

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 8 June 2020.

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

OFFICERS: S Bonner, J Dixon, T Hodgkinson, S Morris and A Perriman.

AN APOLOGY FOR ABSENCE was submitted on behalf of Councillor Goodchild.

**** 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 3 FEBRUARY 2020

The minutes of the previous meeting of the Licensing Committee held on 3 February 2020 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 OPERATOR LICENCE – REF: 01/21

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with an application for a Private Hire Vehicle Operator Licence, Ref: 01/21, 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 and his legal representative were in attendance at the meeting and the applicant 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 which outlined the details of the application.

It was highlighted that the application for a Private Hire Vehicle Operator Licence related to a residential address and that due to planning restrictions the applicant was limited to operating one private hire vehicle from these premises.

The applicant had held a Private Hire Vehicle driver licence with Middlesbrough Council since April 2014 and had extensive previous experience in managing Private Hire Companies through his involvement in several Companies, some of which were licensed with other local authorities – including Redcar and Cleveland Council and Wolverhampton Council.

The applicant formed his current business in December 2018, initially as a sole trader business, then as a limited Company in July 2019, and was the sole Director. It was highlighted that he remained a 25% share-holder in a family Private Hire business which he was no longer involved in since leaving in 2016 due to a family dispute.

The applicant's current business held Operator Licences with Redcar and Cleveland Council – operating 18 vehicles; and with Wolverhampton Council – operating 10 vehicles.

Members were advised that another Private Hire Company currently operated in Middlesbrough under the same trading name as the applicant's Company, and had done so since February 2019. The applicant had applied to register his Company's logo as a Registered Trademark in autumn 2019 and this was granted in early 2020.

Officers were advised by the other Private Hire Company that they had also applied to register their name and logo as a Registered Trademark and that the application was pending. Officers understood that there was a separate legal dispute ongoing between the two companies in relation to the use of the Company trading name.

Whilst Officers had no concerns with regard to the suitability of the applicant to hold a Private Hire Vehicle Operator Licence, they did have concerns that allowing two Private Hire Companies to operate using the same trading name in the same local authority area, and the use of similar logos, would cause confusion for members of the public and could potentially lead to difficulties with vehicle identification for enforcement purposes.

The applicant believed that it was essential for his business to use the same trading name across all local authority areas and did not wish to consider using a different trading name in Middlesbrough.

Appendix 1 to the report showed the logo currently being used in Middlesbrough by the other Private Hire Company and Appendix 2 showed the logo proposed by the applicant for use on his Middlesbrough licenced vehicle.

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

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

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

The applicant and his legal representative were advised that they would be notified of the Committee's decision, in writing, within five working days.

The Committee's decision was as follows:-

ORDERED that the application for a Private Hire Vehicle Operator Licence, Ref 01/21 be approved, subject to an additional condition being added to the licence.

1. The applicant was advised that he would receive the full decision, considerations and reasons within five working days.
2. In accordance with Section 55(1) of the Local Government (Miscellaneous Provisions) Act 1976 ("the Act"), the Licensing Committee cannot grant a Licence to operate private hire vehicles unless it was satisfied the applicant was fit and proper. Furthermore, Section 55(3) of the Act sets out that the Committee may attach to the grant of a licence such conditions as it considered reasonably necessary.

Decision

3. The Committee carefully considered the Act, Report, representations and the Private Hire and Hackney Carriage Policy ("the Policy"). It decided to grant the application for a licence to operate private hire vehicles because it was satisfied that the applicant was fit and proper. However, the Committee considered, in addition to the conditions set out in the Policy, it was reasonably necessary that the Operator's Licence be subject to the following additional condition:-

- a. The applicant/operator must take sufficient steps to ensure that there was no confusion to the average consumer as to the identity of his 'firm' in that the Company logo and any form of communication, eg booking app, telephone answering etc, must clearly state the name 'Club Cars Middlesbrough'.

Reasons

4. The applicant had presented his application to operate in Middlesbrough under the trading name "Club Cars". The applicant already held a Private Hire Operator's Licence in Redcar and Cleveland and used the trading name "Club Cars".
5. The Committee considered the fact that another Private Hire Operator traded under the name "Club Cars" in the borough of Middlesbrough.
6. The Committee took the view that to avoid any confusion between the applicant's business, and that of any other business with a similar name, and to avoid the average consumer being misled about any bookings made, the above condition was reasonable and proportionate to achieve that legitimate aim. Thereby enabling a consumer to distinguish between the two operators.

Appeal

7. If the applicant was aggrieved by the decision to attach the condition to the licence, he may apply to Teesside Justices Centre, Teesside Magistrates Court, Victoria Square, Middlesbrough to appeal the decision within 21 days from the date of the decision notice. However, should the appeal be dismissed the Council would claim its costs incurred in defending the decision from the applicant which could be in excess of £750.