

**LICENSING COMMITTEE**

A meeting of the Licensing Committee was held on Monday 13 June 2022.

**PRESENT:** Councillors R Arundale (Chair), E Polano (Vice-Chair), J Platt (Substitute for A Bell), C Cooke, S Dean, T Higgins, S Hill and D Jones

**OFFICERS:** S Bonner, J Dixon, C Cunningham and T Hodgkinson

**APOLOGIES FOR ABSENCE:** Councillors A Bell, L Lewis, D McCabe, M Smiles, J Walker and S Walker

22/1 **DECLARATIONS OF INTEREST**

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

22/2 **MINUTES - LICENSING COMMITTEE - 4 APRIL 2022**

The minutes of the Licensing Committee meeting held on 4 April 2022 were submitted and approved as a correct record.

22/3 **APPOINTMENT OF CHAIRS TO THE FOLLOWING COMMITTEES**

The Licensing Committee appointed the Chair to the following Committees:

Licensing Sub Committee B: Councillor Teresa Higgins  
Licensing Sub Committee C: Councillor Chris Cooke

**ORDERED:** That the Councillors appointed act as Chair of their respective Sub Committees.

22/4 **COUNCIL APPOINTMENT OF CHAIRS TO THE FOLLOWING SUB-COMMITTEES**

The Committee was asked to note that at the Council's Annual General Meeting of 25 May 2022:

- Cllr Ron Arundale was appointed as Chair of Licensing Committee, Chair of Licensing Sub-Committee A and Licensing Sub Committee (General);
- Cllr Eric Polano was appointed Vice Chair of Licensing Committee and Vice Chair of Licensing Sub Committee A.

**NOTED**

22/5 **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.

22/6 **DRINK SPIKING - HOME OFFICE GUIDANCE**

The Licensing Manager presented information relating to Drink Spiking. Members were made aware this was a national concern and that Licensing Committees were being encouraged to continue working with partners to address the problem.

Members were also advised that further information was awaited from the Police about drink spiking incidents in the Middlesbrough area.

Members were keen to receive statistical information about this problem, including a gender breakdown.

Members were also advised that, depending on further information received, current policies could be amended in an effort to combat the problem drink spiking.

**ORDERED** that:

1. Members be provided with statistical information about drink spiking incidents in Middlesbrough
2. The information presented be noted.

22/7

**APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF:-05/22**

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: 05/22, 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 a representative of Royal Cars, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. The Applicant was first licenced with the Council in 2019 subject to a warning based on a number of offences that pre-dated 2004 and those detailed at (1) and (2) in the report.

The applicant appeared before Members with a new application for a Private Hire Vehicle Driver Licence. Members were advised he was interviewed by a Licensing Enforcement Officer on 5 May 2022 when he confirmed his previous explanation for the offences detailed in the report and provided an explanation for his disqualification from driving.

On 6 February 2020 this licence was revoked with immediate effect by Officers following the Applicant's disqualification from driving as a result of offence (3) in the report which was detailed in Appendix 2. Members were also advised the Applicant's driver's licence was reinstated in February 2022.

Members were advised the Applicant did not disclose the offences detailed in the report as he believed the Council was already aware of them.

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 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 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: 05/22, 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 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, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on the 1 November 2019 ("the Policy"), the report and representations made by the Applicant and his representative.
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 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 are as follows:

