

## LICENSING COMMITTEE

**A meeting of the Licensing Committee was held on 12 April 2021.**

**PRESENT:** Councillor Arundale (Chair); Councillors: Bell, Dean, Hill, Higgins, Jones, Lewis, Polano, Rooney, Sands, Smiles and J Walker.

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

**PRESENT AS OBSERVERS:** T Durance and M Worrall - Legal Services.

**An APOLOGY FOR ABSENCE** was submitted on behalf of Councillor Goodchild.

### **\*\* DECLARATIONS OF MEMBERS' INTERESTS**

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

### **MINUTES – LICENSING COMMITTEE – 15 MARCH 2021**

The Minutes of the Licensing Committee held on 15 March 2021 were submitted and approved as a correct record.

### **MINUTES – LICENSING COMMITTEE – 19 MARCH 2021**

The Minutes of the Licensing Committee held on 19 March 2021 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: 04/21**

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: 04/21, 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 was in attendance at the meeting and 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 in relation to the applicant's convictions, detailed at 1) to 6) in the submitted report and made reference to the relevant sections of the Council's Policy Guidance on Cautions, Convictions and Complaints.

The report highlighted that the applicant first licensed as a Private Hire driver with Middlesbrough Council in August 2018, however, in October 2019 a routine check of his DVLA licence revealed that he had nine penalty points on his licence. In accordance with the Officers' Scheme of Delegations, the applicant was required to undertake a Driver Improvement Scheme. This was undertaken on 4 March 2020 and a copy of the trainer's assessment was attached at Appendix 2.

Attached at Appendix 1 to the report was a copy of the check undertaken by Licensing Officers with the DVLA on 21 March 2021 along with a check undertaken by the applicant's previous employer, on 26 March 2021, which shows details of the offences at 1) to 6) that led to his disqualification from driving.

In February 2020, the applicant appeared in Court and was disqualified from driving for six months for the first 12 penalty points and received a further disqualification for the remaining six penalty points. It was highlighted that the applicant had failed to report the disqualification to the Licensing Office, as required by condition of his licence, and when asked why he had failed to do so he stated

he was unaware of the requirement. Council records showed that the applicant had correctly answered a question in relation to reporting convictions as part of the taxi driver's knowledge test in June 2018. He also failed to disclose these convictions in his latest application, a copy of which was attached at Appendix 3.

It was highlighted that Council records also showed that the applicant was stopped in October 2019 by Police and a Licensing Enforcement Officer in relation to his poor driving. A copy of the correspondence in relation to this matter was attached at Appendix 4.

The applicant's driving licence was reinstated by the DVLA in October 2020.

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 and 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 interested parties returned and the Chair announced the Committee's decision.

**ORDERED** that the application for Private Hire Vehicle Driver Licence, Ref 04/21 be refused for the following reasons:-

The driver was advised that he would receive the full decision, considerations and reasons within five working days.

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, Policy Guidance to Applicants, Licensed Drivers and Members of the Licensing Committee which came into force on 1 November 2019 ("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 of the information, the Licensing Committee decided to refuse the application for a Private Hire Vehicle driver's licence on the grounds that the Committee did not consider the applicant to be a fit and proper person to be granted the licence.

Reasons

5. The Policy stated any motoring offence showed a lack of responsibility whilst driving, either in terms of the maintenance and safety of their vehicle or in the manner of their driving. It stated the Council took a serious view if a licensed driver committed a motoring offence as driving was his profession, he had a responsibility to ensure he drove passengers safely and was not a risk to other road users.
6. The Policy was clear in that if an applicant had a significant history of offences, showing a disregard for safety or had been disqualified, an application would not normally be considered until a conviction-free period of at least 12 months to three years had lapsed since the reinstatement of his licence.

7. A licensed private hire vehicle driver was expected to be a trustworthy person. The Policy stated it was an offence for any person to knowingly or recklessly make a false declaration or to omit any material particularly in giving information required in the application process. It also stated where an applicant had made a false statement or given a false declaration on their application, the licence would normally be refused. It confirmed applicants or existing licence holders that were found to have intentionally misled the Council, or lied as part of the application process, would not be issued with a licence.
8. The applicant had been convicted of two speeding offences on 17 May 2019 and 2 August 2019. He was convicted of two further offences of failing to provide information as to the identity of the owner relating to motoring incidents on 16 July 2019 and 6 September 2019. The applicant was also caught speeding by a Council officer on 23 October 2019 and the applicant informed the officer he was speeding because he was concentrating on his private hire bookings on his mobile phone.
9. The Committee noted the applicant's representations that he claimed the conviction on 16 July 2019 for failing to provide identity information was a mix up by the police not passing on his letter. However, the Committee placed little weight on those representations because it could not go behind the conviction as the evidence showed beyond reasonable doubt the offence was committed.
10. As a result of having 18 points on his licence, the applicant was disqualified on 2 February 2020 and although his licence was reinstated in October 2020, the disqualification was to remain on his record until 10 February 2023.
11. The Committee considered that the applicant was an unsafe driver despite attending a previous driver improvement course. The Committee was extremely concerned that the motoring offences took place when the applicant held a private hire vehicle driver's licence.
12. Due to the amount of motoring convictions and incidents including the disqualification over such short period of time, the Committee considered it would require the higher end of the incident free period under the Policy for such an application to be considered.
13. The application form was clear in that it required applicants to declare any previous motoring convictions and sign a declaration as to the truth of the contents of the form. The applicant knew he needed to declare his convictions but failed to do so.
14. The applicant also failed to declare his motoring convictions when he was previously licensed as a private hire vehicle driver which was a breach of condition on his licence.
15. The Committee considered that the applicant was untruthful during his previous licence and the application process by hiding his previous convictions. It was essential that officers were able to rely on its licensed drivers to disclose all convictions to ensure the safety of the public.
16. The Committee, therefore, considered the applicant to be unsuitable to be granted a licence in Middlesbrough.
17. If the applicant was aggrieved by the decision he may appeal to the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough within 21 days from the date of the notice of the decision.
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 the region in excess of £750.

### **ANY OTHER BUSINESS**

#### Covid Regulations for Licensed Premises

At the request of the Chair, the Licensing Manager provided the Committee with an overview of the latest Covid regulations, guidance and restrictions relating to the operation of licensed premises.

As of today, 12 April 2021, licensed premises were able to re-open for outdoor trading. In preparation for the latest step, the Government had relaxed certain licensing laws to make trading easier. This included temporarily permitting those premises with an 'on sales' premises licence, to include 'off sales' to provide takeaway alcohol and pavement café licences. Such temporary permissions were in place until September 2021.

The Committee was provided with information in relation to social distancing measures and regulations that premises must adhere to and details of checks and inspections that had been taking place by the Enforcement Team in advance of premises' reopening and how this would be monitored.

**NOTED**