

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 9 December 2019.

PRESENT: Councillor Arundale (Chair), Councillor Waters (Vice Chair); Councillors: Bell, Dean, Goodchild, Higgins, Jones, Lewis, Polano, Sands and Smiles.

OFFICERS: C Cunningham, J Dixon, and T Hodgkinson.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Rooney and J Walker.

**** DECLARATIONS OF MEMBERS' INTERESTS**

There were no Declarations of Interest made by Members at this point in the meeting.

MINUTES OF THE PREVIOUS MEETING OF THE LICENSING COMMITTEE HELD ON 18 NOVEMBER 2019

The minutes of the previous meeting of the Licensing Committee held on 18 November 2019 were submitted and approved as a correct record.

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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 25/19

The Director of Culture and Communities submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 25/19, 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 presented a summary of the report. The report outlined information contained within the Council's Private Hire and Taxi Licensing Policy in relation to the procedures for dealing with applications where an applicant had previously resided abroad.

It was highlighted that where an applicant had not been resident in the UK for the past five years, an enhanced DBS disclosure in itself would usually be insufficient to satisfy the Council that the applicant was a fit and proper person as the DBS did not routinely provide criminal record information from non-UK countries. In such cases, applicants were required to provide a Certificate of Good Conduct, or equivalent document, translated into English, from each country where they had resided/been domiciled.

Upon receiving the applicant's application for a Private Hire Vehicle Driver licence, it was revealed that he had not been resident in the UK for a full five-year period – having arrived in the UK in 2015. He was issued with a Residence Permit on 17 August 2016 and confirmed that he had refugee status with Leave to Remain with work permitted until 17 August 2021.

The applicant was requested to provide a Certificate of Good Conduct from his country of origin, in line with the Council's policy, however, he advised officers that he was unable to do so due to his refugee status.

The applicant provided a DBS certificate which revealed the offence detailed at 1) in the submitted report, for which he received a Police caution.

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

The applicant was invited to present his case in support of his application and 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 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 25/19, be granted for the following reasons:-

1. Under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act"), the Licensing Committee could not grant a licence to drive Private Hire Vehicles unless it was satisfied the applicant was a fit and proper person.
2. After carefully considering all of the information, the Committee decided to grant the applicant a licence to drive Private Hire Vehicles until 17 August 2021 for the following reasons:-
3. The Committee considered Section 51 of the Act, the Policy Guidance to applicants, licensed drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("the Policy"), the report and the representations made by the Applicant to the Committee. It considered the Application on its own particular facts and on its merits.
4. The decision was outside of the Policy, however, on this particular occasion the Committee considered there were good reasons to depart from it.
5. The Policy required an applicant who had not been resident in the UK for five years to provide a Certificate of Good Conduct or equivalent document from the country where they had been domiciled (translated into English). If an applicant was unable to provide a Certificate of Good Conduct or equivalent document the application may be refused.
6. The applicant had been a resident in England since 2015 but was not in a position to obtain a Certificate of Good Conduct or equivalent from the Iranian Embassy because of his refugee status. The applicant's refugee status with a right to work until 17 August 2021 had been confirmed.
7. The Committee decided to depart from its Policy because it considered the applicant was credible, genuine and reliable. The applicant produced a reference from a member of the pastoral team from Stockton Parish Church which confirmed the referee considered him respectable and fit to be a taxi driver. The applicant informed the Committee he had been a lecturer in Iran for 10 years, was the Dean of the University for a period of time and was currently studying at Teesside University. The Committee considered the applicant had held previous positions of trust.
8. The applicant had received a caution in respect of an incident where his child was left on their own for a short period of time. However, the Committee noted the applicant's reasons for the caution and that Social Services confirmed there were no safeguarding issues or concerns regarding the applicant.
9. For these reasons the Committee decided to depart from its Policy and grant the applicant a licence to drive Private Hire Vehicles on the grounds that he was a fit and proper person to be licensed. The licence had been granted for a limited period in view that the applicant's right to

work status would cease on 17 August 2021, however, it was expected after that time the applicant would apply for indefinite leave to remain and thereafter British Citizenship.

REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 27/19

The Director of Culture and Communities submitted an exempt report in connection the review of Private Hire Vehicle Driver Licence, Ref: 27/19, 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 accompanied by his mother, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. The report outlined that the driver was first licensed with Middlesbrough Council in May 2018.

The driver now appeared before Members due to the offences detailed at 1) in the submitted report; a warning for smoking in a Private Hire Vehicle and a further allegation in relation to failure to stop and possession of drugs.

