

**LICENSING COMMITTEE**

A meeting of the Licensing Committee was held on Monday 3 February 2025.

**PRESENT:** Councillors L Lewis (Chair), S Hill (Vice-Chair), J Cooke, C Cooper, P Gavigan, D Jones, J Kabuye, A Romaine and M Saunders

**OFFICERS:** S Bonner, T Durance and S Wearing

**APOLOGIES FOR ABSENCE:** Councillor P Storey

24/57 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

24/58 **MINUTES - LICENSING COMMITTEE - 13 JANUARY 2025**

The minutes of the Licensing meeting held on 13 January 2025 were submitted and approved as a correct record.

24/59 **UPDATE - LICENSING APPEALS**

There were no updates to be provided.

24/60 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None.

24/61 **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.

24/62 **APPLICATION FOR RENEWAL OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF: - 2/25**

The Director of Environment and Community Services submitted an exempt report in connection with an application to renew a Private Hire Vehicle Driver Licence, Ref: 02/25, 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 Licensing Officer presented a summary of the report outlining that the applicant appeared before Members as a result of the offence detailed at 1) and 2) of the report. Members were advised the offences related to the same incident.

Members were advised the report was for an application to renew a Private Hire Vehicle Driver Licence. The applicant was first licensed by the Council as a private hire driver on 13 February 2024, with such licence expiring on 31 January 2025

On 20th December 2024, a licensing officer carried out a routine check on the status of the applicant's DVLA driving licence which revealed two motoring convictions, resulting in 8 penalty points being endorsed on his driving licence

The Licensing Officer summarised the report advising the applicant was interviewed by a

Licensing Officer on 17 January 2025 during which the applicant described how the offences were related to an incident when he was employed by a bus company. During the interview the applicant stated that on 6 June 2024, at around 11.00am an incident had occurred resulting in a cyclist falling off their bike at the traffic lights at the junction of Longlands Road. The traffic lights were on green, and the applicant saw a cyclist on his left after a lady had just crossed. The cyclist did not stop, and instead started to cross the road in front of him and was not looking out for traffic.

The applicant stated he was in the left lane at the time, and he had been trained to avoid wherever possible as an emergency stop could potentially injure passengers. To avoid the cyclist the applicant started to pull into the 'right only' lane whilst braking as hard as he could without doing an emergency stop. Unfortunately, he hit the front wheel of the bike, causing the cyclist to fall off. By the time he had stopped his bus, he had gone through the traffic lights which had changed to green by then.

While an ambulance was called the cyclist suffered no injuries but was taken to hospital as a precaution. Two passengers on the bus stated the accident was not the applicant's fault and was unavoidable. However, the applicant was prosecuted for going through a red light (3 penalty points) and for driving without due care and attention (5 penalty points).

When the case went to Court, the witnesses were not present. The applicant's solicitor tried to contact them but was unsuccessful. The Magistrate was sympathetic to the applicant's case and said he could continue driving busses. However, the incident had put him off bus driving. On 22 January 2025, the Licensing Officer received an email from the applicant enclosing a screenshot of a summary of his private hire customers' ratings recorded via his Uber App. A copy of this document was attached at Appendix 1 of the report.

The applicant stated he did not notify the Council at the time of the convictions as he did not realise that he had to, on account that he was not actively driving or working as a taxi driver. The applicant had also suffered a family bereavement abroad and had a lot on his mind at the time.

The applicant confirmed 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: 02/25 be granted.

#### Authority to Act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke, suspend or refuse to renew (on application thereof under section 51 of the Act) a private hire / hackney carriage vehicle driver's licence on the grounds that:
  - Since the grant of the licence the Driver has been convicted of an offence involving dishonesty, indecency or violence;
  - Since the grant of the licence the Driver has committed an offence or breached the Act or the Town Police Clauses Act 1847;
  - for any other reasonable cause.
2. The Committee considered Section 61 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. The Licensing Committee also decided to grant the licence with a warning.

