

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 2pm on 24 OCTOBER 2016**

Present: Councillor R Chambers (Chairman)  
Councillors G Barker, J Davey and J Parry.

Officers in attendance: M Chamberlain (Enforcement Officer), T Cobden  
(Principal Environmental Health Officer – Head of Licensing), R  
Dobson (Principal Democratic and Electoral Services Officer), J  
Jones (Licensing Officer), E Smith (Solicitor) and M Watts  
(Principal Environmental Health Officer).

LIC39 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

LIC40 **EXCLUSION OF THE PUBLIC**

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.

LIC41 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE  
DRIVERS LICENCE**

The Committee considered a report in relation to Item 5.

The Chairman welcomed the driver, introduced all members and officers and  
then explained the process.

The Enforcement Officer presented a report on behalf of the Licensing Officer,  
asking Members to consider an application for a private hire/hackney carriage  
driver's licence. The applicant had in her application of 15 August 2016  
disclosed four offences and a motoring offence, which were confirmed by the  
Disclosure and Barring Service (DBS) certificate. The offences were Burglary  
and Theft in relation to a Dwelling in 1981 and three offences of Theft in 1990.  
For the last offence, the applicant was sentenced to 7 days imprisonment,  
suspended for 12 months. The applicant therefore did not meet the Council's  
licensing standards, as, although all of her convictions were spent in  
accordance with the Rehabilitation of Offenders Act 1974, point 5 of the  
Licensing Standards – Drivers stated that an application 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 report set out a summary of the interview conducted with the applicant on 22 August 2016, in which she explained she had had no convictions since 1990. The applicant had for many years worked as a decorator, but due to a shoulder condition now wished to do less decorating work and move to a different career. If her application were to be successful, she would be employed on school contracts in Hampshire for 24 x 7.

The Chairman invited the applicant to ask questions about the report. The applicant said she had no questions.

The Chairman invited the applicant to make a statement. The applicant said since the commission of the offences she had changed, and had not been in trouble for 27 years.

The Solicitor advised Members that the character references and the offer of employment should be taken into consideration.

The applicant said she would like to gain her driver's badge, and felt she would be a good asset to her employer.

In reply to a question about why she had applied to Uttlesford and not to Hampshire, the driver said the employer always applied to Uttlesford. Officers explained that this licensing authority was the one to which 24 x 7 applied for all its licenses, as this was where its head office was based.

In reply to a question about whether her shoulder condition would affect her driving, the applicant said it would not.

At 2.10pm the Committee retired to consider its decision. At 2.20pm the Committee invited back the applicant, who was now accompanied by her prospective employer's representative, Mr Henley. The Committee gave its decision as follows.

## **DECISION**

The application dated 11th July 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, the applicant has an offer of employment from 24x7 Ltd, a national operator based at Stansted, working on school contracts for Hampshire County Council.

However, the applicant does not meet Point 5 of the Council's Licensing Standards, which state that a driver 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's Enhanced DBS Check revealed the following matters:-

1. 16th December 1981 – Burglary and Theft – Portsmouth Juvenile Court Conditional Discharge.

2. 7th March 1990 – Shop Theft – Portsmouth Magistrates – Conditional Discharge.
3. 3rd April 1990 – Theft – Havant Magistrates – Conditional Discharge
4. 19th June 1990 - Shop Theft – Havant Magistrates – 7 days imprisonment suspended for 12 months
5. She also disclosed a motoring offence in 1998 for which Portsmouth Magistrates imposed a fine of £100 and three points upon her licence.

Though she is a rehabilitated person in respect of all these offences under the Rehabilitation of Offenders Act 1974, this legislation does not apply to all scenarios, and included among these is the holding of Private Hire and Hackney Carriage Drivers licences.

