

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 11 APRIL 2016**

Present: Councillor R Chambers (Chairman)
Councillors A Anjum and J Davey.

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

Also Present: Barry Drinkwater (ULODA), Murray Hardy (24x7 Ltd), Andy
Mahoney (24x7 Ltd), Mr Novas, the complainant (Item 3), the complainant's
wife (Item 3), the driver in relation to item 3, the applicants in relation to items 5
and 6.

LIC83 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Goddard

**LIC84 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS
LICENCE – ITEM 2**

Councillor Chambers read out the procedures for determining private hire
licence applications.

The Enforcement Officer presented his report. Mr Novas held a private
hire/hackney carriage driver's licence, which had expired on 31 March 2016. On
8 April 2015 he was suspended by the Assistant Chief Executive – Legal for ten
days for failing to notify the Council of two fixed penalty notices within seven
days of them being issued.

On 26 June 2015, the Council was carrying out a police led stop check at
Stansted Airport. The Police initially dealt with Mr Novas' vehicle as a young
child was being carried on the lap of an adult. The Enforcement Team Leader
then inspected the vehicle and found that Mr Novas was not wearing his private
hire driver's badge, which was an offence under the Local Government
(Miscellaneous Provisions) Act 1976.

The Enforcement Officer said that in 10 December 2015 the Solicitor attended
Chelmsford Magistrates Court where Mr Novas pleaded not guilty. Mr Novas
had an interpreter who stated that as Mr Novas did not have an interpreter at
the interview under caution it should be discounted. He made no comment
regarding the signed statement which stated Mr Novas was not wearing his
badge. Mr Novas claimed he handed his badge to the Police at the first
checkpoint, so he did not have it whilst he was checked by officers.

The trial took place on 7 March where Mr Novas pleaded not guilty. Again he
had an interpreter. Mr Novas was found guilty and fined £90, ordered to pay a

victim surcharge of £20 and costs of £1000. The Magistrate's judgement stated that evidence related to the Interview Under Caution was excluded as Mr Novas did not understand the caution. They consider the Enforcement Team Leader to be a credible witness, but found Mr Novas unclear.

The Council's licensing standards stated that drivers must have a reasonable command of the English language sufficient to enable the driver to perform the functions of a hackney carriage/private hire driver.' As Mr Novas used an interpreter at Court it called into question his command of the English language. Mr Novas had been convicted of an offence which was not spent under the Rehabilitation of Offenders Act 1974 and therefore appeared before the Committee to determine whether he remained a fit and proper person to hold a licence.

The Chairman invited Mr Drinkwater to ask questions about the report. In response to his questions, the Solicitor said the starting point for a suspension was five days. Where there were aggravating factors a larger suspension would be considered. In the case of Mr Novas, the aggravating factor was that there were two fixed penalty notices which he did not declare. This meant there one was one ten day suspension, rather than two five day suspensions. The Committee could not go behind the facts of the conviction.

In response to further questions by Mr Drinkwater, the Chairman said it was up to the Committee to determine whether Mr Novas had sufficient command of the English language in order to perform his duties.

Mr Novas read out a statement. He explained that he really enjoyed his job and received many compliments from passengers. He was sorry for the conviction and normally always had his driver's badge on his belt. He struggled with legal English, but had a good command of English whilst carrying out his work and whilst in general conversation.

Mr Drinkwater then asked questions of Mr Novas who read the answers from a piece of paper. The Chairman said that the Committee needed to be satisfied that Mr Novas' command of English was sufficient to perform his duties as a private hire driver. It would be more beneficial if Mr Novas spoke without the aid of scripted answers.

Mr Novas gave his account of the incident surrounding the conviction. Initially he had been stopped by two Police officers, whom he gave his licence and paperwork to so they could perform their checks. He was then asked to move onto the second checkpoint which was manned by the Council's officers, who began to carry out a check of the vehicle. Whilst this was happening one of the Police officers told Mr Novas that there was an issue as the child passenger was sat on the lap of another passenger and not in a child seat. Once his office had been contacted and the issue resolved Mr Novas was given his paperwork back, which he placed on the dashboard. The Council's officers finished their inspection and gave Mr Novas paperwork to sign which he did, this included a notice for failing to wear his badge.

