

**LICENSING COMMITTEE**

A meeting of the Licensing Committee was held on Monday 9 September 2024.

**PRESENT:** Councillors , S Hill (Vice-Chair), J Cooke, C Cooper, P Gavigan, D Jones, J Kabuye, T Livingstone, A Romaine and P Storey

**OFFICERS:** S Bonner, J Dixon, B Khan and S Wearing

**APOLOGIES FOR ABSENCE:** Councillors L Lewis, L Mason and M Saunders

24/16 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Nature of Interest
Councillor Anne Romaine	Non-Pecuniary	Agenda Item No. 8 – Applicant known to Councillor.

24/17 **MINUTES - LICENSING COMMITTEE - 22 JULY 2024**

The minutes of the Licensing Committee held on 9 September 2024 were submitted and approved as a correct record.

24/18 **UPDATE - LICENSING APPEALS**

The Licensing Manager advised the Committee that no Licensing Appeals were being considered.

24/19 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

24/20 **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.

24/21 **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 13/24**

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Operator's Licence, Ref: 13/24, 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 was in attendance at the meeting and confirmed he had been supplied with a copy of the report and understood its contents.

The Licensing Officer provided an overview of the report and detailed the offences contained in the report. Members were advised this was a new application and appeared before the committee because of two previous offences detailed in the report.

Members were advised that during an interview with Licensing Enforcement Officers on the 16 July 2024 the applicant had explained the circumstance behind the offences detailed in the report. In relation to offence 1, the applicant stated that on evening of July 2016 he had gone out for a prearranged meal with his father. During the meal had consumed 4 or 5 pints of lager

and left the pub at around 10pm. While he did not drive home the applicant woke up early the next day and travelled to a 24-hour shop on Linthorpe Road.

The Applicant was stopped by police, and following breath tests, was arrested and subsequently bailed for being over the legal limit.

In relation to offence 2 the applicant explained that he had been involved in a dispute with a neighbour. Following the incident the Applicant was arrested and given a Police caution for causing criminal damage in August 2018. The Applicant accepted the caution.

While visiting his girlfriend the applicant stated a mutual acquaintance, and neighbour, started to call his girlfriend offensive names whilst she was having a cigarette in her front garden. The applicant was notified of the remarks and went to speak to his neighbour. An argument ensued during which the neighbour brandished toward the applicant.

The Applicant stated that in self-defence he kicked the neighbour's front door inwards towards hoping it would disarm him. The Applicant called the Police, who arrested the neighbour and took them into custody. The Applicant believed an allegation of property damage was made against him stating he had caused damage to front door.

The applicant confirmed the report was an accurate representation of the facts and was invited to address the Committee.

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 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 driver would receive the full decision and reasons within five working days.

**ORDERED** that the Application for a Private Hire vehicle driver's licence, Ref:- 13/24, be granted with a caution as follows:

#### 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.
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 grant the Private Hire vehicle driver's licence with a caution.

#### Reasons

5. The Applicant admitted to two convictions. These can be summarized as driving under the influence of alcohol and causing criminal damage to another's property.
6. The Applicant had his licence revoked for 12 months and received a police caution for said convictions.
7. The Applicant addressed the incidents above and the Committee asked questions regarding the incidents.

8. Members were given the following explanation by the Applicant;
  - a) The Applicant showed genuine remorse and regret for his actions and advised the Committee of his surroundings at that time of both incidents.
    - i. He stated with respect to the driving conviction, he was unaware that he would still have that much alcohol in his system even after sleeping when returning home.
    - ii. He also stated due to the bereavement of his father and child, he felt antagonized which resulted in the criminal damage.
  - b) The Applicant had abstained from any other serious convictions since 2018.
  - c) The Applicant now had a family and more responsibilities.
  - d) The Applicant appeared to be a fit and proper person.
9. The Committee considered it appropriate in the above circumstances grant the private hire vehicle driver licence with a caution.
10. A decision was also made by the Committee to ensure the Applicant was aware that any future conduct which may bring into question the 'fit and proper' character of the Applicant should be taken into serious consideration by the Applicant.

24/22

#### **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 12/24**

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 12/24, where circumstances had arisen which required special consideration by the Committee.

The Chair advised the Applicant that Councillor Romaine had declared a non-pecuniary interest in relation to a previous interaction between the Councillor and the Applicant. The Applicant confirmed they were satisfied there was no need for Councillor Romaine to withdraw from the meeting.

The Chair introduced those present and outlined the procedure to be followed. The Applicant confirmed they had received a copy of the report and understood its contents.

The Licensing Officer presented a summary of the report outlining that the matter was previously brought before Committee on 24 July 2024. Due to the presenting of documents requiring further information from Cleveland Police, Members agreed that the matter be deferred to a future meeting of the Committee.