In support of her application, the applicant states that she was very young at the time of her first conviction and was in “with the wrong crowd”. She did not enter the property concerned and was charged as one of a group. Her subsequent convictions she attributes wholly to poverty; in 1990 she was the single mother of five young children, was expecting a sixth and was reliant on benefits. The thefts were purely to provide clothing for the children. The suspended sentence made her realise things had to change or she would lose her children and consequently she moved away from Waterlooville and when her youngest child started school she embarked upon a college course, training as a painter and decorator.

Unfortunately, her health has declined and following two operations she has been advised to seek a career change.

Unfortunately, these are serious matters and although they took place many years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

At a previous hearing on 8th September, the applicant was asked to produce a written offer of employment and evidence as to good character. This she has done and we have read the material provided most carefully. We have also listened to what she had to say, and accordingly we must grant this application for a joint Private Hire/Hackney Carriage licence. The applicant will receive the paperwork in due course.

LIC41

## **DETERMINATION OF AN APPLICATION FOR RENEWAL OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The Committee considered a report in relation to Item 2.

The Chairman welcomed the driver, introduced all members and officers and then explained the process.

The Enforcement Officer presented a report, asking Members to consider an application for renewal of a private hire/hackney carriage driver's licence. The report summarised the circumstances of the application.

In his application to the authority of 17 August 2016, the driver had in reply to the question which asked “have you in the past year been convicted of or cautioned for any offence (including motoring offences), been issued with a fixed penalty notice or is there any prosecution pending against you?” by answering “no”. The online driver check obtained by officers as part of the licensing process indicated he had received a fixed penalty notice for a speeding offence on 27 September 2015, for which his licence had been endorsed with three penalty points. The driver had breached condition 18c of his driver conditions, as he had failed to notify the Council within seven days of receiving the fixed penalty notice. Members were reminded that making a false statement to obtain a licence was an offence under section 57(3) Local Government (Miscellaneous Provisions) Act 1976.

The report set out a summary of the interview under caution conducted with the driver at the council offices on 9 September 2016. The driver had explained that he had omitted to refer to the offence through “stupidity”, and said he was unaware of the condition of licence to report fixed penalty notices to the Council within seven days. The Driver had not worked since the expiry of his licence on 31 August 2016.

The Enforcement Officer said he had taken the view that the matter should not be dealt with under his delegated powers, and had therefore referred the application for renewal to the Committee.

The Chairman invited the Driver to ask questions about the report; the Driver said he had no questions.

Councillor Barker asked whether the driver check referred to in the report could be produced. The Enforcement Officer passed the original document to the Committee.

The Chairman invited the Driver to make a statement. The Driver said there was not much of a case to make, he agreed with the statement in the report that he had failed to notify the Council that he had received a fixed penalty notice. It had previously been the case that an employee of the operator had done all the paperwork for the drivers, and that since she had left some years ago, it was up to the drivers to deal with their own forms. He had not done it properly, and had filled in the form wrong. There was no excuse. However, he had not intended to do anything wrong, as he had known the facts would have been checked. He said this was not a serious offence, and he had not done it intentionally. He had committed no previous misdemeanours.

In reply to a question from Councillor Barker, the driver said he had been licensed for four years.

There being no further questions, at 2.35pm the Committee withdrew to determine the application for renewal. At 2.40pm the Committee recalled the Driver, and gave its decision as follows.

## **DECISION**

The application before the Panel today is for the renewal of a Driver's joint private hire/hackney carriage licence. His previous licence expired on 31st August 2016 and he was employed on school contracts by ACME Transport Services. It is understood that he would be re-engaged by them were his application to be granted today. .

The Council's standard renewal application form, completed by the Driver on 17th August 2016 contains the following question:-

"Have you in the last year been convicted of, or cautioned for, any offence (including motoring offences), been issued with a fixed penalty notice, or is there a prosecution pending against you?"

To which, the Driver replied, "No".

However, a routine online DVLA check dated 22nd August 2016 revealed an SP 30 offence which is a speeding offence. The offence in question took place on 27th September 2015 for which the Driver accepted a fixed penalty notice. However, he failed to report this to the Council within 7 days as required by Condition 18c of the conditions upon his licence.

