

LICENSING COMMITTEE

Date: Monday 22nd July, 2024
Time: 1.00 pm
Venue: Mandela Room

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 24 June 2024 3 - 12
4. Update - Licensing Appeals

The Licensing Manager will provide a verbal update, if applicable, on any licensing appeals that have been made 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:- 12/24 13 - 26

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Friday 12 July 2024

MEMBERSHIP

Councillors L Lewis (Chair), S Hill (Vice-Chair), J Cooke, C Cooper, P Gavigan, D Jones, J Kabuye, T Livingstone, L Mason, 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 24 June 2024.

PRESENT: Councillors: Lewis (Chair), Hill (Vice Chair)(present for agenda items 1 to 5 only); J Cooke, Cooper, Gavigan, Jones, Kabuye, Livingstone and Romaine.

OFFICERS: J Dixon, D Rice and S Wearing.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: 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 – 13 MAY 2024

The minutes of the previous meeting of the Licensing Committee, held on 13 May 2024, were submitted and approved as a correct record.

UPDATE – LICENSING APPEALS

The Principal Licensing Officer advised that no appeals had been made in relation to licensing matters since the previous Committee meeting.

NOTED

ANY OTHER URGENT ITEMS WHICH, IN THE OPINION OF THE CHAIR, CAN BE CONSIDERED

Nominations were sought for the appointment of Chairs to Licensing Sub Committees B and C. Nominations were subsequently received and seconded. It was noted that the appointment of Chair of Sub Committee A was made at the Annual Council meeting on 22 May 2024. Councillor Lewis was appointed as Chair of Sub Committee A.

ORDERED as follows:-

1. That Councillor Hill be appointed as Chair of Licensing Sub Committee B.
2. That Councillor Livingstone be appointed as Chair of Licensing Sub Committee C.

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 OPERATOR'S LICENCE – REF: 11/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Operator's Licence, Ref: 11/24, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. Representatives from the Company applying for the Operator's Licence, to be based in Middlesbrough, were in attendance at the meeting and confirmed that they had been supplied with a copy of the report and understood its contents.

The Principal Licensing Officer presented a summary of the report outlining the details of the

application. Members were advised that the application would ordinarily have been granted by Officers under delegated powers as there were no objections or concerns, however, the applicant had requested an exemption from compliance with the Council's Licensing Policy in respect of two standard conditions.

The request to be exempt from two of the standard conditions was set out in the report together with the applicant's submission as to why they had requested the exemption and their proposals to meet the standard condition as far as practicable.

A copy of the application was attached at Appendix 1 and further supporting documents, including the applicant's policy on Modern Day Slavery were attached at Appendix 2.

The applicants representatives – Head of Cities UK; Head of Compliance and Legal Representative – made a detailed presentation to the Committee regarding the applicant's operating model, policies and procedures and safeguarding processes.

It was highlighted that the applicant provided an 'app-based' operating model which allowed customers to pre-book private hire vehicles. The applicant was currently licensed to operate all over the country and globally.

The applicant's representatives responded to questions from Members of the Committee.

It was confirmed that there were no further questions and the applicant's representatives 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 Operator's Licence, Ref No: 11/24, be granted, as follows:-

Authority to Act

1. Under Section 55 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may grant a licence to operate Private Hire Vehicles provided the applicant was a 'fit and proper person'.
2. The Committee considered Section 55 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the Applicant's team of representatives.
3. The Committee also considered whether the nature of the applicant's offering as an 'App' (computer/phone application/program-based) operation was compatible with Middlesbrough's standard conditions.
4. In particular, the applicant's offering required to demonstrate that it satisfied condition 1(c) relating to Standards of Service of vehicles; and condition 3 relating to registers of bookings by dispatch staff.
5. The Application was considered on its own particular facts and on its merits.

Decision

6. After carefully considering all the information, the Licensing Committee decided to grant the Private Hire Vehicle Operator's licence.

Reasons

7. The Council's Licensing Officer explained to the Committee that, but for the request to be exempt from two of the Council's standard licensing conditions, the application would have been granted under delegated powers by Officers. The applicant had provided details of the reasons for the exemption requests and provided alternative ways in which it would address the issues covered by the standard conditions.
8. There had been no objections to the granting of the licence from the Police or the Local Authority.
9. The Applicant's representatives, provided the Committee with a detailed presentation setting out its operating model and explained how it worked in practice.
10. The Applicant also explained the manner in which they controlled the standards of vehicles, as well as the conduct and control of drivers.
11. They explained, in particular the applicant's:-
 - a) booking record storage and retrieval systems; and
 - b) processes for controlling vehicle and driver standards initially and upon receipt of complaints.
12. The Committee was satisfied that the application was in keeping with the standards required of Private Hire Vehicle operators licensed by Middlesbrough Council.
13. The Committee found that the processes within the applicant's Standards of Service regarding vehicles and also the registers relating to bookings and dispatch, whilst different to other non-App based operators, were sufficient to control standards to at least the same level as other operators.
14. Having considered all of the above, the application for a Private Hire Vehicle Operators Licence was granted.

