER MR AA - APPLICATION TO DRIVE HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES

The Sub-Committee considered a report of the Director of Corporate Governance seeking instruction on an application from Mr A. A. for a licence to drive hackney carriages and private hire vehicles.

The Council 's adopted policy stated that applicants for a hackney carriage/private hire drivers licence should be over 21 years of age and have at least 3 years driving experience as the holder of a full driving licence.

The applicant did not meet either criteria and, consequently under normal circumstances he would not have qualified for a driver's licence. In addition the applicant had received a speeding conviction in June, 2007.

The applicant attended the meeting to support his argument for the Authority to waive the adopted policy, explaining the circumstances of his conviction and confirming an offer employment if a licence was granted.

The Sub-Committee considered all aspects of the application, including the applicant's representations; the applicant's age and driving experience; the relevance of convictions for minor traffic offences; and the potential job appointment for the applicant.

After taking account of all relevant factors and considerations, the Sub-Committee considered that the applicant had shown himself to be a fit and proper person to drive hackney carriages and private hire vehicles, and that there was exceptional circumstances to warrant approval of the application.

Resolved - That a licence to drive hackney carriages and private hire vehicles be granted to the applicant, Mr A. A.

09.LSC.28 HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MR YM CONVICTIONS

The Director of Corporate Governance presented a report drawing attention to a conviction against the holder of a licence to drive hackney carriages and private hire vehicles, Mr Y.M., under Section 4 (1) of the Public Order Act 1986 and requesting the Sub-Committee to consider the implications of the conviction for the licence holder.

Following an incident on the taxi rank in Chorley in May 2008 involving three licensed drivers, Mr Y.M., upon his own confession had been convicted of an offence contrary to Section 4 (1) of the Public Order Act 1986 and sentenced to a 12 months conditional discharge.

Mr Y.M., accompanied by his legal representative, attended the meeting to put forward representations urging the Sub-Committee not to revoke his licences.

The Sub-committee members raised several issues in clarification of the driver's representations, querying in particular why complaints about taxi drivers' practices had not been raised with the Council's Licensing Officers for investigation.

The Sub-Committee assessed all elements and aspects of the case, including the implications and relevance of the conviction; the driver's representations; the public safety considerations; and the optional courses of action available to the Sub-committee.

The Sub-Committee, after taking account of all relevant factors, was not satisfied that Mr W.M. was a fit and proper person to hold a hackney carriage and private hire vehicle driver's licence, in the light of the fact that since the granting of the licence, Mr Y.M. the driver had been convicted of a serious offence.

Resolved - That, in the interest of public safety, the licence to drive hackney carriages and private hire vehicles granted to Mr Y.M. be revoked.

09.LSC.29 HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE - MR RS CONVICTIONS

The Sub-Committee considered a report of the Director of Corporate Governance drawing attention to a conviction against Mr R. S., (the holder of a licence to drive hackney carriages and private hire vehicles) under Section 4 (1) of the Public Order

Act 1986 and requesting the sub-committee to consider the implications of the convictions for the licence holder.

Following an incident on the taxi rank in May, 2008 involving three licensed taxi drivers, Mr R.S., upon his own confession, had been convicted of offences contrary to Section 4 (1) of the Public Order Act 1986 and given a total sentence of 18 months conditional discharge.

The taxi driver, accompanied by his legal representative, attended the meeting to put forward representations urging the Sub-Committee not to revoke his licences.

The Sub-Committee Members raised several issues in clarification of the taxi driver's representations, querying in particular why complaints about taxi drivers' practices had not been raised with the Council's Licensing Officers for investigation.

The Sub-committee assessed all elements and aspects of the case, including the implications and relevance of the conviction; the taxi driver's representations; the public safety considerations; and the optional courses of action available to the Sub-committee.

The Sub-Committee, after taking account of all relevant factors, was not satisfied that Mr R.S. was a fit and proper person to hold a hackney carriages and private hire vehicles driver's licence, in the light of the fact that, since the granting of the licence, the driver had been convicted of serious offences.

Resolved - That, in the interests of public safety, the licence to drive hackney carriages and private hire vehicles granted to Mr R. S. be revoked.

09.LSC.30 PRIVATE HIRE DRIVER MR A I P - APPLICATION TO DRIVE HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES

The Sub-Committee considered a report of the Director of Corporate Governance seeking instructions on an application from Mr A.I.P. for a licence to drive hackney carriages and private hire vehicles.

The Council's adopted policy stated that applicants for a taxi driver's licence should have at least 3 years driving experience as the holder of a full driving licence. The applicant had not held a full UK driving licence for 3 years, or an international driving permit for a full 3 years. Consequently, under normally circumstances, the applicant would not qualify for a driver's licence

In addition, the applicant had not declared on his application form a caution he had received in September 2007 for an offence committed under the Criminal Justice Act 1988.

