

COUNCIL MEETING – 20 JANUARY 2015

REPORT OF THE LICENSING SUB-COMMITTEE

1 December 2014

Present: Councillors Griffiths (Chairman), Morrall and Scarborough.

Also present: Mr J Chadwick, Solicitor, District Law, Mrs A Wilcox, Principal Health Protection/Licensing Manager, Mr M O'Donnell, Senior Environmental Health Officer and Mrs C A Mundy, Democratic Services Officer.

(The hearing commenced at 10.30am.)

1. APPOINTMENT OF CHAIRMAN

RESOLVED that Councillor Griffiths be appointed as chairman for this sub-committee meeting.

2. APPLICATION TO REVOKE OR SUSPEND A HACKNEY CARRIAGE DRIVER'S LICENCE

The chairman welcomed the applicant Mr M, and his friend, to the meeting and introduced the sub-committee members and officers present to the applicant and explained how the sub-committee would proceed.

RESOLVED that the press and public be excluded from the meeting during consideration of the above item in accordance with Section 100A(4) to the Local Government Act 1972 on the grounds that it would involve the likely disclosure of exempt information of the descriptions shown in schedule 12A to the Act.

The sub-committee then heard from the Licensing Manager that she had received a letter from the solicitor acting for Mr M who was requesting an adjournment as he was unable to represent his client due to a prior court commitment.

Members asked Mr M when he had contacted his solicitor to ask him to represent him. Mr M said it was about a week ago when he received a letter informing him of the date of the hearing.

To enable the sub-committee to make a decision on the adjournment the chairman adjourned the meeting at 10.50am.

The chairman reconvened the meeting at 10.55am.

RESOLVED that the application hearing be adjourned to enable Mr M's solicitor to attend. Mr M was warned that the application would go ahead on the next occasion, irrespective of whether his legal adviser was able to attend.

Reasons for the decision:

The reason for this decision was to enable the licence holder's solicitor to be present at the hearing.

This part of the hearing concluded at 11am.

3. APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE LICENCE

The hearing commenced at 11.05am.

The chairman welcomed Mr O to the hearing and introduced the sub-committee members and officers present and explained how the hearing would proceed.

RESOLVED that the press and public be excluded from the meeting during consideration of the above item in accordance with Section 100A(4) to the Local Government Act 1972 on the grounds that it would involve the likely disclosure of exempt information of the descriptions shown in schedule 12A to the Act.

The Licensing Manager presented the report informing the committee of information received from the police under the 'notifiable occupation scheme' relating to a charge against the licence holder. This was detailed further within the report. Driving a private hire vehicle was considered to be an occupation which carried a special level of trust. This had been brought to the sub-committee for it to consider whether the licence holder remained a 'fit and proper' person to hold a private hire driver's licence.

The chairman asked councillors if they wished to ask any questions.

Councillor Scarborough asked Mr O, about his current situation and what he had been charged with and whether he had appeared in court.

Mr O confirmed that he had been charged with conspiring/supplying a controlled drug. A hearing had taken place at Northampton Crown Court in November but this had been adjourned. Mr O denied the charge, considering he was only 'guilty by association' as he previously lodged with one of the main defendants, who was currently in prison awaiting trial.

The chairman asked if he was aware of what the other defendant had been doing. Mr O said he was not aware, but admitted that he was a very good friend of his.

The chairman asked whether he had ever been in possession of any substances within his private hire vehicle. Mr O said that he had not.

There being no further questions the chairman adjourned the meeting at 11.10am.

The meeting was reconvened at 11.30am.

RESOLVED that having heard evidence from the licence holder, no further action be taken at this time. It was recommended that he did not apply for a renewal or new licence until such time as the proceedings against him are concluded. If he did then any application would have to go before a committee and the charges against him considered anew at that time.

The reasons for the decision were as follows:

1. The council takes the dealing of drugs very seriously.
2. There was insufficient evidence to take a decision now as to suspension or revocation of the driver's licence.
3. It was noted that his licence for a private hire vehicle will expire on 31 December 2014 and that the applicant had no intention to renew at this time.
4. There was insufficient evidence of criminal activity from police and the licence holder simply faced charges at this time.

