

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on THURSDAY, 29 MARCH 2018 at 10.30 am**

Present: Councillor R Chambers (Chairman)
Councillors E Hicks and J Loughlin

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), J Jones (Licensing Officer) and C Nicholson (Solicitor)

Also present: The applicant in relation to Item 3

LIC52 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that under section 100I of the Local Government Act 1972 the public be excluded for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1 and 2 part 1 of Schedule 12A of the Act.

LIC53 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The procedure for determining a private hire/hackney carriage licence was read to the applicant.

The Committee considered the Licensing Officer's report.

The applicant had the following convictions:

- 10 May 1972, Theft, £10 fine
- 20 December 1973 Assault, Conditional Discharge 12 months
- 8 June 1976 Handling Stolen Goods, 6 month's imprisonment wholly suspended for 2 years
- 21 July 1977, Robbery, 30 month's imprisonment

The applicant did not meet the Council's licensing standards because although the convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers states that an applicant must have "no criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed".

The applicant said he had been a stupid young man at the time of the offences. He had seen the error of his ways and had not committed a crime since he was given parole. He had secured a high position in a large insurance company and had gone on to run his own successful business.

In response to a question from Councillor Loughlin, the applicant said he believed himself to be a fit and proper person to hold a private hire/hackney carriage drivers licence because he had not committed a crime since 1977.

At 10.45, the Committee retired to make its decision.

At 10.50, the Committee returned.

The decision was read to the applicant.

Decision

The applicant has applied to the Council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were varied but included offences of dishonesty and violence. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentence for offences of dishonesty the applicant does not meet the Council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the Council should depart from its policy and the applicant must demonstrate that notwithstanding the fact that he fails to meet the Council's licensing policy he is a fit and proper person.

Members note the explanations given by the applicant, detailed in the report and here today. The committee also note that the last offence was 40 years ago and that the applicant has had no convictions of any nature since.

The applicant has also had regular employment with a number of different employers for whom he worked a considerable amount of time, including driving as a chauffeur.

In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

LIC54

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE

The Chairman informed the Committee that the applicant had said he would be unable to attend the hearing.

The Committee considered the Licensing Officer's report.

The applicant had the following convictions:

- 4 June 1976, Obtaining Pecuniary Advantage by Deception, £10 fine
- 6 August 1976, Going Equipped for Theft, Conditional Discharge 2 years

- 24 June 1987, Theft, 2 month's imprisonment wholly suspended for 1 year

The applicant did not meet the Council's licensing standards because although the convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers states that an applicant must have "no criminal convictions for an offence of dishonesty, indecency or violence in respect of which a custodial sentence (including a suspended custodial sentence) was imposed".

At 10:55, the Committee retired to make its decision.

At 11:00, the Committee returned.

The decision was read to those present.

Decision

The applicant has applied to the Council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a number of convictions details of which are set out in the officer's report. The convictions were for offences of dishonesty. In respect of these offences he received a range of punishments including a custodial sentence, which was suspended. By virtue of the custodial sentences for offences of dishonesty the driver does not meet the Council's licensing standards.

Where an applicant does not meet licensing standards it is for the applicant to make their case that the Council should depart from its policy and the applicant must demonstrate that notwithstanding the fact that he fails to meet the Council's licensing policy he is a fit and proper person.

Members note the explanations given by the applicant, detailed in the report and in the written submissions put before Members today. The committee also note that the last offence was 30 years ago and that the applicant has had no convictions of any nature since.

The applicant has had regular employment before and since his last conviction, working for Scottish and Newcastle for many years, and remaining with them despite the conviction in 1987, within a responsible role, and has carried out other driving work since 2014. He has also carried out voluntary work, and been a foster parent for 10 years, with all the trust and responsibility that entails.

In the circumstances, members are satisfied that the applicant is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The applicant will be granted a driver's licence.

The driver in relation to Item 5 had not arrived, and had not given notice of her intention to attend the hearing.

The Committee considered the report of the Enforcement Officer.

Uttlesford District Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in assessing whether an applicant is a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

The driver had not renewed her medical or DBS checks following the sending of reminder letters. She then informed the Enforcement Officer that she no longer worked as a taxi driver, and despite further attempts at communication by the officer, had not surrendered her licence.

At 11.05, the Committee retired to make its decision.

At 11.10, the Committee returned.

The decision was read to those present.

Decision

Despite the fact that the driver is not currently carrying out driving work, as the licence remains in place, she would have the option to start carrying out driving work at any time. Therefore it is important that whilst the licence is in existence, up to date checks have been carried out. The failure to have a new DBS or medical leads the Council to consider whether the driver remains a fit and proper person to hold a licence.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

The driver in relation to Item 6 had not arrived, and had not given notice of her intention to attend the hearing.

The Committee considered the report of the Enforcement Officer.

Uttlesford District Council requires all drivers to undergo an enhanced Disclosure and Barring Service (DBS) check and group 2 medical when they apply for a licence and then every three years after that. These checks assist the Council in assessing whether an applicant is a 'fit and proper' person to hold a private hire/hackney carriage driver's licence.

The driver had not renewed her medical or DBS checks following the sending of reminder letters. Despite further attempts at communication by officers, she had not surrendered her licence.

At 11.15, the Committee retired to make its decision.

At 11.20, the Committee returned.

The decision was read to those present.

Decision

The driver holds a current joint private hire/ hackney carriage drivers licence.

Her three yearly medical and DBS check as is required by the Council's policy, were both due to be carried out in October 2017. The driver has been chased by the Council by letter on three occasions and has not contacted the Council or provided any explanation for the failure.

This failure to provide up to date checks leads the Council to consider whether the driver remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

Members note that the driver's failure to provide an up to date medical or DBS check is a breach of Council policy, the checks are vital to establish that a driver is medically fit enough to drive, and have not received any criminal convictions in the period since their last DBS check. As Members do not have that information, and public safety is of paramount importance, Members are not satisfied that the driver is a fit and proper person, and therefore revoke her licence.

The driver is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

The meeting ended at 11.30.