

**LICENSING COMMITTEE**

A meeting of the Licensing Committee was held on 9 July 2018.

**PRESENT:** Councillors J A Walker (Chair) R Arundale, R Brady, J Goodchild, L Lewis, T Mawston, D McCabe and M Walters (Substitute for Higgins)

**PRESENT AS OBSERVERS:** Councillor T Harvey, A Pain (Press Office) up to agenda item 5 only.

**OFFICERS:** S Bonner, J Dixon, T Hodgkinson, A Perriman

**APOLOGIES FOR ABSENCE** Councillor S Biswas, Councillor T Higgins, Councillor J Blyth, Councillor D Rooney.

**DECLARATIONS OF INTERESTS**

Name of Member	Type of Interest	Item/Nature of Interest
Councillor J Walker	Non Pecuniary	Agenda Item 7 (applicant known to her)

**1 MINUTES OF THE PREVIOUS MEETING OF THE LICENSING COMMITTEE HELD ON 11 JUNE 2018.**

The minutes of the previous Licensing Committee, held on 11 June 2018, were submitted and approved as a correct record.

**2 SAFETY OF SPORTS GROUNDS CERTIFICATE - RIVERSIDE STADIUM**

The Head of Transport and Infrastructure submitted a report seeking Members approval to the re-issue of the General Safety Certificate for the forthcoming football season 2018/19.

It was highlighted that the Safety of Sports Grounds Act 1975 established the principle that a sports ground accommodating more than 10,000 spectators required a Safety Certificate containing such terms and conditions as the Local Authority considered necessary or expedient to secure reasonable safety at the sports ground.

Members were advised that the current approved permitted number of spectators for the Riverside Stadium was up to 34,000.

The Committee was requested to approve the re-issue of the General Safety Certificate for the forthcoming season with a spectator capacity of up to 34,000. It was also recommended that the Head of Transport and Infrastructure, or his representative, be authorised to re-issue the Certificate, as outlined.

**ORDERED:** that approval be given to re-issue the General Safety Certificate in respect of the Riverside Stadium for the forthcoming football season 2018/2019 with a spectator capacity of up to 34,000 and that the Head of Transport and Infrastructure, or his representative, be authorised to re-issue the Certificate, as outlined.

**3 EXCLUSION OF PRESS AND PUBLIC.**

To consider passing a Resolution Pursuant to Section 100A (4) Part 1 of the Local Government Act 1972 excluding the press and public from the meeting during consideration of the following items on the grounds that if present there would be disclosure to them of exempt information falling within paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**4 REVIEW - PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 21/18.**

The Director of Culture and Communities submitted an exempt report in connection with a review of Private Hire Vehicle Driver Licence, Ref: 21/18, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting, verified his name and address and was provided an additional copy of the report.

The Licensing Manager presented the report setting out the circumstances of the case in relation to two complaints made against the driver. The matter was initially due to be considered by Members on 11 June 2018 but was deferred as the complainant was unable to attend.

It was highlighted that the driver was first licensed with Middlesbrough Council in May 2017 and his licence was due to expire in April 2021.

The driver now appeared before Members following the complaints detailed in the report.

The first complaint was received on 1st August 2017 following information from Cleveland Police regarding a report of a taxi driver picking up three girls from a children's home on 2 July 2017. The report stated that during the journey, the driver had allegedly asked the passengers intrusive questions about their use of social media, about the care home and had suggested that they go out for the day.

A Children's Services Resources Worker provided a summary of the incident (attached at Appendix 1), however she stated that none of the girls wished to take any further action in relation to the matter.

The driver was interviewed by a Licensing Enforcement Officer on 10 August 2017 in relation to complaint 1) after which a warning letter was sent reminding the driver not to become too familiar with passengers. A copy of the interview notes were attached at Appendix 2 and a copy of the warning letter was attached at Appendix 3. A second complaint was received on 5 April 2018 from a lone female passenger regarding an incident involving the driver during a journey in the early hours of the morning. The complainant stated that the driver entered her home, without permission, to use the toilet and would not leave. She stated that the driver had made inappropriate comments. The complainant provided a statement on 13 April 2018, a copy of which was attached at Appendix 4.

The driver was interviewed on 6 April 2018 in relation to complaint 2) in the report and a copy of the interview notes was attached at appendix 5) of the report.

The driver confirmed that the report was an accurate representation of the facts.

At this point in the meeting, the complainant in relation to the second complaint, joined the meeting.

The Chair introduced those present and explained the procedure to be followed. The complainant, accompanied by her partner, confirmed her name and the content of the witness statement attached at Appendix 4. The complainant provided her version of events in relation to the incident on 5 April 2018 and responded to questions from Members. The driver was afforded the opportunity to ask questions but declined.

The Chair thanked the complainant for her attendance and she, and her partner, withdrew from the meeting.

