

LICENSING COMMITTEE

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

PRESENT: Councillors L Lewis (Chair), S Hill (Vice-Chair), J Cooke, P Gavigan, D Jones and T Livingstone

OFFICERS: J Dixon, T Durance and S Wearing

APOLOGIES FOR ABSENCE: Councillors C Cooper, J Kabuye, L Mason, A Romaine, M Saunders and P Storey

24/44 **DECLARATIONS OF INTEREST**

Name of Member	Type of Interest	Nature of Interest
Councillor L Lewis	Non-pecuniary	Agenda Item No. 7 – Review of PHVDL Ref 21/24 – Driver lives in her Ward but not known to her.

24/45 **MINUTES - LICENSING COMMITTEE - 18 NOVEMBER 2024**

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

24/46 **LICENSING APPEALS**

There were no updates to be provided.

NOTED

24/47 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

There were no urgent items to consider.

NOTED

24/48 **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.

24/49 **REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 21/24**

****DECLARATION OF INTEREST**

The Chair declared a non-pecuniary interest in the following item as the driver lived in her Ward, however, they were not known to each other and it was confirmed that this would not impact on her consideration or determination of the matter.

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 21/24, 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 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 had been licensed with Middlesbrough Council since January 2017 and appeared before Members as a result of an incident on 7 November 2024 which raised concerns regarding his suitability as a licensed driver.

The Committee heard that, on 7 November 2024, Stockton Council's Trading Standards Team notified Middlesbrough Council's Licensing department that a driver was seen urinating at the side of a Private Hire vehicle in Stockton High Street. Checks against the vehicle were made by a Licensing Enforcement Officer which confirmed the vehicle was licensed by Middlesbrough Council.

Subsequently CCTV footage was supplied to Licensing Officers showing, that at approximately 03:52 hours on 7 November, a male urinating in the street and discarding a piece of litter before driving away.

On 18 November 2024, Licensing Officers contacted the vehicle operator to request log on details for the driver of the vehicle at the time of the incident. This was subsequently provided, confirming the driver's identity.

On 22 November 2024, the Licensing Officer interviewed the driver, by telephone, about the matter. The driver admitted to the incident and explained he had been 'caught short' and took medication for a health condition, a symptom of which was requiring the toilet more frequently. A check of the driver's most recent medical report confirmed this.

The Committee was informed that the driver was issued with a Fixed Penalty Notice (FPN) by Stockton Council's Enforcement Team in the sum of £130. The fine was discounted to £90 if paid within seven days and the driver confirmed that he had paid the £90 fine on 16 November. A copy of the FPN was attached at Appendix 1 for information.

The CCTV footage was shown to Members of the Committee.

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

The driver spoke in support of his case and responded to questions from Members of the Committee.

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: 21/24, be retained but the driver be issued with a warning, as follows:-

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, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the driver.
- 3. The review of the licence was considered on its own particular facts and on its merits.

Decision

- 4. After carefully considering all the information, the Licensing Committee decided to, on this occasion, permit the driver to keep his licence, but issued him with a warning regarding his future conduct.

Reasons

- 5. Licensing Officers were made aware of an incident by Stockton Council's Trading Standards Team, whereby CCTV footage had captured an Asian male littering and urinating at the side of a private hire vehicle near the Shambles car park on Stockton High Street. (Vehicle registration number supplied).
- 6. Subsequent investigations by Licensing Officers confirmed the identity of the driver of the vehicle, the subject of the immediate review.
- 7. The driver, when questioned by Licensing Officers, did not deny the incident and explained that he was simply caught short. The driver further informed Officers that he was Type 2 Diabetic and a symptom of this condition was that he must use the toilet every couple of hours. The driver stated he was worried he would soil himself should he travel to a toilet, but that he did check to ensure nobody could see him. The driver was unaware he had been captured on CCTV and was fined by Stockton Council for the offence - the fine was paid in full.
- 8. The Committee considered whether the driver was a fit and proper person to hold a licence and consideration was given to the Overriding Duty of the Policy and to the driver breaching the Code of Conduct. The Committee noted the driver's mitigation, that he considered it an emergency type situation as he required the toilet, but the Committee still considered as a licenced driver there were standards to uphold.
- 9. The Committee did, however, in this instance, determine that a warning for this behaviour was appropriate to educate the driver that this behaviour would not be tolerated and to ensure the driver complied with the Policy and rules going forward.
- 10. The driver was reminded of the Code of Conduct and behaviour expected of drivers found at Appendix J of the Policy. At point 3(f) of the same, it stated that drivers had a responsibility not to urinate in any public place.
- 11. The decision was final and there was no internal or statutory route of appeal, however, the driver had the option of judicially reviewing the lawfulness of the decision to the High Court if grounds were made out. If the driver decided to challenge the decision by way of judicial review, he would be advised to seek independent legal advice as to the grounds and time limits that may apply. If the driver did decide to take this course of action, the Council would apply for any costs it incurred in defending its decision.

