

LICENSING COMMITTEE

Date: Monday 26th February, 2024
Time: 1.00 pm
Venue: Mandela Room

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 18 December 2023 3 - 6
4. Minutes - Licensing Committee - 8 January 2024 7 - 10
5. Any other urgent items which in the opinion of the Chair, may be considered.
6. 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.
7. Application for Private Hire Vehicle Drivers Licence Ref:- 02/24 11 - 20
8. Application for Private Hire Vehicle Drivers Licence Ref:- 03/24 21 - 30

Charlotte Benjamin
Director of Legal and Governance Services

MEMBERSHIP

Councillors L Lewis (Chair), S Hill (Vice-Chair), S Dean, J Cooke, C Cooper, D Jones, J Kabuye, T Livingstone, L Mason, J McTigue, A Romaine, M Saunders, P Storey 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 18 December 2023.

PRESENT: Councillors: Lewis (Chair); Hill (Vice Chair), J Cooke, Cooper, Kabuye, Livingstone, Mason, McTigue, Morrish (substitute for Councillor Saunders) and Romaine.

OFFICERS: C Cunningham, J Dixon and T Hodgkinson.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: Dean, Jones, Saunders, P Storey and J Walker.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

MINUTES – LICENSING COMMITTEE – 6 NOVEMBER 2023

The Minutes of the previous Licensing Committee held on 6 November 2023 were submitted and approved as a correct record, subject to a minor amendment – page 4, paragraph 10: Victoria 'Street' to replace 'Road' – being made.

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 DRIVER LICENCE – REF: 12/23

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: 12/23, 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, outlining that the applicant had been interviewed by the Licensing Manager on 6 December 2023 in relation to the offence detailed at 1) in the report. During the interview, the applicant provided an explanation in relation to the offence and confirmed that there were no other offences of which the Council was unaware.

The applicant had been convicted of the offence of no insurance in July 2022, which he had declared on his application form, and explained the circumstances during his interview with the Licensing Manager. The applicant had been stopped by Police in February 2022 as there was a marker on his vehicle which indicated his registration plate may have been cloned and was being used on another vehicle in the Birmingham area. Upon checking the applicant's vehicle records, Police advised him that his vehicle was not insured.

The applicant explained that he had paid for a full year's policy cover but that his brother-in-law had helped him to do this, providing his own email address. When he contacted his brother-in-law to provide proof of cover, he discovered that the policy had been cancelled by the insurance company. He explained he had agreed to a black box being placed in the vehicle in order to reduce his premium, however, there had been an issue with the box and the insurance company had tried to contact his brother-in-law at his email address (which was the contact address provided). The emails had been received into the 'junk mail' box and as the insurance company received no

response, they ended the insurance cover.

The applicant had attended Magistrates Court and was issued with a fine but rather than being awarded penalty points on his licence which would have resulted in him having to resit his DVLA driving test, he was given a short two-week disqualification.

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.

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: 12/23, be refused.

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, Middlesbrough Council's Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the applicant and his representative.
3. The application was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all 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 been convicted of driving without insurance on 20 July 2022. The Policy was clear that a person should have an incident-free period of at least five years if a major motoring offence had been committed. Driving without being insured against third party risks was specified as a major motoring offence.
6. The Committee noted the applicant's explanation; that as he was not sure about how to obtain the insurance, his brother-in-law had helped him and that had he paid his brother-in-law, however, there was an issue with the black box installed in his car and the insurance company directly emailed his brother-in-law cancelling his insurance which he did not know about.
7. The Committee considered that during his first years of being licensed to drive a vehicle with the DVLA and his probationary period, the applicant should have taken extra care to ensure he was driving in accordance with the rules and check he was insured. He received a disqualification albeit for 14 days within only one year of being licensed by the DVLA. The Committee considered that the applicant was only one year and six months into the five-year free period without incident and insufficient time had elapsed.