On 19 August 2019, the Licensing Office received notification from Cleveland Police that the driver had been arrested for the alleged offence of ‘Possessing controlled drug – Class A – Other’, and that he was voluntarily interviewed on 3 August 2019 for the alleged offence of ‘Theft from Person’.

The circumstances in relation to both offences were detailed in the report. Subsequently, on 19 August 2019 the Licensing Manager, under delegated authority, suspended the driver’s licence with immediate effect whilst the above matters were investigated by Police and until such time that the matter had been considered by Members.

The driver was interviewed by a Licensing Enforcement Officer on 10 September 2019 when he provided explanations in relation to the allegations. The driver agreed to a drugs test by Officers during the interview, the results of which were negative.

The driver was also interviewed by a Licensing Enforcement Officer on 19 November 2019 in relation to the offences at 1) and in relation to a warning he was issued with by the Council’s Environmental Health Officer when he was discovered smoking in his Private Hire Vehicle on 21 June 2019. The driver provided explanations for the offences.

The driver was further interviewed by the Police in relation to the offences at 1) as, during his initial Police interview, he was unable to recall the incident. However, when re-questioned by the Police he was able to recall the circumstances and a copy of this interview provided by Cleveland Police was attached at Appendix 1.

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

The driver was invited to address the Committee in support of his case and he responded to questions from Members, the Council’s legal representative and Licensing Manager.

The driver’s mother also spoke in support of the driver and answered questions from Members.

It was confirmed that there were no further questions and the driver, his mother, 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 Private Hire Vehicle Driver Licence, Ref 27/19, be revoked, with immediate effect, for the following reasons:-

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 (“the Act”) the

Committee could revoke a private hire vehicle driver's licence on the grounds that since the grant of the licence the driver had been convicted of an offence involving dishonesty, indecency or violence and for any reasonable cause. Under Section 61(2B) of the Act, if it appeared to be in the interests of public safety, the Committee could decide that the revocation was to have immediate effect.

2. The driver was advised that he would receive the full decision, considerations and reasons within five working days.
3. After carefully considering all of the information the Licensing Committee decided to revoke the private hire driver's licence with immediate effect under Section 61 (1)(i), (b) and 61 (2B) of the Act on the grounds that the driver had been convicted of two counts of theft on 12 November 2017 and for any other reasonable cause.
4. The Committee considered Section 61 of the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on the 1 November 2019 ("the Policy"), the report and its appendices, the representations made by the driver and his representative to the Committee. The review of the licence was considered on its own particular facts and on its merits.
5. The driver was granted a licence on 21 May 2018.
6. Since that date, on 21 June 2019, the driver was warned by Environmental Health for the offence of smoking in his private hire vehicle.
7. On 24 July 2019, the Police gave chase to the driver's private hire vehicle after it failed to stop. The driver was a passenger and had allowed the vehicle to be driven by his friend who was uninsured and did not have a private hire vehicle driver's licence. The vehicle was left in the middle of the road with all four doors open. The Police stopped the driver and drugs were found in the vehicle.
8. The driver knew that the male driving the vehicle did not have a private hire vehicle driver's licence and was not covered by insurance.
9. The driver admitted he had knowingly allowed his vehicle to be used by others for drug dealing.
10. The Committee heard that the driver was easily led and was pressured into lending his private hire vehicle to his friend. However, this did not outweigh the seriousness of the incidents, nor did the Committee find the driver believable. Parts of the driver's story were inconsistent with the information provided by the Police.
11. On 12 November 2019, the driver was convicted of two counts of theft. A passenger had reported he had left a bank card and mobile phone in the Licensee's vehicle. The Licensee used the passenger's bank card to make two purchases but claimed there was no mobile phone. The Licensee claimed he mistakenly thought the card was his, however, the Committee did not find the Licensee to be credible and would not and could not go behind the convictions.
12. The Committee was concerned that the driver had thrown the card away. It was concerned that the driver had not, and would not, report items left in his private hire vehicle.
13. The Committee was concerned that the driver had to be re-interviewed by the Police because he was hesitant when first questioned and denied any involvement. The driver changed his story when questioned again.
14. Licensing Officers also had to re-interview the driver because his comments contradicted the information from the Police.
15. The Committee did not consider the driver had been truthful with the Authorities.
16. The Committee noted the licence had been suspended by Officers during the Police

investigation into the above incidents.

