

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 6 November 2023.

PRESENT: Councillors: Lewis (Chair); Hill (Vice Chair), J Cooke, Cooper, Dean, Kabuye, Livingstone, Mason, McTigue, Saunders and P Storey.

OFFICERS: C Cunningham, J Dixon and T Hodgkinson.

PRESENT AS OBSERVERS: T Durrance, Legal Services
K Yusuf, Licensing Apprentice

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: Jones, Romaine 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 – 4 SEPTEMBER 2023

The Minutes of the previous Licensing Committee held on 4 September 2023 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: 11/23

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: 11/23, 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 friend, 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 had been interviewed by a Licensing Enforcement Officer on 24 October 2023 in relation to the offence detailed at 1) in the report. During the interview, the applicant provided an explanation in relation to the offence and confirmed that there were no other offences of which the Council was unaware.

The applicant had received an £800 fine and six points on his DVLA licence, resulting in his DVLA licence being revoked for three months, for the offence of driving without valid insurance. The applicant had wanted to appeal the conviction to the Court but was unable to do so due to it happening during Covid.

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 and his representative presented the case in support of the application 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 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 Private Hire Vehicle Driver Licence, Ref No: 11/23, 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 and his representative.
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 of driving a vehicle without valid insurance on 1 August 2020 for which he received six penalty points, an £800 fine and his licence was suspended for three months, therefore, his licence was reinstated on 1 November 2020.
6. The Policy was clear that if an applicant's DVLA licence had an endorsement in respect of a major traffic offence, then the application would normally be refused until at least five years after the most recent conviction or restoration of their driving licence. Using a vehicle uninsured against third party risks was categorised as a major traffic offence under the Policy.
7. The Committee considered this offence was serious as the vocation of a private hire driver required that passengers and other road users were protected through vehicles and drivers being insured at all times.
8. The applicant told the Committee that it was a mistake at the time, that he renewed his insurance, but his bank rejected the payment, and he did not know this until he checked his emails when he was stopped by the Police. The applicant stated he found an email from the insurance company stating it had cancelled the renewal as the money was not paid. The Committee considered that the applicant would have been notified by the bank if it had stopped payments and/or if there was fraudulent activity and that he should have checked his insurance and made sure he was insured before driving a vehicle.
9. Therefore, the Committee did not find any good or exceptional reason to depart from its Policy and decided that the licence should not be granted as the applicant could only demonstrate three years free of driving incidents instead of five.
10. 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.

11. 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 £1000.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 10/23

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: 10/23, 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 previously appeared before the Committee in November 2018, when Members decided to refuse his application. A copy of the Committee's decision and reasons was attached at Appendix 1.

The applicant now appeared before Members with a fresh application, due to the offences detailed at 1) and 2) in the submitted report.

The applicant was interviewed by a Licensing Enforcement Officer on 24 October 2023 when he confirmed his previous explanations for the offences at 1) and 2) 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, highlighting that his DBS check had been clear since 2018 and that he had no penalty points on his DVLA licence. He responded to questions from Members, the Council's legal representative and the Licensing Manager.