8. The Committee considered this offence was serious as the vocation of a Private Hire driver required that passengers and other road users were protected through vehicles and drivers being insured at all times. For the above reasons, the Committee did not consider there were exceptional or good reasons to depart from the Policy.
9. Should the applicant be aggrieved by the decision he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local Magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
10. 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 £1,500.

ANY OTHER BUSINESS

Taxi Drivers Licensed with other Local Authorities

In response to a query raised by a Member of the Committee, the Licensing Manager provided Members with clarification around the current process in place for offences/complaints against drivers/vehicles operating in the Middlesbrough area but licensed with another local authority.

It was confirmed that Middlesbrough Licensing Authority had no powers to take action against a driver that was not licensed with them and that this was the responsibility of the issuing licensing authority.

For example, if a driver had collected a customer from Middlesbrough to undertake a fare and the customer wished to make a complaint regarding the driver, unless the driver was licensed with Middlesbrough there was little that could be done other than to forward the complaint to the relevant licensing authority who would be expected to deal with the matter accordingly. It was not ordinarily standard practice for the issuing licensing authority to report back on progress/outcome of the matter. Customers could be directed to make a complaint directly to the issuing licensing authority.

In cases where an offence had been committed, such as an illegal flag-down, again Middlesbrough would need to forward this on to the issuing licensing authority to be dealt with accordingly.

It was acknowledged that in particular there had been issues in recent years with large numbers of drivers being licensed with Wolverhampton.

A wide range of organisations, including local authorities, had lobbied Government to make changes in legislation to address these issues, however, to date no changes had been made.

NOTED

This page is intentionally left blank

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 8 January 2024.

PRESENT: Councillors: Lewis (Chair); Hill (Vice Chair), J Cooke, Cooper, Dean, Jones, Livingstone, Mason, McTigue and Saunders.

OFFICERS: J Dixon, B Khan and T Hodgkinson.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: Kabuye, Romaine, P Storey and J Walker.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

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 – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 01/24

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 01/24, 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 representative, 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, and firstly highlighted that the date on page 5 of the report, "18 June 2023" should be 18 June 2021. The report outlined that the driver had applied for a Private Hire Vehicle driver licence to Middlesbrough Council in October 2023. Having successfully completed the application process, the licence was issued to him, however, it subsequently came to light that the driver had previously held a Private Hire Vehicle driver licence with Redcar and Cleveland Council, which was revoked on 18 June 2021 following an incident where it was alleged that the driver had been involved in a confrontation with a group of youths and had spat at a teenage girl.

It was accepted that there had been an administrative error on the part of Middlesbrough Council as the National Register of Taxi and Private Hire Licence Revocations and Refusals had not been checked. It was noted, however, that the driver had not disclosed the revocation of his licence by Redcar and Cleveland Council on his application form.

As a result of the licence being issued by Middlesbrough Council in error, the driver voluntarily agreed not to commence working as a Private Hire Vehicle driver until such time that the matter had been resolved.

Further enquiries with Redcar and Cleveland Council revealed that Licensing Officers were made aware of an incident that had occurred in June 2021, and had been circulating on social media, showing the driver confronting a group of teenagers and spitting and a female teen. The video footage was no longer available. Redcar and Cleveland Officers stated that as a result of the incident a decision was made to revoke the driver's licence, with immediate effect, and a letter, dated 18 June 2021, was sent to the driver advising him of this (copy attached at Appendix 1). Redcar's records showed that the driver's badges were received by their Licensing Office on 24

June 2023.

The driver, accompanied by a Licensing Consultant, was interviewed by the Licensing Manager on 21 December 2023. There appeared to be a dispute as to whether the driver had surrendered his licence to Redcar and Cleveland prior to their decision to revoke it.

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

The Licensing Consultant presented the case on behalf of the driver and advised that he had full knowledge of the incident in 2021 and provided details to the Committee. The driver and Licensing Consultant 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 driver, his 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 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 Private Hire Vehicle Driver Licence, Ref No: 01/24, be revoked with immediate effect.