Mr Drinkwater asked questions of Mr Hardy who had been employed by the Council as a licensing officer and had been responsible for processing Mr Novas' application. In response to Mr Drinkwater's questions, Mr Hardy said he had interviewed Mr Novas when he had initially applied for a licence. At the time he had considered Mr Novas to have a good command of English. He had interviewed hundreds of people about private hire licence applications and had only encountered three or four who struggled with English.

Mr Mahoney spoke as a character reference for Mr Novas. Mr Novas had worked for 24x7 Ltd for three years and during that period he had never had any reason to question his work. He had personally received many compliments about Mr Novas from customers and other staff members. There were a number of customers who specifically requested that Mr Novas was their driver. Lastly, he had always been able to hold a conversation with Mr Novas and never had any trouble understanding him.

The Solicitor informed the Committee that where a driver did not meet licensing standards, the burden of proof was on the driver to satisfy the Committee they were a fit and proper person to hold a private hire licence.

The Chairman invited Mr Drinkwater to sum up Mr Novas' case. He said that the Council's licensing policy was not binding and exceptions could be made in appropriate circumstances. The failure to disclose the two fixed penalty notices was not a deliberate act of concealment. Mr Novas' general English was good, but he struggled to understand legal English. This was at the other end of the spectrum and an allowance should be made for this. Mr Novas had wished to appeal the Magistrate's finding but had been able to afford to. Lastly, the fine Mr Novas received was at the lower end of the scale.

The Enforcement Officer, the Licensing Officer, Mr Drinkwater, Mr Hardy, Mr Mahoney and Mr Novas left the room at 10.55am so the Committee could consider its decision. They returned at 11.10am.

LIC85

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.

DECISION

Mr Novas has a joint private hire/hackney carriage driver's licence which is up for renewal. We have heard how Mr Novas has received a conviction for failing to wear his badge, a conviction that the committee is not in a position to reopen. As a result of his conviction, and his time in court, his command of English and whether it is sufficient for the purposes of his job has also been questioned. As a result of both of these issues, Mr Novas 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. Essentially 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. In addition in this case, Mr Novas also needed to satisfy members that his command of English was sufficient to enable him to perform the functions of a driver.

In considering convictions the committee must have regard to a number of factors. These are

1. the nature of the offence
2. the severity of the offence
3. the length or severity of the sentence.

Members have heard the circumstances around the commission of the offence, and the mitigating factors, and have noted the low level of fine the Magistrates gave Mr Novas.

Members have also heard Mr Novas speak comfortably today in support of his application.

In all the circumstances, Members are satisfied that Mr Novas is a fit and proper person, and that he has reasonable command of the English Language. Mr Novas will be granted his driver's licence.

LIC86

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE – ITEM 3

The Chairman read out the procedures for determining private hire licences..

The Enforcement Officer presented the report. The driver held a private hire/hackney carriage driver's licence which was first granted by the Council on 23 February 2010 and due to expire on 28 February 2019. He carried out school contract work for 24 x 7 Ltd.

On 15 March 2016 the Council received a complaint from the complainant, who reported that his wife had been sworn at and threatened by a licensed driver. The driver was then summoned to the offices of 24 x 7 Ltd regarding the complaint. The driver had been carrying a boy with special needs from Takeley to Harlow. The driver had been travelling towards Hatfield Heath on a road which was the national speed limit, before going down to 40mph on the outskirts of the village and 30mph just before the old police station. The driver says a vehicle attempted to overtake him at speed in the 30mph zone but couldn't due to oncoming traffic. The driver he turned left and then right on Sheering Road and says the complainant's wife tried to overtake him again. The driver said he feared for his passenger's safety so he stopped his vehicle and went to the rear of his vehicle. He claimed that the complainant's wife began swearing at him and then drove her vehicle at him which meant he had to jump out of the way. As she drove past him she nearly collided with another

vehicle and it was at this point he noticed there was a baby in his car. He composed himself before continuing with his journey.

