

COUNCIL MEETING – 27 FEBRUARY 2018
REPORT OF THE LICENSING SUB-COMMITTEE

22 January 2018

Present: Councillors Ekins (Chairman), Maguire and Simmons

Also present: Mrs A Wilcox, (Principal Environmental Health Manager), Mr G Hollands, (Solicitor/ DistrictLaw), Mrs A Walton-Miller (observing) and Mrs C A Mundy, (Democratic Services Officer).

The meeting commenced at 1pm.

1. APPOINTMENT OF CHAIRMAN

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

2. EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be excluded from the meeting during consideration of the following items in accordance with section 100A(4) to the Local Government Act 1972 on the grounds that they would involve the likely disclosure of exempt information of the description shown in schedule 12A to the Act.

Minute No.	Item	Exemption
3	Application to renew private hire driver's licence	E1 & 2
4	Application for a private hire driver's licence	E1 & 2
5	Application for a private hire driver's licence	E1 & 2
6	Application to revoke or suspend hackney carriage driver's licence	E1 & 2

3. APPLICATION TO RENEW PRIVATE HIRE DIRVER'S LICENCE

The annexed circulated exempt report of the director was received in relation to a request for the renewal of a private hire driver's licence.

The chairman welcomed the applicant and his friend and introduced the sub-committee members and those present to them.

Mrs Wilcox, Principal Environmental Health Manager, presented the report to the sub-committee. She explained that an application had been received to renew a driver's licence which had expired on 31 August 2017. As part of the process a driver had to undergo a medical examination to the Department of Transport, group two standards, to

assess their physical and mental fitness to drive a licensed vehicle. The medical report indicated that, within the last three years, the applicant had alcohol dependency. The medical standard states that someone with alcohol dependency must not drive; must notify the DVLA; and any licence should be refused or revoked in all cases of any history of alcohol dependency within a three year period.

The council policy stated that licensed drivers must notify the council of any change that may affect their fitness to drive a licensed vehicle. No notification of the alcohol dependency had been received from the applicant.

The key objective of the licensing authority was to ensure public safety and council policy reflects this overriding concern; the applicant needed to be a 'fit and proper' person to hold a private hire driver's licence.

The chairman thanked Mrs Wilcox and asked the applicant if he wished to say anything.

The applicant explained that he was unaware of the council policy and apologised that he had failed to notify the licensing team of changes to his health.

He had visited the Doctors to seek help with his alcohol dependency, which had been exacerbated following another medical issue with his foot; with the help of family and friends he had reduced his alcohol consumption and consider that it was no longer an issue. He had also attended AA meetings for a short time. He considered that he was a fit and proper person to hold a private hire licence; he had held a clean driving licence for 32 years and if successful with his application had been promised employment with a local taxi company to help get his life back on track.

The legal adviser explained that as the applicant had failed to pass the group two medical a licence would be refused unless there was evidence of a good reason why the sub-committee could go against the council policy.

The chairman adjourned the meeting at 1.25pm.

The meeting reconvened at 1.40pm.

The chairman asked the applicant if he considered that he had received a fair hearing and the applicant confirmed he had.

DECISION:

RESOLVED that the application, to renew a private hire driver's licence, be refused.

REASONS FOR DECISION:

- (i) the sub-committee heard from the applicant and took into account the report to the sub-committee;
- (ii) the sub-committee noted that the applicant had been refused a group two medical certificate on the grounds of alcohol dependency;
- (iii) council policy states that in those circumstances a licence be refused and there being no evidence of any reason not to follow the policy the sub-committee therefore refuses the licence.

The legal adviser informed the applicant of his right to appeal and the process to do so.

4. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The annexed circulated exempt report of the director was received in relation to an application for a private hire driver's licence.

The chairman welcomed the applicant and his friend to the sub-committee and introduced everyone present.

The principal environmental health manager presented the report to the sub-committee. She explained that an enhanced disclosure from the Disclosure and Barring Service (DBS) had indicated three separate convictions, which included five offences which were further detailed within the report.

