

LICENSING COMMITTEE

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| Date: Monday 19th December, 2022 |
| Time: 1.00 pm |
| Venue: Mandela Room |

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 5 September 2022 3 - 8
4. Taxi Licensing Policy - Verbal Update
5. 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.
6. Application for Review of Private Hire Vehicle Driver Licence 9 - 20
Ref: 09/22
7. 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 9 December 2022

MEMBERSHIP

Councillors R Arundale (Chair), E Polano (Vice-Chair), A Bell, C Cooke, S Dean, N Gascoigne, T Higgins, S Hill, C Hobson, D Jones, L Lewis, D McCabe, M Smiles and J 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 Monday 5 September 2022.

PRESENT: Councillors R Arundale (Chair), A Bell, C Cooke, M Nugent (Substitute for T Higgins), S Hill and M Smiles

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

APOLOGIES FOR ABSENCE: Councillors E Polano, S Dean, N Gascoigne, T Higgins, D Jones, L Lewis, D McCabe, J Walker and S Walker

21/15 **DECLARATIONS OF INTEREST**

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

21/16 **MINUTES - LICENSING COMMITTEE - 4 JULY 2022**

The Minutes of the previous Licensing Committee held on 4 July 2022 were submitted and approved as a correct record.

21/17 **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.

21/18 **APPLICATION - PRIVATE HIRE VEHICLE DRIVER LICENCE: REF 08/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 08/22, 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 presented a summary of the report. The driver was first licensed with Middlesbrough Council in July 2012 when he was granted a licence by the Committee after considering the offences detailed at 1) to 4) in the report. A copy of the report that was considered by that Committee was attached at Appendix 1 for information. Subsequently, the driver's licence was suspended in July 2017 pending the outcome of the investigation in respect of the offence detailed at 5). He surrendered his licence in November 2017 following his disqualification from driving.

The applicant now appeared before Members with a fresh application for a private hire vehicle driver licence.

The applicant was interviewed by a Licensing Enforcement Officer on 27 July 2022 when he confirmed his previous explanations in relation to offences 1) to 4) and confirmed the explanation he had provided to the Police in respect of offence 5). A copy of the Police report in respect of the offence at 5) was attached at Appendix 2 to the report.

It was highlighted that the applicant's DVLA driving licence was reinstated in September 2020.

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 and responded to questions from Members and the Council's Legal Representative.

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 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 No: 08/22, be refused for the following reasons:-

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 applicant 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 refuse to grant the application for a Private Hire Vehicle Driver's licence on the grounds that the Committee was not satisfied the applicant was a fit and proper person to be granted the licence. The reasons for the decision were as follows:-

Reasons

5. The applicant had five previous convictions between January 2006 and October 2017. The convictions included acts with intent to pervert the course of justice in 2006, two convictions of using a mobile phone whilst driving in 2008, possession of cannabis in 2010 and dangerous driving on 16 October 2017.
6. The applicant was granted a Private Hire Vehicle Driver's licence on 23 July 2012 after a Licensing Committee considered the applicant's representations for the four convictions up to 2010.
7. The applicant was arrested on 19 July 2017 for two charges of intent to cause grievous bodily harm but the charges were dropped and he was charged with dangerous driving. The applicant's licence was suspended on 21 July 2017 as a result of Police investigations and the applicant surrendered his licence following his conviction on 2 November 2017.
8. The Committee considered the applicant's full history in order to determine whether he was safe and suitable to drive the public.
9. The circumstances surrounding the incident on 17 July 2017 were that the applicant drove at two males - one on a motorbike and the other on a bicycle - twice, with his private hire vehicle whilst licensed. The applicant followed two males in his vehicle, got out of his vehicle at Harewood Road near Bonlea Industrial Estate and there was a violent altercation with the males. The applicant then got back into his vehicle and drove at the motorcycle knocking it over on top of one male. The applicant then drove again at the motorbike and bicycle causing further damage and causing the two males to run in fear to get away.
10. In summary, the applicant stated that the male had been revving his motorbike engine causing distress to his family and neighbours in his street for a period of time, that it was the males who attacked him and when attempting to get away his vehicle steered towards the bikes. He stated he was not charged with GBH but with dangerous driving and was sorry and remorseful for the incident. The applicant also explained his very difficult family circumstances and the need to obtain a licence.
11. However, the prosecution pack annexed to the report contained witness statements of the two victims and numerous corroborating statements of independent witnesses that

showed, on balance, that the applicant did threaten the males, drove his taxi at the males and then drove again directly at the males and their bikes causing damage. This is supported by the fact that the applicant was convicted of dangerous driving and the severe sentence the Court imposed. The Court sentenced imprisonment for 6 months suspended for 24 months, required 120 hours of unpaid work and also found the applicant to be a risk as it imposed a restraining order on the applicant in order to protect the males.