The Driver admitted in an interview under caution taking place on 9th September 2016 that he had been stupid to believe that the Council would not find out about the offence.

It is an offence under S57(3) Local Government (Miscellaneous Provisions) Act 1976 for a person "knowingly or recklessly" to make a false statement or omit any material particular when applying for a licence. It carries a fine of up to £1000 upon conviction. It was felt not to be in the public interest to prosecute, but the Driver did accept a formal caution administered on 16th September 2016.

The Driver does meet the Council's Licensing Standards for drivers but officers decided that rather than issue a licence under delegated powers they would refer the decision to this Committee.

We have heard from the Driver and note that he admits the offence but states that he did not do as he did intentionally.

In reaching our decision we are mindful of our powers to suspend the coming into force of a licence for a period of time, but we are also mindful that the Driver has not worked since the expiry of his previous licence on 31st August. Accordingly we grant him a new licence effective as of today and he will receive the paperwork in due course.

The Committee considered a report in relation to Item 3.

The Chairman welcomed the driver, and his interpreter, Reyhan Uludogan, and introduced all members and officers. He explained the process.

The Solicitor explained the interpreter could not speak on behalf of the applicant, and that her role was confined to interpreting for the driver the proceedings and any questions put by members.

The Enforcement Officer presented a report, giving the opportunity for each sentence to be interpreted for the benefit of the Driver. The report described the circumstances of the application for a grant of a joint private hire/hackney carriage driver's licence. The application was dated 3 August 2016. A DBS check was clean, but in addition to the DBS check, an online driver check dated 23 August 2016 showed the driver had received a fixed penalty notice for an offence of using an uninsured vehicle on 20 March 2013. The driver's licence was endorsed with six penalty points.

Members were advised that fixed penalty notices for this offence ceased to be counted under the "totting up" provisions after three years, however they were not removed completely from a driver's record for four years after the date of the offence. Members were reminded making a false statement to obtain a licence to obtain a licence was an offence under section 57(3) Local Government (Miscellaneous Provisions) Act 1976. An email from the Driver's interpreter had been received, on 23 August 2016, which stated the driver had not been aware of the six points until the information obtained from the online driver check.

Members were informed that when a person was driving on a non-GB driving licence, and they committed an offence, then the DVLA created a new record for them, to which points were transferred if the person subsequently obtained a GB licence.

The Enforcement Officer explained during the Interview Under Caution on 9 September 2016, the standard police caution was read to the driver, and in accordance with usual practice, the driver was asked to explain his understanding of the caution. It had become apparent his English language skills were not up to a standard that would enable officers to continue the interview, therefore the interview was abandoned. The friend whom the driver had brought with him was a potential third party, so not able to act as his interpreter.

Members explained that under licensing standard 13, drivers were required to have a reasonable command of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver. The fact the driver had been unable to be interviewed in English was a concern for the officers as it had indicated he might be incapable of doing the job.

The Chairman invited the driver to ask questions about the report. The driver said he had no questions.

The Chairman then invited the driver to make a statement. Via his interpreter, the driver said he had not known he had six points. His car had been insured but it was the wrong insurance, the police had told him it was not business insurance.

The Driver produced the insurance certificate which was in force at the time of the offence, which showed there was no relevant business cover on the insurance.

The interpreter explained the insurance included appropriate cover in relation to the driver's cleaning business, but not for other types of business.

The Driver's interpreter made a statement. He said he was a good person. The failure to report the penalty points was only due to his lack of knowledge of the law, and his standard of English. He had now started college to improve his English to be able to become a taxi driver. He had made one big mistake.

The Solicitor reminded the interpreter that she could not make submissions on behalf of the driver. The interpreter said the statement reflected what the Driver had instructed her to say.

The Enforcement Officer asked whether the driver had received any training in relation to taxi work from his prospective employer about what he would be expected to do.

The driver said he had received training.

The Enforcement Officer asked whether the driver had been given any training on scenarios such as how to deal with a drunk customer.