24 x 7Ltd said no further action was being taken by the company against the driver and a complaint had been made to the complainant's wife for the following offences; dangerous driving, careless driving, excess speed and attempted grievous bodily harm with a motor vehicle.

The Enforcement Officer explained that the complainant's wife lived in the Ongar area and drove to Harlow before getting the train to London for work. She had been driving her usual route and turned onto Sheering Road. The traffic had been slow and the car in front abruptly performed an emergency stop, which forced her to. Initially she thought there was an issue with the vehicle in front, but the driver then exited his vehicle and begun swearing at her. She said the driver attempted to open her door but the car doors automatically locked. It was at this point she noticed the vehicle was a licensed vehicle. The driver continued shouting at her, but did not open her windows as she felt he may have attacked her. Her children were not in the vehicle but there were two baby seats in the rear of the vehicle. She says that as the driver walked back to her vehicle she attempted to overtake his vehicle giving him a wide berth. There was no need for her to reverse and there was no oncoming traffic. After driving off she pulled into a layby for a few seconds but felt she couldn't stay in case the driver confronted her.

When she arrived at her Harlow train station she contacted her husband. Both of them reported the incident to the Police. The complainant's wife also initially reported the incident with Transport for London. She said that a licenced driver should never behave as the driver had done and would never overtake unless on a dual carriageway or motorway.

The Enforcement Officer said that the complainant's wife have provided an email that she had received from the Police which stated that they were investigating the matter, as well as notes that she had made of the incident. In light of the complaint the driver appeared before the Committee in order to determine whether he remained a fit and proper person to hold a private hire driver's licence.

The complainant's wife said she had a child who had special needs and always ensured that she drove carefully as a result. She would have expected the child in the driver's car to be in the back, rather than the front, in order to prevent the child from becoming agitated. She also expected a passenger assistant to be present in the vehicle.

She then questioned why the driver had left the vehicle if he was concerned about the child's safety. Furthermore, how was the driver aware of his passenger's emotional state if he had left the vehicle.

Mr Hardy said that the County Council carried out a risk assessment of every school contract and had considered that a passenger assistant was not needed in this instance.

The driver then presented his account of the incident. He began by saying that the passenger sat in the front seat of the car at the request his mother. He took the same route to and from the school each day, except for instances where temporary traffic lights were in place and the alternate route was faster. At the point Sheering Road became a 40mph speed limit, down from a 60mph limit, he noticed a vehicle approaching his vehicle at speed, which then began tailgating his vehicle. His passenger had noticed the vehicle behind and asked why the vehicle was so travelling so close to the driver's car. Eventually the vehicle attempted to undertake his, which forced to veer off to avoid a collision. It was as this point his passenger became distressed so he pulled over to calm down his passenger, compose himself and allow the vehicle to overtake him.

The driver said that the vehicle did not attempt to overtake him and instead the complainant's wife began sounding the vehicle's horn. He exited his vehicle and motioned to the vehicle to overtake. At no point did he force entry to her vehicle. She revved the vehicle's engine and the vehicle leapt forwards, which forced him to take evasive action. She then attempted to overtake his vehicle which forced the oncoming vehicle to slow down. It was not possible for the complainant's wife to have seen his vehicle later in the journey as his route was different. The day after the incident his mother thanked him for his actions.

In response to questions by the Enforcement Officer, the driver said that he pulled over initially, but felt the need to exit his vehicle in order to motion that the vehicle should overtake him. He did speak to her through her windscreen but it would not have been possible to hear what he said. He needed to pull the vehicle over to check the vehicle as it had collided with the kerb when he had to avoid a collision. He could see a baby seat in the back of her car, but it was enclosed and he couldn't see whether a child was on board. He reported the incident on the time it had occurred, but the Police had not been able to progress the investigation because he did not have the vehicle's registration number.