12. The Policy states that for a single major traffic offence (dangerous driving being listed as such) an applicant will normally be refused until at least four years has lapsed since completion of the sentence imposed or reinstatement of the licence whichever was the later. The sentence was completed on 15 October 2019 and his DVLA licence was reinstated on 26 September 2020, therefore, only a period of approximately two years has lapsed.
13. In addition, the particular circumstances of the offence also included aggression and violence. The applicant followed the males to an area near an industrial estate, then got out of his private hire vehicle, had a violent altercation, then returned to the his vehicle to drive at them twice. It was further aggravated because the applicant used a licensed private hire vehicle in the incident whilst having the privilege of a private hire vehicle driver's licence.
14. The Policy states that as licensed drivers are in an extreme position of trust a person who responds with violence when provoked is not suitable to be licensed. The Government's statutory minimum standards state that convictions for violence against a person should carry an incident-free period of ten years. Although it is accepted that there was no specific offence of GBH or assault it was clear the incident involved aggression and violence.
15. The Committee noted the very difficult family circumstances of the applicant however, its role was to protect the public and it did not consider the applicant was safe or suitable to be licensed. It considered there were no good reasons to depart from its Policy in accordance with the above reasons
16. The Committee, therefore, decided to refuse to grant the application on the grounds it could not be satisfied the applicant was a fit and proper person in accordance with its Policy.
17. If the applicant was aggrieved by the decision they may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local magistrates for the area is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
18. If the applicant 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 applicant which could be in the region of £1,000.

21/19

APPLICATION - COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE: REF 09/22

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: 09/22, 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 presented a summary of the report. The driver was first licensed with Middlesbrough Council in November 2021 when he was granted a licence by the Committee after considering the offences detailed at 1) to 3) in the report. A copy of the report that was considered by that Committee was attached at Appendix 1 for information. The licence was subsequently revoked by Members in July 2017 following the conviction dated at 4) in the report.

The applicant now appeared before Members with a fresh application for a Combined Hackney Carriage and Private Hire Vehicle Driver licence.

The applicant was interviewed by a Licensing Enforcement Officer on 4 August 2022 when he confirmed his previous explanations for the offences at 1) to 4) in the report.

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 and responded to questions from Members and the Council's Legal Representative.

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 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 Combined Hackney Carriage and Private Hire Vehicle Driver licence be refused for the following reasons:-

Authority to Act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may decide to grant a combined hackney carriage and 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 refuse to grant the application for a combined hackney carriage private hire vehicle driver's licence on the grounds that the Committee was not satisfied the applicant was a fit and proper person to be granted the licence. The reasons for the decision were as follows:

Reasons

5. The applicant had four convictions in 1997, three related to driving offences and one of robbery. However, after hearing the applicant's representations a Licensing Committee granted the applicant a private hire vehicle driver's licence on 26 November 2001.
6. The applicant was then convicted of inflicting grievous bodily harm on 27 January 2017 and his licence was revoked on 10 July 2017 by the Licensing Committee.
7. The applicant was sentenced to 12 months imprisonment, suspended for two years, and ordered to carry out 150 hours of unpaid work. The sentence was completed on 26 January 2019 when the suspended sentence expired. Therefore, only three and a half years had expired since completion of the sentence.
8. The circumstances of the offence involved the applicant inflicting serious injury to his passenger who was aged 18 and alone when the incident occurred. The applicant was a Middlesbrough licensed driver in a position of trust whilst carrying out a private hire journey in a licensed vehicle.
9. In summary, the applicant explained he was very remorseful and sorry for the conviction, he did not intend to cause harm or commit violence and he reacted to passengers' provocation. The applicant stated that he had tried to better himself as a result of his conviction and learn from his mistakes. The applicant stated he had undergone many training courses, and had worked his way up in his employment to manage staff and deal with vulnerable people in pressurised situations. The applicant explained he wanted his

licence as he was a licensed proprietor to be able to assist his friend who currently drove his vehicle.

10. However, the conviction showed the applicant unlawfully and maliciously inflicted serious injury to his passenger.
11. The Policy which came into force in 2019 stated that licensees were in an extreme position of trust, had close regular contact with customers and a person who responded with violence when provoked was not suitable to be granted a licence.
12. The applicant did exactly that, he acted with serious violence when he stated he was provoked by a passenger. It was not self-defence and there were no other defences as a criminal court found after assessing the evidence that the applicant was guilty. The Committee could not and would not go behind that conviction.
13. The Policy stated a firm line was to be taken with those who had convictions for offences of violence or had been involved in violent acts.
14. The Policy stated a period of at least ten years free of conviction should have elapsed for offences listed or similar offences. Example offences listed included: grievous bodily harm with intent, possession of weapons, actual bodily harm which was racially aggravated, violent disorder, common assault which was racially aggravated and any similar offences. The Policy then stated that a period of five years should have elapsed for a single offence of affray, racially aggravated criminal damage or similar offences, and then three years for lower type assault and public order and similar offences.
15. The Government's Statutory Minimum Standards came into force on 21 July 2020 to try to uplift standards and ensure passenger and public safety. The Minimum Standards confirmed that taxis and private hire were a high risk environment. It stated that there should be an incident-free period of at least ten years for applicants who had been convicted of an offence involving violence against the person.
16. The applicant represented that the offence should not be treated as serious as it was reduced from GBH with intent (S18 Offences against the Person Act) to Inflicting GBH (Section 20 of that Act) by the Judge. However, the Committee did consider it to be serious as it was still proved the applicant unlawfully and maliciously inflicted serious injury to his passenger whilst in a position of trust.
17. The purpose of regulating the taxi and private hire trade was to ensure passengers were safe and not assaulted or injured by licensees in a position of trust but the applicant seriously breached this fundamental requirement.
18. Therefore, despite the applicant's representations about learning from his mistakes, his employment and positive references, the Committee must protect the travelling public and insufficient time had passed to ensure this in accordance with the Policy and the Government's Statutory Minimum Standards.
19. The Committee cannot be satisfied the applicant was fit and proper in accordance with the Policy and Government Standards and there were no good reasons to depart from those requirements.
20. If the applicant was aggrieved by the decision they may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local magistrates for the area is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
21. If the applicant 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 applicant which could be in the region of £1,000.

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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