#### Reasons

5. The Applicant was convicted of two offences as detailed in the report.
6. The applicant was sentenced at Teesside Magistrates' Court received a fine and 8 Penalty Points endorsed on his driving licence covering both offences.
7. The Policy on Convictions were set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
8. The Policy also stated that if a driver was cautioned for, or convicted of, any motoring or criminal offence or made subject to a CRASBO, ASBO or Injunction or arrested or charged with any motoring or criminal offence they must notify the Council, in writing, within 48 hours.
9. The Policy stated that if an applicant had between 7 and 9 live points on their licence for minor offences, they must show a period of three years free from conviction before an application will be considered.
10. However, the Committee decided to depart from its Policy on this particular occasion as it considered there were good reasons to do so as set out below.
11. The Applicant was first licensed as a private hire driver on 13 February 2024, with the licence expiring on 31 January 2025.
12. The Applicant explained that he was a bus driver for 10 years in London, before moving to the Northeast to continue his career. Whilst still working as bus driver, the Applicant obtained his private hire vehicle licence.
13. The Applicant advised that on the day of the offence he was at work, driving a bus in Middlesbrough. A cyclist was crossing the road in front of him, but the cyclist was not looking at oncoming traffic. The Applicant informed the committee that, as per his training, he was advised not to perform an emergency stop as it could potentially injure up to 70 passengers if driving a double decker bus. Therefore, the Applicant stated that he started to move into the right only lane, whilst braking as hard as he could without performing an emergency stop. The Applicant hit the front wheel of the bike and by the time the Applicant had stopped the bus, he had gone through a red light. The cyclist was not injured.
14. The Applicant advised that at the time of the incident his mother was living abroad and was ill. He stated that his mind was elsewhere and that this is the reason he failed to notify Licensing Officers, he further stated, he simply forgot.
15. The Committee determined that it was a serious incident that the Applicant had been involved in when he received 8 points on his licence.
16. However, the Committee considered the Applicant's representations and account of the incident. The Committee stated they believed this was a one-off isolated incident, as was shown by the fact that in 36 years of driving in the UK, the Applicant had an unblemished record apart from the subject incident.
17. The Committee further considered that although the Applicant now had 8 points on his DVLA driving licence, it was for one occasion and not accumulated over several incidents.

18. The Committee considered that, whilst the Applicant had failed to disclose the incident to Licensing Officers, his mother was ill and he was due to visit her. Further, he was not driving taxis at the time, so the Committee accepted his reasoning that he had forgotten to disclose it.
19. The Committee considered the Applicant a fit and proper person to hold a licence.
20. Therefore, the Committee decided to grant the licence but issue an official warning with the granting of the same. The warning aimed to improve the Applicant's driving standards and reiterated that any further driving incident may risk his licence being revoked.
21. This decision was final and there was no internal or statutory route of appeal, however, the Licensee had the option of judicially reviewing the lawfulness of the decision to the high court if grounds had been made out. If the Licensee decided to challenge the decision by way of judicial review, he may wish to seek independent legal advice as to the grounds and time limits that may apply. If the Licensee decided to take this course of action the Council would apply for any costs it incurred in defending its decision.

24/63

#### **APPLICATION FOR PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 3/25**

The Director of Environment and Community Services submitted an exempt report in connection with an application for a Private Hire Vehicle Driver Licence, Ref: 03/25, 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, and accompanied by a friend, verified his name and address and confirmed he had received a copy of the report and understood its contents.

The Licensing Officer presented a summary of the report outlining that the Applicant appeared before Members as a result of his licence being previously revoked.

The Applicant had previously held a Private Hire Vehicle Driver Licence with Wolverhampton Council from 15 September 2022 until 31 August 2023 when it was revoked with immediate effect.

The Licensing Officer presented the report advising the committee that the Applicant had applied to Middlesbrough Council for a Private Hire Vehicle Driver Licence on 5th September 2024.

Upon receipt of the application, a Middlesbrough Licensing Officer carried out a routine check on the National Register (NR3S) of revocations and refusals of hackney carriage and private hire drivers' licences. That check revealed an entry made by Wolverhampton Council confirming an action taken to revoke a Driver Licence held by the Applicant.

