

LICENSING COMMITTEE

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

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes - Licensing Committee - 21 October 2024 3 - 10
4. Any other urgent items which in the opinion of the Chair, may be considered.
5. 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.
6. Review of Private Hire Vehicle Driver Licence ref:- 20/24 11 - 18

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Friday 8 November 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 and P Storey

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 21 October 2024.

PRESENT: Councillors L Lewis (Chair), J Cooke, C Cooper, P Gavigan, J Kabuye, T Livingstone and A Romaine

OFFICERS: J Dixon, B Khan and S Wearing

APOLOGIES FOR ABSENCE: Councillors S Hill, D Jones, L Mason, M Saunders and P Storey

24/31 **DECLARATIONS OF INTEREST**

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

24/32 **MINUTES - LICENSING COMMITTEE - 30 SEPTEMBER 2024**

The minutes of the Licensing Committee meeting held on 30 September 2024 were submitted and approved as a correct record.

24/33 **UPDATE - LICENSING APPEALS**

There were no updates to be provided.

NOTED

24/34 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None.

24/35 **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.

24/36 **APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 17/24**

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 17/24, 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 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 had previously been licensed with Middlesbrough Council from 15 September 2023 until it lapsed on 31 August 2024, and now appeared before Members as a result of the conviction detailed at 1) in the submitted report.

The Committee heard that, on 13 August 2024, Licensing Officers received an email from the applicant's employer containing three screen shots of DVLA records showing that the driver had received six penalty points, on 3 May 2024, for the offence of 'Failure to give information as to identify the driver.' The information showed that the offence had occurred on 24 May 2023. It showed the driver's DVLA licence was valid from 13 August 2024 which indicated that he would most likely have been disqualified from driving as a consequence of the

motoring conviction. Until the email received, the Licensing department was unaware of the conviction as the driver had not notified the Council, as required by condition of his licence. A copy of the email notification was attached at Appendix 1.

As a result of the information received, Licensing Officers requested the driver's attendance at the office to discuss the matter on 14 August 2024. He was unable to explain the offence which led to him receiving six penalty points but believed it might have been in connection with a vehicle he no longer owned and also revealed his DVLA licence was revoked but was unsure as to why.

He returned to the office with a bundle of documents obtained from his legal representatives. Licensing Officers established that on 20 April 2023, a vehicle belonging to the driver at that time, was involved in a collision with another vehicle. The driver and passenger in the vehicle had swapped seats and attempted to drive away but, when doing so, the vehicle rolled backwards and collided with the other vehicle for a second time. A copy of the bundle of documents was attached at Appendix 2.

On 26 April 2023, the investigating Police Officer sent two relevant notices to the driver as he was the registered keeper of the vehicle at the time of the incident. Such notices were legal documents requiring the registered keeper to name the driver when the alleged incident occurred. In this case road traffic offence of driving with out due care and attention and failing to stop/report an RTC. As the driver only responded one of the notices, he was issued with a Court summons.

He attended Magistrates Court on 3 May 2024 and pleaded guilty to the offence and was issued with six penalty points. As he had held a full UK DLVA driving licence for less than two years, his DVLA licence was revoked, in accordance with standard practice.

The applicant has since successfully reapplied for a DVLA driving licence and passed another driving test. His new DVLA licence was valid from 13 August 2024.

The applicant was invited to a further interview with Licensing Officers on 20 August 2024 when he explained the circumstances of the incident. He stated that he had not informed the Licensing Department of the conviction and penalty points as he had informed his employer and assumed they would pass on the information. In relation to why he had been unable to supply a satisfactory explanation during his first interview on 14 August, he stated he had sold the vehicle to an unknown person and that the accident was nothing to do with him. He also stated he had been confused and had not understood the questions in the first interview.

It was highlighted that the applicant had not applied to renew his Private Hire Vehicle driver licence prior to its expiry date on 31 August 2024, but did make a new application on 12 September 2024 stating within that application "points on licence, please check DVLA code".

The applicant confirmed that the report was an accurate reflection of the facts and was invited to address the Committee in support of his application.