### Reasons

5. The Applicant had five convictions for speeding since 2016 to 2020 and since 2016 overall was given 23 points, although the Committee accepted that points were removed at various stages following the relevant period.
6. On the 25 June 2018 the Applicant had 17 points however avoided disqualification due to an upheld claim of exceptional hardship.
7. However, after being given a further chance to keep his licence and to continue to drive, the Applicant continued to drive unsafely and on the 25 August 2020 was convicted of speeding at 101 miles per hour in a 70 miles per hour zone. The Applicant was given six points and disqualified from driving until the 24 February 2021.
8. Four of the offences occurred whilst the Applicant was licensed as a private hire vehicle driver. The Committee did not accept that for two offences the Applicant claimed that he was not used to accelerating in a high powered curtesy car. The Committee considered that the Applicant is in control and as driving was his profession should take even extra care to ensure he keeps to the speed limit.
9. The Applicant failed to declare the offences on the 27 September 2016 and the 30 January 2017 which was a condition of his private hire vehicle driver's licence. The offences were left to be discovered by officers following a DVLA check on the 7 July 2017. It is imperative that Licensees report any motoring offences within the time period required in accordance with the conditions of the licence in order for officers to assess whether the Applicant poses a risk to the public.
10. The Applicant did not report the convictions on the 21 June 2018 (6 points) and 25 June 2018 (5 points) until 20 June 2019 which was the date for renewal of his licence. There were disclosed at this point because the Applicant decided not to apply to renew his licence in view that at that point he had 17 points on his DVLA licence. This was a further breach of the condition on his licence.
11. The Applicant as result of previous points on his licence was required to undertake a driver improvement scheme this was completed on the 25 October 2018. Yet despite this and despite in 2018 having 17 points on his licence the Applicant subsequently drove at 101 miles per hour.
12. The Applicant's DVLA licence was restored on the 24 February 2022.
13. The Committee noted the representations that the Applicant since his disqualification has learnt his lesson, that he has had no issue or incident since the restoration of his licence (approximately 16 months), drives carefully and is aware of the risks. However, the committee considered the history was serious, it was aggravated by the Applicant's failure to comply with his licensing conditions and considered, in order to protect the public, an insufficient incident free period had lapsed.
14. The Council's Policy states the Council takes a serious view if a licensed driver commits a motoring offences as driving is his profession and he is responsible to ensure he drives his passengers safely and is not a risk to other road users.
15. For minor traffic offences the Policy states, if an applicant has a significant history of offences showing a disregard for safety or has been disqualified, for example, through the totting up process, an application will not normally be considered until their DVLA licence has been restored and a conviction free period of at least 12 months to 3 years

depending on the severity of the risk has lapsed since reinstatement of the DVLA licence.

16. The Policy states also that code TT99 is assessed as a major traffic offence. TT99 states - to signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified. The Policy states usually a minimum of four years is required free of conviction since the restoration of a DVLA licence.
17. The Committee accepts there is overlap between minor and major convictions in the policy. However, even if it only considers the policy in relation to minor convictions, in view of the circumstances of the speeding offences and the Applicant's history it decided the risk to the public and other road users warrants the higher end of the incident free period to have lapsed. In addition to this the Committee was seriously concerned about the Applicant's previous failure to report the offences which could have put the public at risk.
18. If the Applicant is 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 is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
19. If the Applicant does appeal the decision and the appeal is dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the Applicant which could be in the region of £1000.

22/8

#### **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 06/22**

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: 06/22, 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 legal representative, verified his name and address and confirmed that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report. The Applicant was first licensed as a Private Hire Vehicle Driver on 3 July 2008 until 30 June 2019 when he failed to renew his licence. He appeared before Members with a new application for a Private Hire Vehicle Driver Licence following his disqualification from driving on 25 August 2020.

The Applicant was interviewed by a Licensing Enforcement Officer on 12 May 2022 when he provided explanations for the offences (1) to (5) detailed in the report. Members were made aware that, in 2017, Licensing Officers checked the Applicant's licence details via the DVLA and found he had nine penalty points. The Applicant subsequently attended a Driver Improvement Scheme in September 2018. The details of this were described in Appendix 1 of the report.

Members were also made aware that, other than the 20 June 2019, the Applicant did not report his convictions to the Licensing Office as he was required by the conditions of his licence. His declaration of 20 June 2019 revealed the Applicant had 17 penalty points. Members were also advised the Applicant's driving licence was reinstated on 25 February 2021.

