COUNCIL MEETING – 14 JULY 2020

REPORT OF THE VIRTUAL LICENSING (REGULATORY) SUB-COMMITTEE (1)

15 June 2020

Present: Councillors Morrall (Chairman), Aslam and Bell.

Also present: Mrs A Wilcox, (Principal Environmental Health Officer), Ms A Walton-Miller (Legal Adviser/District Law) and Mrs C A Mundy, (Democratic Services Officer), (Meeting producers - Mrs F Hubbard and Mrs E Robinson.)

The meeting commenced at 10am.

1. **APPOINTMENT OF CHAIRMAN**

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

   The chairman welcomed everyone to the meeting and explained that this was the first virtual licensing sub-committee. He reminded members of the meeting protocol and welcomed and introduced everyone, including the applicant who had joined using the conferencing facility.

2. **APOLOGIES AND DECLARATION OF INTEREST**

   **RESOLVED** that there were no apologies and no declarations made.

3. **EXCLUSION OF PRESS AND PUBLIC**

   **RESOLVED** that the press and public be excluded from the meeting during consideration of the following item 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.

4. **APPLICATION TO REVOKE OR SUSPEND PRIVATE HIRE DRIVER’S LICENCE**

   The annexed circulated exempt report of the principal environmental health manager was received in relation to a potential revocation or suspension of a private hire driver’s licence for Mr F.
The chairman asked the officer to present her report to the sub-committee.

She explained that the private hire driver’s licence was due to expire on 31 May 2020 and that the applicant had applied to renew such licence. During the application process the applicant provided a DVLA driver licence summary. This summary revealed that the applicant had nine penalty points, which had occurred in October 2019, May 2019 and October 2017, all for speeding, and that he had failed to inform the licensing department of the points he had received.

The council policy states that ‘existing holders of driver licences are required to notify the council in writing within 14 days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other proceedings (including their acquittal as part of a criminal case) as detailed in the terms and conditions of the driver’s licence.’

The report detailed the options available to members when determining the application as follows:

- Approve the application or take no further action;
- Refuse the application/revoke the licence/suspend the licence;
- Issue a warning;
- Require further training/retraining or other control measures to be put in place;
- For existing drivers who have accumulated nine or more points on their DVLA driving licence, or attract complaints about their driving standards, their drivers licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder’s expense.

The chairman thanked Mrs Wilcox for the information.

The chairman asked the applicant if he would like to address the meeting.

The applicant thanked the chairman and admitted that he had failed to notify the council of the points, but that he had done so as soon as he realised that he should have, when completing his application form. He admitted that he had totally forgotten about the points he had received in 2017. He apologised for this error and in mitigation referred to some personal issues with the health of a family member that had distracted his mind.

The legal adviser asked for clarity on whether the licensing department had been notified of the points from 2019. Mrs Wilcox clarified that the applicant had not notified the licensing department of the points from 2019.
The chairman thanked the applicant and asked if members wished to ask questions.

Councillor Aslam asked if on receiving the points in 2017 the applicant had attended a speed awareness training event. The applicant said he had not, but that he had attended a speed awareness course previously.

The chairman clarified that such training was only offered if the driver was just over the 30mph speed limit.

Councillor Bell asked the applicant why he had failed to notify the council of the six points he received in 2019. The applicant confirmed that he had not done so, as he was not aware that he had to, he stressed that he had genuinely forgotten about the three additional points from 2017. As soon as he realised, whilst completing the application form, he rang the licensing department to inform them, he then followed this call with an email for clarity.

The chairman thanked the applicant for his responses and asked Mrs Wilcox if she had any further points to raise. Mrs Wilcox clarified that the applicant had notified the council of the points during the application process.

The chairman asked the applicant if he wished to add anything further.

The applicant asked that the sub-committee take into consideration that he had been a driver for some time and had a previous good record. He thought that the 2017 speeding offence may have been when he was driving through roadworks on the A45 in Warwickshire but could not recall it. He commented that in the current unprecedented times, work was hard to come by, he needed to continue with his business, as it was his sole occupation and being called before the sub-committee had been a big shock.

Ms Walton-Miller explained the decision process and that the applicant would be notified, in writing, within five days of the decision. The applicant also had the right to appeal the decision of the sub-committee.

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

The meeting was adjourned at 10.25am and the applicant and officers withdrew.

Members and Ms Walton-Miller retired to deliberate the decision.
DECISION:

RESOLVED that the applicant’s licence be suspended for a period of 14 days and that during this time he must take and pass the Practical Driving Standards Assessment test specifically for drivers of hackney carriage and private hire vehicles, through the council’s nominated test provider.

REASONS FOR DECISION:
The sub-committee considered all the material provided in the report of the Principal Environmental Health Manager.

The committee also heard from the applicant in person in relation to his failure to inform the council of the penalty points obtained on 15th October 2019 for exceeding the speed limit on a motorway. He advised the sub-committee that he had notified the council of the recent penalty points but only recently as this was part of the council’s renewals process, he admitted that he had not done so within the 14 days as stated in the policy. He advised that he has been a licensed driver since 2009 and has had no other complaints or issues. This was confirmed by the Principal Environmental Health Manager.

The committee takes very seriously the fact that the recent offence was not reported to the council in accordance with the council’s licensing policy and this failure raises questions over honestly and integrity; in addition there is also the fact that the applicant has now accumulated nine points on his DVLA driving licence in a two year period.

The sub-committee needed to be satisfied that the applicant remained a fit and proper person to hold a licence.

The council’s policy at 4.3.1 states for existing drivers who have accumulated nine or more points on their DVLA driving licence their drivers’ licence will normally be suspended until the driver has successfully undertaken a driving test to DVSA standards. Such a test will be at the licence holder’s expense. No evidence was submitted by the Applicant which would convince the sub-committee to depart from the policy.

The sub-committee therefore decided that a period of suspension of the applicant’s driver’s licence for 14 days was justified and reasonable in these circumstances. Given that the test centres are not currently open due to the Covid-19 pandemic but are expected to resume bookings after 6th July 2020, the period of suspension will commence on the happening of either of the following (a) The applicant surrenders his licence to the council having booked the Practical Driving Standards Assessment test or (b) in the event that the applicant does not surrender his licence before 30th September 2020, the current short term licence will be suspended on 30th September 2020 and remain suspended for a minimum of 14 days thereafter or until
such time as the applicant has successfully passed the Practical Driving Standards Assessment Test.

Chairman