In view of such information being revealed, on 17th October 2024 a Licensing Officer contacted Wolverhampton Council Licensing Section requesting further information regarding the circumstances that led to their decision to revoke the Applicant's driver licence. Along with his enquiry, the officer also requested whether Wolverhampton Council had received any complaints regarding the Applicant.

On 1st November 2024, the Licensing Officer received an email reply from Wolverhampton Council Licensing Section confirming that a hearing review had taken place with Wolverhampton Council with the involvement of the Applicant's employer.

The Licensing officer stated that on 18 June 2023 at approximately 3:00am a female had got into the Applicant's taxi as a front seat passenger. The passenger stated she would pay for her journey upon arrival as she did not have her money or her phone with her. During the journey the passenger alleged the Applicant made inappropriate comments and sexually assaulted her.

The Committee was also advised that the decision of Wolverhampton review panel found the

application had collected the passenger without a prior booking.

Members were also advised the Applicant admitted to picking up the passenger without a prior booking but strongly denied the allegations of sexual assault and that he collected the passenger without prior booking, as she appeared to be in distress.

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

The Applicant, accompanied by his friend, spoke in support of the application and responded to questions from Members of the Committee, the Council's legal representative and the Licensing Officer.

It was confirmed that there were no further questions and the Applicant, his friend, 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's Licence Ref: 3/25 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 is satisfied the driver is 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 held a Private Hire Vehicle Driver Licence with Wolverhampton Council from 15 September 2022 until 31 August 2023 when it was revoked with immediate effect, following an allegation of sexual assault made against him. Further, in revoking the licence, Wolverhampton Council had determined that the Applicant had been plying for hire when he had picked up the subject individual prior to the incident occurring.
6. The Policy was clear that the Council's duty was to ensure, so far as possible, its licensed drivers and private hire operators were fit and proper people to hold such a position of trust. This involved a detailed assessment of an Applicant or licensee's character.
7. The Policy further stated that criminal convictions were not the only criteria used when considering whether an individual was a fit and proper person to be licensed. Other factors, including the Applicant's demeanour and appearance and conduct during the application process may be taken into account in determining fitness and propriety.
8. The Council could consider circumstances of concern even though a conviction had not been obtained or the conduct did not amount to a criminal offence.

9. The Applicant applied for a private hire driver licence with Middlesbrough Council on 5 September 2024. Whilst the Applicant had stated he had a licence revoked by Wolverhampton Council on the application, he responded 'no' to the question querying if he had been subject to any Police enquiries or investigations.
10. Licensing Officers carried out checks on the National Register of revocations and refusals of hackney carriage and private hire drivers' licences. This revealed the revocation from Wolverhampton Council, confirming the action to revoke the Applicant's licence in their area.
11. Licensing Officers contacted Wolverhampton Council, who in turn provided the reports from the incident and subsequent revocation. In the reports it detailed that the Applicant had been arrested for the alleged offence of 'Sexual Assault – Intentionally Touch Female – No Penetration'.
12. Cleveland Police have confirmed that no further action was taken with regards to the alleged offence, due to evidential difficulties.
13. At the Committee hearing, when asked why he had failed to inform Licensing Officers of his past investigation, on his application form, the Applicant stated that because it was no further actioned, he thought it did not need to be on there.
14. The Applicant was also asked why he was plying for hire, he responded that the female was upset and distressed, he stated he wanted to help her and that it was not about money.
15. The Committee was not satisfied that the Applicant was a fit and proper person to be licensed as a private hire vehicle driver in Middlesbrough. The Committee, upon hearing the evidence, determined that the serious allegation made against the Applicant, along with the plying for hire and failure to disclose the Police investigation on his application form highlighted that the Applicant was not a fit and proper person.
16. If the Applicant is 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 is the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
17. If the Applicant does appeal the decision and the appeal is dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the Applicant which could be in the region of £1,000.