

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 13 March 2023.

PRESENT: Councillors: Polano (Vice Chair in the Chair), Bell, Dean, Hill, C Hobson and Jones.

OFFICERS: C Cunningham, J Dixon and T Hodgkinson.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: Arundale, Higgins, Lewis, McCabe, Smiles and J Walker.

**** DECLARATIONS OF MEMBERS' INTERESTS**

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

MINUTES – LICENSING COMMITTEE – 19 DECEMBER 2022

The Minutes of the previous Licensing Committee held on 19 December 2022 were submitted and approved as a correct record.

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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 01/23

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: 01/23, 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, 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, outlining that the applicant appeared before Committee in relation to the offence detailed at 1).

The applicant was interviewed by a Licensing Enforcement Officer on 22 February 2023 when he provided an explanation in relation to the offence at 1) and confirmed that there were no other offences of which the Council was unaware.

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

The applicant's representative presented the case in support of the application and he and the applicant responded to questions from Members.

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 Private Hire Vehicle Driver Licence, Ref No: 01/23, be granted.

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, Middlesbrough Council's Private Hire and Hackney Carriage Policy 2022 ("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 to grant the application for a Private Hire Vehicle driver's licence on the grounds that it was satisfied the applicant was a fit and proper person to be granted such a licence.

Reasons

5. The Policy requires a conviction-free period of at least 10 years for a conviction for an offence of violence. The applicant accepted a caution for Affray on 29 January 2017 following a violent incident, therefore, the decision to grant the licence was a departure from the Policy.
6. The Committee considered there were good reasons to depart from the Policy in this case in that the applicant informed the Committee he only played a minor role in the incident which involved a family member and another male and that he only became involved when his cousin was injured. The Police considered a caution, rather than prosecution, to be an appropriate means of dealing with the matter. The incident occurred over six years ago without further incident and the applicant submitted he had matured over that period and had worked for a taxi firm without issue for ten years.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 02/23

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: 02/23, 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 that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report, outlining that the applicant appeared before Committee as he had not resided in the UK for at least five years and was unable to provide a Certificate of Good Conduct from the last country in which he resided. This was contrary to the Council's Private Hire and Taxi Licensing Policy which included procedures for dealing with applications where the applicant had previously resided abroad. Details regarding the relevant procedures were provided within the submitted report.

The Licensing Manager advised that, upon considering the application, it was revealed that the applicant had not been resident in the UK for a full five year period, having arrived in the UK in 2022. Whilst the applicant's DBS Disclosure Certificate revealed no previous convictions recorded against him, he was requested to provide a Certificate of Good Conduct from his country of origin, in line with the Council's policy (as set out in the report). However, the applicant had informed officers that he was unable to provide such a certificate in support of his application.

The applicant was subsequently interviewed by a Licensing Enforcement Officer on 22 February 2023 and explained that he had initially moved to the UK in 2004, from his country of origin, before moving from the UK in 2017 to another country. In July 2022, the applicant decided to move back to the UK. He stated he had no criminal or motoring convictions in either the UK or the country where he had previously resided (from 2017 to 2022).

The applicant he had been advised by the Embassy of the country he had previously resided in, that he would need a solicitor who lived in that country to represent him and that he would need to travel to the Embassy in London to submit his identity documents. The applicant also stated he would be happy to go to the embassy to submit the documents so that his identity could be confirmed and the application started but he had also been advised that he would need someone who lived in the country he had previously resided in to travel to its capital to obtain documents from the local Council, Police and Home Office and that he did not know anyone who would do that for him.

The submitted report contained an extract of the information from the .gov website in relation to obtaining a Certificate of Good Conduct from that country.

The applicant confirmed that the report was an accurate representation of the facts and clarified his country of origin as this was incorrect in the report. He was invited to address the Committee in support of his application.

The applicant presented the case in support of his application and responded to questions from Members, the Council's legal representative and the Licensing Manager.

In response to a question from the Committee, the Licensing Manager was able to confirm that the applicant's DBS disclosure only went back as far as July 2022 when the applicant came to live in the UK for a second time and did not include the period 2004 to 2017 when he had previously lived in the UK. In addition, the applicant confirmed that he had changed his name in 2015 and that this was declared on his application form.

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 Private Hire Vehicle driver licence, Ref No: 02/23, 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 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, Middlesbrough Council's 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 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 could not be 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 Policy stated that if an applicant has not resided for at least the previous five years in the UK an enhanced DBS check would not provide sufficient previous data in order to assess an applicant's character to ensure the public were protected.
6. If an applicant had not resided in the UK for the previous five years they were required to obtain a Certificate of Good Conduct, or equivalent, from the country they had been residing in. This would provide information as to whether the applicant had committed offences or been involved in any incidents in that country in order for the Committee to assess an applicant's suitability to be licensed.
7. Without this information the Committee would not know whether the applicant was a risk to the public.
8. The applicant informed the Committee he moved back to the UK from Iraq in 2022 and had lived in Iraq since 2017. The DBS check, therefore, only went back to July 2022 when he came to the UK. The applicant advised he was unable to provide documentation from Iraq as he informed the Committee it required a person to be in Iraq to get the documents from Baghdad. The Committee also noted there was also a change of name prior to going to Iraq which may add to difficulties in checks being carried out. It noted the applicant lived in the UK after fleeing Iran from 2004 to 2017 but this did not deviate from the fact that no data was available from 2017.
9. The Committee, therefore, had no reliable information in relation to the applicant's suitability to hold a licence which was a position of trust and could not put the public to such a risk.
10. The Committee considered there were no good reasons to depart from the Policy and therefore decided to refuse to grant the licence.
11. However, the applicant may apply again once he had been living in the UK for at least five years or was able to obtain a Certificate of Good Conduct or equivalent.
12. 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.
13. If the applicant appealed 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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 03/23

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: 03/23, 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 that he had received a copy of the report and understood its contents.

The Licensing Manager presented a summary of the report, outlining that the applicant appeared before Committee in relation to the offence detailed at 1).

The applicant was interviewed by a Licensing Enforcement Officer on 1 March 2023 when he provided an explanation in relation to the offence at 1) and confirmed that there were no other

offences of which the Council was unaware.

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

The applicant presented the case in support of his application and responded to questions from Members, the Council's legal representative and the Licensing Manger.

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 Private Hire Vehicle Driver Licence, Ref No: 03/23, be granted.

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, Middlesbrough Council's 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 of the information, the Licensing Committee decided to grant the application for a Private Hire Vehicle driver's licence on the grounds that it was satisfied the applicant was a fit and proper person to be granted such a licence.

Reasons

5. The Policy required a conviction-free period of at least 7 years for a conviction for an offence of dishonesty. The applicant accepted a caution for an offence of Theft by an Employee on 27 July 2017. Therefore, the decision to grant the licence was a departure from the Policy.
6. The Committee considered there were good reasons to depart from the Policy in this case. The police considered the appropriate sanction to be a caution rather than prosecution and the applicant accepted a caution for taking a laptop home after he had given notice terminating his employment with Redcar and Cleveland Council. The Committee considered that the incident occurred in 2016 - nearly seven years ago – and, on balance, considered the applicant came across as being trustworthy. The Committee was also persuaded that the applicant had been continually employed by various employers despite disclosing the caution.