

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH  
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON  
WALDEN at 10am on 11 April 2017**

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

Officers in  
attendance: M Chamberlain (Enforcement Officer), B Ferguson (Democratic  
Services Officer), J Jones (Enforcement Officer) E Smith (Legal  
Officer) and S Williams (Enforcement Officer).

Also Present: the driver in relation to Item 4.

**LIC53 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST**

No apologies were received.

**LIC54 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.

**LIC55 DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

Item 3 on the agenda was not heard because the driver in relation to the item had not arrived. Item 4 was therefore heard first.

The procedure for determining private hire drivers' licences was read to the applicant. The Committee considered the report of the Enforcement Officer.

Members heard that on 15 February 2017, the applicant applied for the grant of a joint private hire/hackney carriage driver's licence. One of the questions on the application form asked applicants to list all convictions (including motoring offences) both spent and unspent and any police cautions. The applicant declared 3 SP30 offences and 3 convictions as follows: Taking motor vehicle in 1975; Suspected person loitering in 1978 and Theft in 1980 for which he received a 6 month prison sentence wholly suspended for 18 months.

Because of these convictions the report noted that the applicant did not meet the Council's licensing standards as, although the 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 Enforcement Officer explained that the applicant had no convictions since the theft in 1980 and had been in near continuous employment. Up until 2 years ago the applicant worked for a company checking electric/gas meters, but had to leave the job due to ill health. The applicant was diagnosed with COPD and has had problems finding a suitable job because of this. Members were told he had passed a medical to become a licensed driver and the applicant would work for 24x7 Ltd on their school runs which would involve 2 ½ hours driving per day if granted a license.

The Chairman invited the applicant to comment on the report heard by the Committee. The applicant agreed with everything stated within the report although he stressed that he had not spent any of the money relating to the 1980 conviction. There were no further questions from either members or the applicant.

At 10.05am the Committee retired to make a decision. At 10.15am the Committee returned.

## **DECISION**

The driver’s application dated 15<sup>TH</sup> February 2017 is for a Private Hire/Hackney Carriage Driver’s licence. If successful, he has an offer of employment from 24 x 7 Ltd on school contracts in Hampshire.

However, the driver’s application revealed a number of convictions and an enhanced DBS check dated 19<sup>th</sup> March 2017 confirmed 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. 16<sup>th</sup> May 1975 – Taking a Vehicle Without Owner’s Consent - Southampton JJ – Fine and Endorsement.
2. 27<sup>th</sup> February 1978 – loitering under S4 Vagrancy Act 1824 – Plymouth JJ – Fined £30.
3. 7<sup>th</sup> July 1980 – Theft – Southampton Crown Court – 6 months imprisonment suspended for 18 months.

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 says that all these offences took place many years ago and he was part of a group of people at the time. He was always a follower rather than a leader and was not fully informed as to what his peers intended. The last of these convictions was in 1980 and since then he has by and large, managed to remain in work (holding some positions of trust) until his diagnosis with COPD.

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

However, we have listened to what the applicant has to say and accordingly we grant this application, and he will receive the paperwork in due course.

LIC56

### **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The committee returned to Item 3. The driver had not arrived, nor had he given notice that he could not attend. The driver had also failed to attend the last hearing and, due to the serious nature of the case, the Chairman decided it should be heard in his absence.

The Enforcement Officer said that the driver carried out school contract work and transported two children and a passenger assistant. The children were 14 and 16 and both used wheelchairs.

On 06 January 2017, the applicant notified UDC that he had been arrested for failing a drug test whilst driving and was on police bail until 07 February 2017, pending the results of the blood test.

The driver had been driving along a dual-carriageway at 4.20pm when he overtook a vehicle. He was stopped by the police for speeding and subsequently failed a road-side drugs test. The applicant told the police that he had consumed cannabis the night before. He was arrested and taken to Chelmsford Police Station and waited until 7.30pm-7.45pm for a doctor to carry out two blood tests. The result of the blood specimen showed a reading below the legal limit and the applicant was not charged with any offence.

The Chairman asked members if they had any questions or comments.

