

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 4 April 2022.

PRESENT: Councillors R Arundale (Chair), E Polano (Vice-Chair), S Dean, T Higgins, S Hill, C Hobson, L Lewis and M Smiles

OFFICERS: J Dixon, C Cunningham and T Hodgkinson

APOLOGIES FOR ABSENCE: Councillors A Bell, C Cooke, D Jones, D McCabe, J Walker and S Walker

21/56 **DECLARATIONS OF INTEREST**

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

21/57 **MINUTES OF THE PREVIOUS MEETING OF THE LICENSING COMMITTEE HELD ON 28 FEBRUARY 2022**

The Minutes of the previous Licensing Committee held on 28 February 2022 were submitted and approved as a correct record.

21/58 **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.

21/59 **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE, REF: 04/22**

The Director of Adult Social Care and Health Integration submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 04/22, 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 accompanied by his mother, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager notified Members that the applicant had contacted him prior to the meeting to advise of an error within the report and that this would be highlighted when providing a summary of the report to Committee.

The Licensing Manager presented a summary of the report. The driver was first licensed with Middlesbrough Council in January 2014 and held a licence until it was revoked with immediate effect on 16 January 2018, following his conviction for the offence at 1) in the report.

On 22 May 2017, the Licensing Department received information from North Yorkshire Police stating that, on 9 January 2017, the applicant was arrested on suspicion of dangerous driving. It was stated by the Police that the applicant had been travelling with two male passengers in the rear of his vehicle when they asked him to pull over. As he did so, a male approached the vehicle and there was a heated verbal exchange between the male and the passengers, resulting in the passengers telling the applicant to drive away. The applicant drove away but the male had been leaning into the vehicle and was subsequently dragged approximately 250 feet along the road before the rear window smashed and the male was released. The male sustained injuries as a result of the incident. The driver provided a prepared statement during interview stating that he saw the male and the passengers grappling and he had panicked and kept driving. CCTV footage was reviewed by the CPS and the applicant was subsequently summonsed for the offence of dangerous driving.

On 26 May 2017, a decision was taken by Officers to suspend the applicant's licence with immediate effect pending the outcome of the investigation.

On 11 January 2018, Licensing Officers conducted an online check of DVLA records which confirmed that the applicant had been convicted of the offence of dangerous driving on 7 November 2017. Officers, therefore, decided to revoke the applicant's licence with immediate effect. A copy of the revocation letter was attached at Appendix 1.

The applicant now appeared before Committee with a new application and was interviewed by a Licensing Enforcement Officer on 1 March 2022 when he provided an explanation for the offence. The Licensing Manager highlighted that the error contained in the report was with reference to the applicant's explanation where it states that, at the Court hearing, one of the customers in the applicant's vehicle admitted he had been travelling to the destination to deal drugs and that this was why the incident happened, however, the applicant stated that this was not correct and that it was the male outside of the vehicle who had made this admission not the customer.

The applicant was subsequently found guilty of the offence following a trial at Crown Court. When asked why he had not notified the Council of the conviction as required by condition on his licence, he stated that he had sent a letter to the Council, however, there is no record of such a letter being received by the Licensing Department.

The applicant confirmed that the report was an accurate representation of the facts and was invited to present his case in support of his application and also responded to questions from Members, the Licensing Manager and the Council's Legal Representative.

It was confirmed that there were no further questions and the applicant, his mother, 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: 04/22, 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, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("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 of 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 of an offence of dangerous driving on 7 November 2017. He received a suspended prison sentence for a period of 18 months, was required to carry out unpaid work, and was disqualified from driving for 18 months minimum with a requirement to complete a further driving test. The applicant's DVLA licence was reinstated on 28 September 2019.
6. The Policy in respect of dangerous driving required a period of at least four years free of

incident after the most recent conviction or after restoration of the driving licence, whichever was the later. The Policy confirmed that where it referred to an incident free period in relation to a conviction it meant from the completion of any sentence imposed or when a DVLA licence was reinstated, whichever was the later.

