

LICENSING COMMITTEE

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

PRESENT: Councillors J A Walker (Chair), T Higgins (Vice Chair) R Arundale, S Biswas, R Brady, S Dean, J Goodchild, A Hellaoui and L Lewis.

APOLOGIES FOR ABSENCE Councillors T Harvey, Councillor T Mawston, Councillor D McCabe, Councillor D Rooney.

DECLARATIONS OF INTERESTS

There were no declarations of interest made by Members at this point in the meeting.

18/27 MINUTES OF THE LICENSING COMMITTEE HELD ON 3 SEPTEMBER 2018

The minutes were agreed as a true record.

18/28 MINUTES OF THE LICENSING COMMITTEE HELD ON 17 SEPTEMBER 2018

The minutes were agreed as a true record.

18/29 EXCLUSION OF PRESS AND PUBLIC.

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

18/30 REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE - REF NO: 35/18

ORDERED: that consideration of the review of Private Hire Vehicle Driver Licence, Ref 35/18, be deferred to a future meeting as the driver's legal representative wished to introduce new evidence.

18/31 REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE - REF NO: 32/18

The Director of Culture and Communities submitted an exempt report in connection with the review of a Private Hire Vehicle Driver Licence, Ref: 32/18, 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 confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager summarised the report and highlighted the driver had a three year licence which was last renewed in 2016. It was noted the driver appeared before Members due to the offences listed at 1) to 4) and were detailed in the report:

- Offence 1) Speeding.
- Offence 2) Speeding.
- Offence 3) No insurance.
- Offence 4) Disqualified from driving under "totting up" procedures.

The driver was subsequently interviewed by a Licensing Enforcement Officer on 16 August 2018 when he confirmed there were no outstanding matters of which the Council was unaware.

The driver was invited to present his case and proceeded to address the Committee providing

his version of events. He also responded to questions from Members, the Council's Legal Representative and the Licensing Manager.

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

At this stage in the meeting the driver and Licensing Manager returned to the meeting.

ORDERED: that Private Hire Vehicle Driver Licence, Ref 32/18, be retained and the driver required to undertake a Driver Improvement Course at his own expense. The reasons for the decision were as follows:-

1. The Committee carefully considered the review based upon the report and appendices, the representations of the driver and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018. The matter was considered on its own merits.
2. The driver was informed that the Committee had carefully considered his representations and had taken the decision, on this occasion and within the remits of their inherent discretion, to depart from the Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018.

**** SUSPENSION OF COUNCIL PROCEDURE RULE NO. 5 - ORDER OF BUSINESS**

ORDERED: that in accordance with Council Procedure Rule No. 5, the Committee agreed to vary the order of business to consider agenda item 9 as the next item of business.

18/32

APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE - REF NO: 34/18

The Director of Culture and Communities submitted an exempt report in connection with the application of a Private Hire Vehicle Driver Licence, Ref: 34/18, 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 accompanied by a relative, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager summarised the report and highlighted the applicant appeared before Members due to the offences listed at 1) to 3) which were detailed in the report:

- Offence 1) Driving a motor vehicle with excess alcohol in March 2007
- Offence 2) Possession of a controlled Class A drug in February 2009
- Offence 3) Possession of a controlled Class A drug and possession and intent to supply a Class C drug in October 2008.

The applicant was subsequently interviewed by a Licensing Enforcement Officer on 3 August 2018 when he confirmed that there were no outstanding matters of which the Council were not aware.

The applicant was invited to address the Committee regarding his application and responded to questions from Members, the Council's Legal Representative and the Principal Licensing Officer.

It was confirmed that there were no further questions and the applicant, his relative, 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 application for a Private Hire Driver Licence, Ref 34/18, be refused under Section 51 of the Act 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:-

1. The Committee carefully considered the application based upon the report and appendices, the representations of the Applicant and Middlesbrough Councils Private Hire and Hackney Carriage Licensing Policy 2018. The matter was considered on its own merits.
2. The Applicant appeared before the Licensing Committee as a result of 3 previous convictions recorded against the Applicant in accordance with Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018 as highlighted above.
3. The Applicant made representations that at the time of the convictions he was young and now did not associate in these circles. He was now married and has responsibilities. He worked 6 nights a week in a pizza shop, having owned the business previously, he also has a small property portfolio. His purpose for applying for a taxi licence was to enable him to have flexibility to spend time with his family.
4. The Committee considered offence 1) in accordance with the report and appendices, the representations of the Applicant and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018 at appendix G, which stated that: "...A person who has been disqualified from driving as a result of an isolated drink driving offence must show a period of at least 4 years free from conviction after the restoration of their driving licence before their application can be considered..."
5. The Applicant received an 18 month disqualification and as such the conviction free period for this offence commenced on 4 October 2008. The Committee therefore accepted that the Applicant was at least 4 years free from conviction, however were minded that a conviction for such an offence had occurred.
6. The Committee then further considered offences 2) and 3) in accordance with the report and appendices, the representations of the Applicant and Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018 which states: "...An applicant with an isolated conviction, caution, reprimand or final warning issued by the Police for drug related non-driving offence should be required to a period of at least 3 years free of such conviction, caution, caution, reprimand or final warning before an application would be considered or three years from completion of any custodial sentence imposed, whichever is later..."
7. The Policy goes further and more significantly states: "...if the conviction, caution, reprimand or final warning relates to the supply of controlled drugs; possession with intention to supply controlled drugs; the production of controlled drugs (for commercial purposes) or importing drugs then the application will be refused..." "...in addition, a licence will normally be refused if an applicant has more than one conviction for drugs related offences..."
8. Having heard the representations, and having due regard to Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018, the Committee took the view that there were two drug related /convictions. One of which was an "intent to supply" conviction. The overriding aim of the licensing regime was the protection of the public.
9. The Committee could see no reason to depart from the policy and the refusal aligns with the aims and objectives of Middlesbrough Council's Private Hire and Hackney Carriage Licensing Policy 2018 and as such the application was refused.
10. 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.

The Director of Culture and Communities submitted an exempt report in connection with the application of a Combined Hackney Carriage/Private Hire Vehicle Driver Licence, Ref: 33/18, 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 understood its contents.

The Licensing Manager summarised the report and highlighted the applicant appeared before Members due to the offences listed at 1) to 3) which were detailed in the report:

Offence 1) Using a vehicle while uninsured and making a false statement to obtain insurance in October 2008.

Offence 2) Failing to surrender to custody at appointed time in September 2011.

Offence 3) Possession of a knife/ sharpe blade/ sharp pointed article in public place in August 2011.

The applicant was subsequently interviewed by a Licensing Enforcement Officer on 2 August 2018 when he confirmed that there were no outstanding matters of which the Council were not aware.

The applicant was invited to address the Committee regarding his application and responded to questions from Members, the Council's Legal Representative and the Principal Licensing Officer.

It was confirmed that there were no further questions and 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 application for Private Hire Vehicle Driver Licence, Ref 33/18, be granted. The reasons for the decision were as follows:-

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. With regard to the offences listed in the report, it was noted that the requisite time had elapsed and did not breach the Council's Policy.
3. The applicant was advised that he would receive the full decision, considerations and reasons within five working days.