

## LICENSING COMMITTEE

**A meeting of the Licensing Committee was held on 18 December 2023.**

**PRESENT:** Councillors: Lewis (Chair); Hill (Vice Chair), J Cooke, Cooper, Kabuye, Livingstone, Mason, McTigue, Morrish (substitute for Councillor Saunders) and Romaine.

**OFFICERS:** C Cunningham, J Dixon and T Hodgkinson.

**APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors: Dean, Jones, Saunders, P Storey 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 – 6 NOVEMBER 2023**

The Minutes of the previous Licensing Committee held on 6 November 2023 were submitted and approved as a correct record, subject to a minor amendment – page 4, paragraph 10: Victoria 'Street' to replace 'Road' – being made.

### **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: 12/23**

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: 12/23, 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 had been interviewed by the Licensing Manager on 6 December 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 been convicted of the offence of no insurance in July 2022, which he had declared on his application form, and explained the circumstances during his interview with the Licensing Manager. The applicant had been stopped by Police in February 2022 as there was a marker on his vehicle which indicated his registration plate may have been cloned and was being used on another vehicle in the Birmingham area. Upon checking the applicant's vehicle records, Police advised him that his vehicle was not insured.

The applicant explained that he had paid for a full year's policy cover but that his brother-in-law had helped him to do this, providing his own email address. When he contacted his brother-in-law to provide proof of cover, he discovered that the policy had been cancelled by the insurance company. He explained he had agreed to a black box being placed in the vehicle in order to reduce his premium, however, there had been an issue with the box and the insurance company had tried to contact his brother-in-law at his email address (which was the contact address provided). The emails had been received into the 'junk mail' box and as the insurance company received no

response, they ended the insurance cover.

The applicant had attended Magistrates Court and was issued with a fine but rather than being awarded penalty points on his licence which would have resulted in him having to resit his DVLA driving test, he was given a short two-week disqualification.

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 addressed the Committee 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 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: 12/23, 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 had been convicted of driving without insurance on 20 July 2022. The Policy was clear that a person should have an incident-free period of at least five years if a major motoring offence had been committed. Driving without being insured against third party risks was specified as a major motoring offence.
6. The Committee noted the applicant's explanation; that as he was not sure about how to obtain the insurance, his brother-in-law had helped him and that had he paid his brother-in-law, however, there was an issue with the black box installed in his car and the insurance company directly emailed his brother-in-law cancelling his insurance which he did not know about.
7. The Committee considered that during his first years of being licensed to drive a vehicle with the DVLA and his probationary period, the applicant should have taken extra care to ensure he was driving in accordance with the rules and check he was insured. He received a disqualification albeit for 14 days within only one year of being licensed by the DVLA. The Committee considered that the applicant was only one year and six months into the five-year free period without incident and insufficient time had elapsed.

8. 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. For the above reasons, the Committee did not consider there were exceptional or good reasons to depart from the Policy.
9. Should the applicant be 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.
10. 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 £1,500.

## **ANY OTHER BUSINESS**

### Taxi Drivers Licensed with other Local Authorities

In response to a query raised by a Member of the Committee, the Licensing Manager provided Members with clarification around the current process in place for offences/complaints against drivers/vehicles operating in the Middlesbrough area but licensed with another local authority.

It was confirmed that Middlesbrough Licensing Authority had no powers to take action against a driver that was not licensed with them and that this was the responsibility of the issuing licensing authority.

For example, if a driver had collected a customer from Middlesbrough to undertake a fare and the customer wished to make a complaint regarding the driver, unless the driver was licensed with Middlesbrough there was little that could be done other than to forward the complaint to the relevant licensing authority who would be expected to deal with the matter accordingly. It was not ordinarily standard practice for the issuing licensing authority to report back on progress/outcome of the matter. Customers could be directed to make a complaint directly to the issuing licensing authority.

In cases where an offence had been committed, such as an illegal flag-down, again Middlesbrough would need to forward this on to the issuing licensing authority to be dealt with accordingly.

It was acknowledged that in particular there had been issues in recent years with large numbers of drivers being licensed with Wolverhampton.

A wide range of organisations, including local authorities, had lobbied Government to make changes in legislation to address these issues, however, to date no changes had been made.

**NOTED**