

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 8 SEPTEMBER 2016**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, J Davey, R Gleeson and E Hicks

Officers in attendance: M Chamberlain (Enforcement Officer), T Cobden
(Principal Environmental Health Officer), J Jones (Licensing
Officer), A Rees (Democratic and Electoral Services Officer) and
E Smith (Solicitor)

Others present: Mr Cordall, Mr Davey and the driver in relation to Item 3.

LIC28 **APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

There were no apologies for absence or declarations of interest.

LIC29 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS'
LICENCE – ITEM 2**

The Chairman read out the procedures for determining drivers' licences. He then invited the Licensing Officer to present her report.

The Licensing Officer began by explaining that Mr Davey had applied for a licence on 3 July 2016. On the application form applicants were asked whether they had ever been disqualified from driving or had their licence revoked. Mr Davey had answered this question by stating that he had been banned from driving for six months under the totting up system.

The Council carried out online driver checks for all applicants. This revealed that Mr Davey's licence had been endorsed with a TT99 offence which indicated that his licence had been endorsed with 12 points within three years.

Mr Davey did not meet the Council's licensing standards as they stated that where a driver had been disqualified from driving a licence would not normally be granted until three years after the disqualification had expired. Therefore Mr Davey would not meet the Council's standards until 20 September 2017.

The Licensing Officer said she contacted Mr Davey and the operator, Mr Cordall, to advise them that Mr Davey did not meet the Council's standards. On 30 August Mr Cordall contacted the Council to ask whether Mr Davey could be issued with a licence as it had been two years since Mr Davey had been disqualified and he had learnt from his mistake.

On 30 August, the Licensing Officer carried out a telephone interview with Mr Davey to discuss his application. During the interview Mr Davey explained that he had driven for a living for around 10 years. He now had children and wanted

to become a licensed driver to supplement his income. In the longer term he wanted to work full time as a driver and possibly set up his own company.

The Licensing Officer said that Mr Davey had also submitted a written statement. In this he had explained that two of his driving offences were for speeding and the others for using a mobile phone whilst driving. He felt he was a safer driver as a result of the ban and realised how irresponsible he had been.

The Chairman invited Mr Davey and Mr Cordall to speak. Mr Cordall said that he felt that the three years was an excessive period for a driver to not meet standards after they had been disqualified. He had been a private hire operator since 2001 and a driver since 1984. In his experience as a private hire driver it was challenging to keep an eye on the speed, your surroundings and passengers.

Mr Davey had been unfortunate to be caught and many drivers broke the law and were fortunate to avoid punishment. Mr Davey was aware that he had made mistakes and had learnt from them. He added that it had been two and a half years since Mr Davey had been disqualified. Finding high quality staff was challenging and Mr Davey deserved a second chance.

In response to a point by the Chairman, Mr Davey explained that in his previous job he had not been provided with a Bluetooth system and he often had to answer his phone whilst working. He was less responsible at the time and had learnt from his mistakes. He had three children who he wanted to help provide for and it would be nice to work for his family's firm. He added that he was not forced to retake the test for his driving licence and felt that he was a safer driver as a result of his ban.

The Committee left the room at 10.15am so they could consider their decision. The returned at 10.45am.

LIC30

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 Davey's application dated 3rd July 2016 is for a Private Hire/Hackney Carriage Driver's licence. If successful, he has an offer of employment from Darren Cordell of Adtax, a concern that has been operating within the District of Uttlesford since July 2001.

Mr Davey has three children under the age of five and is currently working for a supplier of car parts. This is a low paid job and Mr Davey would like to supplement his earnings by becoming a licensed driver, with a view to reverting in due course to his previous role as a professional driver.

However, on 20th March 2014 Mr Davey was disqualified from driving under the “totting up” provisions involving two speeding offences and two offences of using a mobile phone while driving.

Because of this, Mr Davey 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 Mr Davey would not normally be eligible to apply for a licence until 20th September 2017.

Having heard from both Mr Davey and from Mr Cornell of Antax on his behalf, we appreciate that he feels that he has been punished enough. We also appreciate that he would receive support from an employer that is in fact a family firm. We also appreciate the pressures on him as the father of a young family. However, Mr Davey was disqualified under the totting up provisions, which means he offended on four occasions, not once. He also has a job.

