

LICENSING COMMITTEE

Date: Monday 18th March, 2024
Time: 1.00 pm
Venue: Mandela Room

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 26 February 2024 3 - 8
4. Licensing Appeals

The Licensing Manager will provide a verbal update on any Licensing decisions that have been appealed since the last meeting of the committee.
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 a Private Hire Vehicle Driver Licence Ref: 04/24 9 - 16

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 Monday 26 February 2024.

PRESENT: Councillors L Lewis (Chair), S Hill (Vice-Chair), S Dean, C Cooper, D Jones, J Kabuye, T Livingstone, J McTigue, A Romaine, P Storey and J Walker

OFFICERS: P Armitage, S Bonner, T Hodgkinson and B Khan

APOLOGIES FOR ABSENCE: Councillors J Cooke, L Mason and M Saunders

23/27 **DECLARATIONS OF INTEREST**

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

23/28 **MINUTES - LICENSING COMMITTEE - 18 DECEMBER 2023**

The minutes of the Licensing Committee meeting held on 18 December 2023 were submitted and approved as a correct record.

23/29 **MINUTES - LICENSING COMMITTEE - 8 JANUARY 2024**

A Member commented that the minute for agenda item 4, on page 8 of the agenda papers, should have read "21 December 2021" rather than "21 December 2023".

With the above amendment, the minutes of the Licensing Committee meeting held on 8 January 2024 were submitted and approved as a correct record.

23/30 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

A Member queried if the committee have a standing agenda item that provided a report of all Licensing decisions that had been appealed since its last meeting.

The Licensing Manager confirmed this was possible and had been done previously.

ORDERED that a standing item be placed on future Licensing Committee agendas to show what Licensing decisions had been appealed.

23/31 **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.

23/32 **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVERS LICENCE REF:- 02/24**

The Council's Legal representative reminded the Committee that questions posed to Applicants and drivers should be relevant to the application or review. Members were reminded that failure to do so could bring any decisions into doubt.

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 02/24, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The Applicant, who attended the meeting, verified his name and address, and confirmed that he had received a copy of the report. He confirmed he understood its contents but did not have a copy with him. The Applicant confirmed he did not have any questions on the process to be followed.

There were no questions from Members on the contents of the report.

The Licensing Manager presented a summary of the report highlighting the Applicant had previously been licenced by the Council as a private hire driver between February 2016 and 11 December 2017. As such this was a new application.

Members were advised the Applicant had appeared before the committee on 18 December 2016 following which the committee issued a warning about the Applicant's conduct.

The Applicant then appeared before the committee on 11 December 2017 in relation to offence 1 which was detailed in the report and had been previously reported to Members on 11 December 2017. On this occasion the committee decided to revoke the Applicant's Private Hire Driver Licence. The Applicant was interviewed by the Licensing Manager on 29 January 2024.

Members were advised that offence 1 in the report related to plying for hire in an unlicensed hackney carriage. This had taken place in April 2017 when the Applicant had agreed to accept an un-booked fare from Council Officers during a test purchase process. The Licensing Manager also highlighted that while the Applicant disputed some of the details of the offence, he accepted it happened and regretted taking the un-booked fare.

The Applicant subsequently appeared before Magistrates Court on 14 November 2017 where he pleaded guilty to the offence.

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

The Applicant presented his case to the committee. The Applicant subsequently 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 review.

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's Driver Licence be granted.

Authority to Act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee grant a licence to drive private hire vehicles provided the Applicant is a 'fit and proper person'.
2. 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 and his representative.
3. The Committee also considered whether there was good reason to depart from the policy given the previous revocation of the Applicant's private hire licence.
4. The Application was considered on its own particular facts and on its merits.

Decision

5. After carefully considering all the information, the Licensing Committee decided to grant the Private Hire vehicle driver's licence

Reasons

6. The Applicant (Mr Tesfom) admitted on two previous occasions to plying. The Applicant's private hire driver licence was revoked in November 2017.
7. The Applicant addressed the incidents of plying and the Committee asked questions regarding the incidents.