Mr A.I.P. attended the meeting to put forward arguments why he considered that the Sub-committee should consider waiving the adopted policy and granting him a driver's licence under exceptional circumstances.

The Sub-committee considered all aspects of the application, including the applicant's representations; the applicant's driving experience (particularly in the UK); the relevance of the undisclosed caution; and the public safety considerations.

The Sub-Committee, after taking account of all the relevant factors and considerations, considered that Mr A.I.P. had not demonstrated sufficient exceptional circumstances to warrant them granting him a licence at this stage. The Councillors considered that, while the applicant had not convinced them that he had currently sufficient experience and knowledge to practice as a taxi driver in Chorley, he might

be capable of gaining a satisfactory level of experience and knowledge of the Borough through an appropriate training course.

Resolved - That a hackney carriage/private hire vehicle driver's licence be not granted to Mr A.I.P. but that he be advised to undertake a recognised BTEC training course in passenger vehicle driving at a local college and to submit a further application for a hackney carriage/private hire vehicle driver's licence upon the successful completion of the course.

Chair

Report of	Meeting	Date
Corporate Director of Governance	General Licensing Sub-Committee	4 February 2009

APPLICATION FOR THE RENEWAL OF A SEX ESTABLISHMENT LICENCE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 3, PARAGRAPH 6

PURPOSE OF REPORT

1. To enable Members to determine an application to renew the sex establishment licence for premises known/trading as 'M & M Sensations'. To further enable Members to consider a petition signed by 182 signatories to relocate the sex shop.

RECOMMENDATION(S)

2. Members are asked to determine the application for renewal of the sex establishment in light of the written representations received and any representations made at the meeting.

CORPORATE PRIORITIES

3. This report relates to the following Strategic Objectives:

Put Chorley at the heart of regional economic development in the Central Lancashire sub-region		Develop local solutions to climate change.	
Improving equality of opportunity and life chances		Develop the Character and feel of Chorley as a good place to live	
Involving people in their communities		Ensure Chorley Borough Council is a performing organization	

BACKGROUND

4. An application to renew the sex establishment licence has been received in respect of the 'M & M Sensations' premises situated at 75 Bolton Road, Chorley. The premises has had the benefit of a sex establishment licence since 22 August 2002.
5. In accordance with the requirements of Section 10, paragraphs (7)-(10) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, the Applicant has advertised the application in the local press and displayed a notice of the application premises, within the required statutory time limits.
6. The local Police have been consulted and their views sought. They have confirmed that they have no objection to the renewal of the Licence.

7. The Fire Service has stated that they have no objection to the Licence renewal.
8. The Council’s Environmental Services have been consulted and have no comments to make relating to this application.
9. The Licensing Enforcement Officer has confirmed that there have been no enforcement issues with these premises.
10. A letter objecting to the renewal of the Licence has been received. A copy of this letter is attached to this Report (appendix 1). The objector has been invited to attend this meeting.
11. A petition has been received signed by 182 signatories. The petition is headed ‘Petition to relocate the Sex Shop on Bolton Street’. A copy of the petition will be circulated at the meeting. All signatories have been invited to attend the meeting.

LEGAL POSITION

12. The Local Government (Miscellaneous Provisions) Act 1982 provides that an application for the renewal of a licence may be refused on a number of grounds:
 - 12.1 that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;
 - 12.2 that if the licence were renewed the business to which it relates would be managed or carried on for the renewal of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if they made the application himself;
 - 12.3 that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considered appropriate for that locality;
 - 12.4 the renewal of the licence would be inappropriate, having regard:
 - (i) To the character of the relevant locality.
 - (ii) To the use to which any premises in the vicinity are put, or
 - (iii) To the layout, character, condition of the premises in respect of which the application is made.

13. This Authority resolved on 4 September 2002 the following:

‘This Authority will not normally grant a sex establishment licence sought to be established in the Borough within a distance of 2.5 miles from an existing sex establishment calculated as the crow flies. That as part of this Policy account should be taken of existing licences in local authority areas that immediately border the Borough boundary.’ In terms of the application before the Committee, there are no premises within the criteria mentioned above.

IMPLICATIONS OF REPORT

14. This report has implications in the following areas and the relevant Corporate Directors’ comments are included:

Finance		Customer Services	
Human Resources		Equality and Diversity	
Legal	4	No significant implications in this area	

LEGAL IMPLICATIONS

15. The legal issues are set out in the report.

ANDREW DOCHERTY
CORPORATE DIRECTOR OF GOVERNANCE

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Janet Brereton	5204	22 January 2009	LEGREP/2201LM1

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RECEIVED 04 NOV 2008

Licensing

My name is Mrs Joanna Short.
I am writing to your department to object
against the Sex Shop in Bolton St, Chorley,
renewing its licence.