The Solicitor told the Committee they had to, in the first instance, determine which version of events they preferred. They would then have to consider what action, if any, should be taken.

Mr Hardy said there were inconsistencies in both accounts of events. The Council had to be satisfied that the driver no longer was a fit and proper person to hold a private hire driver's licence. This was the only incident during the six years the driver had had been licensed. Members also needed to give regard to the Attorney General's guidelines. There was no independent evidence apart from the corroboration of the boy's mother.

In response to points by the complainant, the Solicitor said that if the driver was convicted he would fall below the Council's licensing standards. The Committee had to determine on the balance of probabilities which account they preferred.

The Enforcement Officer, the Licensing Officer, Mr Hardy, the driver, the complainant and the complainant's wife left at 12.05pm so the Committee could consider its decision. They returned at 1.05pm.

DECISION

The driver currently holds a private hire licence, which was first granted in February 2010. He currently drives for 24x7 Limited and carries out school contract work.

The Council were made aware of an incident involving the driver when the complainant contacted the Council on behalf of his wife, who had encountered the driver on one of his school journeys, with a vulnerable passenger.

The complainant's wife has stated in her complaint that the driver stopped his car suddenly, got out of his car, and confronted her, and swore at her, was aggressive and made her feel scared and upset. The complainant's wife was here today in support of her complaint, along with her husband.

The driver has explained his version of events, which differ from those of the complainant's wife, particularly in terms of why he stopped his vehicle, what happened when the vehicle was stopped, and the nature of the confrontation between the two.

What is accepted by both parties is that the driver did stop the vehicle in the road, and that he did get out of his vehicle to speak to the complainant's wife and there was a confrontation, and words were exchanged through a window. Members need to consider whether as a result of this complaint, and the details of the incident make the driver no longer a fit and proper person to hold a licence.

Members have made no finding in respect of which version of events they prefer, as they consider that in any event the driver's behaviour in this incident was not appropriate for a licensed driver, when he was carrying a vulnerable passenger, as Members consider that he should not have got out of his car, left his passenger and gone to confront the complainant's wife, particularly as the driver has already explained that his passenger was upset and distressed.

In this case the burden on proof is on the Council to show that he is not a fit and proper person to hold a licence. Members have taken account of his previously unblemished record as a driver and the testimony from his employer, and his passenger's parent, in terms of his general manner and behaviour. Members are not satisfied that he is not a fit and proper person to hold a licence as a result of this incident.

However, Members consider that this behaviour does warrant a sanction as a mark of disapproval of the driver's conduct and as a deterrent to others, and that in the circumstances a suspension of the licence would be appropriate. In considering the length of the suspension Members can take into account the driver's past history, the seriousness of the complaint, and any other aggravating or mitigating factor, and the financial effect of any suspension upon the driver.

Members are aware that the driver is a school contracts driver, and in that regard he should have taken more responsible actions. However he has a good history as a driver, and has had positive comments from his regular passenger, and in this case therefore members consider that a 5 day suspension is the appropriate sanction.

The driver has the right to appeal against this decision within 21 days to the Magistrates' court.

LIC87

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE – ITEM 5

The Chairman read out the procedures for determining private hire licences.

The Enforcement Officer presented his report. The applicant had applied for a private hire/hackney carriage driver's licence on 27 January 2016. As part of the application applicants were asked whether they had been endorsed for a fixed penalty notice offence within the last four years. The applicant gave his answer as "no".

The Council had to obtain an enhanced DBS check for each applicant. For the applicant this revealed no convictions. The Council also carried out an online driver check from DVLA records. The check for the applicant was carried out on 29 January 2016. This revealed that he had received a fixed penalty notice for a CU80 (using a mobile phone whilst driving) on 1 March 2012. His licence was endorsed with penalty points.