After receiving a response from Cleveland Police, the Council's Licensing team contacted the Applicant on 20<sup>th</sup> August 2024 with exchange between both parties detailed at Appendix 2 of the report.

Members were advised this was a new application for a Private Hire Driver's Licence. The Applicant previously held a Private Hire Driver Licence from 1st May 2017 until 30th April 2018 and then held a Combined Private Hire/Hackney Carriage Driver Licence from 23rd September 2019 until 8th August 2023 when her Combined Licence was revoked following information received from Cleveland Police under the Common Law Police Disclosure process.

The Licensing Officer provided a summary of the offences and complain detailed in the report, including that of a speeding offence in 2021 and a complaint of excess noise in 2019.

Members were advised that the primary purpose for the Applicant's appearance before the Committee owed to incident on 5 August 2023 where the Applicant and a 16-year-old passenger were arrested for alleged possession with intent to supply a class B drug. The Applicant explained they already knew the 16 year-old male which why they agreed to transport the passenger without charging a fare and without putting the journey though the

operator's system. A subsequent search of the Applicant's taxi found a knife, machete and £150 in cash. Consequently, the Applicant's licence was revoked with immediate effect on 8 August 2023. During an interview with a Licensing Enforcement Officer the Applicant stated that she had known the passenger about 3 to 4 months and came from a troubled background which was why she tried to help him when she could.

The Applicant stated the passenger asked her for a favour and needed a lift from the Sporting Lodge hotel into Middlesbrough for some hot food. The Applicant picked the passenger up, free of charge at the Sporting Lodge and drove to Park Road South with the passenger being in the rear of her licensed vehicle. The Applicant stated they were having a bad day and had lots going on in their head. When they got to Park Road South, the passenger was talking to a male who was in the street, who got into the vehicle. At this point the Applicant wanted to turn around as Park Road South is a dead end and as she was turning around noticed an unmarked Police vehicle behind her. She stated that she still had things on her mind and became aware that the second passenger, who had just got into her vehicle, had gotten out. She then stated the Police Officers from the vehicle behind intervened and they were arrested after the passenger she had given a lift to was found to be in possession of drugs and that two large knives were recovered from behind the driver's seat in a black bag.

The driver addressed the Committee and responded to questions from Members, the Council's Legal Representative and Licensing Manager.

It was confirmed 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 Application for a Private Hire vehicle driver's licence, Ref:-12/24, be refused as follows:

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

5. The Committee had considered a report concerning the application on the 22 July 2024. At this hearing the Applicant introduced two documents concerning a relationship she claimed to have had with Cleveland Police. The matter was adjourned in order to obtain more information from the police as to whether the said documents were authentic and relevant for the Committee to consider.
6. The legal advisor on the 22 July 2024, Mr Rice, requested further information from Cleveland Police obtained a response which was given to the Applicant. In summary, Cleveland Police could "not confirm nor deny" any of the information provided to and from Cleveland police regarding this relationship.
7. The Applicant had advised that the documents produced did not have the desired effect. The Applicant stated it may have diverted the attention of the Committee more than what was intended. The Committee could only consider the evidence before

them.

8. The Committee had questioned the Applicant regarding the incident which occurred on the 05 August 2023 involving a 16-year-old child.
9. The Applicant stated that the child was first known to her when they collected him and two other individuals who were known to the police. Thereafter they exchanged numbers with the child. The Applicant stated on the 05 August 2023, she was contacted by the child to collect food and she did this without expectation of any payment. The Applicant also stated that she was stopped by the police in an area which was a 'dead end' on Park Road South, a remote location which did not lead to the intended food outlet. Further to this, the Applicant was found to have £150.00 cash in her possession which she failed to disclose to the police until the search. The Applicant stated at the hearing she did in fact disclose this, however this is contrary to the police report which stated the money was discovered after a search was conducted.
10. In respect of the evidence before members, the Committee considered all previous convictions, character and actions of the Applicant. The Committee considered the incidents and decisions made by the Applicant in assessing whether or not the Applicant was a fit and proper person to undertake a taxi licence.
11. The Committee considered there to be concerns surrounding the conduct of the Applicant in the incident on the 05 August 2023 and the decisions made by the Applicant did not align with that of a person the Committee would consider to be 'fit and proper'.
12. Therefore, the Committee did not consider the Applicant a 'fit and proper person' under S51 of the Local Government (Miscellaneous Provisions) Act 1976.
13. 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 address for the local magistrates for the area is 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 £1000.

24/23

#### **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 14/24**

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Operator's Licence, Ref: 14/24, 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 was in attendance at the meeting and confirmed he had been supplied with a copy of the report and understood its contents.