The driver gave an account of an experience he had had of dealing with a difficult customer.

The Chairman said he did not dispute the applicant's skills as a driver, but it was very difficult for English people to understand what he was saying.

The driver said he understood everything and that people understood him very well. He was going to start college and learn more to help him become a taxi driver.

The Chairman asked whether the applicant had been granted a licence as a driver by any other authorities. The applicant said he had not, because he had been told to apply to Uttlesford.

The Enforcement Officer said the prospective employer, West End Cars, was also licensed in Chelmsford which had different standards, including a test for knowledge of language.

The Committee withdrew at 3.15pm to determine the application. At 3.30pm the Committee gave its decision, as follows.

## DECISION

The applicant's application before the Panel today is for the grant of a joint private hire/hackney carriage licence. If successful, it is understood that he has an offer of employment from West End Cars. However, their operator's licence was revoked by this Committee on 23rd May 2016 and their appeal is listed for hearing at Basildon on 21st December. In the meantime they continue to trade.

The Council's standard application process includes the undertaking of both an enhanced DBS check upon applicants and an online DVLA check. Dated 23rd August 2016, it revealed an IN10 offence which involves the use of an uninsured vehicle on 20th March 2013, for which the applicant received six penalty points. Though these points are no longer eligible for inclusion under the totting up provisions, they will not be removed from the applicant's licence until March 2017. .

The applicant attended for interview under caution on 9th September 2016. He was accompanied by a friend to interpret but since the applicant did not understand the caution the interview had to be abandoned. All prior correspondence with the Council had been handled by Reyhan Uludogan (who assists him today) who had explained that at the time of the offence the applicant was driving on a non GB licence and did not appreciate that points will be transferred over to a GB licence once granted. All the applicant understood was that he had to pay a fine.

It is an offence under S57(3) Local Government (Miscellaneous Provisions) Act 1976 for a person "knowingly or recklessly" to make a false statement or omit any material particular when applying for a licence. It carries a fine of up to £1000 upon conviction. No decision as to prosecution has as yet been made, but this Committee is mindful that this is a serious matter we have to take into consideration. We are further mindful that Licensing Standard 13 requires

"..a reasonable standard of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver"

The fact that the applicant does not have sufficient comprehension of English to understand the proceedings on 9th September, coupled with the fact that he or those advising him should have known a DVLA check would be made gives us some concern. Indeed, we note he was assisted by Ms Uludogan before us today.

We have listened very carefully to what has been said to us, and we have been shown a policy of insurance in force at the time, which did not cover the journey the being made at the time of the offence: but we have no alternative but to find the applicant is not a fit and proper person under S51 (1) (a) of the Local Government (Miscellaneous Provisions) Act 1976 to hold these licences by virtue of the fact he a) failed to disclose relevant information and b) does not meet Licensing Standard 13 with regard to his command of the English language at present. If, having taken a course in the English language he re-applies then the Committee would listen to that application though this should not be for at least six months.



The applicant has a right of appeal against this decision to the Magistrates Court and he will be receiving a letter explaining what he has to do.

LIC41

## **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The Committee considered a report in relation to Item 6.

The Chairman welcomed the driver and introduced all members and officers. He explained the process.

The Licensing Officer presented a report regarding an application for a private hire/hackney carriage driver's licence.

The report set out the circumstances of the application, made in July 2016. The applicant had disclosed that he had had his licence endorsed for a fixed penalty notice within the last four years, and that he had "several convictions from criminal damage in 1981 to driving whilst disqualified 1998 (?) including burglary (12 months imprisonment) and motoring offences". The DBS certificate dated 19 September 2016 showed 14 convictions over a period starting in January 1980 when the applicant was 13 years old, to January 1998. Two of the convictions for burglary and theft in 1984 and 1987 resulted in custodial sentences in young offenders institutions and a conviction in May 1997 for burglary with intent to steal (non dwelling) led to a custodial sentence of 9 months. The applicant did not meet the Council's licensing standards, as although his convictions were spent in accordance with the Rehabilitation of Offenders Act 1974, point 5 of the Licensing Standards – Drivers stated 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 Driver Check had shown an offence of failure to give information as to the identity of a driver on 6 August 2013, for which the Driver's licence was endorsed with 6 points in respect of this offence. The Driver did not meet the standards.

