

Committee: Licensing and Environmental Health
Committee

Agenda Item

2

Date: 26 November 2012

Title: Determination of a combined private
hire/hackney carriage driver's licence

Author: Murray Hardy, Licensing Officer

Summary

This report has been submitted for members to consider an application for the grant of a private hire driver's licence in accordance with Section 51(1) Local Government (Miscellaneous Provisions) Act 1976 where the applicant does not meet our licensing standards.

Recommendations

The Committee determine the application.

Background Papers

Current Licensing Standards.

Copy of Combined Private/Hackney Carriage Hire Driver's Licence in the name of Abdul Kalam.

Copy of the Combined Private/Hackney Carriage Driver Conditions in the name of Mr A Kalam.

Copy of Counterpart DVLA Licence in name of Abdul Kalam.

Copy of application to renew signed by Abdul Kalam.

Impact

Communication/Consultation	None.
Community Safety	The authority has a duty only to licence drivers who are considered to be fit and proper.
Equalities	None.
Finance	None.
Health & Safety	None.
Human Rights/Legal Implications	In the event of a licence being suspended or revoked a driver has the right of appeal to a Magistrates Court.

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	Whilst it is legitimate for councils to have policies, they may not be rigidly bound by them and must be prepared to make exceptions to policy in appropriate circumstances.
	A licence is a possession within the meaning of the Human Rights Act and individuals are entitled to the peaceful enjoyment of their possessions. However interference with this right is permissible in accordance with the law for the public good. The licensing regime falls within this exemption.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

- 1 On 7th June 2011 Abdul Kalam, 56 Wigston Close, Edmonton, London made application to this authority for the grant of a Combined Private/Hackney Carriage Driver's Licence to drive on behalf of Stansted and Saffron Walden Chauffeur Services who are based in Stansted Mountfitchet.
- 2 At the time of the application he submitted his DVLA Counterpart Driving Licence which showed no penalty points endorsed on his licence.
- 3 On 14th November 2011 he was issued with his Combined Hackney Carriage/Private Hire Driver's Licence which was due to expire on 31st October 2012. The delay in issuing his licence was due to the exceptional time the Criminal Records Bureau took to complete his enhanced check. It appears that between the period 7th June and 14th November 2011 Mr Kalam received a Fixed Penalty Notice for using a motor vehicle on a public road without being insured to drive. As he failed to give notice of this matter to this authority it was only discovered when he came to make application to renew his licence. At the time of issue of this licence he did sign an acknowledgement of receipt and compliance with the conditions of his licence.
- 4 The offence which Mr Kalam committed namely using a motor vehicle without insurance on a public road did attract 6 penalty points on his DVLA Counterpart Licence which brought him into conflict with our current licensing standards. The standard now in question is the one which says that a driver should not have had any serious motoring offences within the last 3 years. For

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the purpose of defining a serious motoring offence it is one where 6 or more points have been endorsed on a driver's licence.

- 5 On 30th October 2012 Mr Kalam was interviewed by the Licensing Officer in the Council Offices, Saffron Walden where he gave an explanation that led to him receiving the Fixed Penalty Notice and the endorsement on his DVLA Licence.
- 6 At about 6pm on 19th October 2011 he was driving his Vauxhall Corsa Motor Vehicle in Fore Street, Enfield when he was stopped by the Police having been identified on automatic number plate recognition as being a vehicle which was not insured. This information proved correct and he was issued with a Fixed Penalty Notice and 6 penalty points was endorsed on his licence. The Police seized his vehicle which was taken to the Police Pound and he had to pay the release fee. He has since sold this vehicle.
- 7 Mr Kalam stated that he insured his vehicle through a broker trading as Hastings Direct and set up a monthly direct debit to pay for the insurance. When setting up his policy he asked that all correspondence be sent to a PO Box which was situated at the Post Office Depot in Enfield where he periodically collected his mail. He chose this method of receiving correspondence on the grounds of maintaining his privacy.
- 8 It appears that the direct debit for the month of October 2011 was not paid on behalf of Mr Kalam which resulted in his insurance policy being cancelled. He is unable to explain why it was not paid and he only found out after he had been stopped by the Police and subsequent visit to his PO Box to find the letter from the insurance company stating the policy had been cancelled for non payment. It should be noted that following this discovery he did insure his vehicle and did produce a valid certificate of insurance to the Police when he recovered his vehicle from the Police Pound.
- 9 If Mr Kalam was successful with this application then his services would be retained by Stansted and Saffron Walden Chauffeur Services as one of their drivers.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
An unfit person is authorised to drive private hire vehicles in the district.	1 – Members are aware of and apply our licensing standards.	4 – Permitting unfit persons to drive may cause damage to property, personal injury or even death.	The applicant may appeal to a Magistrates Court if members find that Mr Kalam is not fit and proper to hold a licence

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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

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