The Enforcement Officer explained that fixed penalty notices ceased to be counted after three years but were not completely removed from a driver's record for four years. Making a false statement to obtain a licence was an offence under the Local Government (Miscellaneous Provisions) Act 1976 and carried a fine of up to £1000 upon conviction.

The applicant attended the Council Offices for an Interview Under Caution to discuss the allegation of making a false statement to obtain a licence. The applicant explained that he was employed by Connections Limited T/A Fargolink carrying out school contract work and had recently been licenced by Braintree District Council. There had been no issues with his application. He wanted to be licenced by Uttlesford to enable him to work full time. The applicant said he had read the form and supplied answers to a lady who worked at the Fargolink office. He was not sure whether he had any points on his licence so he checked the DVLA website. This showed he had no points. He assumed this was correct and therefore answered "no" on the application form.

The Enforcement Officer said that on 5 February 2016 he received an email from Fargolink link which explained that the applicant struggles to read or write and that someone in the office had filled out the form for him. The applicant had not set out to deliberately deceive the Council. Fargolink supplied a licence check for the applicant dated 8 January 2016, which showed no current penalty points but did show the CU80 although it stated that it expired on 1 March 2015.

The applicant was aware that an online driver check was being carried out and should have realised the fixed penalty notice would come to the Council's attention. The Assistant Chief Executive – Legal did not consider a prosecution to be in the public interest, but did choose to issue the applicant with a caution for the offence of making a false statement to obtain a licence. The applicant did meet the Council's licensing standards but the Assistant Chief Executive – Legal did not wish to grant the licence under delegated powers.

The Chairman invited the applicant to speak. The applicant said he had made a mistake and not a deliberate act of concealment. He had checked his licence online and saw the part of the webpage which stated he had zero penalty points, he did not see the part below which said the offence was not completely void. He had dyslexia, but it was sporadic. This meant there were times when he had no trouble reading, but others where he struggled.

The Enforcement Officer, the Licensing Officer and the applicant left the room at 1.25pm so the Committee could consider its decision. They returned at 1.30pm.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence.

On his application form he answered no to the question 11 'has your licence even been endorsed for a fixed penalty notice offence in the last 4 years'. However, the online check of his DVLA driver's licence revealed an offence in March 2012, which although no longer relevant under the totting up provisions, remain on the licence for 4 years. His application was made in January 2016, so the Fixed Penalty Notice conviction was still within the 4 years. The Assistant Chief Executive – Legal decided as a result of this inaccuracy on the application form to issue a caution for making a false statement.

The applicant meets the Council's licensing standards, but as result of his caution, the Assistant Chief Executive – Legal wanted the licence application to be considered by members. It is for members to decide whether the applicant is a fit and proper person to have a licence. The applicant advises that his mistake was genuine and as a result of a misapprehension of the question and the timescales. It is noted that in fact the form was filled in by his intended employer to whom the applicant supplied his answers.

Mention has been made of difficulty in reading or writing, but the applicant has confirmed that he has dyslexia which sometime affects his reading and comprehension.

In the circumstances, members are satisfied that the applicant is a fit and proper person. The applicant will be granted a driver's licence.

LICENCE – ITEM 6

The Chairman read out the procedures for determining private hire licences. CCTV footage of the incident was played to the Committee.

The Enforcement Officer presented his report. The applicant applied for a private hire/hackney carriage driver's licence on 13 January 2016. He passed his medical, had a clean driving licence and declared a previous conviction. The applicant intended to work for Uber.

On 26 February 2016 the Council received an email from one of the managers at Takeley Performance Tyres which were approved by the Council to carry out vehicle inspections on its behalf. The Manager said they attempted to carry out an inspection of the applicant's vehicle on 22 February 2016. As the mechanic pointed out problems with the vehicle, the applicant became aggressive, swore and pushed the mechanic before driving off.