I believe as do many in the community,
that such a business should not be sited
9 shops away from a lollipop crossing.

A group of mum's have raised a petition.
Some of the people on the petition are head
teachers and teaching staff of local schools.
Also many Parents and Grandparents.

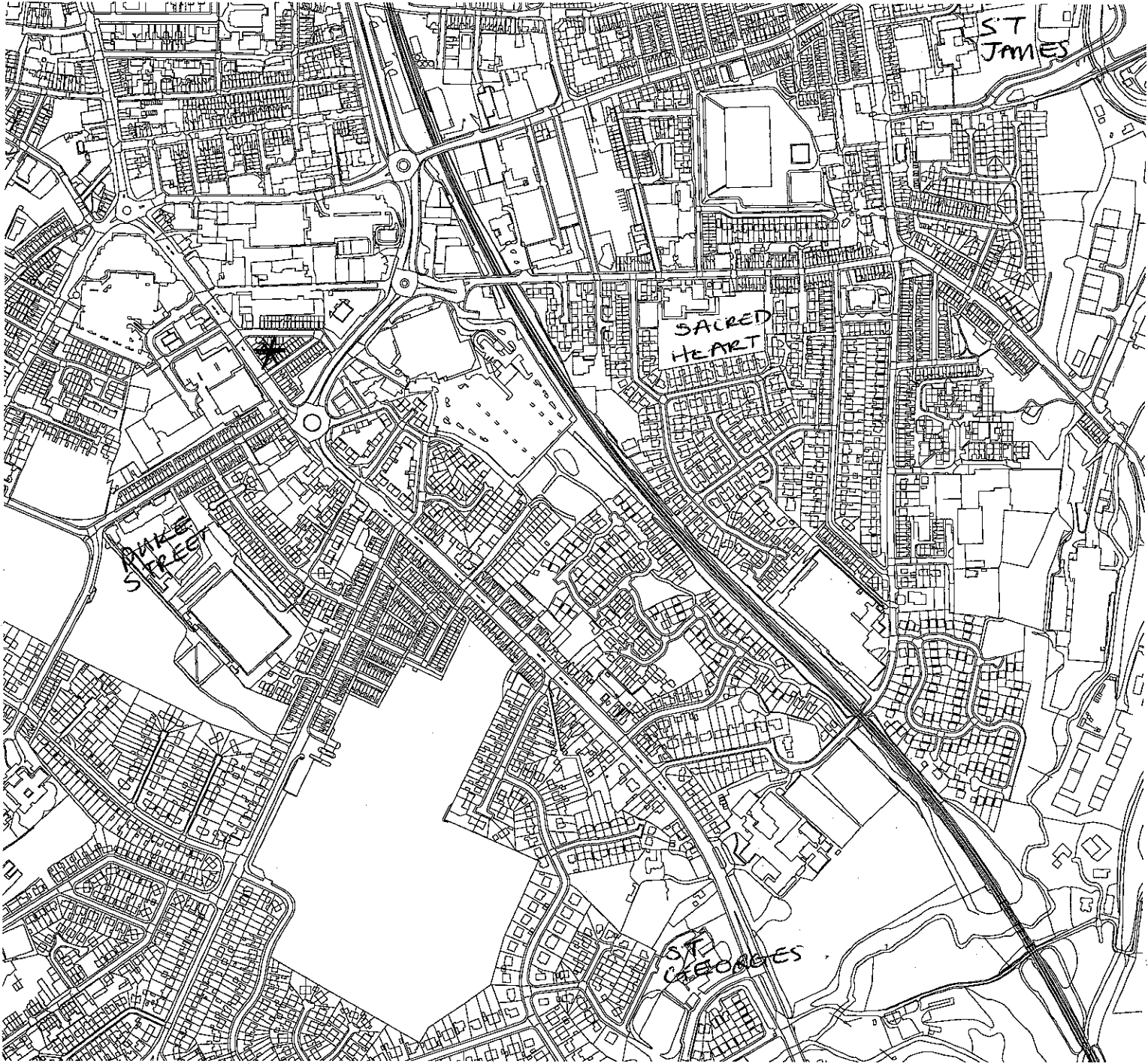
I also have photographic evidence which
shows how close the shop is to a lollipop
crossing.

Please could you let me know the time
and date of the council licensing meeting.
So I may attend and submit the petition,
and make known the community's views.

Thank you for your time.

Yours faithfully

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of the Local Government Act 1972.

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