

LICENSING COMMITTEE

Date: Monday 4th September, 2023
Time: 1.00 pm
Venue: Mandela Room

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 24 July 2023 3 - 8
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. Application for a Review of a Private Hire Vehicle Driver Licence Ref: 08/23 9 - 14
6. Application for a Combined Hackney Carriage and Private Hire Vehicle Driver Licence Ref: 09/23 15 - 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
Thursday 24 August 2023

MEMBERSHIP

Councillors L Lewis (Chair), S Dean, J Cooke, C Cooper, S Hill, D Jones, J Kabuye, T Livingstone, L Mason, J McTigue, A Romaine, M Saunders 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 24 July 2023.

PRESENT: Councillors L Lewis (Chair), S Dean, J Cooke, C Cooper, S Hill, D Jones, J Kabuye, T Livingstone, L Mason, J McTigue, J Ryles (Substitute for A Romaine), M Saunders and J Walker

OFFICERS: S Bonner, C Cunningham and R Littlewood

APOLOGIES FOR ABSENCE: Councillor A Romaine

23/1 **DECLARATIONS OF INTEREST**

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

23/2 **MINUTES - LICENSING COMMITTEE - 24 APRIL 2023**

The minutes of the Licensing Committee meeting held on 24 April 2023 were submitted and approved as a correct record.

**** SUSPENSION OF COUNCIL PROCEDURE RULE NO. 5 - ORDER OF BUSINESS**

ORDERED: that in accordance with Council Procedure Rule No. 5, the Committee agreed to vary the order of business to consider agenda item 7, Any Other Business, as the next item of business.

23/3 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

The Licensing Committee appointed the Chair to the following Committees:

Licensing Sub Committee B: Councillor Stephen Hill

Licensing Sub Committee C: Councillor Jeanette Walker

ORDERED: That the Councillors appointed act as Chair of their respective Sub Committees.

23/4 **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.

23/5 **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 06/23**

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: 06/ 23.

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 he had confirmed a copy of the report and understood its contents.

The Licensing Enforcement Officer presented a summary of the report, outlining that the Applicant appeared before Committee in relation to the offence detailed at one to six in the report.

Members were advised that the Applicant had appeared before the committee on 21 April 2021 where the application had been refused. Members were advised the Applicant had first been

licensed as Private Hire Driver in 2018. In October 2019 a routine check of the Applicant's CVLA driver's licence had revealed nine penalty points. In accordance with the Council's Scheme of Delegation the Applicant was asked to complete the Driver Improvement Scheme which he completed in May 2020.

The Applicant was interviewed by a Licensing Enforcement Officer on 29 March 2023 when he confirmed his previous explanations of previous offences and provided an explanation in relation to the offences at one to six in the report and confirmed that there were no other offences 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 presented the case in support of his application 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 Private Hire Vehicle Driver Licence, Ref No: 06/23, be refused.

Authority to Act

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 is satisfied the driver is a fit and proper person to be granted such a licence.

The Committee considered Section 51 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the Applicant.

The Application was considered on its own particular facts and on its merits.

Decision

After carefully considering all the information the Licensing Committee decided to refuse 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

The Applicant was licensed by the Council as a private hire vehicle driver on the 16 August 2018 until he was disqualified from driving in 2020. The Applicant had accrued 18 points over a period of less than two years whilst being in a position of trust as a licensed driver. He had two speeding offences on the 17.5.2019 and 2.8.2019 and was witnessed by officers speeding on Acklam Road on the 20.10.2019. The Applicant had two offences for failing to provide information as to the identity of a driver on the 16.07.2019 and the 06.09.2019. The Applicant had two disqualifications on his Licence from the 10 February 2020 for six months each were to remain on his DVLA licence until February 2023.

Throughout his Licence, the Applicant failed to report any of his convictions. It was a condition on his licence that he must report motoring convictions within 7 days, this was essential to enable officers to assess whether the public are being put at risk. It was essential that drivers were honest and trustworthy and that officers could rely on licensees self-reporting offences. The Applicant's motoring offences only came to light after a DVLA check by officers on the 23.10.2019. However, the Applicant again failed to report that he had been disqualified on the 10 February 2020.

In addition to failing to report convictions in breach of his licence, when the Applicant made an application for a new Licence in 2021, he again failed to declare his motoring convictions on his application form. The Committee clearly explained at that time that part of its reasons for refusing the licence was because the Applicant could not be trusted to report or declare his previous convictions. Despite this, the Applicant again failed to declare his convictions on his current application form.

The Policy was clear, driving is a licensee's profession, and it was essential that a licensee was a safe driver and complied with all driving requirements to ensure passengers and other road users were safe. It was essential that a licensee complied with any requirements of the police and those regulating the trade which the Applicant had continually failed to do.