The report summarised the interview conducted with the Licensing Officer on 4 October 2016, explaining the context of the applicant's convictions in his earlier years, and how the applicant had subsequently made a change to his life and had gone on to hold responsible positions working on both Network Rail and airside at International airports. Regarding the motoring offence, he had received the notice of the penalty in the post, but had omitted to fill in his driving licence number, which had resulted in a six point penalty being imposed.

The Chairman asked whether the applicant had any questions about the report. The applicant said he had no questions.

The applicant then made a statement. He said his criminal record spoke for itself. He was not the same person as he had been in those days, he had

responsibilities now, with children and grandchildren. The motoring points he had incurred had been due to an oversight, as he had filled in everything else on the form but not the driving licence number.

At 4.15pm the committee withdrew to consider the application. At 4.20pm the committee gave its decision as follows.

## **DECISION**

The applicant's application dated July 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from ECABS of Great Dunmow, working shifts. The applicant was made redundant in August 2015 and has to date failed to find other work.

However, an enhanced DBS check revealed that the applicant does not meet Point 5 of the Council's Licensing Standards, which state that a driver 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's Enhanced DBS Check revealed the following matters:-

1. 21 January 1980 – Criminal Damage – Dunmow Juvenile Court – Supervision Order
2. 13 September 1982 – Criminal Damage/Arson – Dunmow Juvenile Court – 3 months Detention Centre
3. 5th December 1983 – Public Order offence - Saffron Walden Juvenile Court – Fine
4. 25th April 1984 – Non-dwelling burglary – Dunmow Magistrates – Community Service and compensation
5. 12th September 1984 – Breach of CSO/non-dwelling burglary – Dunmow Magistrates – CSO revoked, 3 months x 2 Detention Centre to run concurrently.
6. 1st October 1986 – Theft/ Forgery and Counterfeiting x 4 – Dunmow Magistrates – 2 years probation x 5 to run concurrently.
7. 18th March 1987 – Attempted dwellinghouse burglary/non dwelling burglary x 2/ breach of probation order/driving whilst disqualified/with no insurance – Dunmow magistrates – 6 months Youth Custody/ 4 months Youth Custody x 4 to run concurrently.
8. 9th November 1990 – Driving whilst disqualified and without insurance/2 TiCs – Saffron Walden Magistrates – 100 hours Community Service/ 12 months disqualification from driving.
9. 12th February 1992 – GBH/common assault – Dunmow Magistrates – 120 hours Community Service.
10. 4th June 1993 – Non dwelling burglary – Saffron Walden Magistrates – 12 months probation
11. 12th October 1994 – Handling stolen goods – Dunmow Magistrates – 180 hours Community Service.
12. 30th November 1994 – Driving whilst disqualified/ no insurance – Dunmow Magistrates – Probation 18 months

13. 13th May 1997 – Non dwelling burglary – Harrow Crown Court – 9 months imprisonment.
14. 20th January 1998 – Driving whilst disqualified/ no insurance/ no MoT – NW Essex Magistrates – 2 months imprisonment/12 months disqualification.

Though he is a rehabilitated person in respect of all these offences under the Rehabilitation of Offenders Act 1974, this legislation does not apply to all scenarios, and included among these is the holding of Private Hire and Hackney Carriage Drivers licences.

In support of his application, the applicant states that as a result of the breakdown of his parents' marriage and his mother's work and caring commitments he was left very much to his own devices and as a result began to get into trouble. After serving a 9 month custodial sentence in 1997 he realised that he had to make a change and to his credit he did so, remaining constantly in responsible work until his redundancy in August 2015.

