

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on 30 September 2024.

PRESENT: Councillors: Lewis (Chair), Hill (Vice Chair), J Cooke, Cooper, Jones, Kabuye, Livingstone and Romaine.

OFFICERS: J Dixon, T Durance and T Hodgkinson.

APOLOGIES FOR ABSENCE were submitted on behalf of Councillors: Gavigan, Saunders and P Storey.

** DECLARATIONS OF MEMBERS' INTERESTS

Name of Member	Type of Interest	Nature of Interest
Councillor J Kabuye	Non-pecuniary	Agenda Item No. 8 – Application for PHVDL Ref 15/24 – Applicant known by sight.

MINUTES - LICENSING COMMITTEE – 9 SEPTEMBER 2024

The minutes of the previous meeting of the Licensing Committee, held on 9 September 2024, were submitted and approved as a correct record.

UPDATE – LICENSING APPEALS

The Licensing Manager advised that there had been no new appeals since the previous meeting and that the appeals in respect of Crescent Road and Empire remained pending.

NOTED

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

There were no urgent items to consider.

NOTED

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: 16/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 16/24, 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 he had received a copy of the report and understood its contents.

The Licensing Manager advised that there was a correction that needed to be made to the report at page five. With reference to the Chronicle newspaper article, the date should have read 25 August 2013 and not 2024 as stated.

The Licensing Manager presented a summary of the report outlining the details of the application. The applicant appeared before Committee as a result of a previous criminal conviction recorded on

his DBS certificate.

The applicant was interviewed by Licensing Enforcement Officers on 17 September 2024 when he confirmed there were no other outstanding matters of which the Council was unaware and provided an explanation for the offence, detailed at 1) in the submitted report.

In brief, the circumstances of the offence related to the applicant allowing his brother to live in a flat owned by the applicant, for which his brother paid rent to him and allowing him to work in the applicant's business, despite discovering that his brother was in the country illegally and had false documents.

The applicant stated he felt obliged to cover for his brother out of family loyalty, and admitted to lying to Immigration Officers and lying when the matter went to Court. The applicant was subsequently sentenced to 15 months imprisonment.

Attached at Appendix 1 was a newspaper article from that time which the applicant confirmed was largely correct but disputed two points – one, that he did not pay any money for his brother's false documents and; two, that he was not aware of his brother's immigration status until after he arrived in the UK.

The applicant currently held a licence with Wolverhampton Council which was due to expire in November 2025 and had previously held a licence with Darlington Council from 2018 to 2021.

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

The applicant spoke in support of his application and responded to questions from Members of the Committee 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 teams, 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: 16/24, 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, the Middlesbrough Council 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. The applicant was convicted, on 15 August 2013, of conspiring/assisting unlawful immigration into an EU member state contrary to s25(1) of the Immigration Act 1971. The applicant was sentenced to 15 months imprisonment for this offence.
6. The Policy on Convictions, set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
7. The Policy was clear, it stated that a licensed Private Hire driver was expected to be a trustworthy person and a serious view was taken of any conviction for dishonesty. In general, for an isolated conviction for any offence where dishonesty was an element of the offence, a licence would not be granted until at least seven years had elapsed since the completion of any sentence imposed.
8. The Policy further stated that a licence would normally be refused if an applicant had been convicted of a serious offence involving dishonesty or had more than one conviction for a dishonesty offence, showing they were likely to be continually dishonest, regardless of the time elapsed since the conviction or completion of the sentence imposed.
9. The Committee considered that the offence, for which the applicant was convicted, was one of serious dishonesty.
10. The applicant admitted to Licensing Officers during interview that he lied on several occasions during the investigation and court process. He stated that when he discovered his brother possessed fake documents, he did nothing and continued to allow him to stay in the flat above the takeaway premises he owned as well as to allow him to work in the business for a wage.
11. Licensing Officers were informed by the applicant that he initially lied to Immigration Officers and stated that his brother was not a relative, he reiterated this claim when interviewed by Immigration Officers and finally lied to the Court when he continued to allege that the subject individual was not his brother.
12. The applicant pleaded not guilty to the offence but the court had tested the evidence and found the applicant guilty to the criminal standard after a trial. It was determined by the Court that not only had the applicant lied about who his brother was, but also that the applicant was a main facilitator in assisting unlawful immigration into the country.
13. The Committee also heard that the applicant had suspected that it was an uncle with whom he does not get along with, who informed the Immigration Service of his brothers' status. The Committee believed that the applicant was still not taking responsibility for his role in the offence.
14. Based on the evidence presented before them, the Committee decided that the applicant was dishonest. The Committee considered that misleading Immigration Officers and the Court on numerous occasions highlighted that the applicant was not a fit and proper person to hold a licence.
15. Although the Committee noted the criminal offence was 11 years ago, it still considered it to be an offence of serious dishonesty and determined that there were no compelling, clear, good or exceptional reasons to depart from the Policy and refused the licence for the reasons set out above.
16. 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.
17. 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.