The applicant had been disqualified from driving for 12 months in 1999, for three years in 2006 and for five years in 2010. His licence had been returned on 1 January 2016. The council policy was that an applicant needed to have their driving licence restored for a period of at least five years before being considered for a private hire driver's licence.

The chairman thanked Mrs Wilcox for her presentation and asked the applicant if he wished to say anything.

The applicant explained that he was a former publican and that he had made errors in judgment in driving following the consumption of alcohol during the course of his working day. He had under-estimated the amount of alcohol he had consumed and had driven whilst under the influence. He was no longer a publican and had stopped drinking over four years ago. He had regained his licence and was now driving a van and was hoping to drive for a reputable private hire company if a private hire driver's licence was granted.

Members asked why the applicant considered that the council policy should be disregarded. The applicant explained that he was hardworking and good with customers. He had turned his life around and considered that being a private hire driver would be good for the local community and good for him. He had the promise of work with a reputable firm and

this was supported by his friend, also in attendance, who asked that he be given a chance to prove himself as he considered that he would be a great asset to his company.

The chairman adjourned the meeting at 2.00pm.

The chairman reconvened the meeting at 2.10pm.

He asked the applicant if he considered that he had received a fair hearing. The applicant confirmed that he had.

DECISION:

RESOLVED that the application for a private hire driver's licence be refused.

REASONS FOR DECISION:

- (i) The sub-committee heard from the applicant and took into account the contents of the report;
- (ii) The sub-committee noted that the applicant accepted that it was slightly over two years since he had regained his driving licence after a conviction for drink-driving;
- (iii) The policy of the council requires that a licence should not be granted until at least five years following the obtaining of a driving licence after a conviction;
- (iv) The sub-committee noted that the applicant was well liked and an asset to the community. In view, however, of the council's public safety obligations, these facts were not a reason to depart from the policy and accordingly the licence is refused.

The legal adviser informed the applicant of his right to appeal and the process to do so.

5. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The annexed circulated exempt report of the director was received in relation to an application for a private hire driver's licence.

The chairman welcomed the applicant to the meeting and introduced everyone present to him.

The principal environmental health manager presented the report to the sub-committee and reported that during the application process there was a requirement for an enhanced disclosure from the Disclosure and Barring Service (DBS). The disclosure certificate indicated that the applicant had 13 convictions, which included 23 offences, and these were detailed further in the report. The offences had taken place between December 1985 and September 2010 with some being of a violent nature.

Council policy stated that an application would not be considered until at least five years have elapsed from conviction, whilst these offences were all committed over seven years ago, council policy also stated that multiple offences over a period of time were of a greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which would be taken into account in considering an application.

If successful the applicant would also need to take and pass a practical driving standards assessment test specifically for drivers' of hackney carriage and private hire vehicles.

The sub-committee needed to ascertain if the applicant was a 'fit and proper' person to hold a private hire driver's licence.

The chairman thanked the principal environmental health manager for her presentation and asked the applicant if he wished to address the meeting.

The applicant explained that he had turned his life around following the birth of his first grandchild in 2012. He no longer consumed alcohol, which was the source of many of his problems and subsequent convictions; he had a good family and a good job. He had realised in 2012 that his life had to change and he had made sure that he had done so.

He had worked for his present employer for some time, and they had encouraged and supported his application for a licence as this would give his company an additional asset and more flexibility in the way he could be used.

The meeting was adjourned at 2.25pm.

The meeting reconvened at 2.55pm.

The chairman asked the applicant if he considered he had received a fair hearing. The applicant confirmed this was the case.

DECISION:

RESOLVED that the licence be granted subject to:

- (i) the passing of the required driving test;
- (ii) the provision of a satisfactory reference from an appropriate senior officer of his employers;
- (iii) the principal environmental health manager being satisfied as to the provision of update information from the DBS;
- (iv) medical certification.

