

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 15 April 2024.

PRESENT: 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 and M Saunders

OFFICERS: J Dixon, T Hodgkinson and T Durance

PRESENT AS OBSERVERS: P Armitage – Licensing
A Powton – Legal Services

APOLOGIES FOR ABSENCE: Councillors P Storey and J Walker

23/39 **DECLARATIONS OF INTEREST**

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

23/40 **MINUTES - LICENSING COMMITTEE - 18 MARCH 2024**

The minutes of the previous meeting of the Licensing Committee, held on 18 March 2024, were submitted and approved as a correct record.

23/41 **UPDATE - LICENSING APPEALS**

There was currently no information with which to update Members.

23/42 **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.

23/43 **REVIEW - PRIVATE HIRE VEHICLE DRIVER LICENCE - REF: 05/24**

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 05/24, where circumstances had arisen which required special consideration by the Committee.

With the permission of the Chair, the Licensing Manager circulated a copy of a written statement provided by the driver in support of his case.

The driver, accompanied by his wife, joined the meeting, however, the Council's Legal Adviser notified the Committee that the driver was known to him in a personal capacity.

**** DECLARATION OF INTEREST**

The Council's Legal Adviser declared a non-pecuniary interest as the driver was known to him outside of work and considered it would not be appropriate to provide advice, if requested by Members, in relation to the matter for that reason.

It was decided that the matter should be deferred to the next meeting of the Licensing Committee.

ORDERED that consideration of the review of Private Hire Vehicle Driver Licence, Ref No: 05/24, be deferred to the next meeting of the Licensing Committee, on 13 May 2024 at 1.00pm, for the reasons outlined above and that the written statement provided by the driver be included as an Appendix to the report for the next meeting.

REVIEW - PRIVATE HIRE VEHICLE DRIVER LICENCE - REF: 06/24

The Director of Environment and Community Services submitted an exempt report in connection with a review of Private Hire Vehicle Driver Licence, Ref: 06/24, 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 was in attendance at the meeting, accompanied by his daughter, 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 outlining that the applicant appeared before the Committee due to his convictions, detailed at 1) to 3) in the report.

It was highlighted that the driver was first licensed with Middlesbrough Council in April 2023 following his initial application made in January 2023. He had not declared the offences at 1) to 3) on his application form. On 9 January 2023 when Officers conducted a search via a DVLA mandate check, only the offences detailed at 1) and 2) appeared on his DVLA driving record. (Attached at Appendix 1).

As a result of those offences shown on his DVLA record, and in line with Council Policy, the driver was offered the opportunity to undertake the Driver Improvement Scheme which he completed in June 2023 (Copy of the driver's training report was attached at Appendix 2).

In February 2024 the driver submitted his renewal application but again failed to declare the offences at 1) to 3) in the report. This time the DVLA mandate check revealed all three offences (attached at Appendix 3).

The driver, accompanied by his daughter, was subsequently interviewed by a Licensing Enforcement Officer on 14 February 2024 when he provided explanations in relation to the convictions at 1) to 3) and confirmed that there were no other outstanding matters of which the Council was aware.

When questioned why he had failed to notify the Council about the 12 penalty points on his initial application and then again on his renewal application, the driver stated he had assumed that the DVLA would notify the Council. He also confirmed that he had failed to notify his Operator regarding the offences.

The driver confirmed that the report was an accurate representation of the facts and was invited to address the Committee in support of his application. The driver had provided a written statement in support of his case which was circulated to Members, with the permission of the Chair.

The driver's daughter addressed the Committee on behalf of the driver and responded to questions from Members.

It was confirmed that there were no further questions and the driver, his daughter, 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 driver would receive the full decision and reasons within five working days.

ORDERED that Private Hire Vehicle Driver Licence, Ref No: 06/24, be revoked, with immediate effect.

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 has been convicted of an offence involving

dishonesty, indecency or violence.

- Since the grant of the licence the Driver has 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, Middlesbrough Council's Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and the representations made by the driver and his representative.

Decision

3. After carefully considering all of the information, the Licensing Committee decided to revoke the driver's Private Hire Vehicle driver's licence on the grounds of any other reasonable cause. It decided that the revocation was to have immediate effect in the interests of public safety under section 61(2B) of the Act.

Reasons

4. The Policy confirmed that the Council's licensed drivers should be safe drivers with good driving records and adequate experience, sober, mentally and physically fit, be honest and not persons who would take advantage of their employment to abuse or assault passengers.
5. The Policy was clear that for both new applications and the renewal of an existing driver's licence, the applicant would be required to complete a pre-licensing declaration. All of the applicant's unprotected convictions must be entered onto this form including spent convictions, cautions and motoring convictions. It was an offence to knowingly or recklessly make a false statement or to omit information required by the Council.
6. The Policy on Convictions was set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
7. The Policy confirmed that if an applicant had between seven and nine live points on their licence for such offences they must show a period of three years free from conviction before an application will be considered.
8. The Policy further confirmed that where an applicant had more than nine valid penalty points for such convictions, they must show a period of five years free from conviction, caution, reprimand or final warning before their application would be considered.
9. If an applicant for a drivers licence had an endorsement in respect of a major traffic offence then the application would normally be refused until at least five years after the most recent conviction, caution, reprimand, final warning or if the person was disqualified, after the restoration of their driving licence, whichever is the later.
10. The driver was first licensed as a Private Hire Vehicle Driver with the Council on 4 April 2023. At the time of the driver's application in January 2023, he did not declare any of the three offences (2 x excess speed, 1 x no insurance) to the Council. Officers conducted a DVLA search, however, only two of the three offences (2 x excess speed) appeared on his record, despite all three offences occurring before the DVLA search.
11. As a result, and in line with the Council's Policy, the driver was offered the opportunity to undertake a Driver Improvement Course which he completed on 16 June 2023.
12. When the driver submitted a renewal application on 02 February 2024, he again failed to declare any of the three offences to the Council. Officers again performed a DVLA check, this showed all three offences.
13. The driver told the Licensing Officers during interview, that he thought the DVLA would notify the Council of any motoring offence. He confirmed that he had also failed to notify his operator of the offences.

14. The Driver could not recall the excess speeds he was travelling at but that it was during his employment as an Uber delivery driver. With regard to the offence of driving uninsured, he recalled that he had two vehicles, one was insured and the other was not. He stated he was concerned that the uninsured vehicle would seize up if it remained static, so he decided to take the vehicle out. He was subsequently stopped by the Police and prosecuted.
15. During the Committee, the driver stated that he had been taken to Teesside Magistrates Court as a result of the totting up procedure and having 12 points but his personal licence was not revoked.
16. The Committee, based on the evidence presented, decided that the driver was dishonest not to disclose/declare the driving offences. The Committee determined that the driver had opportunities to provide the Licensing Officers with the correct information on at least two occasions but did not do so.
17. Furthermore, the Committee discussed Offence 3), contained in the report, specifically no insurance and in line with the Policy, this was a major traffic offence. When considered with the further two offences, the driver had 12 points in total on his record.
18. The Committee took the view that, had the driver been honest during the initial application and second application, in line with the Policy, he would have been required to show a period of five years free from conviction, caution, reprimand or final warning before his application was considered. It was determined that he, therefore, obtained his Private Hire Vehicle driver's licence dishonestly.
19. It was, therefore, considered whether the driver could be considered a 'fit and proper' person. The dishonesty in not declaring the offences together with the seriousness of driving uninsured and 12 points on his licence, led to the Committee's decision to revoke the licence of the driver with immediate effect for the safety of the public.
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 local magistrates for the area is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
21. If the driver does 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.