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 accompanied by his wife, 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 applicant was previously licensed by Middlesbrough Council from 2016 until his licence was revoked in September 2019, due to the offence listed at 1) in the report. It was noted that information prior to the applicant's previous revocation could not be verified by the Licensing Department due to a data loss from electronic records.

It was highlighted that the circumstances surrounding the previous revocation of the applicant's licence were that, in January 2019, a complaint was received by the Licensing department regarding his conduct towards a lone fifteen-year-old female he had transported in his Private Hire vehicle. Due to the nature of the allegations made against the applicant, the female's mother also reported the incident to Cleveland Police.

Confirmation was subsequently received from Cleveland Police that they had initiated legal proceedings against the driver. Licensing Officers followed the usual procedure, at that time, and awaited the outcome of the Police investigation and any subsequent Court hearing prior to beginning a licensing investigation. Members were made aware that the procedure had now changed and that Officers would revoke a licence with immediate effect until the Police investigation had concluded.

On 23 August 2019 the driver was found guilty of an offence of racially/religiously aggravated intentional harassment/alarm/distress – words/writing. A copy of the driver's revocation letter, dated 6 September 2019, was attached at Appendix 1.

The applicant made a fresh application on 9 September 2024 and, on 22 November 2024, supplied a DBS certificate which revealed the conviction recorded against him (as set out in the report).

A Licensing Enforcement Officer contacted the applicant by telephone on 27 November 2024 and asked him to confirm the content of the revocation letter in respect of his previous licence. He confirmed the content but disputed the allegations made against him. The applicant was also asked if he had declared any convictions/cautions or reprimands on his application form. He was unsure but stated he had found the form confusing and due to his understanding of English had sought assistance from his wife. A subsequent check of the application form by a Licensing Officer revealed that he had declared he had no convictions/cautions or reprimands.

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

The applicant and his wife spoke in support of the application and responded to questions from Members of the Committee, the Council's legal representative and the Principal Licensing Officer.

It was confirmed that there were no further questions and the applicant, his wife, 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: 22/24, 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 driver 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 to grant the application for a Private Hire Vehicle driver's licence on the grounds that the Committee was not satisfied the applicant was a fit and proper person to be granted the licence. The reasons for the decision were as follows:-

Reasons

5. The applicant was convicted, on 21 August 2019, of racially/religiously aggravated intentional harassment/alarm and distress-words/writing. The applicant was fined £402, £100 costs, £50 compensation and £40 victim surcharge for the offence. At the time of the offence, the applicant held a licence which was revoked with immediate effect as a result of the conviction.
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 was clear and it stated that where an applicant had a conviction involving or connected with discrimination in any form, a licence would not be granted until a period of seven years free from conviction had elapsed since the completion of any sentence imposed.
8. The Policy was also clear in that it stated a driver should be a fit and proper person, not abuse or assault passengers, be courteous, avoid confrontation, not exhibit prejudice, not take the law into their own hands and demonstrate conduct befitting to the trust that was placed in them.
9. The Committee considered that the offence for which the applicant was convicted was one of discrimination.
10. The circumstances surrounding the immediate revocation and conviction in 2019, was that a complaint was made that during a journey in the applicant's Private Hire Vehicle, where he was carrying a lone 15-year-old female passenger, the applicant referred to the passenger as a 'lazy pig', a 'fat pig' and a 'white slag'.
11. The applicant pleaded not guilty to the offence, but the Court had tested the evidence and found the applicant guilty to the criminal standard after a trial. The Court found that the applicant did use the words that were alleged, towards the passenger.
12. On the immediate application the applicant had stated on the application form that he did not have any convictions, however, he did supply a copy of his DBS certificate, which revealed the conviction against him. He stated that the application form was confusing and this was an oversight when questioned by Licensing Officers, and repeated this to the Committee Members.
13. The applicant told the Committee he had no way of proving his innocence, but stated he did not say the things he was convicted of. He stated that he was a hard-working man and did not use foul language. He stated that he believed the passenger had made the accusations because he had made comments about her being constantly late and informed her he would not pick her up in the future.
14. The Policy was clear in that, for a discrimination offence, a licence would not be granted until seven years free from conviction has elapsed. In the immediate application, it had only been five years. Notwithstanding this, the Committee, based on the evidence they were presented with, decided that the applicant was not a fit and proper person. The applicant was convicted by the Court of an offence against a lone 15-year-old female

passenger, whereby he referred to her in derogatory and discriminatory terms and this was not behaviour befitting of a driver.

15. The decision to refuse to grant the licence was in accordance with the Policy and the Committee considered there were no good or exceptional reasons to depart from it. The Committee, for the reasons given above, could not be satisfied the applicant was a fit and proper person or safe and suitable to be licensed as a private hire vehicle driver in Middlesbrough.
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 local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
17. 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.