A "TT99" Offence was a disqualification under totting-up procedure. Under the Policy this was classed as a Major Traffic Offence. The Applicant had two TT99 Offences and was disqualified from the 12 February 2020 to 11 August 2020 and from 24 February 2020 to 23 August 2020. The Policy stated that if an Applicant had an endorsement in respect of a major traffic offence an application would normally be refused until at least five years after the most recent restoration of the licence. The Policy stated if the Applicant had more than one endorsement for a major traffic offence a licence would not be granted until at least seven years had elapsed since reinstatement of his licence. Seven years would elapse on the 22 August 2027.

The Policy also confirmed it was an offence to knowingly or recklessly make a false declaration or to omit any material information required on the Application Form. The Policy confirmed Applicants who had intentionally misled the Council or lied as part of the application process would not be issued with a licence. The Policy was clear that Applicants and Licensees must report and declare convictions and not to do so would show that the Applicant or Licensee was not trustworthy.

In addition, two of the motoring offences were that the Applicant failed to do as directed by the police and provide driver details. On both occasions the Applicant made excuses for this, but the Committee would not and could not go behind these convictions. The Committee considered the Applicant had shown a pattern of untrustworthy behaviour and disregard for those regulating road users and the trade.

The decision to refuse to grant the licence was in accordance with the Policy and the Committee considered there are no good or exceptional reasons to depart from it. The Committee for the reasons given above could not be satisfied the Applicant is a fit and proper person or safe and suitable to be licensed as a private hire vehicle driver in Middlesbrough.

If the Applicant was aggrieved by the decision, they could appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local magistrates for the area were the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.

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 or in excess of £1000.

23/6

APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 07/23

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: 07/ 23.

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. The applicant was provided a copy of the report by the Licensing Enforcement Officer. The Licensing Enforcement Officer advised the Committee that Stockton Council had revoked the applicant's taxi licence in 2005, but this information was not in the report. The Council's legal representative queried the reason for the revocation. It was confirmed this was unknown due to the time that had elapsed and predated the public register.

The Licensing Enforcement Officer presented a summary of the report, outlining that the applicant appeared before Committee in relation to the offences detailed at one and two in the report. Members were advised that the application was made on 1 December 2022 and the details of the offences were disclosed on the application form.

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 presented the case in support of his application and responded to questions from Members and the Council's Legal Representative.

The applicant advised Members that the offence in question occurred nine years prior and that since being the conviction he had no other issues. The applicant stated he was applying for his licence so he could earn a living.

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 Private Hire Vehicle Driver Licence, Ref No: 07/23, be refused.

Authority to Act

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 is satisfied the driver is a fit and proper person to be granted such a licence.

The Committee considered Section 51 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the Applicant.

The Application was considered on its own particular facts and on its merits.

Decision

After carefully considering all the information the Licensing Committee decided to refuse 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

The Applicant had been convicted on the 28 January 2014 of using a passenger vehicle with a defective tyre on the 14 January 2014 and convicted of Assault of a Constable on the 14 January 2014.

The Policy stated a firm line was to be taken with those who had a conviction for offences of violence or had been involved in violent acts. The Policy stated that a licence would normally be refused where the applicant had a conviction for an offence of violence against the person or was connected with any offence of violence until a period of at least ten years free of such conviction had elapsed since the completion of any sentence imposed.

The Policy which came into force in 2022, reflected the requirements of the Department of Transport's Statutory Taxi and Private Hire Vehicle Standards. The Statutory Standards were set to directly address the safeguarding of the public, potential failings in this area and to ensure that protection of the public was paramount. The Statutory Standards stated that recommendations on the assessment of previous convictions drew on the work from various linked institutions and was fully consulted upon. The Statutory Standards stated where an applicant had a conviction of violence against the person, a licence would not be granted until at least 10 years had elapsed since completion of the sentence imposed. It stated the period should be taken as a starting point.

An incident free period of ten years would not expire until 13 January 2024.

The Applicant stated that he had pleaded not guilty. He stated he was stopped by traffic police who thought he was driving erratically. The Police had found the defective tyre but whilst he was disputing his driving with the officers an officer arrested him and as he stepped back off the pavement the officer had stumbled and hit her hand.

However, the Committee noted that the court had tested the evidence and found the Applicant guilty to the criminal standard and would not and could not go behind the conviction. It appeared the Applicant still did not fully accept responsibility.

Although the Committee noted the sentence was only a fine, it still considered it to be serious because it was an assault on a female officer whilst carrying out their official duties.

In addition, the Applicant had previously been licensed as a private hire vehicle driver for Stockton Council, but his Licence was revoked in 2005. There was no information on record as to the reasons for the revocation and the Applicant could not fully explain the reasons which concerned the Committee. Although the Committee accepted this occurred a long time ago, at some point the Applicant was no longer fit and proper to hold a licence in 2005.

The Committee, after considering the Policy, Statutory Standards, the offence and explanations, could find no exceptional or good reason to depart from the Policy that requires 10 years free of incidents and decided to refuse to grant the licence.

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 are the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.

If the Applicant did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the Applicant which could be in the region or in excess of £1000.

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