

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 18 October 2021.

PRESENT: Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, B Cooper (Substitute for S Hill), S Dean, C Dodds (Substitute for D Jones), C Hobson, L Lewis and D McCabe

PRESENT BY INVITATION: Councillors

ALSO IN ATTENDANCE:

OFFICERS: S Bonner, J Dixon, C Cunningham, T Hodgkinson and M Embleton

APOLOGIES FOR ABSENCE: Councillors T Higgins, S Hill, D Jones, M Smiles, J Walker and S Walker

21/21 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

21/22 **MINUTES OF THE PREVIOUS LICENSING COMMITTEE - 6 SEPTEMBER 2021**

The minutes of the Licensing Committee meeting held on 6 September 2021 were submitted and approved as a correct record.

21/23 **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.

21/24 **REVIEW - COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 07/21**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 07/21, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, accompanied by his son, was in attendance at the meeting and 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 in relation to the motoring convictions detailed at 1) to 3) in the report and three complaints made in relation to the driver's driving standards by members of the public.

The report highlighted that the driver first appeared before the Licensing Committee in January 2010 when Members considered a non-motoring related offence that is now considered too old to be of relevance. On that occasion Members refused the application.

The driver again appeared before Members in April 2012 when the same offence was considered, however, on that occasion he was granted a licence with a warning that any further convictions would result in a review of his licence by the Licensing Committee.

The driver now appeared before Members in relation to three motoring offences, detailed at 1)

to 3) in the report, and three separate complaints made by members of the public in relation to his driving standards.

The driver was interviewed by a Licensing Enforcement Officer and provided explanations for the offences at 1) to 3) and in relation to the complaints.

Members were advised that the driver was interviewed by a Licensing Enforcement Officer on 2 March 2021 and provided his version of events in relation to the complaint.

The first complaint was made to the Licensing Office on 1 August 2021 and related to an incident on 31 July 2021 when the driver had been involved in a road traffic collision with the complainant. The complainant stated that the driver had refused to provide his contact details following the collision.

On 20 August 2021, Officer requested that the driver attend the Driver Improvement Scheme, in accordance with Council policy, due to the fact that the driver had accrued nine penalty points on his DVLA licence. A copy of the assessor's report was attached at Appendix 1.

A second complaint was made to the Licensing Office on 25 August 2021 relating to an incident on 24 August 2021 when it was alleged that the driver had forced his way past the complainant's vehicle, whilst stationary at traffic lights, causing the driver to drive on the wrong side of the road into oncoming traffic, and catching the complainant's wing mirror. A photograph of the incident was provided by the complainant and attached at Appendix 2.

A further complaint was received on 31 August 2021 in relation to an incident on 27 August 2021 where the complainant had been a passenger in the driver's vehicle and reported that the driver failed to maintain control of the vehicle on many occasions and that the vehicle appeared unsafe. The driver subsequently agreed with advice provided by a Licensing Enforcement Officer and presented his vehicle for a mechanical inspection at the Council's Test Centre on 24 September 2021. A copy of the inspection report was attached at Appendix 3.

It was also highlighted that Council records showed that the driver had been issued with a warning in 2013 for entering a designated 'bus only' lane and contravening 'No Entry' highway signs.

At this point in the meeting, the complainant in relation to complaint 1) joined the meeting. The Chair made introductions and explained the procedure to be followed. The complainant was invited to provide his version of events in relation to the complaint arising from the incident that occurred on 31 July 2021 when it was reported that the driver had been involved in a traffic collision with the complainant.

The complainant provided details in relation to the incident and it was highlighted that the driver had refused to provide his contact details following the collision. The complainant had subsequently reported the incident to the driver's operator, Cleveland Police and the Council. The complainant advised that the incident had been captured on the dash-cam in his vehicle and that he had the footage available for the Committee to view should they wish to do so.

The driver was afforded the opportunity to ask questions of the complainant and it became apparent that the details of the collision were in dispute, therefore, at this point in the meeting, the Committee decided to view the dash-cam footage made available by the complainant.

The complainant also responded to questions from Members, the Council's legal representative and Licensing Manager and confirmed that the driver's insurance company had accepted liability for the accident.

There were no further questions of the complainant and he left the meeting.

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

The driver, supported by his son, addressed the Committee and responded to questions from Members, the Licensing Manager and the Council's legal representative.

It was confirmed that there were no further questions and driver, his son 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 review.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

ORDERED that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref 07/21 be revoked, for the following reasons:-

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a private hire/hackney carriage 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;
 - Since the grant of the licence the driver had committed an offence or breached the Act or the Town Police Clauses Act 1847;
 - For any other reasonable cause.
2. 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 1 November 2019 ("the Policy"); the report and the representations made by the driver, his representative and the witness.

Decision

3. After carefully considering all of the information and considering the review on its own merits, the Committee decided to revoke the combined hackney carriage and private hire vehicle driver's licence on the grounds of any other reasonable cause for the reasons set out below.

Reasons

4. The Policy stated that any motoring offence showed a lack of responsibility whilst driving and the Council took a serious view if a licensed driver committed a motoring offence - as driving the public was their profession. A licensed driver had a responsibility, and was in a position of trust, to drive their passengers safely and not be a risk to other road users.
5. The Policy stated if an applicant (in this case a licensee) had a significant history of offences showing a disregard for safety, depending on the severity, there should be a period of at least 12 months to three years free of incident since the last conviction.
6. The Policy stated if a driver had driven unsafely as a result of minor traffic offences or upheld complaints about his driving standards, putting the public at risk, the Council may require the driver to attend a driver improvement course at his own expense or suspend or revoke the licence.
7. It was a condition on the licence that the driver reported any motoring or criminal conviction within seven days. This was essential for Regulators to assess whether passengers and other road users were safe. If a driver failed to report a motoring or criminal conviction in breach of their condition they were putting the public at risk.
8. The driver had been convicted of three speeding offences - on 13 June 2019, 30 May 2020 and 28 September 2020. He currently had nine points on his licence. The driver failed to declare the offences despite a clear requirement to do so and being a condition of his licence.
9. There had been three separate complaints about the driver's dangerous or careless

driving standards on 31 July 2021, 24 August 2021 and 27 August 2021. The driver disputed each complaint.