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 Mr Davey is a fit and proper person to hold such a licence.

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

LIC31

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

The Chairman read out the procedures for determining drivers’ licences. He then invited the Licensing Officer to present her report.

The Licensing Officer explained that the driver had been licenced by the authority since 1999. In 2007 his licence had been suspended for one day as he failed to notify the Council of a Police Caution which he had received within seven days. In August 2011, his licence was suspended for three days as he had not notified the Council of an accident involving a licensed vehicle within 72 hours. In November 2011 his licence was suspended for five days as he failed to notify the Council of a Police Caution.

On 18 June 2013, the driver attended a Speed Awareness Course having received a Notice of Intended Prosecution for a speeding offence which he

notified the Council of. In January 2016, the driver notified the Council that he had received a Notice for a speeding offence. When completing his renewal for in March 2016 he stated that he had committed a speeding offence four months ago, but had not received any further correspondence so had hoped the tickets had been quashed.

On 26 July 2016, the driver notified the Council that after a long delay he had attended the Magistrates' Court where his licence had been endorsed with six points. He had also been fined £130. The driver was advised that as he had received six penalty points for a single offence he no longer met the Council's licensing standards.

The Licensing Officer explained that the driver attended an interview with her on 25 August. The driver brought a letter with him which explained the circumstances surrounding the offence. The driver explained that he had two passengers in the vehicle, it was late at night, the road conditions were good and the M25 was not busy. His car was on cruise control at about 72mph, when he approached a gantry with a 50mph zone. When he received the Notice he immediately pleaded guilty and informed the Council.

The driver had brought three character references with him to the interview, one from his operator and two from long standing customers. The driver explained that he had only received one speeding offence prior to this one for which he had attended a speed awareness course.

The Chairman invited the driver to speak. The driver explained that he had worked as a private hire driver for over 20 years and had always had a clean licence. These were the first points which had ever been endorsed on his licence. He enjoyed his job and wanted to continue working as a driver until he retired.

The driver, the Licensing Officer, the Enforcement Officer and the Principal Environmental Health Officer left the room at 11am so the Committee could consider its decision. They returned at 11.25am.

DECISION

The application before the Panel today is for the revocation of the driver's joint private hire/hackney carriage licence in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause.

On 29th July 2016 the driver informed the Council that he had been convicted by the North Kent Magistrates of an offence of speeding taking place on the 10th November 2015. It is understood that there was some delay on the part of the Police in dealing with this matter and the driver informed the Council of the position in both January 2016 when he received the Notice of Intended Prosecution and in March when he applied for the renewal of his licences.

The circumstances of the offence were that he had been travelling at 72MPH along the M25 at night when he approached an overhead gantry signifying a

temporary limit of 50MPH, and though he slowed down he was nevertheless caught on camera. For this offence he received a fine of £130 and 6 points endorsed upon his driving licence.

On notification, the driver was advised that since his licence had been endorsed with six points in respect of a single offence he no longer met UDC's Licensing Standards for drivers. Appendix A, para 2 of the Council's Policy states that:-

"No convictions or fixed penalty notices endorsed on a driver's licence within the last 3 years where 6 or more points have been endorsed in respect of a single offence"

We have read a letter from the driver's employer, and we have also read two character references from satisfied customers. We have also heard from the driver, and have taken careful note of everything he has said.

He has a twenty year history of driving and this is his only motoring conviction. The driver describes this incident as "a rare blip" and said he had been surprised by the camera and we accept this. We also note that he hopes to continue driving within Uttlesford until he is due to retire, possibly in six years' time, and that he does not believe he would be able to return to his former trade in the construction industry. He also has a family to support.

In the light of the driver's history within Uttlesford and the consequences to him of the loss of his licence, the Committee feels justified in making an exception to paragraph 2 of Appendix A of the Council's Standards for Drivers. The decision of the Committee is that this application for revocation will be dismissed, and the driver can continue to be licensed to drive in Uttlesford.

The Committee agreed to determine Item 5 next, followed by Item 6 and then Item 4.