REASONS FOR DECISION:

- (i) the sub-committee heard from the applicant and considered the report;
- (ii) the applicant accepted that he had committed all of the offences referred to in the report;
- (iii) the applicant confirmed that he had committed no offences since September 2010; the applicant also confirmed that his offending behaviour had been caused by alcohol and that since January 2012 he had not consumed alcohol at all in any form;
- (iv) the applicant was now employed as a courier driver and his company wished him to upgrade to driving passengers;
- (v) the sub-committee accepted all of these representations, subject to the provision of a reference. It considered that they gave sufficient reason to depart from policy in section 5.0.5 and that the applicant was a fit and proper person to hold a licence.

6. APPLICATION TO REVOKE OR SUSPEND HACKNEY CARRIAGE DRIVER LICENCE

The annexed circulated exempt report of the director was received in relation to the potential revocation or suspension of a hackney carriage driver's licence following conviction of a relevant offence.

The chairman welcomed the licence holder and his friend to the sub-committee and introduced everyone present.

The principal environmental health manager presented her report explaining that complaints had been received about the failure of the licence holder to use his meter on a number of occasions, resulting in a fare over-charge. Further details of the incidents were contained within the report. Following these complaints a decision had been made by licensing officers to prosecute the licence holder who had pleaded not guilty to the offences at the first hearing in September 2017 resulting in the case being listed for full trial at the Magistrates Court in November 2017, when he had again pleaded not guilty. Magistrates commented at the hearing that the complainant had given a credible and consistent account and the licence holder had been found guilty of four offences of failing to use his meter, on four occasions. He received a fine of £200 with full costs of £1022.50 and a victim surcharge of £30.

It had also been noted that the licence holder had failed to report accident damage to his vehicle to the licensing department in accordance with council policy. This damage was only found when the vehicle had been taken for testing. The licence holder had been asked to repair this to a suitable standard, which he had not done. When informed of this by licensing officers he had been confrontational and aggressive to them.

As such this, as well as the other incidents, questioned whether he remained a 'fit and proper' person to hold a hackney carriage licence.

The licence holder had been given a temporary licence which would expire on 22 January 2018.

The chairman thanked the principal environmental health manager for her presentation and asked the licence holder whether he wished to say anything.

The licence holder expressed his concern over the the court cases and the decisions made; it was explained to him by the legal adviser that the court cases had been concluded and the decision taken by the Magistrates Court could not be changed and was therefore not for discussion today.

The licence holder's friend explained that he had been using the services of the licence holder for over 10 years and had found him to be reliable and good natured. He had been subjected to considerable bullying and harassment from other drivers and there had been damage to his vehicle. The police had been involved with this and had made an arrest and the vandalism had ceased. He had spent a considerable amount of money on getting his vehicle back on the road. The failure to use the meter was purely due to forgetfulness and knowing how much the cost of the route would be, as the complainant was a regular customer. He considered that the licence holder should retain his licence.

The chairman adjourned the meeting at 3.20pm.

The chairman reconvened the meeting at 3.45pm.

The chairman asked the licence holder if he considered that he had received a fair hearing. The licence holder did not indicate either way, as to whether he considered it to have been a fair hearing.

DECISION:

RESOLVED that the licence be revoked and not renewed.

REASONS FOR DECISION:

- (i) the sub-committee heard from the licence holder and his friend and considered the report.
- (ii) the sub-committee noted that the licence holder had been convicted on two separate occasions in 2014 and 2017 in the magistrates of an offence of failing to use his taxi meter;
- (iii) representations were made in relation to these offences by the licence holder and his friend. The sub-committee, however, considered that the facts of the offences were conclusive such that the representations could not be taken into account;
- (iv) failure to comply with the law relating to taxi meters on two separate occasions, after a warning on the first occasion, was such a serious matter that the licence could not be renewed and should be revoked.

The legal adviser informed the applicant of his right to appeal and the process to do so.

Chairman