REVIEW – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 10/24

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 10/24, 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 legal 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 Principal Licensing Officer presented a summary of the report outlining that the driver was first licensed with Middlesbrough Council in June 2023. He now appeared before Members as a result of an incident on 13 May 2024 which raised concerns over the safety and welfare of a child.

On 14 May 2024 the Licensing Department received an email from the Community Transport Manager at Stockton Council stating that they had received a report from a local college reporting they had witnessed a school transport taxi leaving the site then parking in a nearby supermarket car park at which point the child passenger was transferred into another vehicle. It was then reported that the driver had an appointment and had asked a friend to transport the child home. This had been reported to the driver's employer.

Middlesbrough's Licensing Officer made contact direct with the college and spoke to the Safeguarding Officer to obtain further details about the complaint. The Officer asked that his contact details be passed to the child's parents and asked to contact him.

On 16 May 2024, the Licensing Officer contacted the driver's employer to ask them to confirm that they were aware of the incident and the outcome of any subsequent interview with the driver. A response was received confirming that they were aware of the incident and had reported the matter to Stockton Council, assuming that the driver was licensed with Stockton Council.

The driver had confirmed to his employer that he had collected the child from the college and stopped not far away and had asked a friend to take the child home as he had a family emergency and had panicked. The driver had not notified his employer at the time, or following the incident.

The driver was advised of the proper course of action should there be any reason why a journey could not be completed. It was also highlighted that the child had arrived home safely.

The Licensing Officer contacted the driver on 16 May when the driver provide the name of the friend who had transported the child home. The friend was not a licensed private hire driver.

The was interviewed by a Licensing Enforcement Officer, by telephone, on 22 May 2024 when he provided an explanation in relation to the incident on 13 May. The driver stated that he had been called to attend a family emergency and that his friend had been parked in a nearby car park. He had panicked and asked his friend to take the child home.

On 6 June 2024, the Licensing Officer conducted a telephone interview with the friend of the driver who confirmed the driver's version of events and also confirmed that he was not, and never had been, a licensed driver. Nor did he take any payment for the journey.

The Principal Licensing Officer advised that there had been a further development and that he had been contacted by the Safeguarding Officer at Stockton Council this morning to inform him that the child's mother had called expressing concerns that the driver had visited her home at 10.00pm yesterday evening accompanied by his wife and baby. The parent had stated the driver had asked to state that she had given agreement to the other driver taking her son home and had also asked her not to let the Committee know that he had visited her.

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

The driver's representative addressed the Committee in support of the driver and he and the driver responded to questions from Members 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: 10/24, 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 on grounds they consider to be reasonable cause. Section 61(2)(b) allows for this revocation to be with immediate effect, 'in the interests of public safety'.
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 review 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:-

- i) The driver acted in a manner that risked the health and safety of a child by passing him to an unlicensed and uninsured third party to undertake the journey.
 - ii) The driver compounded those actions by visiting the home of the child and mother, requesting that they change their testimony so that he could retain his licence.
5. In the Committee's view, the first action alone demonstrated that he was not a fit and person to hold a licence and furthermore this was an issue of safeguarding/public safety. The second action compounded the offensive behaviour, in the Committee's view, and demonstrated a disregard of appropriate conduct that further demonstrated that he was not a fit and proper person to hold a licence.

Reasons

6. The driver attended Committee with his representative who made representations on the driver's behalf. Both the driver and representative answered questions from the Committee.
7. The driver admitted that he had passed his fare (a 16 year old boy he collected on a contract from an education establishment in Stockton) to a friend to complete the journey. He stated that this was because he had received a call from his pregnant wife and he was worried about her. He went on to say that, at that very moment he saw his friend, a non-taxi driver from Scotland who had been visiting him earlier that day, in a nearby car park and had asked him to undertake the fare/ride in his place.
8. The driver confirmed that he did not contact his employer regarding the fact he needed another driver to take the fare, whilst he contacted his wife. Neither did he do so afterwards. He did not consider asking the school to keep the boy safe whilst another taxi was arranged.
9. The driver admitted to attending the home of the passenger and his mother around 10pm the day before the hearing. He said that he did not ask her to provide a different version of events and merely asked to explain the circumstances. He admitted, on questioning, that he had neither apologised to the family nor any other party directly or indirectly before then.
10. The driver's representative acknowledged, on his client's behalf, that the issue was one of safeguarding. He offered that his client re-take the knowledge test and safeguarding course.
11. The driver went into great detail about problems with the pregnancy and birth of his child, almost all of which related to issues and/or circumstances that occurred after the incident took place.
12. The decision of the Committee was based on the evidence before them. It was, therefore, decided that the driver's reckless behaviour with regard to his child passenger was a significant safeguarding issue and was wholly unacceptable. This alone would have been sufficient to warrant the revocation of his taxi licence.
13. The Committee was not required to decide, as a matter of fact, whether or not the driver had a family emergency on that day. They considered the safeguarding issue to be paramount and were aware of easy alternatives to the course of action undertaken by the driver if he required a replacement driver for the fare.
14. It was also decided that the act of attending the boy's house at all, let alone at 10pm the evening before the Council's Committee hearing, in order to improperly influence the hearing's outcome, was a further matter of conduct that demonstrated that the driver was not a fit and proper person to hold a taxi licence.
15. His licence was, therefore, revoked with immediate effect.
16. 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.