7. The applicant's DVLA licence was reinstated on 28 September 2019 and under the Policy the incident free period, therefore, will lapse on 27 September 2023.
8. The offence was committed whilst the applicant was a licensed Private Hire Vehicle driver and carrying passengers in his Private Hire Vehicle. The Police confirmed the applicant had two passengers when he pulled over at their request and a male approached the car. The applicant was aware of a heated exchange between the male and the passengers and one of the passengers shouted for the applicant to drive off. He then drove off but the male outside of the car was leaning into the car and was dragged approximately 250 feet along the road, before the rear window smashed and he was released. The Police confirmed the applicant, in a statement, had said he drove off as he was told to by one of the passengers and when he heard the shouting and saw the males grappling he panicked and kept on driving. At an interview with a Licensing Officer on 1 March 2022, the applicant gave his version of events which conflicted in parts with that of the Police and his previous statement. The applicant said he was scared and panicked, however, the Committee noted that the evidence was tested in a Crown Court trial and he was found guilty, therefore, the applicant had no defense to the offence of dangerous driving and the Committee could not go behind the conviction. It also noted the offence of dangerous driving occurred after less than three years of having a Private Hire Vehicle driver's licence.
9. In addition, records showed that the applicant did not report the arrest and subsequent conviction in writing within seven days which was a condition of his licence. The applicant claimed he recalled sending in a letter but there was no such record of any letter being received. The applicant was required to notify the Council of his arrest and subsequent conviction. The Council only became aware of the incident following notification by the Police on 22 May 2018. The applicant was arrested on 9 January 2018. As a result of a check of the DVLA records on 11 January 2019, the Council was informed the applicant had been convicted of the offence on 7 November 2018.
10. The Committee considered that licensed drivers must be safe and it must take a serious view if a driver committed a motoring offence especially when acting as a licensed driver and carrying passengers. Driving was their profession and they had a duty to ensure they drove safely, were not a risk to other road users and reacted calmly whilst driving their Private Hire Vehicle.
11. The Committee, therefore, considered there were no good reasons to depart from its Policy and refused to grant the application.
12. If the applicant was aggrieved by the decision he may appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.

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

Update on Licensing Policies

At the request of the Chair, the Licensing Manager provided a verbal update in relation to several Licensing Policies which were due to be renewed imminently. Each of the policies had been drafted to reflect the necessary revisions and were due to be consulted upon.

The key changes for each policy were highlighted as follows:-

Licensing Act Policy – The Cumulative Impact Policy in respect of off-licensed premises would

remain in place and it was proposed that it be extended to two additional wards. Retaining and extending the CIP was supported by evidence from Cleveland Police and Public Health.

Gambling Policy – Members were advised that there were no major changes to this Policy and that gambling premises were generally well-regulated by the Gambling Commission and caused very few problems on a day to day basis for Licensing. Members were also updated on the latest position in relation to Casinos in Middlesbrough.

Taxi Licensing Policy

- The vehicle age restriction policy had been amended so that a vehicle could now be first registered up to five years of age and continue to be licensed until its tenth birthday. Previously a vehicle had to be no older than three years on first registration and could be licensed up until its fifth birthday. This amendment followed consultation with the taxi trade and was in line with other local authorities.
- The policy on window tints would be scrapped. This policy was initially introduced some years ago and, over time, privacy glass in vehicles is generally fitted as standard, sometimes meaning that operators had to replace factory fitted windows in vehicles in order to comply. In summary, only standard manufactured tints would be allowed.
- In relation to testing requirements for drivers, it was proposed to remove the questions in relation to the Highway Code and to also remove the knowledge test (in relation to local geography) for private hire vehicle drivers as their booking systems included sat-nav with each booking. It was not proposed to remove the knowledge test for hackney carriage drivers at this stage.
- The full Taxi Licensing Policy would be reflective of the Government's recommendations to introduce Statutory Minimum Standards for Taxis and Private Hire Vehicles. The main focus of introducing minimum standards was to particularly protect vulnerable children and adults, however, it would be beneficial for all passengers.
- Some of the minimum standards were already in place in Middlesbrough, other standards would see minor changes to current policy and some changes would be more major in nature. For example, policy guidance on conviction tariffs were predominantly met already in Middlesbrough, however, guidelines on drugs offences were set to become much stricter. This would include immediate revocation of a driver's licence should they fail a drugs test.
- In addition, from 4 April 2022, any individual applying for a taxi/private hire vehicle driver licence or operator's licence, or a scrap metal dealer's site/collector, must ensure that they were registered to pay tax. This requirement would also apply to certain types of licence renewals. This would be a significant piece of work for the Licensing Department in terms of making the necessary additional checks.
- The Government standards would also see the introduction of further safeguarding requirements for Private Hire Vehicle Operators, including DBS checks.

Members would be provided with a copy of the amended Policy and a table of proposed amendments once the document went out for consultation.

NOTED