This part of the meeting concluded at 11.35am.

4. APPLICATION TO REVOKE OF SUSPEND HACKNEY CARRIAGE DRIVERS LICENCE.

The chairman welcomed Mr W to the hearing and introduced the sub-committee members and officers present and explained how the hearing would proceed.

RESOLVED that the press and public be excluded from the meeting during consideration of the above item in accordance with Section 100A(4) to the Local Government Act 1972 on the grounds that it would involve the likely disclosure of exempt information of the descriptions shown in schedule 12A to the Act.

The Licensing Manager presented the report explaining that Mr W had previously been before a licensing sub-committee in October 2014 to consider 11 separate complaints against him. The decision taken by the committee at that time was to take no further action against him.

Subsequently a further complaint had been received concerning an alleged incident on 8 November 2014 that he had driven in an inappropriate and potentially dangerous manner. Copies of the witness statements were attached to the report.

The chairman asked if members wished to ask Mr W any questions.

Councillor Morrall raised a number of concerns regarding the alleged incident and expressed his dismay that Mr W was once again before a licensing sub-committee. The council's operations policy stated that "a driver shall behave in a civil, polite and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle".

From the witness statements it was considered that this care had not been taken.

Councillor Griffiths also expressed his concern over the way in which the witnesses claimed the vehicle was driven.

Mr W considered himself to be an extremely safe driver and he had no points on his licence. He regularly drove from Wellingborough to Rushden using the same route and believed that he complied with the Highway Code at all times. As far as he was aware the passenger he was carrying had not made a complaint.

Councillor Scarborough asked if he recalled the journey.

Mr W said he did not recall it and was only aware that there was an issue when the licensing officers had contacted him. He had no points on his licence and had over 100 regular customers who were happy with the service he provided. He explained that some drivers got confused at roundabouts and didn't use the lanes correctly but he was always sensitive to this and was wary of others not following the Highway Code as his car was his livelihood.

Councillor Scarborough also referred to a previous incident in September 2014 where Mr W had shown signs of aggression and which had been discussed at the previous meeting.

Mr W responded to this and said that the police had viewed CCTV footage of the alleged incident and had decided not to take any further action. He also commented that in this case the matter had not been reported to the police, which he considered would have happened if anyone thought they were in danger, and that he was driving dangerously

The chairman adjourned the hearing at 12.15pm.

The chairman reconvened the meeting at 13.10pm

RESOLVED that the hackney carriage driver's licence be suspended for 14 days as per section 6(i)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The reasons for the decision were as follows:

1. Members heard from Mr W in person and read statements of the witnesses, one having been introduced at the hearing and supplied to Mr W on Friday 29 November 2014.
2. Members considered evidence of the previous sub-committee hearing in October 2014 and the decision that was made on that occasion.
3. They considered written submissions of Mr W handed to the sub-committee specifically covering indecent 1 and 10.

4. The members believed there was sufficient evidence in the statements of the witnesses to attribute weight to their evidence, given that Mr W gave evidence that he did not fully recollect the incident in question.
5. The members' believed evidence is of aggression and possibly irresponsible driving, notwithstanding that there is insufficient evidence to prove that any criminal offences took place.
6. Members took into account evidence of previous incidents detailed in numbers 1 and 10 on the complaints log from the previous committee about which Mr W was warned. They display a history of aggressive driving, again notwithstanding Mr W's evidence and his written explanation and response to the council's complaint log.
7. The committee also considered the other incidents in the council's complaint log and believe that they indicate that Mr W has acted aggressively on a number of previous occasions towards members of the public.
8. Taking into account all of the above together, the members believe Mr W's aggressive behaviour falls short of the conduct required and expected of a hackney carriage driver within Wellingborough and that accordingly a suspension of his licence is justified as being reasonable in the circumstances for any other reasonable cause in the circumstances as opposed to no further action or revocation. Furthermore, a period of 14 days suspension is reasonable on this particular occasion. Mr W was advised on his right of appeal within 21 days.

The meeting concluded at 1.15pm.