The Company had supplied CCTV footage which showed the mechanic carrying out an exterior check of the vehicle. The applicant appeared to bend down to view the problems pointed out by the mechanic before using his mobile phone. As the mechanic entered the front offside door, the applicant barged him out of the way before getting in the vehicle and driving off.

The Enforcement Officer said that he visited Takeley Performance Tyres on 4 March 2016 and the mechanic who carried out the exterior check and another mechanic who was present at the test. The first mechanic explained that he was highly experienced and was DVSA approved to carry out MOT testing. He explained that as he began the test he told the applicant he did not believe there were enough no smoking stickers and pointed out damage to the bodywork of the vehicle. The applicant insisted that the vehicle was good and when problems on the bodywork were pointed out made spitting noises. The mechanic did not see the applicant spit. The mechanic said that he opened the door and attempted to read the odometer but the applicant pushed past him and covered it up with his mobile phone. The mechanic said he did not confront the applicant or swear at him and allowed him to drive off.

The second mechanic said he was working on another vehicle but heard the applicant raising his voice. He saw the applicant bending over and making spitting noises and saw the first mechanic attempting to enter the vehicle before he was pushed out of the way by the applicant who got into the vehicle and drove off.

The applicant stated that he had been living in the UK for 20 years and wanted to work for Uber who were licensed by the Council. He picked Takeley Performance Tyres as they were closest to where he lived, although when he arrived at the garage he did not feel it looked like a garage. The applicant claimed the first thing the mechanic did when he was handed the keys was tell him the vehicle was going to fail because there were not enough no smoking stickers in the car. The applicant says that because the mechanic swore and shouted he became angry and asked for the keys back which the mechanic refused to do because he was testing the vehicle. The applicant claimed that he

never swore at the mechanic, no exterior check was carried out, he never left the vehicle whilst it was in the garage, didn't spit at the mechanic and didn't push him out of the way. The applicant said the mechanic never opened the door to look at the odometer but he did cover up the odometer with his mobile phone when the mechanic peered through the car window as he didn't want the mechanic carrying out the test. The applicant said he was shocked that the mechanic swore at him and told the Enforcement Officer that the mechanic must have mental problems.

The Enforcement Officer explained that the applicant then said he phoned the Council's licensing department to explain he wanted to go to T and R Autos instead. He asked them to just check over the vehicle and not carry out a test which they did. When they did test the vehicle it failed for a number of reasons. The applicant explained that he had held a TfL licence working for Uber since 2014 but had not worked for four to five months as he was caring for his son.

The applicant did meet the Council's licensing standards but due to the complaint, the Assistant Chief Executive – Legal had referred the matter to the Committee.

The Chairman invited the applicant to speak. He said that he had never sworn at the mechanic and did not push him. He only took the keys for the car back as he did not want the mechanic carrying out the test.

He wanted to be licenced by the Council in order to help care for his son who was very ill. He had carried out work in London and Harlow previously, but had decided that he wanted to be licensed by Uttlesford. He had chosen T and R Autos to carry out the vehicle check as they were the closest to his property.

The Enforcement Officer, the Licensing officer and the applicant left the room at 1.50pm so the Committee could consider its decision. They returned at 1.55pm.

DECISION

The applicant has applied to the council for a joint private hire/hackney carriage driver's licence.

The applicant meets the Council's licensing standards, but whilst his application with the Council was progressing, the Council received details of an incident that had occurred when the applicant had taken his vehicle to be tested by one of the Council's authorised garages.

The applicant made a complaint about the garage that he took his vehicle to for testing, and when asked for their account, the mechanic from the garage alleges that the applicant swore at him, made spitting noises, and pushed him when he tried to take the mileage from the odometer.

As a result of this complaint, the Assistant Chief Executive – Legal wanted the licence application to be considered by members. It is for members to decide whether the applicant is a fit and proper person to have a licence.