APPLICATION – PRIVATE HIRE VEHICLE DRIVER LICENCE – REF: 15/24

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 15/24, 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.

**** DECLARATION OF INTEREST**

Councillor Kabuye advised that he recognised the applicant by sight, from a community event, but did not know him in a personal capacity. The applicant confirmed that this was the case and had no objection to Councillor Kabuye remaining and taking part in the discussion and decision-making process.

The Licensing Manager presented a summary of the report outlining that the applicant appeared before the Committee as a result of his previous criminal convictions recorded on his DBS certificate, detailed at 1) to 4) in the report.

The applicant was interviewed by Licensing Enforcement Officers on 24 July 2024 when he confirmed that there were no other outstanding matters of which the Council was unaware and provided explanations for the offences at 1) to 4).

In brief, the offences had taken place between 1996 and 2000 when the applicant was young and he stated he deeply regretted his actions but had turned his life around. The applicant is now an ordained minister and volunteers in the community giving motivational speeches to groups and individuals to try and help them make the right life choices. The applicant confirmed that he had not committed any further offences during the past 22 years.

The applicant had provided six character references in support of his application and these were attached at Appendix 1.

The applicant also provided a personal statement in support of his application and this was attached at Appendix 2.

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

The applicant spoke in support of his application and responded to questions from Members of the Committee.

It was confirmed that there were no further questions and applicant and Officers of the Council, other than representatives of the Council's Legal and Democratic Services teams, 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: 15/24, 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 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, the Middlesbrough Council 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 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 applicant was convicted of four offences as follows:-
 - a. Assault Occasioning Actual Bodily Harm – 16 April 1996
 - b. Breach of Community Service Order – 15 July 1997
 - c. Grievous Bodily Harm with Intent – 17 September 1998
 - d. Robbery – 18 December 2000
6. The Policy on Convictions were set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
7. The Policy stated that a licence would normally be refused where the applicant had a conviction for an offence of violence against the person, or connected with any offence of violence, until a period of at least ten years free of such conviction had elapsed since the completion of any sentence imposed.
8. The Policy further stated that if an applicant was convicted of more than one offence of violence a licence would not be granted. Therefore, the decision to grant the licence was a departure from the Policy.
9. The Committee considered the report and heard from the applicant during the meeting that, since 2000 he had never committed another offence. The applicant stated during the meeting how he had completely turned his life around since his release from prison in 2002.
10. The applicant stated that, following his release from prison, he had spent his life working in the community and with schools and was also now an ordained minister and an influential figure within his local congregation. The applicant stated he was now married with five children and was a completely different person.
11. The Committee considered there were good reasons to depart from the Policy in this case.
12. Firstly, the Committee believed that the applicant had changed his life in the 22 years since his release from prison, and that the time elapsed since 2002 was significant.
13. The Committee considered all the work the applicant had engaged in during the period since his release and thought that the community impact the applicant had made showed that he was a reformed individual. This was further reinforced in the reading of the character references that were produced in support of the application.
14. The overriding duty and aim of the Council was to protect the public. The Committee did not see the applicant as a risk to the public, but rather they considered the applicant to be a fit and proper person to hold a licence. Therefore, the Committee departed from the Policy and granted the licence.