The applicant spoke 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 teams, 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: 17/24, 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 was satisfied the applicant was 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 one previous conviction regarding the failure to identify a driver/rider of a vehicle when required, however, a number of concerns were brought to the Committee’s attention regarding the nature of this offence.
6. Within the report pack, the applicant underwent two interviews concerning an accident which took place on 20 April 2023. The applicant contradicted himself, stating in his first interview (14 August 2024) with Licensing Officers, he denied any involvement in the accident and he may have sold the vehicle at the time to another person at the time. However, in the second interview (20 August 2024) he stated he was involved in the accident but was not the driver. He stated the vehicle rolled back at traffic lights which is when the first collision occurred. At this point he attempted to swap seats with the driver which resulted in the car rolling back and a second collision occurred. The applicant stated the driver at the time was his friend who also purchased the vehicle. The applicant could not provide the individual’s name when questioned by the Committee. When asked why he decided to swap seats after the collision occurred, the applicant could not explain why.
7. In relation to the conviction on 3 May 2024 whereby the offence committed by the applicant was the failure to disclose/identify the driver/rider of the vehicle, the applicant stated he received a letter from the Police/CPS requesting the disclosure of the driver. He stated he did not understand what this letter was or what the offence was at the time. He states he had instructed a local law firm to deal with this matter and they had advised him to plead guilty. He stated he pleaded guilty because he did not understand and followed the advice of his solicitor. The Committee was reluctant to accept the applicant’s version of events in that a solicitor would ask a client to plead guilty to a charge they did not understand.
8. The applicant also stated someone had attacked him and/or his vehicle at McDonalds on 17 April 2024, which the Committee understood to be indicative of where the damage to the applicant’s vehicle had occurred. No evidence of this was produced before the Committee.
9. 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.
10. The applicant had shown signs of dishonesty and, therefore, the Committee did not consider the applicant a ‘fit and proper person’, under S51 of the Local Government (Miscellaneous Provisions) Act 1976, to hold a licence.
11. 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.
12. 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.

The Director of Environment and Community Services submitted an exempt report in connection with the review of a Private Hire Vehicle Driver Licence, Ref: 18/24, 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, 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. The driver was licensed by Middlesbrough Council in February 2024 and now appeared before Members in relation to an incident that took place on 15 February 2024 that raised concerns over his suitability to hold a licence with Middlesbrough Council.

It was highlighted that the incident had occurred quite some time ago and had been delayed in coming before Committee due to a delay in Officers obtaining CCTV footage from Stockton Council as a result of technical issues. In addition, the driver had been out of the country for several months.

Licensing Officers received CCTV footage from Stockton Council on 11 June 2024, showing an incident involving a Middlesbrough licensed Private Hire Vehicle. The footage, dated 15 February 2024, occurred in an area of Stockton with high levels of prostitution and was regularly monitored by Officers from Stockton Council CCTV. The report contained a link to a recent local newspaper article where concerns had been raised by local residents and Ward Councillors in relation to the issues with prostitution in the area.

The CCTV footage was played to the Committee and showed, on 15 February 2024, a lone female loitering in the area, subsequently getting into a vehicle that stopped a few minutes later after a brief conversation through the front passenger window. The CCTV operative followed the vehicle as it drove away and located it shortly afterwards when it had parked up in a car park outside a medical centre. The occupants were then seen to leave the vehicle and walk a short distance and enter an electrical sub station nearby, emerging shortly afterwards. Upon exiting the sub station, the female walks away in one direction and the driver returned to his vehicle and drove away.

The driver was interviewed by a Licensing Enforcement Officer on 20 June 2024, over the telephone as he was out of the country at the time and would not be returning until late September. The driver confirmed that he had been the driver of the vehicle and had paid the female for sex after he had finished work. He provided his version of events and stated that this was a one-off incident and apologised for his actions.

Appendices 1, 2 and 3 to the report provided details of the location of the incident.

The Council's legal representative referred to the paragraph within the report "This incident does constitute a criminal offence and is Contrary to Section 51(a) of the Sexual Offences Act 2003, "It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B's sexual services as a prostitute." And wished to clarify that the offence was on the part of sex worker, as in soliciting, rather than on the part of the individual paying for their services (the driver in this case).

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

The driver spoke in support of his case 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 driver and Officers of the Council, other than representatives of the Council's Legal and Democratic Services teams, 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: 18/24, be revoked, with immediate effect, as follows:-

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 considered to be reasonable cause.
2. The Committee considered Section 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.
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 grounds of the following:-
 - I. The driver acted in breach of Middlesbrough Council's Taxi Licence Policy.
 - II. The driver's actions raised serious safeguarding concerns.