The applicant's account of the incident differs from that of the mechanics. He claims he gave the key to the mechanic, but stayed in his vehicle the whole time, that the mechanic did not do an exterior check, and therefore he did not abuse or push the mechanic. The CCTV shows that Mr Ahmadi did get out of the vehicle, and look round it initially with the mechanic. It is not possible from the CCTV to determine who, if anyone, swore at who. However, from the footage that Members have seen today they do not agree that the applicant pushed the mechanic or appeared to be particularly aggressive when he got back into his car to end the test.

Despite the inconsistencies in the recollection of the applicant of the event, the applicant has explained before the Committee today that he was sworn at by the mechanic, who was from the outset dismissive of the state of his vehicle, and that he did not expect to be faced with such an attitude. He had no problems when he took his vehicle elsewhere, even though it did fail the test.

Members do not consider that the actual events of that day are serious enough to result in the applicant being considered not fit and proper to hold a licence. In the circumstances, members are satisfied that the applicant is a fit and proper person and the applicant will be granted a driver's licence.

LIC89

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE – ITEM 4

The Licensing Officer informed the Committee that the applicant had emailed her explaining that he could not attend the meeting, but hoped the Committee would determine his licence in his absence

The Licensing Officer presented her report. The applicant applied for a licence on 3 March 2016. On the application form applicants were asked to disclose all convictions, both spent and unspent, as well as any police cautions. The applicant disclosed nine convictions for offences between 1974 and 1990.

The Council obtained an enhanced DBS check for each applicant. In respect of the applicant, this revealed the nine convictions he disclosed. These were; theft of a vehicle for which he was given a two year supervision order, ordered to pay compensation of £20, and his licence endorsed in February 1974; Burglary and Theft of a Non-Dwelling, breaching the supervision order, and taking Conveyance Without Authority for which he was fined £15, ordered to pay compensation of £2, his licence was endorsed, and he was ordered to continue his supervision order in March 1974; numerous offences under the Theft Act for which he was sentenced to six months in a detention in March 1976; taking a motor vehicle without consent and two offences under the Road Traffic Act 1976 for which was disqualified from driving in November 1976; driving whilst disqualified and without insurance for which he was fined and given a three month suspended prison sentence in February 1977; Theft, taking a vehicle without consent and several offences under the Road Traffic Act for which he was given a custodial sentence in April 1977; driving whilst disqualified, without insurance and for theft for which he received a six month suspended prison sentence and had his licence endorsed in January 1979; Assault Occasioning

Actual Bodily Harm for which he received a conditional discharge in April 1983; two counts of Assault Occasioning Actual Bodily Harm for which he was given a conditional discharge, ordered to pay compensation of £675 and costs of £100 in August 1990.

The Licensing Officer said that although all the convictions were spent under the Rehabilitation of Offenders Act 1974, the applicant did not meet the Council's Licensing Standards said that applicants 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 was interviewed by the Licensing Officer on 17 March 2016 where he was asked about the circumstances surrounding his convictions in 1976 and 1977. The applicant explained that he had got into the wrong crowd. The offence in March 1976 related to an incident where 13 people had broken into a factory to steal paint and cars to joyride in. The conviction in April 1977 was for theft of a tax disk which the applicant had altered to match his own vehicle. He had also been convicted for taking a vehicle without consent. The vehicle was a friend's but he said he had taken it without consent to avoid his friend getting into trouble.

After he had left prison in 1978 he moved from Hertford to Stevenage with his parents. This allowed him to try and make a fresh start. He married in 1979 and had a son. He had no convictions since 1990 and had been licenced as a taxi driver in Stevenage for 25 years and had previously been licenced by East Cambridgeshire. He had spent a lot of time carrying out school contract works. The applicant was currently employed by Diamond Cars and the operator wanted him to be licenced by Uttlesford so he could drive vehicles they had licenced with the Council.

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 mainly for offences of dishonesty. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentences 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. Essentially 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 that the offences were all at the lower end of the scale. In general the nature of the sentences imposed were not severe. The committee also note that the last offence was 25 years ago and that the applicant has had no convictions of any nature since. 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 meeting ended at 2pm.