10. The Committee considered the oral testimony of a complainant involved in the traffic incident on 31 July 2021 and footage of the accident. The Committee upheld the complaint and found the complainant to be credible. This was supported by video footage. The Committee found that the driver could not understand that he caused a collision and that alone made him a risk to passengers and the travelling public.
11. The Committee considered and put sufficient weight on the written complaints made by members of the public who were unrelated to each other and had no ulterior motive against the driver. The Complaints showed a persistent pattern of careless or dangerous driving.
12. The driver attended a Driving Improvement Course on 20 August 2020. The course provider maintained that some areas of the driver's driving standards were not satisfactory and needed improvement.
13. Members of the public made complaints about the driver's careless or dangerous driving standards even after he had attended the Driver Improvement Course.
14. The Committee considered the driver was a risk to passengers and other road users. The Committee considered the driver to be an unsafe driver and had no confidence that he would comply with the conditions on his licence and report offences. The Committee was seriously concerned the driver showed a pattern of unsafe driving but continued to accept no responsibility for his actions.
15. The Committee decided, as the driver was an unsafe driver and failed to report his convictions in breach of the conditions on his licence, he was not fit nor suitable to be licensed to drive the public in Middlesbrough.
16. The decision was made in accordance with the Policy and the Committee considered there were no good reasons to depart from the Policy.
17. If the driver was aggrieved by the decision he may appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.
18. If the driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council would claim its costs in defending its decision from the driver which could be in the region in excess of £750.

21/25

REVIEW - COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 09/21

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with an application for a Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 09/21, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, accompanied by his wife, was in attendance at the meeting and 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 in relation to the application. The applicant was previously licensed as a Private Hire Vehicle driver in July 2014, however, his licence was revoked by the Licensing Committee in September 2018 following consideration of 14 penalty points on his licence in relation to three speeding convictions and also a warning issued by an Officer in relation to his driving standards.

The applicant now appeared before Members with a fresh application. He was interviewed by a Licensing Enforcement Officer on 24 September 2021 when he provided explanations in relation to the offences detailed at 1) to 3) in the submitted report and confirmed that there were no other issues of which the Council was unaware.

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

The applicant addressed the Committee in support of the application and responded to questions from Members, the Licensing Manager and the Council's legal representative. The applicant's wife also spoke in support of the applicant.

It was confirmed that there were no further questions and applicant, his wife 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.

Subsequently, all parties returned and the Chair announced a summary of the Committee's decision and highlighted that the applicant would receive the full decision and reasons within five working days.

ORDERED that the application for a Private Hire Vehicle Driver Licence, Ref 09/21 be granted with a warning in relation to his future conduct.

Authority to act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may decide to grant a private hire vehicle driver's licence only if it was satisfied the driver was a fit and proper person to be granted such a licence.
2. The Committee considered Section 51 of 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 and representations made by the applicant.
3. The application was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all of the information the Licensing Committee decided to grant the application for a combined hackney carriage and private hire vehicle driver's licence on the grounds that the Committee was satisfied the applicant was a fit and proper person to be granted the licence.

Reasons

5. The Policy stated that if an applicant had a significant history of offences, showing a disregard for safety, or had been disqualified, for example through the totting up process, an application would not normally be considered until their DVLA licence had been restored and conviction free period of at least 12 months to three years, depending on the severity of the risk, had lapsed since the reinstatement of the DVLA Licence.
6. The applicant was convicted of speeding on 30 November 2016, 9 June 2017 and 27 June 2018, which resulted in the applicant having 14 points on his licence.
7. The applicant no longer had any points on his licence, however, the Committee was concerned that the points were accrued whilst the applicant was a licensed hackney carriage and private hire driver.
8. The applicant confirmed that since having his hackney carriage and private hire driver's licence revoked he had driven safely over the previous three years and had not received any further motoring penalties.
9. The Committee considered that the applicant had taken responsibility and was remorseful for his actions.
10. After carefully considering the information, on this occasion, the Committee considered the applicant fit and suitable to be licensed. However the Committee granted the application subject to a warning being placed on his record in respect of his driving standards to ensure he drove safely to protect his passengers and road users.

11. The Committee required that if there were any other motoring convictions, fines or complaints, the applicant must be referred back to the Licensing Committee.

21/26

REVIEW - COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE, REF NO: 08/21

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with an application for a Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 08/21, where circumstances had arisen which required special consideration by the Committee.

The Council's legal representative advised the Committee that the driver had his previous licence revoked in 2018 following his conviction for the offence at 2) in the report, however, it was considered that there was insufficient information contained in the report and that the matter should be deferred to the next meeting in order for the Committee to be provided with all of the relevant additional information.

ORDERED that consideration of the application for a Combined Hackney Carriage and Private Hire Vehicle driver licence, Ref No 08/21, be deferred to the next meeting of the Licensing Committee in order for all relevant information to be provided to Members.

21/27

ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.

Reporting of Offences

A discussion took place around concerns expressed by Members in relation to ensuring drivers reported any offences to the Licensing Office within seven days, as conditioned by their licence.

The Committee requested that, in future, all submitted reports contain confirmation as to whether the offences had been reported to the Licensing Office in accordance with the condition of their licence.

NOTED