LIC32

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

The Enforcement Officer informed the Committee that the driver's operator had sent an email explaining that the driver had intended to attend the meeting and had been given time off attend. However, his other employer needed him to as cover. The operator requested that the matter was deferred in order to allow the driver to attend.

DECISION

The Committee resolved to defer consideration of the item until the meeting on 19 September in order to allow the driver to attend.

LIC33

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS' LICENCE – ITEM 6

The Enforcement Officer presented his report. The driver had been licenced by the authority until his licence expired on 31 July 2016. On 16 December 2015, the Council received a complaint regarding private hire vehicle 69 as the vehicle was allegedly displaying its licence plate on the inside of the back window. This breached the conditions of the vehicle's licence. The operator agreed to bring the vehicle to the Council offices for inspection on 21 December 2015.

During the inspection, an enforcement officer noted that the driver was not wearing his private hire badge. He explained that he had left it in another vehicle. The driver then attended an Interview Under Caution. The driver explained that he had been asked by his manager to bring the vehicle in for inspection before he went home and just after he had finished his shift. He had left his badge in the other vehicle as he had finished working and thought that as he was not transporting passengers he did not need to wear it.

The Enforcement Officer informed the Committee that failure to wear a private hire driver's badge was an offence under section 54(2)(b) Local Government (Miscellaneous Provisions) Act 1976. The former Assistant Chief Executive – Legal had authorised a prosecution against the driver for the alleged offence. The driver had attended Chelmsford Magistrates Court on 7 July and pleaded not guilty. At court, the driver said that he had been told by his manager that the vehicle's licence had been revoked and therefore he did not need to wear his badge. The case was due to go to trial on 17 October 2016.

During the Interview Under Caution the driver stated that he was living in Great Dunmow. A check of Council Tax records revealed that he had moved to Bishops' Stortford in August 2015. He had not notified the Council of this change which meant that he had breached the conditions of his licence which stated that the Council had to be notified of any changes of address within seven days. Normally this would be dealt with by way of a suspension.

The Enforcement Officer explained that as the driver had a pending prosecution he fell below the Council's licensing standards and therefore appeared before the Committee so that Members could determine whether he remained a fit and proper person to hold a licence.

In response to a question by the Solicitor, the Enforcement Officer said that the driver had not currently submitted his renewal form.

DECISION

The Committee resolved to defer the item until a date to be arranged, which would be after the driver's court case on 17 October 2016.

LIC34

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

The Licensing Officer presented her report. She said that the applicant had applied for a licence on 15 August. Applicants were asked to list all convictions, both spent and unspent. The applicant revealed four offences; burglary in 1981

and three offences for shoplifting and theft in 1990. She also disclosed a motoring offence in 1998 for which she received three points on her licence and was fined £100.

The Council obtained an enhanced DBS check for each applicant as part of the licensing process. The applicant's check revealed four convictions; Burglary and Theft Dwelling on 16 December 1981 for which she received a conditional discharge; two offences of Theft-shoplifting on 7 March 1990 and 3 April 1990 for which she received a conditional discharge for both, and further offence of Theft-shoplifting on 19 June 1990 for which she was sentenced to seven days imprisonment wholly suspended for 12 months.

The Licensing Officer explained that although all the applicant's convictions were spent under the Rehabilitation of Offenders Act 1974, she did not meet the Council's licensing standards as they stated 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".

On 22 August the Licensing Officer had carried out a telephone interview with the applicant. The applicant explained that she was 16 at the time of the first conviction and was in with the wrong crowd. She had not entered the property during the burglary but was charged. Regarding the offences in 1990 the applicant explained that she had five children at the time and was pregnant. She was a single parent and on benefits so she was shoplifting for children's clothes.

At the interview the applicant said that suspended prison sentence made her realise that she was at risk of having her children taken away from her. She moved from Waterlooville to Gosport and when her youngest child was five went to college to train as a painter and decorator. She had no convictions since 1990. She had worked for a number of companies but following two shoulder operations had been advised to change her career.

The Enforcement Officer, the Licensing Officer and the Principal Environmental Health Officer left the room at 11.45am so the Committee could consider its decision. They returned at 12pm.

DECISION

The Committee resolved to defer the matter until a date to be agreed in order to give the applicant the opportunity to attend.

The meeting ended at 12.10pm.