The Principal Licensing Officer referred to page 41 of the submitted report which made reference to an order being signed by a District Judge on 24 March 2024 and advised that this date should read 24 March 2020.

The applicant had supplied a copy of the Order referred to and this was circulated to Members for information. The Principal Licensing Officer pointed out that the Order ceased to have effect from 8 July 2022.

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

The applicant had previously been licensed with Middlesbrough Council in December 2016. In April 2020 concerns were raised with Licensing Officers by the Local Authority Designated Officer (LADO) regarding the driver's behaviour in relation to drug-taking and sexual violence towards his wife.

The LADO provided a report which included information regarding the driver's admission to a family social worker that he had taken cocaine. An extract from that report was included in the submitted report.

The LADO report also included other relevant information supplied by the Police in August 2017 that the driver had touched a female passenger's leg inappropriately. The female did

not wish to make a statement at the time and no further action was taken.

As a result of the report and concerns raised by the LADO, on 24 April 2020, the driver attended the Council Licensing Officer to undertake a drug test. The result was negative, however, the driver admitted to taking cocaine on four or five occasions previously.

Subsequently a review of the driver's licence was carried out following consultation with the Council's Legal Department and it was decided to revoke his licence with immediate effect (Appendix 1).

The driver appealed the decision to the Magistrates Court in November 2020 when it was determined that, on the balance of probabilities, the driver posed a risk to the public and the appeal was dismissed.

In November 2023 a fresh application was made by the applicant. As part of the application process, in January 2024, Licensing Officers received a disclosure from the Cleveland Police DBS team stating that the driver was arrested on 6 January 2024 for harassment and driving with a specified controlled drug above the speed limit. It was alleged that the applicant had attended his ex-wife's address causing harassment and had further been stopped driving a vehicle and testing positive for cocaine in a drug swipe test at the roadside.

As a result of the above, the applicant was interviewed by Licensing Enforcement Officers on 5 February 2024 and was advised that the Council would not be able to further consider his application until the Police investigation had concluded.

On 29 May 2024, the applicant contacted the Licensing Team requesting that his Private Hire Driver licence be reinstated as the drugs test he had taken was negative and the Police had not updated the Licensing Office.

On 23 July 2024 checks were made with Cleveland Police DBS team to ascertain the outcome of the applicant's arrest and it was confirmed that no further action was taken in relation to either offence.

The applicant was interviewed by Licensing Enforcement Officers on 30 July 2024 when he provided an explanation of the circumstances leading to his arrest in January 2024.

The applicant was invited to present the case in support of his application and responded to questions from Members of the Committee 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 Operator's Licence, Ref No: 14/24, be refused, as follows:-

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

5. The applicant had no history of criminal offences, however, a number of concerns were brought to the Committee's attention regarding his conduct.
6. The applicant had admitted to using cocaine in the past, on more than one occasion, and had his licence revoked immediately as a result.
7. Furthermore, a complaint by a passenger of the applicant was disclosed by the Police which alleges sexual assault on the passenger in 2017. This allegation was not taken any further by the passenger. The applicant stated that the Police should have brought this to his attention so he had the opportunity to rebut it.
8. The applicant also alleges that the Police are conspiring against him insofar as they have accused him of selling/taking drugs and sexually assaulting a passenger.
9. On 6 January 2024, the applicant was arrested by the Police for a course of conduct which amounted to harassment and driving a vehicle under the influence of drugs (namely cocaine).
10. It was noted by the Committee that the applicant was in fact not under the influence of drugs and tested positive because of codeine which he had taken.
11. A non-molestation Order was provided by the applicant and a further Final Order in respect of child arrangements and restrictions between the Applicant and his ex-partner.
12. The applicant was prohibited from contacting his ex-partner directly and the order stipulated intermediaries to arrange contact between them. The applicant stated, as the relationship between the intermediaries had ended, there was no other way for him to establish contact with his partner. Therefore, he attended her property on the 6 January 2024.
13. The Applicant was accused by his ex-partner of "*parking outside her house, beeping the horn shouting and shining a laser pen through the windows*". At the time of the applicant's arrest, a laser pen was found in his vehicle. The applicant states his ex-wife knew that he kept a laser pen in his vehicle.
14. In respect of the evidence before Members, the Committee considered all previous convictions, character and actions of the applicant. The Committee considered the incidents and decisions made by the applicant in assessing whether or not the applicant was a fit and proper person to hold a taxi licence.
15. The Committee did not consider the applicant to be a 'fit and proper person' under S51 of the Local Government (Miscellaneous Provisions) Act 1976.
16. 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 is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
17. If the applicant 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 applicant which could be in the region of £1,000.