8. Members had to consider whether to depart from the policy which reads as the following:

“If a driver’s, vehicle proprietor’s or operator’s licence is revoked as the result of a conviction for breaches of licensing legislation, then that person would normally be expected to show a period of at least seven years free from conviction, caution, reprimand or final warning before a new application is considered.”
9. Therefore, according to the policy, the Applicant would typically have had to have waited until November 2024 in order to be considered for a new application.
10. In consideration of departing from the policy, the members reasons for doing so are as follows;
 - a. In accordance with the policy, the Applicant’s ‘new date’ for consideration of a taxi licence would have been November 2024 (7 years from the revocation of licence). The Committee considered that majority of the time has lapsed (6 years and 3 months) and therefore the application should be heard and considered by the Committee.
 - b. The Applicant showed genuine remorse and regret for his actions and advised the Committee of his age 6 years ago when the offences were committed. The Applicant states that he has learnt his lesson and has since obtained an understanding in risk assessment and safety through his current occupation.
 - c. The Applicant understood the seriousness of the offences and the effect it can have on the wider public and the Council, especially in relation to the voiding of his insurance by plying.
 - d. The Applicant now has a family (a pregnant wife and a young daughter) and this has contributed to his maturity. He states that his priority is to provide for his family.
 - e. The Applicant has had a clean driving record since the date of revocation.
 - f. The Applicant appears to be a fit and proper person.
11. The Committee considered it appropriate in the above circumstances to depart from the policy and grant the private hire licence.

At this point in the meeting Cllr McTigue withdrew from the meeting.

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APPLICATION FOR PRIVATE HIRE VEHICLE DRIVERS LICENCE REF:- 03/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 03/24, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The applicant, who attended the meeting, verified his name and address, and confirmed that he had received a copy of the report and understood its contents but did not have a copy with him. The Applicant confirmed he did not have any questions on the process to be followed.

There were no questions from Members on the contents of the report.

The Licensing Manager presented a summary of the report. At the point of application Licensing officers identified an entry on the National Register of Taxi and Private Hire Driver Refusals and Revocations (NR3) database. This stated the Applicant was refused a Private Hire Driver Licence on 28 February 2022. As such further information was requested from Wolverhampton Council. This information was included in the appendix marked TH1 in the report.

At this point in the meeting the committee agreed to a temporary adjournment while TH1 was printed for Members.

When discussing TH1 the committee was advised the Applicant had engaged in abusive language over emails and phone calls with Wolverhampton Council officers. The committee was also advised of offences 1 through 5 that were detailed in the report.

The Applicant was invited to present his case to the committee. The Applicant subsequently 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 review.

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 Driver Licence 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 and his representative.

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 it was not satisfied the Applicant was a fit and proper person to be granted such a licence.

Reasons

The Applicant previously admitted to having been a user of drugs, namely cannabis. The Applicant claimed since the date of his conviction of driving under the influence of drugs in 2008, he has been clean and no longer uses any drugs.

Based on the Applicant's evidence, he applied for a Private Hire vehicle driver's licence at Wolverhampton Council and was employed by that Council from the 20 December 2019 to 18 December 2020. The Applicant failed to renew his licence with Wolverhampton Council and as a result he had to apply for a new licence. As a result, the Applicant's licence lapsed, and he could no longer operate as a private hire driver for that Council.

Documents referred to in TH1 showed a transcript of abusive and offensive language used towards Wolverhampton Council by the Applicant. The Applicant admitted to using the language due to his frustration, referring to staff members of Wolverhampton Council in a derogatory and abusive manner. The Applicant advised he attempted to call Wolverhampton Council 'a thousand times' and accused the Council of lying to him on a number of occasions which is what led to the abusive and derogatory language.

The Applicant was asked why he did not email Wolverhampton Council to which he responded he had no email contact. However, the evidence in TH1 showed abusive emails being sent to Wolverhampton Council. Nevertheless, the Applicant stated he was regretful of his actions.

The Applicant was asked to attend offices by Wolverhampton Council. The Applicant did not attend. The Committee questioned why he did not attend to which he responded he could not afford to. However, the Applicant had stated previously that he had a career job and was working during the period he was not taxiing. Further to this, in the application for Middlesbrough Private Hire Licence, the Applicant was asked whether the Applicant had been refused a licence by any other licensing authority in the last 5 years to which he responded "no".

The Applicant was also requested to disclose all driving convictions (including motoring offences). He did not disclose the speeding offence in 2015 whereby he received 3 points to his licence. The Applicant stated he mistakenly did not provide these.

The Applicant made submissions on the day of regret for his actions, a change in his family circumstances (having a wife and three children) and wanting to provide help the community as well as using his vehicle to drive to the mosque.

In respect of the evidence before members, the Committee considered all previous convictions, cautions, character and actions of the Applicant. The Committee considered there was elements of dishonesty as well as issues regarding improper character and conduct of the Applicant which is directly contrary to the policy and code of conduct.

Therefore, the Committee did not consider the Applicant a 'fit and proper person' under S51 of the Local Government (Miscellaneous Provisions) Act 1976.

If the Applicant was aggrieved by the decision, he may have appealed 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 is 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 £1000.

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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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