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

The Applicant's legal representative presented the case in support of the applicant. The applicant also spoke in support of his case and 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 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 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: 06/22, be refused.

#### 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, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on the 1 November 2019 ("the Policy"), the report and representations made by the Applicant and his representative.
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 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 are as follows:

#### Reasons

5. The Applicant had five convictions for speeding since 2016 to 2020 and since 2016 overall was given 23 points, although the Committee accepted that points were removed at various stages following the relevant period.
6. On the 25 June 2018 the Applicant had 17 points however avoided disqualification due to an upheld claim of exceptional hardship.
7. However, after being given a further chance to keep his licence and to continue to drive, the Applicant continued to drive unsafely and on the 25 August 2020 was convicted of speeding at 101 miles per hour in a 70 miles per hour zone. The Applicant was given six points and disqualified from driving until the 24 February 2021.
8. Four of the offences occurred whilst the Applicant was licensed as a private hire vehicle driver. The Committee did not accept that for two offences the Applicant claimed that he was not used to accelerating in a high powered curtesy car. The Committee considered that the Applicant is in control and as driving was his profession should take even extra care to ensure he keeps to the speed limit.
9. The Applicant failed to declare the offences on the 27 September 2016 and the 30 January 2017 which was a condition of his private hire vehicle driver's licence. The offences were left to be discovered by officers following a DVLA check on the 7 July 2017. It is imperative that Licensees report any motoring offences within the time period required in accordance with the conditions of the licence in order for officers to assess whether the Applicant poses a risk to the public.
10. The Applicant did not report the convictions on the 21 June 2018 (6 points) and 25 June 2018 (5 points) until 20 June 2019 which was the date for renewal of his licence. There were disclosed at this point because the Applicant decided not to apply to renew his licence in view that at that point he had 17 points on his DVLA licence. This was a further breach of the condition on his licence.
11. The Applicant as result of previous points on his licence was required to undertake a driver improvement scheme this was completed on the 25 October 2018. Yet despite this and despite in 2018 having 17 points on his licence the Applicant subsequently drove at 101 miles per hour.

12. The Applicant's DVLA licence was restored on the 24 February 2022.
13. The Committee noted the representations that the Applicant since his disqualification has learnt his lesson, that he has had no issue or incident since the restoration of his licence (approximately 16 months), drives carefully and is aware of the risks. However, the committee considered the history was serious, it was aggravated by the Applicant's failure to comply with his licensing conditions and considered, in order to protect the public, an insufficient incident free period had lapsed.
14. The Council's Policy states the Council takes a serious view if a licensed driver commits a motoring offences as driving is his profession and he is responsible to ensure he drives his passengers safely and is not a risk to other road users.
15. For minor traffic offences the Policy states, if an applicant has a significant history of offences showing a disregard for safety or has been disqualified, for example, through the totting up process, an application will not normally be considered until their DVLA licence has been restored and a conviction free period of at least 12 months to 3 years depending on the severity of the risk has lapsed since reinstatement of the DVLA licence.
16. The Policy states also that code TT99 is assessed as a major traffic offence. TT99 states - to signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified. The Policy states usually a minimum of four years is required free of conviction since the restoration of a DVLA licence.
17. The Committee accepts there is overlap between minor and major convictions in the policy. However, even if it only considers the policy in relation to minor convictions, in view of the circumstances of the speeding offences and the Applicant's history it decided the risk to the public and other road users warrants the higher end of the incident free period to have lapsed. In addition to this the Committee was seriously concerned about the Applicant's previous failure to report the offences which could have put the public at risk.
18. If the Applicant is 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 is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
19. If the Applicant does appeal the decision and the appeal is dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the Applicant which could be in the region of £1000.

22/9

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

The Licensing Manager was asked to describe how prospective Taxi Drivers were informed about their requirement to declare offences and convictions.

Members were advised that the licensing online application system contained areas specifically for the declaration of offences and convictions. They were also advised that applicants could not proceed through the online application process without completing that section of the form.

**NOTED**