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: 10/23, 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 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. On 17 December 2012, the applicant was convicted of soliciting another for the purpose of obtaining their sexual services as a prostitute in a street/public place contrary to Section 51A of the Sexual Offenders Act 2003.
6. The Policy was clear - it stated licensed drivers often carried unaccompanied and vulnerable passengers and the Council would take a strong line in relation to applicants involved in illegal sexual activity. The Policy clearly stated that if an applicant had been convicted of an offence or had any connection with an offence involving or connected with illegal sexual activity or a form of indecency they would not be licensed. The Policy meant such an applicant would not be licensed irrespective of any incident-free period. The Policy stated that soliciting (or kerb crawling) was an example of such offences or illegal activities.
7. The Policy reflected the Government's Statutory Standards in relation to taxi and private hire drivers. Those standards were set directly to address the safeguarding of the public and the potential impact of failings in this (taxi and private hire) area. It confirmed that an applicant with a conviction for any offence involving or connected with illegal sexual activity should not be licensed.
8. The applicant previously applied for a licence which was refused by the Licensing Committee on 12 November 2018. The Committee noted the detailed reasons given by that Committee in refusing the licence.
9. The applicant was interviewed by a licensing officer on 24 October 2023 and confirmed his previous explanations. The applicant had lied to the Police during his interview as he first claimed that he had stopped his vehicle on Victoria Road near to a female, that the female approached his vehicle, it was then when he wound down the window and engaged the woman in conversation. However, the incident was captured on video and audio footage and once shown this, he changed his story and admitted that he did solicit the woman. The Police confirmed that the applicant did approach the female and solicit her for the purposes of prostitution.
10. Despite this, the applicant lied to licensing officers when he was first interviewed when he applied for a licence in 2018. The applicant said that a female approached his vehicle, that he wound his window down to find out what she wanted, that when he realised she was a prostitute he immediately said no thank you and drove away. Licensing Officers were able to obtain information from the Police regarding his Police interview. The applicant was then re-interviewed, the information from the Police was put to him and he changed his story. The applicant subsequently maintained the woman approached him and asked "do you want any business" but at this point admitted he knew it was for sexual services, but he asked her how much she wanted to get her to leave quicker, that he decided to leave as quickly as possible. The applicant confirmed his previous explanations to the officer for this Committee. However, the Police report confirmed that the applicant had approached a lone female in Victoria Road, he had engaged the female in conversation, during that conversation he had solicited the female by asking her for sexual services and agreeing to pay her £20 for oral sex.
11. The Committee considered the applicant was still not taking responsibility, he previously kept changing his story to the Police and Licensing Officers once he knew they had additional information. The applicant admitted his guilt by accepting a caution and the Committee could not go behind this. It was understood the female would have been an undercover police officer for the footage and audio to have been obtained and the Committee, therefore, did not place weight on comments that the applicant said he had no intention in carrying out the act.
12. The applicant said that at the time he did not think it was unlawful. However, he confirmed that such sexual activities were considered wrong in his previous country of residence, and he had

been in the country for five years prior to the offence. Also, the applicant had to admit his guilt to accept the caution, therefore, the Committee did not place weight on this explanation.

13. The applicant previously misled Officers and the Committee by failing to declare the caution and a motoring offence on his application form in 2018.
14. The Committee considered that it was wholly unsuitable and unacceptable for an applicant to have carried out an act of soliciting or kerb crawling to be granted a licence which entailed a high level of trust in a high-risk environment. The Committee considered the applicant still did not accept the gravity of his act in relation to the role of a licensed driver.
15. The Committee considered there were no compelling, clear, good or exceptional reasons to depart from the Policy or the minimum statutory standards and, therefore, applied the Policy and refused the licence for the reasons set out above.
16. The applicant also had a conviction of driving whilst uninsured on 11 July 2018 for which he received six penalty points and a £300 fine. There had been a period of five years free of motoring incidents since that conviction, which was in accordance with the Policy, so the Committee did not consider that matter further.
17. 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.
18. 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 excess of £1,000.

ANY OTHER BUSINESS

Taxi Driver Testing

Several Members of the Committee had requested a discussion around the tests carried out for applicants wishing to become licensed drivers and the minimum requirements.

The Committee was advised that the Government's Statutory Standards for Taxi and Private Hire Vehicle Licensing recommended that drivers should be proficient in verbal and written English language skills. A 45-minute written test, in English, was carried out by Licensing Officers, together with appointments between the Officer and applicant in order that their level of English and understanding to be assessed.

In response to a query, it was confirmed that the test was reviewed periodically, however, there were standard questions as set out in the Government Guidance that must be included, for example, around safeguarding and disability awareness.

In response to a question regarding taxi driving tests and knowledge tests, the Committee was advised that the practical driving tests for applicants had not taken place for a number of years following consultation. Similarly, testing of driving routes, or knowledge test, was abandoned more recently, following consultation, for Private Hire drivers only. The reason for this was that almost all Private Hire Vehicles were now operated using a Sat-Nav data system. It was highlighted that knowledge tests were still carried out for Hackney Carriage applicants.

NOTED