

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 13 January 2025.

PRESENT: Councillors S Hill (Vice-Chair, in the Chair), P Gavigan, J Kabuye, A Romaine and M Saunders

OFFICERS: J Dixon, T Durance and S Wearing

APOLOGIES FOR ABSENCE: Councillors L Lewis, J Cooke, C Cooper, D Jones, T Livingstone, L Mason and P Storey

24/51 **DECLARATIONS OF INTEREST**

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

24/52 **MINUTES - LICENSING COMMITTEE - 9 DECEMBER 2024**

The minutes of the previous meeting of the Licensing Committee, held on 9 December 2024, were submitted and approved as a correct record, subject to the deletion of Councillor Saunders from the apologies.

24/53 **UPDATE - LICENSING APPEALS**

The Principal Licensing Officer advised that, whilst it was not a matter that had been dealt with by the Licensing Committee, there was a pending driver appeal following an incident involving a licensed driver in November 2024. Officers had revoked the driver's licence, with immediate effect, in accordance with delegated powers. The driver had since lodged an appeal and a directions hearing had been scheduled to take place mid-February.

NOTED

24/54 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

There were no urgent items to consider.

NOTED

24/55 **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.

24/56 **APPLICATION FOR A PRIVATE HIRE VEHICLE DRIVER LICENCE REF: 01/25**

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 01/25, 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 Principal Licensing Officer presented a summary of the report outlining that the applicant appeared before Members as a result of the offence detailed at 1) in the report. It was highlighted that the applicant had declared the conviction in his application, and this was confirmed following a check on the status of his DVLA driving licence.

The Principal Licensing Officer spoke to the applicant, by telephone, regarding the matter on 27 and 30 December 2024, at which time the applicant confirmed that there were no other outstanding matters of which the Council was unaware. He also provided an explanation in relation to the offence at 1).

The offence related to the use of a mobile phone whilst the applicant was driving in October 2023. He was subsequently stopped by the Police and was fined £200 and issued with six penalty points. It was confirmed that the applicant was made aware of the Council's policy guidance in relation to such an offence and that a licence would not usually be granted until a period of at least five years had elapsed. The applicant had stated he wished to continue with his application, and, on 2 January 2025, he provided a brief statement, via email to the Principal Licensing Officer, that he wished the Committee to consider when determining his application.

The Principal Licensing Officer had further contacted the applicant to clarify a point in his email in relation to the offence.

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.

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 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: 01/25, 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. On 20 November 2023, the applicant was fined £200 and received 6 penalty points on his driving licence for using his mobile phone whilst driving.
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 serious view would be taken regarding convictions for driving whilst using a mobile phone or handheld device. The offence for which the applicant was

convicted, was a DVLA code CU80 offence of 'breach of requirements as to control of vehicle, use of mobile telephone etc'. It was classified as a major traffic offence.

8. The Policy further stated that, where there was a conviction for driving whilst using a mobile phone or handheld device, a driver's licence would not be granted until at least 5 years had elapsed since the conviction or completion of any sentence or driving ban imposed, whichever was the later.
9. In interview, the applicant stated that he was listening to a voicemail from his insurance company. The applicant further stated in an email, sent on 30 December 2024, for the Committee's consideration, that he was rushing to the GP surgery as his daughter was not well. He stated he got confused and thought the voicemail was from his wife but when he listened to the message it was the insurance company. The Police had witnessed the offence and subsequently stopped the applicant in the doctors' surgery car park.
10. At the committee meeting, the applicant recalled that he had earlier received a call from his wife who notified him that their daughter had taken ill and was going to their GP for an emergency appointment. The applicant stated whilst on his way to the GP, he was travelling at around 10-15mph, he noticed he had received a voicemail and believed it was from his wife. When he realised it was not his wife, he put the phone back.
11. The applicant did not attend Court but did admit to the offence. He stated he was not on a telephone call; he was simply listening to a voicemail. Licensing Officers reminded the applicant that the CU80 offence applied generally to the use of mobile devices and handheld devices whilst driving, regardless of whether the person was engaging in a telephone conversation.
12. The Committee determined that the offence for which the applicant was guilty, was serious in nature and further considered that only 14 months had elapsed since the date of conviction. The Policy required five years to elapse.
13. The Committee also determined that using a mobile phone whilst driving was not behaviour that was expected of a licensed driver and the Committee could, therefore, not be satisfied the applicant was a fit and proper person or safe and suitable to be licensed as a private hire vehicle driver in Middlesbrough.
14. Based on the evidence it was presented with, the Committee decided there were no compelling, clear, good or exceptional reasons to depart from the Policy and refused the licence for the reasons set out above.
15. 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.
16. 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.