Unfortunately the routine online DVLA check dated revealed an MS90 offence for which he was convicted in February 2014. This arose because he failed to complete the paperwork arising from being caught on an average speed camera correctly as a result of which he was convicted for failing to disclose driver details, which carries with it six penalty points rather than the three which the original speeding offence would have carried.

Because of this, the applicant does not meet Point 3 of the Council's Licensing Standards, which state:-

"Where a driver has been disqualified from driving for any reason a licence will not normally be granted for three years after the disqualification has expired or twelve months after the date the driver's licence is re-issued whichever is the later"

Under normal circumstances the applicant would not normally be eligible to apply for a licence until February 2017.

Unfortunately in aggregate, these are serious matters and although the overwhelming majority of them took place many years ago, the Rehabilitation of Offenders Act 1974 does not apply to proceedings before this Committee.

We have listened to what the applicant has to say and we have read the material provided most carefully. We believe that he has turned his life around and accepts responsibility for his previous actions: we also accept that the six penalty points arose as a result of an administrative oversight. We also take into account the fact the applicant has been out of work for over 12 months. Accordingly we grant this application, and the applicant will receive the paperwork in due course.

## **DRIVERS LICENCE**

The Committee considered a report in relation to Item 7.

The Chairman welcomed the applicant and introduced all members and officers. He explained the process.

The Licensing Officer presented a report regarding an application for a private hire/hackney carriage driver's licence.

The applicant had applied on 23 September 2016 for the grant of a private hire/hackney carriage driver's licence. The application form included a question asking applicants whether they had ever been disqualified from driving or had had their licence revoked. The applicant had answered "yes" to that question and had disclosed that he had received a 90 day ban for an offence committed on 11 October 2013 due to the totting up system. He had also disclosed a previous offence of having tyres below the legal limit, for which his licence had been endorsed with 6 points. The applicant had stated that his licence was now clear.

However the Driver Check had revealed a TT99 conviction on 28 October 2014, indicating that penalty points had reached 12 or more within 3 years, at which point the driver was liable to be disqualified.

The applicant therefore did not meet the Council's licensing standards, as point 3 of the standards stated "where a driver has been disqualified from driving for any reason a licence will not normally be granted for 3 years after the disqualification has expired or 12 months after the date the driver's licence is re-issued whichever is the later". On that basis the applicant would not normally be eligible to apply for a licence until the end of January 2018.

The report summarised the telephone interview conducted with the applicant on 28 September 2016. The applicant had explained the second 6 point endorsement had been received as a result of using his brother's car. The applicant was insured to driver another vehicle with the owner's consent, under his own insurance policy. However the vehicle was identified whilst the applicant was driving it as having no MOT which meant the insurance was invalid. The applicant maintained he did not know the vehicle did not have a current MOT certificate.

The applicant stated he had not realised he did not meet the standards as his DVLA licence no longer showed any points. He had already spent money on having a vehicle compliance test and having a meter and roof light fitted.

The Chairman asked the applicant whether he had any questions. The applicant said he had not.

In response to the Chairman's invitation to make a statement, the applicant said all he wished to say was set out in his email which was given in the papers before the Committee.

Councillor Barker asked whether the applicant had driven for Ilford.

The applicant said he had, and that he had a Transport for London licence.

The Committee withdrew at 4.40pm to determine the application. At 4.55pm the Committee called back the applicant to ask him for clarification of a point.

Councillor Barker asked when the applicant had obtained his TFL licence. The applicant said he had obtained the licence in January and that it expired in 2018. Councillor Barker asked whether the applicant had purchased a vehicle for the purpose of being a driver.

The applicant said he had bought the vehicle in January, and was working using that car as a private hire/hackney carriage driver for TFL.

Councillor Barker asked where the car would be licensed. The applicant said it would be licensed in Uttlesford.

Officers asked the applicant to explain his stated aspiration to stop working in London and to return to Stansted, where he had worked before.

