

LICENSING COMMITTEE

Date: Monday 18th October, 2021
Time: 1.00 pm
Venue: Council Chamber

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of the Previous Licensing Committee - 6 September 2021 3 - 6
4. 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.
5. Review - Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 07/21 7 - 18
6. Review - Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 09/21 19 - 24
7. Review - Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 08/21 25 - 34

8. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Friday 8 October 2021

MEMBERSHIP

Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, S Dean, T Higgins, S Hill, C Hobson, D Jones, L Lewis, D McCabe, M Smiles, J Walker and S Walker

Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Joanne Dixon / Scott Bonner, 01642 729713 / 01642 729708, joanne_dixon@middlesbrough.gov.uk / scott_bonner@middlesbrough.gov.uk

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 6 September 2021.

PRESENT: Councillor Arundale (Chair); Councillor Polano (Vice Chair); Councillors: Cooke, Dean, Higgins, Hill, C Hobson, Jones, Smiles, J Walker and S Walker.

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

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors Bell, Lewis and McCabe.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

MINUTES – LICENSING COMMITTEE – 26 JULY 2021

The Minutes of the previous Licensing Committee held on 26 July 2021 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.

REVIEW – COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 02/21

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: 02/21, 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 sister and brother-in-law, 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 a complaint made by a local business owner on 20 January 2020 and the offence listed at 1) in the submitted report, which resulted from the same incident. A copy of the complaint was attached at Appendix 1 to the report.

The report highlighted that the driver was first licensed with Middlesbrough Council in November 2007.

Members were advised that the matter was due to be considered by the Committee on 15 March 2021, however, on that occasion the driver confirmed that he was going to appeal against the conviction and sentence, detailed at 1) in the report. Members, therefore, decided to defer consideration of the matter until such time that the driver's appeal had been heard.

On 30 July 2021, the driver confirmed that he had attended Court for his appeal hearing, however, on the advice of his legal representative, he did not proceed with the appeal.

The complaint related to an incident that had occurred on 6 January 2020 at the site of the complainant's business premises. CCTV footage of the incident, showing an altercation between the business owner and the driver, was available and shown to the Committee.

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

The driver, supported by his family members, 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, family members 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 02/21 be suspended for a period of eight weeks.

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 and his representative.
3. The review of the licence 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 suspend the combined hackney carriage and private hire driver's licence for a period of 8 weeks on the grounds that since the grant of the licence the driver had been convicted of an offence involving violence, for the following reasons:-

Reasons

5. The Committee considered the driver's history on the whole in order to assess his suitability to continue to be licensed.
6. A taxi/private hire vehicle driver is a high risk environment. The Policy confirmed when carrying out its licensing functions the Council's overriding objective is the protection of the public. The Policy stated that a licensed driver should be courteous, avoid confrontation, not exhibit prejudice, not take the law into their own hands and demonstrate conduct befitting to the trust that was placed in them.
7. The Policy stated that a person who had a tendency to be violent, aggressive or who responded with violence when provoked was not suitable to be licensed. It also stated if a

licensee or applicant was convicted of common assault or battery they should not hold a licence until at least three years had elapsed without incident since the date of conviction.

8. On 21 January 2021 the Driver was convicted of the offence of Battery.
9. On this occasion after considering all of the particular facts and circumstances of the review of the driver, the Committee decided to depart from the Policy and not revoke the licence.
10. The Committee could not go behind the conviction but noted the driver's mitigation. The incident involved another male whom the driver said was aggressive to him, swearing and calling him names. The Committee noted as a result the driver had physical contact with the complainant. The Committee considered that such behaviour is wholly unacceptable for a licensed driver. However, it considered the matter was an isolated incident and out of character in consideration of his driving record of 14 years without incident. It noted that the sentence received was a fine and indicated the Magistrates considered the offence resulted in a low category of harm under the sentencing guidelines.
11. The Committee remained concerned that the driver appeared to blame the complainant, not fully accept responsibility and that licensed drivers should not react when provoked.
12. It therefore considered that a long suspension of eight weeks would deter the driver from reacting and/or acting in such an inappropriate manner in the future.
13. 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.
14. 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.

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By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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