

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 22 JUNE 2017**

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

Officers in
attendance: M Chamberlain (Enforcement Officer), T Cobden (Principal
Environmental Health Officer), B Ferguson (Democratic Services
Officer), J Jones (Licensing Officer), C Nicholson (Solicitor), M
Watts (Principal Environmental Health Officer)

Also Present: The applicant in relation to Item 3; the applicant in relation to Item
6.

LIC1 **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.

LIC2 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S
LICENCE – ITEM 3**

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

The applicant had applied for the grant of a joint private hire/hackney carriage
driver's licence. On the application form it had asked the question 'have you
ever been disqualified from driving or had your licence revoked?' The applicant
answered 'no' to this question. Another question on the application form asked
'have you ever been convicted of any offence (including motoring offences)
including spent and unspent convictions in any Court or received a police
caution?' The applicant also answered 'no' to this question.

As part of the licensing application process, the applicant was required to
undergo an enhanced Disclosure and Barring Service check. This revealed a
conviction for an offence of drink driving. The check also showed another
conviction for an offence of common assault.

The applicant attended an interview under caution on 07 March 2017, for the
alleged offence of making a false statement to obtain a licence under section
57(3) Local Government (Miscellaneous Provisions) Act 1976. The
Enforcement Officer asked him to explain the meaning of caution in his own
words and was satisfied the applicant understood the caution.

The applicant stated he did not believe he had to disclose his previous offences as they had been spent. Furthermore, he did not believe he had to disclose his conviction of common assault as it was not stated on the Basic Disclosure Check which he had based his application on.

A meeting was held between the Enforcement Officer, the Principal Environmental Health Officer and the Interim Head of Legal Services and the decision was taken to prosecute the applicant for the offence of making a false statement to obtain a licence. As the applicant had a pending prosecution, members were told he did not meet the Council's licensing standards for drivers.

The Chairman invited the applicant to comment on the report heard. The applicant said it was a long time since his convictions and, because nothing had shown on the basic DBS check, he thought he did not need to declare them. He concluded by saying he only wanted to work and had no intention of misleading officers.

The Committee withdrew to make its determination.

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 has your licence ever been revoked or been disqualified from driving. He also answered no to the question whether he had been convicted of any offence. However, the DBS enhanced check that came back revealed two convictions, one for drink driving where he was disqualified for driving, and one for common assault.

Following an interview under caution with the applicant; the Principal Environmental Health Officer and the Interim Head of Legal considered that it was appropriate to prosecute the applicant for the offence of making a false statement to obtain a licence, contrary to s57(3) Local Government (Miscellaneous Provisions) Act 1976.

As a result of the pending prosecution, the applicant does not meet licensing standards.

The prosecution is still proceeding at the Magistrates Court, and it is understood that an initial hearing has taken place, where the applicant has pleaded not guilty. A trial is set for October.

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 difference between a basic and enhanced DBS check.

It is not for Members to decide whether any offence has been committed, as that is a matter for the Courts to decide beyond reasonable doubt. Members

have to be more certain than not that the applicant is a fit and proper person to hold a licence. Members consider that the applicant's failure to give details of the offences, which were not so long ago that he could not remember them, raises questions about his honesty.

Members do not consider that the failure to disclose the convictions was the result of a genuine mistake. In the circumstances therefore Members are not convinced that the applicant is a fit and proper person to hold a licence and the licence is not granted.

The applicant is advised of his right to appeal the decision by application to the Magistrates Court within 21 days.

He is reminded that he is at liberty to reapply for his licence following the resolution of the trial.

LIC3

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

The applicants in relation to Items 4 and 5 had not arrived, so the Committee moved on to Item 6.

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

The Licensing Officer said the applicant had applied to this authority on 10 May 2017 for the grant of a joint private hire/hackney carriage driver's licence to work for Lucketts (a private hire operator licensed by UDC that does school contract work).