The driver was invited to provide his version of events in relation to both complaint. The driver addressed the Committee and responded to questions from Members and the Council's legal representative. During discussion he made disclosures about the state of his mental health.

The driver, and officers of the Council, other than representatives of the Council's Legal and

Democratic Services, withdrew whilst the Committee determined the review.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

**ORDERED** that the driver's Private Hire Vehicle licence, Ref 21/18, be suspended with immediate effect and that consideration of the review of his licence be deferred until such a time that the driver was able to produce a medical certificate stating that he was physically and mentally fit to continue as a Private Hire Vehicle driver.

The decision to suspend the licence and defer consideration of the review was made for the following reasons:-

1. Proceedings were adjourned and the driver's Private Hire Vehicle Licence was suspended with immediate effect in accordance with s.61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.
2. The Committee carefully considered the review based upon the report and appendices, the evidence of the witness, the representations of the driver and Middlesbrough Council's Private Hire and Hackney Carriage Licencing Policy 2018.
3. The driver was advised that he would receive the full decision, considerations and reasons within five working days.
4. During the review, the driver disclosed to the Committee that he had been suffering with depression as a result of personal circumstances and that he had had suicidal thoughts. He had sought medical advice as a result of this.
5. In light of this disclosure, the Committee took into account the Policy Aims and Objectives, particularly the protection of the public; the safety and health of passengers and public; and in particular the health and fitness to fulfil the role of a licensed driver.
6. Furthermore, the Committee identified that it must be satisfied as to the medical fitness of a private hire driver in accordance with its Policy and decided that the driver should provide, at his earliest convenience, a medical certificate signed by a registered medical practitioner to the effect that they are physically and mentally fit to continue to be a private hire driver.
7. Once Middlesbrough Council's Licensing Office were in receipt of that certificate, the driver would be invited back to the Committee to complete the review at the next available meeting. Until such time, and for the reasons set out above the Committee took the decision to suspend the driver's licence with immediate effect.
8. The driver was advised that if he was aggrieved by the Committee's decision he had 21 days in which to appeal the decision to Teesside Magistrates' Court. Should the driver decide to appeal the decision and the appeal was dismissed, the Council would look to the court for an Order to recover its costs incurred in defending its decision from the driver.

**\*\* DECLARATION OF INTEREST**

At this point in the meeting, Councillor J Walker (Chair) declared a non-pecuniary interest in relation to the following item and withdrew from the meeting.

**\*\* COUNCILLOR LEWIS IN THE CHAIR**

In the absence of the Vice Chair, Councillor Lewis took the Chair at this point in the meeting as the Chair, Cllr J Walker, had withdrawn from the meeting having declared an interest.

5 **APPLICATION - PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 24/18.**

The Director of Culture and Communities submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 24/18, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The applicant,

who was in attendance at the meeting, verified his name and address and confirmed that he had received a copy of the report. It was noted that the applicant's address had changed to that on the report and the correct information was provided.

The Licensing Manager presented the report setting out the circumstances of the case in relation to the offences at 1) to 15) in the submitted report. The applicant was interviewed by a Licensing Enforcement Officer on 1 May 2018, when he confirmed that there were no outstanding matters of which the Council was unaware and provided explanations in relation to the offences.

Member's attention was drawn to Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 - which stated that a licence should not be granted unless the Council was satisfied that the applicant was a fit and proper person to hold a licence - and also to the Council's revised Policy Guidance, which came into effect on 1 March 2018. The Policy Guidance stated that where a conviction related to the supply of, or possession with intent to supply, controlled drugs, the application would be refused.

The applicant confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The applicant presented his case in support of his application and responded to questions from Members and the Council's legal representative.

It was confirmed that there were no further questions and the applicant, and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew whilst the Committee determined the application.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

**ORDERED:** that the application for a Private Hire Vehicle Driver's Licence, Ref 24/18, be refused for the following reasons:-

1. The Committee carefully considered the application on its own merits, based upon the report and appendices, the representations of the applicant and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018.
2. That the application for a Private Hire Driver Licence, Ref 24/18, be refused under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 as the Committee was not satisfied that the applicant was a fit and proper person to hold such a licence. The reasons for the decision were as follows:-
3. The applicant was advised that he would receive the full decision, considerations and reasons within five working days.
4. The applicant had 15 convictions covering some 45 offences spanning a period from May 1981 - October 2008. The last conviction resulting in two custodial sentences of 6 years to run concurrent and a consecutive custodial sentence for a period of 675 days. The former periods of imprisonment were for 2 offences of possessing controlled drug with intent to supply - Class A - Cocaine and the latter being imprisonment for a breach of licence for a previous offence resulting in a custodial sentence.
5. The Council's Policy regarding drug related offences states that an applicant with a conviction, caution, reprimand or final warning that relates to the possession with intent to supply controlled drugs the application will be refused.
6. In addition, a licence would normally be refused if an applicant had more than one conviction for drug related offences.
7. The applicant's more recent convictions related to the possession of controlled drugs with intent to supply class A drugs. The ordinary position was therefore that the application should be refused in accordance with the Policy. The Committee did not hear any good reason from the Applicant to cause them to depart from their Policy.
8. The applicant advised the Committee that he was young and naive in the early period of offending and that he had now left his past behind him. He was now married with