In response to a question by Councillor Hicks, the Enforcement Officer said that no action had been taken by 24x7 although the driver had left this employer and was now working elsewhere.

Councillor Davey added that whilst the applicant had been under the legal cannabis limit when tested in the evening, he would have been driving children around in the morning, when there was a good chance he would have tested positive.

The Chairman agreed that this was a valid point, particularly with regards to the Committee's duty to uphold public safety.

The Chairman asked members if they considered the applicant to be a fit a proper person. He reminded members that whilst the applicant had not been convicted of any crime, public safety would take priority in a case where vulnerable children were involved.

## **DECISION**

The application before the Panel today is for the revocation of the applicant's joint private hire/hackney carriage licence dated 10<sup>th</sup> May 2016, in accordance with S61 (2) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30<sup>th</sup> April 2019 and the applicant was driving for 24 x 7Ltd of Stansted, working on school contracts. He has now left their employ.

This is his first licence.

On 9<sup>th</sup> January, the applicant contacted the Licensing Dept to notify them that he had been arrested on 6<sup>th</sup> January for failing a drugs test while driving. He was currently on police bail pending blood test results. Confirmation of this was sought from the Police who further advised that the applicant had been stopped while driving a red Renault Master minibus on the afternoon of 6<sup>th</sup> January 2017. He had been initially stopped for speeding and lane changing and was subjected to both a breath test, which proved negative, and a drug wipe test, which showed positive for cannabis. He was therefore arrested, taken to Chelmsford Police Station and was there requested to provide a blood sample. This subsequently revealed a reading of 1.8 ug/L which is below the legal limit for cannabis (2.0 ug/L) so no further action was taken

The applicant attended a meeting with an Enforcement Officer on 14<sup>th</sup> February to discuss the matter. He advised he is employed by 24 x 7 Ltd to transport two disabled children to and from school and that on the day in question he had finished work and was returning home. He admitted smoking cannabis the night before but said he went to work at 7.10AM the following day feeling no ill effects, and that he is now only an occasional user.

The applicant has not been charged with an offence and is therefore not facing the possibility of a conviction. However, this is a very serious matter and given that the applicant tested for cannabis with a reading of 1.8 ug/L at 7.30-45PM it is more likely than he would have failed a test when he started work at 7.10AM that morning. Given that he transports very vulnerable people this Committee cannot do other than share the concern of officers expressed in the report before us.

We do have to be mindful that one of the roles of this Committee is the protection of the public. In particular we are aware that taxi drivers very often transport some of the most vulnerable members of our community, and we are mindful of our responsibilities under the safeguarding legislation.

The applicant has had two opportunities to appear before us but has declined to take advantage thereof. We believe he has another job. We are satisfied that he is aware of this meeting and given the seriousness of this matter are prepared to deal with this matter in his absence.

However, driving while under the influence of both alcohol and drugs are extremely serious matters and we have had to consider most carefully whether this Committee can place any trust and confidence in him as a licensed driver within the District of Uttlesford. Unfortunately, the answer has to be no.

Accordingly, we have no alternative but to revoke the applicant licences under S61(b) of the 1976 Act with immediate effect as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision and the applicant will receive a letter from the Legal Department explaining this.

LIC57

#### **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE**

The driver in relation to Item 5 did not attend the meeting because his car was in the garage. The Chairman felt that the case was a matter of public safety and therefore was warranted to be heard in the applicant's absence. This was reinforced by the fact officers had suspended the applicant's license as soon as they had been made aware of the case.

The Chairman asked the Enforcement Officer to present the report in the driver's absence.

The Enforcement Officer said on 24 March 2017, the Council's Licensing Department received an email from Essex Police attached to which was a Common Law Disclosure Report of Arrest. The report stated that on 04 March 2017 the driver was stopped by Essex Police, and at that time the Police in attendance smelt alcohol on the applicant's breath. The driver admitted to the Police that he had drunk two pints, and when asked to provide a breath specimen the applicant refused. The driver was arrested and taken into custody where he provided a positive breath test and consented to providing two samples of urine for laboratory analysis. Upon arrest, the driver advised the Police that he was a taxi driver. The driver had been granted Police bail and was required to surrender at Harlow Police Station on 18 May 2017.