The applicant's application form was submitted with a separate sheet listing convictions and was accompanied by an enhanced Disclosure and Barring Service (DBS) certificate dated 16 June 2016 and a statutory declaration. The DBS showed 7 convictions for offences between 29 January 1982 and 20 November 1992. The last conviction on 20 November 1992 was for Theft from Person and resulted in a 4 month period of imprisonment.

Members were told 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 states 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 Licensing Officer had carried out an interview with the applicant on Wednesday 10 May 2017. The applicant said he had struggled through school and had a series of convictions between the ages of 16 to 20. There were no convictions from 1985 until the conviction for theft from person in November 1992.

The applicant explained he had struggled with undiagnosed dyslexia throughout his time at school. Around the time he went to prison at the age of 27, his dyslexia was diagnosed and the applicant describes this as a weight being lifted off his shoulders as it explained why he had struggled for years. He said he learnt a lesson through being in prison, it had stopped his pattern of behaviour and he turned his life around. On leaving prison he undertook various training courses. He worked at Aldi and gained qualifications in mentoring and more recently in counselling. He had done a lot of voluntary work, and obtained a PACT (Partnership in Care Training) qualification in wheelchair handling.

The Chairman invited the applicant to comment on the report heard by the Committee. The applicant said he greatly regretted his actions; he felt stupid and had learnt his lesson. He told members that since his conviction he had turned his life around and he had proved he was capable of doing the job, demonstrated by his work in the voluntary sector. In conclusion, the applicant said he wanted to give back to the community and could do so through work.

The Committee withdrew to make its determination.

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 natures 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. The applicant has explained his difficulties with dyslexia and how since his imprisonment he has undertaken training, and responsible employment. 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.

LIC4

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

The applicant did not arrive for the hearing due to work related matters.

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 questions regarding having been disqualified from driving and conviction of any offence. However, the enhanced DBS check revealed a conviction for death by dangerous driving and driving licence disqualification from 1981.

The applicant meets the Council's licensing standards, but as result of his historic offence that was not revealed on application, the Principal Environmental Health Officer 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.

However, without the applicant being present to explain members felt unable to make a decision and ask for the matter to be deferred to allow the applicant a final chance to attend.

LIC5

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

The applicant gave no notice that he intended to attend and did not arrive for the hearing.

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 31 March 2019. He had been licensed by this Authority on 15 April 2014.

On 23 May 2016, the applicant appeared before a panel of the Council's Licensing and Environmental Health Committee. This was because he had made a false statement on his driver renewal. He had stated he had not received a fixed penalty notice when in fact he had done so. He was issued with a formal caution by the Council for the offence and members of the Committee decided to renew his driver licence.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 31 March 2017 and he had failed to supply the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and have a new one every three years subsequently. The applicant's medical expired on 31 March 2017, and he had failed to supply the Council with a new one.

The Licensing team made several attempts to get in touch with the driver by letter and email.

On 24 March 2017, an annual driver check on the applicant revealed two fixed penalty notices that had not been reported to the Council. He had received a SP30 (speeding offence) on 21 June 2016 for which his licence was endorsed with three points. He also received a CU80 offence (using a mobile phone) on 28 October 2016 for which his licence was endorsed with three penalty points. The applicant now had nine penalty points on his driver licence.

Condition 18c of the Council's conditions of drivers licence requires drivers to notify the Council within seven days of any fixed penalty notices on their licence. The applicant had failed to comply with these conditions on two occasions since his attendance at the Licensing Committee on 23rd May 2016. If the applicant had moved address, failure to notify the Council of this was a further breach of condition 18a of his driver's licence.

The applicant therefore was called to appear before members to consider whether he remained a fit and proper person to hold a licence. He had failed to supply the Council with a new enhanced DBS check and medical, and appeared to be in breach of his licensing conditions.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence. A condition of that licence is that he notifies the Council within 7 days of a driving offence. Annual due diligence checks have revealed that the applicant has had two fixed penalty notices which have not been notified.

In addition the applicant has failed to provide his three yearly medical and DBS check as is required by the Council's policy. The applicant has not responded to the requests or provided any explanation.