- children and had grandchildren and had turned his life around and had a different 'frame of mind'. Whilst the Committee did not doubt the progress the applicant had made, they found the applicant's history of offending and seriousness of offending was something they could not ignore. They therefore concluded, on the balance of probabilities that he was not as young or as naive as he professed to be at that time and that, in any event, this was not sufficient a reason to depart from their Policy regarding offences concerning the Possession with intent to supply controlled drugs.
9. The applicant was advised that if he was aggrieved by the Committee's decision he had 21 days in which to appeal the decision to Teesside Magistrates' Court. Should the applicant decide to appeal the decision and the appeal was dismissed, the Council would look to the court for an Order to recover its costs incurred in defending its decision from the Applicant.

**\*\* CHAIR RESUMED**

Councillor J Walker returned to the meeting at this point and resumed the Chair.

6 **APPLICATION - PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 25/18.**

The Director of Culture and Communities submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 25/18, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The applicant, who was in attendance at the meeting, verified his name and address and confirmed that he had received a copy of the report and was provided with another copy for the meeting.

The Licensing Manager presented the report setting out the circumstances of the case in relation to the offences at 1) to 3) in the submitted report. He was interviewed by a Licensing Enforcement Officer on 9 May 2018, when he confirmed that there were no outstanding matters of which the Council was unaware and provided explanations in relation to the offences. Members were also made aware that the applicant had not disclosed the convictions on their application. The applicant apologised for this and did not realise they would appear on his record due to age of the convictions.

The applicant confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The applicant presented his case in support of the application and responded to questions from Members and the Council's legal representative.

It was confirmed that there were no further questions and the applicant, and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew whilst the Committee determined the application.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

**ORDERED:** that the application for Private Hire Vehicle Driver Licence, Ref 25/18, be granted for the following reasons:-

1. The Committee considered the application on its own merits, the report, the representations by the applicant, the Council's policy in relation to convictions cautions complaints and driver conduct ('the Policy') and Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
2. The applicant was advised that he would receive the full decision, considerations and reasons within five working days.
3. With regard to the offences listed in the report, it was noted that the requisite time had elapsed since conviction.
4. The applicant was advised they would receive the full decision, reasons and considerations in writing, within five working days.

**7 APPLICATION - PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 26/18.**

The Director of Culture and Communities submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 26/18, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The applicant, who was in attendance at the meeting, verified his name and address and confirmed that he had received a copy of the report and was provided with another copy for the meeting.

The Licensing Manager presented the report setting out the circumstances of the case in relation to the offences at 1) and 2) in the submitted report. The applicant was interviewed by a Licensing Enforcement Officer on 22 May 2018, when they confirmed that there were no outstanding matters of which the Council was unaware and provided explanations in relation to the offences. Members were also made aware that the applicant had failed to declare the conviction at 2) at the time of applying as they believed the convictions were not relevant.

It was highlighted that the applicant had previously held a Combined Hackney Carriage and Private Hire driver licence within Middlesbrough Council between November 2003 and May 2013, when it was revoked by the licensing Committee following the offence at 2).

When the applicant submitted his application, Officers did not have access to his licensing history as his previous records had been destroyed. However, following his interview on 22 May 2018, Officers located the previous report submitted to the Licensing Committee on 28 May 2013 when his combined licences were reviewed following the conviction at 2) in the report. A copy of the report was attached at Appendix 1 for information.

The applicant confirmed that the report was an accurate representation of the facts and was invited to address the Committee.

The applicant presented their case in support of the application and responded to questions from Members and the Council's legal representative.

**\*\* SUSPENSION OF COUNCIL PROCEDURE RULE NO. 17 - DURATION OF MEETING**

**ORDERED** that, in accordance with Council Procedure Rule No. 17, as the meeting had reached its three-hour limit, all Members of the Committee agreed to extend the duration of the meeting in order to conclude the remaining business.

It was confirmed that there were no further questions and the applicant, and officers of the Council, other than representatives of the Council's Legal and Democratic Services, withdrew whilst the Committee determined the application.

Subsequently, all interested parties returned and the Chair announced the Committee's decision.

**ORDERED** That the application for a Private Hire Vehicle Driver Licence, ref 26/18, be granted for the following reasons:-

1. The Committee considered the application on its own merits, the report, the representations by the Applicant, the Council's policy in relation to convictions cautions complaints and driver conduct ('the Policy') and Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
2. The applicant was advised that he would receive the full decision, reasons and considerations in writing, within five working days.