The Committee heard that on 29 March 2017, a letter was delivered to the driver from Marcus Watts (Principal Environmental Health Officer) advising him that in light of the information provided by Essex Police, and the fact that he had failed to notify Uttlesford District Council of the investigation, he was considered to not be a fit and proper person to hold a hackney carriage/private hire driver's licence. His license was suspended with immediate effect.

The Chairman asked members if they had any questions.

Councillor Hicks asked whether the driver would still fall beneath the expected standards to be issued a license if he was not charged on 18 May?

The Legal Officer said prosecution in the public interest was almost inevitable because he was in a position of trust. If his license was revoked by the authority, but he was not prosecuted on 18 May, he could reapply and that application would be judged on its own merits.

The Enforcement Officer reminded members that the driver's likely prosecution was not the only fact under consideration. The driver had failed to notify the Council that he was under investigation and that was a serious breach of standards and trust.

## **DECISION**

The application before the Panel today is for the suspension or revocation of the applicant's joint private hire/hackney carriage licence dated 14<sup>th</sup> November 2016, in accordance with S61 (2) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 31<sup>st</sup> October 2019 and the applicant currently drives for 24 x 7Ltd of Stansted working on school contracts: he is currently suspended from his employment. This is his first licence,

On 24<sup>th</sup> March 2017 the Licensing Dept received notification from Essex Police that on 4<sup>th</sup> March 2017 the applicant had been stopped by the Police and the smell of alcohol had been noted upon his breath. He admitted to having drunk 2 pints and refused to provide a breath specimen. He was taken into custody where he did provide a positive breath specimen and a urine specimen for analysis. Further information received from the Police indicated that the applicant had been stopped at the A414 junction at 01.25 hours driving a silver Renault Clio registration EX03 OCG and that his alcohol reading was 39 and 45.

The applicant was advised by a hand delivered letter dated 29<sup>th</sup> March 2017 advising him that in the light of the seriousness of the matter his licences were suspended with immediate effect and notifying him that by virtue of his failure to notify UDC of his arrest he was not considered to be a fit and proper person to hold a hackney carriage/private hire drivers licence. He was also informed that his case would be brought before this Committee on 11<sup>th</sup> April, that is, today.

Further communications were addressed to him both by email and hand delivered letters and he was invited to attend for interview on 30<sup>th</sup> March to give his version of events. He advised by telephone on 29<sup>th</sup> March that the notice was too short and that he could not attend. He did not schedule an alternative appointment.

24 x 7 Ltd were contacted by the Licensing Dept and they advised that the Renault Clio was not one of their vehicles.

Paragraph 10 of Appendix A of the Council's Licensing Standards for Drivers states that a driver must have:-

"No pending prosecutions for any criminal or motoring offence".

Furthermore, paragraph 18(d) of Appendix G of the Licensing Standards requires drivers to notify UDC in writing of:-

"Any investigations being carried out into the activities of the driver by the police or a regulatory authority of which the driver is aware within 7 days of the driver becoming aware of the investigation".

The applicant has not yet been charged with an offence but since both his readings were above the maximum limit of 35mg per 100mml of breath this is a very serious matter. This is an offence that carries a mandatory disqualification on conviction.

We do have to be mindful that one of the roles of this Committee is the protection of the public. In particular we are aware that taxi drivers very often transport some of the most vulnerable members of our community, and we are mindful of our responsibilities under the safeguarding legislation.

The applicant has not attended this morning even though he lives locally. He also had twenty days to notify the Council of the Police action against him and failed to do so, thus breaching Condition 18 ( d) of the Council's Licensing Standards. Driving while under the influence of alcohol is an extremely serious matter and, as already stated, on conviction carries mandatory disqualification. We have therefore had to consider most carefully whether this Committee can place any trust and confidence in the applicant as a licensed driver within the District of Uttlesford. Unfortunately, the answer has to be no.

Accordingly, we have no alternative but to revoke the applicant's licences under S61(b) of the 1976 Act with immediate effect, as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision and the applicant will receive a letter from the Legal Department explaining this.

The meeting ended at 11:00am.