17. 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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 08/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 08/24, 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 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 Principal Licensing Officer presented a summary of the report outlining that the applicant appeared before Committee as a result of the offence detailed at 1) in the submitted report.

The offence was revealed during a routine DBS check, however, the applicant had not disclosed the offence on his application form.

The applicant was interviewed by a Licensing Officer on 8 April 2024 when he confirmed that there were no outstanding matters of which the Council should be aware and offered an explanation in relation to the offence at 1).

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: 08/24, refused.

Authority to Act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may grant a licence to drive Private Hire Vehicles provided the applicant was 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.
3. The Committee also considered whether there was good reason to depart from the Policy, having regard to the conviction recorded against the applicant.
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 not to grant the Private Hire Vehicle driver's licence.

Reasons

6. The applicant admitted to a conviction of stalking of a female in 2019 whilst working as a security guard in Essex and for which he received a six month prison sentence suspended for two years and a restraining order.
7. The applicant claimed to the Committee that he did not know he had been convicted. He previously told the licensing department that he did not know that the matter would be revealed by the checks undertaken by the Licensing Authority.
8. The applicant gave an account of the incident – including claiming to have been badly advised by lawyers - and being unaware he had received a suspended prison sentence. The Committee asked questions regarding the conviction.
9. Members had to consider whether to depart from the Private Hire and Hackney Carriage Licensing Policy. Whilst the Policy makes no direct reference to ‘stalking’ as an offence, the Committee considered it to be akin to crimes of violence and of a sexual nature. They found no reason why they should depart from the Policy because the conviction was recent (2019) and serious (he received a suspended prison sentence).
10. The Committee also regarded that, because the applicant had omitted the conviction from his application, that this, together with his verbal testimony, demonstrated that he was dishonest. The Committee, therefore, also applied this aspect of Appendix G to the policy:

“Where an applicant has made a false statement or given a false declaration on their application, the licence will normally be refused. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.”

11. Therefore, in accordance with the Policy, the applicant was refused the licence as, in the Committee’s view, he unambiguously failed the ‘fit and proper person’ test. This was because he presented a safety risk to the public because of his criminal conviction and because he was considered to be dishonest.
12. If the applicant 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.
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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 09/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 09/24, 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 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 Principal Licensing Officer presented a summary of the report outlining that the applicant appeared before Committee as a result of his previous convictions detailed at 1) and 2) in the submitted report and four recorded complaints received when the applicant had previously been licensed by Middlesbrough Council between 1 March 2016 and 25 May 2018 when his licence was revoked.

The applicant was interviewed by a Licensing Officer on 23 April 2024 when he confirmed that there were no outstanding matters of which the Council should be aware and offered explanations in relation to the offences at 1) and 2) and in relation to the complaints.

It was highlighted that complaint number 4) related to a failed routine random drugs test which led to the applicant's licence being revoked by Officers, with immediate effect.

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.

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: 09/24, be refused.

Authority to Act

1. Under Section 51 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may grant a licence to drive Private Hire Vehicles provided the applicant was 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.
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 not to grant the Private Hire Vehicle driver's licence.

Reasons

5. The applicant admitted to previously holding a taxi licence with Middlesbrough Council but that the licence was revoked due to a random drug test by the Council revealing the presence of cocaine and amphetamines in his system.
6. The applicant claimed in Committee that he believed that his drink had been spiked with the drugs and that he had not been aware of them because he had been drinking heavily.
7. This version of events contradicted the official record provided by the Licensing Officer to the Committee. That record revealed that the applicant had admitted to taking the drugs within an interview relating to his prior revocation.
8. The official record of his prior revocation showed he had admitted to having taken a 'line of cocaine' the day prior to the test.
9. The applicant was asked questions by the Committee relating to the incident to try to understand whether the time lapse from the previous revocation and his subsequent conduct meant that he would pass the 'fit and proper person' test.

10. Members were not required to consider whether the Private Hire and Hackney Carriage Licensing Policy required them to refuse the licence unless they found exceptional circumstances, because of the time lapse from revocation (and, therefore, the controlled drugs matter), to the new application.
11. However, they found the applicant's verbal testimony to be unreliable as it was not possible for this account and the previous account provided to both be true. They, therefore, considered and applied this aspect of Appendix G to the policy:

"Where an applicant has made a false statement or given a false declaration on their application, the licence will normally be refused. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence."
12. Therefore, in accordance with the Policy, the applicant was refused the licence as, in the Committee's view, he unambiguously failed the 'fit and proper person' test.
13. If the applicant 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.
14. 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.

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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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