Reasons

5. The driver was shown on CCTV to be collecting a sex worker, in an area known for prostitution, on 15 February 2024. The footage showed the driver collecting a young female in his taxi and driving to a nearby industrial state. The driver admitted that he paid the sex worker £50.00 in cash and engaged in sexual activities with her on the same date.

6. As confirmed in the Taxi Licence Policy under Appendix G (e);

"As licensed drivers often carry unaccompanied and vulnerable passengers, the Council will take a strong line in relation to applicants or Licensees **involved in exploitation, illegal sexual activity or indecency.**

If an Applicant or Licensee has been convicted of a crime involving, relating to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective whether the victims are adults or children, they will not be licensed. This includes but is not limited to slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

If an Applicant or Licensee has been convicted of an **offence or has any connection with an offence involving or connected with illegal sexual activity or a form of indecency they will not be licensed.**"

7. The Committee considered the driver to be in breach of the Taxi Licence Policy insofar as the driver exploited the sex worker and was connected with illegal sexual activity (namely kerb-crawling under section 51a of the Sexual Offences Act 2003 and Loitering or Soliciting for purposes of prostitution under Section 1 of Street Offences Act 1959).
8. Further concern by the Committee was raised insofar the driver had compromised his safeguarding duties by engaging in this activity. Whilst it was not a matter of fact that the sex worker was vulnerable, the circumstances surrounding the case were an indication that she was, on the balance of probabilities, vulnerable. Nevertheless, the duties regarding safeguarding for a licensed private hire holder are so high that the Committee considered the act itself to have compromised that duty.
9. It was therefore considered whether the driver could be considered a 'fit and proper' person. Whilst no criminal conviction or charges had been, or were brought against the driver for their conduct, the act itself was considered so serious that it was the Committee's decision to revoke the licence of the driver with immediate effect.
10. 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.

11. 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.

24/38

APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 19/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 19/24, 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 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 had previously been licensed with Middlesbrough Council from November 2015 until January 2022 when his licence was revoked by the Licensing Committee on 20 December 2021.

Several appendices were attached to the report, as follows:-

- Appendix 1 - Committee report from 20 December 2021 in relation to the driver's review of his licence at that time.
- Appendix 2 - Decision letter following that meeting, dated 6 January 2022.
- Appendix 3 - Three interview records – one relating to the driver's arrest for drugs by Cleveland Police, dated 21 July 2020.
- Appendix 4 – Interview record relating to an incident captured on CCTV in Stockton appearing to show the driver purchasing drugs.
- Appendix 5 – Interview record relating to the driver illegally plying for hire.

The applicant was interviewed by a Licensing Enforcement Officer on 26 September 2024 and was shown the above documents during the interview. The applicant confirmed that the interview records shown to him were a true account of what he had said at that time.

The applicant confirmed that the report was an accurate reflection of the facts and was invited to address the Committee in support of his application.

The applicant spoke 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 teams, 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: 19/24, be granted, 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 was satisfied the applicant was 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

grant the Private Hire Vehicle driver's licence with conditions. Those condition(s) were that:

- I. The applicant must undertake additional drug tests, no less than five working days from the request of the Licensing Officer, at his own expense, in the form of a urine or hair sample.

Reasons

5. The applicant had no previous convictions, however, he previously had his licence revoked due to concerns regarding drug dealing and possession of drugs.
6. The applicant's home was searched by the Police following an arrest for supply of drugs whereby the Police discovered the applicant to be in possession of a small amount of cannabis, the value of which was said to be £2.00. The applicant stated that the cannabis did not belong to him and that his friend had left it at his home. The applicant also stated he was not obstructive of the Police when they wanted to search his home.
7. The applicant stated, in retrospect, he should have thrown it away instead of holding on to it for his friend. The applicant was given the opportunity to take part in a "Divert Scheme" which allowed him to address the issues and speak to someone on a weekly basis.
8. The applicant stated he was a grandfather and wanted to be an example for his grandchildren. He stated he had more responsibilities now and had cut off from people who had any association with drugs.
9. The Committee noted that the applicant had been open and transparent in undergoing drug tests and passed previous tests.
10. A decision was also made by the Committee to ensure the applicant was appropriately and randomly drug tested throughout his time operating under the private hire licence.

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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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