The breach of the conditions, and the failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person. S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members note that the applicant has been before this committee before, only 12 months ago, for the same issue of failure to notify, and it has not had any deterrent effect. With the addition of the failure to provide an up to date medical or DBC check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke his licence.

The applicant is advised that he has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

LIC68

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 7

The applicant gave no notice that she intended to attend and did not arrive for the hearing.

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 30 April 2019. She received a license by this Authority on 29 May 2014.

The applicant was the former sole director of SHFT Limited which held a private hire operator licence with Uttlesford District Council. This private hire operator licence was revoked by the Licensing and Environmental Health Committee on 13 November 2014.

On 29 April 2015, the applicant stated she intended to work for 24x7 Limited at Stansted Airport. However, subsequent enquiries by the licensing team with 24x7 Limited confirmed that they were not employing the applicant and she was unknown to them. The applicant had not been linked to a private hire operator since 22 May 2015.

The applicant had failed to collect her driver's badge or licence that was issued to her in 2015 and 2016 and consequently failed to sign to say she would abide by her conditions of licence.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 30 April 2017, and despite having a reminder sent out, she had failed to provide the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and are required to provide a new valid group 2 medical every three years. The applicant's medical expired on 30 April 2017 and she had failed to provide the Council with a new one.

Attempts were made by the Licensing team to contact the applicant by letter; however none of these letters received a reply.

The applicant therefore was called to appear before members to consider whether she remained a fit and proper person to hold a licence. She had failed to supply the Council with a new enhanced DBS check and medical. She had also failed to collect her last two licences and state that she would abide by the conditions of licence.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence. She has failed to collect her last two annually issued licences and to provide her three yearly medical and DBS check as is required by the Council's policy. The applicant has not contacted the Council or provided any explanation for the failure. This failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members note that the applicant has not collected her last two licences, so if she is driving, is doing so without her badge and licence, and with the failure to provide an up to date medical or DBS check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke her licence.

The applicant is advised that she has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period

LIC8

DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE – ITEM 8

The applicant gave no notice that he intended to attend and did not arrive for the hearing.

The Committee considered the report of the Enforcement Officer in the applicant's absence.

The applicant held a joint private hire/hackney carriage driver's licence which was due to expire on 30 April 2019. He first received a licence with this Authority on 22 May 2014.

The applicant was until 15 April 2017, working for an Uttlesford private hire operator called 'I Love Meet and Greet'. He had left the company and had not notified the Council that he was working for another private hire operator.

The Council requires all drivers to have an enhanced Disclosure and Barring Service Check (DBS) when they apply for a licence and every three years after that. The applicant's DBS check expired on 30 April 2017, and despite a reminder sent out on approximately 8 weeks prior to its expiry, he had failed to provide the Council with a new one.

The Council also requires all drivers to have a group 2 medical when they apply for a driver's licence and are required to provide a new valid group 2 medical every three years. The applicant's medical expired on 30 April 2017, and had failed to provide the Council with a new one.

Several attempts were made by the Licensing team to contact the driver by letter and email; however none of these received a reply.

The applicant therefore was called to appear before members to consider whether he remained a fit and proper person to hold a licence as he had failed to supply the Council with a new enhanced DBS check and medical.

The Committee withdrew to make its determination.

DECISION

The applicant holds a current joint private hire/ hackney carriage driver's licence.

He has failed to provide his three yearly medical and DBS check as is required by the Council's policy. He has not contacted the Council or provided any explanation.

This failure to provide up to date checks leads the Council to consider whether the applicant remains a fit and proper person.

S61(1)(b) of Local Government (Miscellaneous Provisions) Act 1976 provides that the Council can suspend or revoke a licence for 'any other reasonable cause'.

In this case, Members consider that with the failure to provide an up to date medical or DBS check as required by Council policy, Members are not satisfied that the applicant is a fit and proper person, and therefore revoke his licence.

The applicant is advised that he has a right to appeal against this decision at the Magistrates Court, and that any such appeal must be lodged within 21 days. The revocation will come into effect following the end of the appeal period.

The meeting ended at 11.00am.