The applicant said he preferred Stansted. He had left the area for family issues. He was not enjoying the work as he felt intimidated in that area.

The Licensing Officer said he was not intending to dual licence. He said he had forgotten to mention, due to English being his second language, that when he read the conditions he misread the one year part which was why he had spent a lot of money to prepare the car, so if he didn't get the licence he would be in considerable financial difficulty.

At 5.05pm the Committee again withdrew. At 5.10pm the Committee gave its decision as follows.

## **DECISION**

The applicant's application dated 23rd September 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from Mountfitchet Taxis. He has previously held a licence from UDC, but failed to renew in January 2013.

However, the Council's routine DVLA check revealed a TT99 conviction on 28th October 2014, namely that the Driver was disqualified from driving under the "totting up" provisions involving the driving of a vehicle without a valid MoT certificate, thus rendering the insurance cover invalid. This carries with it a penalty of 6-8 penalty points, so as the applicant already had six points upon his licence he was disqualified from driving for a period of 90 days.

Because of this, the applicant does not meet Point 3 of the Council's Licensing Standards, which state:-

"Where a driver has been disqualified from driving for any reason a licence will not normally be granted for three years after the disqualification has expired or twelve months after the date the driver's licence is re-issued whichever is the later"

Under normal circumstances the applicant would not normally be eligible to apply for a licence until the end of January 2018

Having heard from the applicant and having read the email from him contained in our papers most carefully, we are not persuaded that this is a case in which we should depart from our policy regarding a three year waiting period for the grant of a Private Hire/Hackney Carriage licence following a period of disqualification from driving. Accordingly we must refuse this application for a joint Private Hire/Hackney Carriage licence under S51(1)(a) Local Government (Miscellaneous Provisions) Act 1976 as we are not persuaded that the applicant is a fit and proper person to hold such a licence.

The applicant has a right of appeal to a Magistrates Court against this decision and he will be receiving a letter explaining the procedure.

LIC41

#### **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE**

The Committee considered a report in respect of Item 4.

The report set out a request for the Committee to determine whether the driver should have his private hire/hackney carriage driver's licence suspended or revoked.

The report set out the circumstances under which suspension or revocation were to be considered, in that the driver's employer had notified the Council that the driver had informed them he had received a caution on 26 September 2016 for offences under the Harrassment Act 1997, and that he had advised his employer he was regularly drinking alcohol heavily.

The Driver had attended for an interview with officers on 3 October 2016, and had explained the context of the caution and the reliance on alcohol. He said he never went to work drunk. On 4 October 2016 an email had been received from the Domestic Abuse Investigation and Safeguarding Unit at Hertfordshire Police, explaining that the Driver had admitted to being alcohol dependent, and that he sometimes drank in the morning. It had been explained to the Driver that this admission would need to be reported to his employer, as there was a risk of his putting himself and other road users at risk.

Members were advised the Driver now fell below the licensing standards for drivers. Members were asked to determine whether the Driver continued to be a fit and proper person to be a licensed driver.

The Enforcement Officer provided an update as the Driver was not present, although had been informed of the date and time of the hearing. The Enforcement Officer said he had this afternoon telephoned both the Driver and the employer. The Employer explained the Driver had not turned up to work, as they had recently tried to offer him other work to support him, by letting him clear the cars. The Employer had also stated the Driver had been drunk in the mornings.

The Enforcement Officer had managed to speak to the Driver, who said he had not known the hearing was today.

The Chairman said he would consider giving the Driver one last chance. The Enforcement Officer said he had a concern about public safety. The Head of Licensing explained in response to a question from Councillor Parry, that it was not possible to revoke a licence if it was suspended for a period, so the option would be to suspend indefinitely and revoke at review. There was no evidence the Driver was currently driving.

The Solicitor said regarding public safety, the employer had taken steps to prevent him from driving, but the driver still had an ordinary driving licence, about which the Committee could do nothing.

RESOLVED to adjourn the consideration of the suspension or revocation.

The meeting ended at 5.25pm.