17. Over a very short period of time since the grant of his licence, the driver had committed an offence of smoking in his private hire vehicle. He was part of a group that made off from the Police in his private hire vehicle, had drugs found in his private hire vehicle, lent his vehicle to people who were not insured and did not have a private hire vehicle licence, for the purpose of dealing drugs. He had been convicted of two counts of theft in relation to a passenger's bank card and confirmed he would throw away the property of passengers.
18. The Committee considered the driver to be wholly unsuitable to remain licensed as a private hire vehicle driver. It considered the driver to be a risk to passengers and the travelling public because of the risk of property being stolen or destroyed, his involvement with people dealing drugs, the use of his vehicle in connection with drugs and the uninsured use of his vehicle by unlicensed drivers. The Committee, therefore, decided to revoke the licence with immediate effect in the interests of public safety.
19. The decision was in accordance with the Policy and there were no good reasons to depart from it.
20. 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.

REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 28/19

The Director of Culture and Communities submitted an exempt report in connection the review of Private Hire Vehicle Driver Licence, Ref: 28/19, 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 presented a summary of the report.

The report outlined that the driver was first licensed with Middlesbrough Council in September 2007. His licence was currently suspended following an incident of dangerous driving on 22 October 2019 when a complaint was received from the Deputy Manager of a Resource Centre for children with disabilities. Still images copied from CCTV footage outside the Centre were attached at Appendix 1. In addition, the CCTV footage of the incident was made available and viewed by the Committee.

The driver was interviewed by a Licensing Enforcement Officer on 20 November 2019 when he provided explanations in relation to the offence at 1) in the submitted report and in relation to the incident.

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

The driver was invited to address the Committee in support of his case and he responded to questions from Members, the Council's legal representative and Licensing Manager.

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 suspension of Private Hire Vehicle Driver Licence, Ref 28/19, be lifted and that the

licence be reinstated. The Committee also decided to warn the driver to refrain from unsafe driving in the future.

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 (“the Act”) the Committee could suspend or revoke a private hire vehicle driver’s licence on the ground of any reasonable cause. Under Section 61(2B) of the Act, if it appeared to be in the interests of public safety, the Committee could decide that the revocation was to have immediate effect.
2. The driver was advised that he would receive the full decision, considerations and reasons within five working days.
3. The Private Hire Vehicle Driver’s Licence had been suspended since 22 October 2019 with immediate effect on the grounds of “any reasonable cause” under Section 61(1) (b) and (2B) of the Act.
4. After carefully considering all of the information, the Licensing Committee decided to remove the suspension and reinstate the Private Hire Vehicle driver’s licence. However, the Committee decided to warn the driver to refrain from unsafe driving in the future.
5. The Committee considered the Act, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 (“the Policy”), the report, its appendices and footage and the representations made by the driver to the Committee. The review of the licence was considered on its own particular facts and on its merits.
6. The Private Hire Vehicle Driver’s Licence was granted on 6 September 2007.
7. On 28 September 2019, the driver was prosecuted for using a vehicle with defective tyres, for which he received three penalty points and a fine.
8. On 22 October 2019, the driver’s licence was suspended with immediate effect following a complaint from a member of the public and footage showing the driver carrying out a dangerous manoeuvre whilst acting as a private hire vehicle driver. The licence was suspended until the matter could be considered by the Licensing Committee.
9. The Committee considered the actions of the driver to be clearly unsafe and next to a centre for disabled children which increased the seriousness of the incident. However, the Committee did note that the driver was extremely remorseful for his actions and for the risk he posed. The driver explained he was under stress from his passengers who were being aggressive. As a result he made a wrong decision to pull onto the pavement to pass a mini bus in order drop the passengers off at their destination quickly. The driver explained he had been driving safely for 12 years and would not carry out such a dangerous manoeuvre again.
10. The driver informed the Committee that he now always checked his tyres to ensure they were to a safe standard.
11. In view of the information and that the driver had been licensed to drive the public for a long period of twelve years without incident, the Committee considered that the suspension for approximately seven weeks was sufficient to deter the driver from driving unsafely in the future and no further period of suspension was required. The Committee considered it was appropriate to issue a warning to the driver to refrain from making unsafe driving manoeuvres.
12. There was no right of appeal against the decision to lift the suspension and give a warning. However, if the driver considered the decision to be unlawful he may apply to the High Court for permission to judicially review the decision. If the Council was successful in defending its decision in any such proceedings it would apply for an Order for the driver to pay its costs.