Authority to Act

1. Under Section 61 (1) (b) of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may decide to suspend or revoke the licence of a Private Hire Vehicle driver on grounds they consider to be reasonable cause.
2. The Committee considered Sections 61 and 57 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the driver and his representative.
3. The case was considered on its own particular facts and on its merits.

Decision

4. After carefully considering all the information, the Licensing Committee decided to revoke the Private Hire Vehicle driver's licence, with immediate effect, on the following grounds :-
5. The driver had acted dishonestly in failing to disclose the revocation of his licence by Redcar & Cleveland Borough Council from June 2021.
6. The driver's actions in respect of the confrontation were serious in nature and could not be considered the actions of a 'fit and proper' person.

Reasons

7. The driver admitted to previously being involved in a confrontation involving a group of teenagers on 16 June 2021. The driver stated that a group of teenagers were throwing stones at his taxi whilst he was driving with his daughter in the back. His vehicle's back windows were open and the driver decided to confront the group of teenagers which resulted in a video showing the driver spitting towards them during the ordeal.
8. The driver confirmed the video was uploaded onto social media. Whilst the Committee had not been privy to the video, the driver's representative confirmed the nature of the footage. This footage circulated social media and caught the attention of the local newspaper.

9. The driver's representative advised the driver to surrender his licence due to the 'inevitable position he would be in' (with respect to revocation of his licence) and, therefore, the driver stated he surrendered his licence on 17 June 2021.
10. The driver said that due to COVID 19 Restrictions, the licence and keys were accompanied with a letter showing his surrender of licence. No letter of this nature was produced within the evidence before the Committee.
11. The driver referred to a letter (as attached at appendix 1 in his representations) which illustrated the revocation of the driver's licence by Redcar and Cleveland Council but the driver stated he did not receive it. The letter made reference to the Licensing Officer of Redcar and Cleveland Council '*attempting to contact the driver a number of times*'. The Committee, therefore, considered that the driver, at the very least, had some knowledge that the revocation occurred.
12. As confirmed in the Taxi Licence Standards at paragraph 4.20:

"Applicants and licensees should be required to disclose if they hold, or have previously held, a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence."
13. The driver ticked a box within the application form which confirmed the following:

*"If a licence is granted I undertake to comply with the legislation, Council policies, Byelaws and all conditions attached to the grant of such licence. **I understand that to make a false statement knowingly or recklessly, or omit any information from this application is an offence and may result in prosecution and/or revocation of the respective licence.**"*
14. The decision by the Committee was based on the evidence before them. It was, therefore, decided that the driver had been dishonest not to disclose/declare the revocation of his taxi licence to Middlesbrough Council.
15. It should be further noted that it would be the decision of the Licensing Officer, under Section 57 (3) of the Local government (Miscellaneous Provisions) Act 1976, whether to consider his actions an offence. The consequences of which could be a Level 3 fine.
16. Further to the above, the Committee discussed the confrontation which resulted in the revocation of the driver's licence in the first instance. The Committee decided that the act of spitting during the COVID 19 pandemic was a matter which should be taken seriously and was defiant of public safety.
17. The policy stated at Appendix G:

"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 is placed in them."
18. Whilst the spit may not have landed on any persons, the intent and decision making of the driver was questionable. The Committee questioned why the driver did not continue to drive on and avoid confronting the teenagers as opposed to stopping his vehicle and engaging.
19. It was, therefore, considered whether the driver could be considered a 'fit and proper' person. Whilst no criminal conviction or charges were brought against the driver for his conduct, the dishonesty in not declaring the revocation paired and the confrontation which led to it, the Committee's decision was to revoke the licence of the driver with immediate effect.
20. If the driver was aggrieved by the decision, he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The address for the local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.

21. 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 of £1,000.

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank