

**LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE held at
COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON
WALDEN, ESSEX CB11 4ER, on MONDAY, 18 DECEMBER 2017 at 10.00 am**

Present: Councillor R Chambers (Chairman)
Councillors G Barker, A Gerard and E Hicks

Officers in attendance: A Bochel (Democratic Services Officer), M Chamberlain (Enforcement Officer), J Jones (Licensing Officer) and E Smith (Solicitor)

Also present: The drivers in relation to items 3, 4 and 5.

LIC37 EXCLUSION OF THE PUBLIC AND PRESS

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.

LIC38 DETERMINATION OF A PRIVATE HIRE DRIVERS LICENCE - ITEM 5

The Chairman brought Item 5 forward in the proceedings.

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

The driver said that at the time of the crimes he had been charged for, he was very young and was in with a bad crowd. It was unfortunate, but he was not that person anymore. He had two children now, and had had to give up work to look after his wife. Becoming a taxi driver would get him out the house for two and a half hours a day. He was not quite at retirement age yet.

At 10:15, the Committee withdrew to make its determination.

At 10:20, the Committee returned.

DECISION:

The application before the Panel today is one dated 3rd October 2017 for the grant of a joint private hire/hackney carriage licence. If successful, the driver hopes to drive for 24 x &Ltd of Stansted, doing school contract work.

We have seen a detailed report together with supporting documentation which is listed herewith:-

- a. Uttlesford District Council licensing standards for drivers.
- b. The driver's application form for the grant of a joint private hire/hackney carriage driver's licence dated 03/10/2017.
- c. The driver's Enhanced Disclosure and Barring Service check dated 17 October 2017.
- d. Notes from interview with the driver on 27 October 2017.

When the driver attended at the Council's offices to complete the Right to Work formalities he brought with him an enhanced DBS certificate dated 17th October 2017 bespoken by Essex County Council. This revealed the following matters:-

Date of Conviction	Offence	Court/Disposal
3 June 1970	Burglary and Theft Non-Dwelling	Ipswich Juvenile Fine £5
22 December 1971	Theft	Ipswich Juvenile 2 yr supervision order
5 April 1972	Theft	Ipswich Juvenile Care Order
28 July 1972	Taking Motor vehicle without consent Theft Going Equipped for Theft No Insurance	Woodford Crown Court Borstal Training Licence endorsed
26 September 1974	Theft	Kingston-upon-Hull Magistrates Fine £40 + costs
13 February 1976	Attempt Burglary and Theft Non-Dwelling	Ipswich Magistrates Fine £25 + costs

As a result of these matters, the driver does not meet paragraph 5 of Appendix A of the Council's Licensing Standards for Drivers.

This states:-

"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."

He was spoken to by the Licensing Officer straight away. In particular he was asked about the July 1972 custodial sentence imposed by Woodford Crown Court. He explained that his upbringing had been along military lines and that when they were 15 years old he and his four brothers were expected to fend for themselves. Both he and his elder brother found themselves in trouble with the police: they had no fixed abode and found themselves in bad company. With three other boys, the driver stole a car and they went joyriding; as the eldest of the group he received the heaviest sentence.

On release, the driver obtained an apprenticeship in a shipyard where he remained until the business closed in 1984. He then worked off-shore for 15 years until family responsibilities called him home, and since then he has been

self employed as a plumber. He now has caring responsibilities and requires part time work.

His driving licence is clean and he has no convictions since 1976. 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.

We have heard from the driver, and we appreciate how he has turned his life around and is the mainstay of his family. We do not consider him to be a risk to the public and we therefore regard him as being a fit and proper person to hold Uttlesford District Council licences. Accordingly we grant this application, and he will receive the paperwork in due course.

LIC39 **DETERMINATION OF A PRIVATE HIRE DRIVERS 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 driver said it was not in her nature to speed. She had had a clean licence for nineteen years. The incident had happened because she had braked a few seconds too late. She apologised for not informing the Council of the incident.

The Enforcement Officer asked whether the paperwork for the offence had been sent to the driver's employer. The driver said it had, but that she had not been reminded to tell the Council by her employer.

In response to questions by members, the driver said she had only looked through the Council's licensing policy roughly, and had not studied it in detail.

The driver apologised again. She said she enjoyed her job and did not want to jeopardise her living.

At 10:40, the Committee withdrew to make its determination.

At 11:00, the Committee returned.

DECISION:

The application before the Panel today is for the suspension or revocation of the driver's private hire licence number PH/D0456 dated summer 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30th September 2018 and the driver drives for Excellent Connections Ltd t/a Fargolink, carrying out school contract work.

We have seen a detailed report together with supporting documentation which is listed herewith:-

Uttlesford District Council licensing standards for drivers.
Uttlesford District Council conditions of licence for drivers.
Certificate of caution for the driver dated 31 October 2013.
Minutes of Licensing and Environmental Health Committee dated 19 November 2013.
The driver's signed copy of condition paperwork dated 30 September 2015.
Drivercheck of DVLA records dated 26 October 2017.
Notes of meeting with the driver dated 08 November 2017.
Map of location of speeding offence marked by the driver.
Court paperwork supplied by the driver.

The Licensing Department carries out annual DVLA checks on all licensed drivers as part of the Council's due diligence process. The driver's check was carried out on 26th October 2017 and revealed a motoring offence. She had been convicted of an SP30 (Exceeding the statutory speed limit) which took place on 20th April 2017. She pleaded guilty by post to obtain maximum sentencing discount and was convicted on 23rd August 2017. She received six penalty points on her licence and the financial penalty imposed was paid within a week.

Since the driver has six points upon her licence, she does not meet paragraph 2 of Appendix A of the Council's Licensing Standards for Drivers. This states:-

"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"

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

"Any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

The driver attended a meeting with the Enforcement Officer on 8th November 2017. She said that she had had a clean licence for 19 years and that the offence had occurred on the A138 around Chelmsford. She had been caught by a speed gun in the middle lane of a 50MPH zone having failed to brake soon enough on exiting a 70MPH zone. There was not much traffic on the road and she was alone in the car. She expressed contrition to the Officer, and, confirmed she had pleaded guilty at the earliest opportunity and paid her fine promptly.

We are aware that the driver has previously appeared before us in October 2013 having failed to wear a valid private hire driver's badge, contrary to S54(2) of the 1976 Act. She has never appeared before us in respect of a traffic offence. Having observed her contrition and noted that her employer does bear some responsibility for what has happened, she has nevertheless not made herself familiar with the contents of the Council's Licensing Policy, and we cannot overlook this. We therefore feel that though revocation of the driver's licence

would be disproportionate, nor should this matter be overlooked. We feel that a suspension of ten days is appropriate.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the driver is permitted to drive. A letter from the Legal Department explaining the position will be sent to her today, and on the basis that she does not appeal, her suspension will commence on 10th January 2018. It is the responsibility of a driver to familiarise themselves with Uttlesford District Council's policy requirements and we will be asking the Licensing Department to write to the driver's employers as well.

LIC40 **DETERMINATION OF A PRIVATE HIRE/HACKNEY CARRIAGE DRIVERS LICENCE - ITEM 4**

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

The driver said the report was incorrect to state his wife was suffering from depression. However, he did currently have depression.

The driver said he had been caught speeding driving back from Gatwick, and had paid his fine immediately. However when he received a letter that said he had not paid, he discovered he had two separate fines for two separate speeding offences committed within minutes of each other. He had received a summons to court and had gone expecting to only receive three points on his licence. Instead he had been given six points, and so his total number of points now stood at nine.

The Enforcement Officer explained that the driver had received nine points. Three were for a speeding offence and six for failure to give information as to the identity of the driver. However he should also have received another three points for the other speeding offence on the same day where he was speeding twice as referred to previously. For an unexplained reason, three points had not been added to the driver's licence. In response, the driver said he had been told he would receive six points for the speeding offences, and another three for failure to give information as to the identity of the driver.

Councillor Gerard said that since the driver had previously committed other speeding offences, it did not seem that he was serious about rectifying this trend. The driver said he did around 30,000 miles (I thought he said more but I cannot remember) (it was 80,000 every year for the past 30 years) every year and so occasionally he had fallen foul of speed regulations. Gantries were particularly problematic for this. However he should have had another person in place to deal with administration, because his wife who typically dealt with that part of the business was currently ill.

Councillor Gerard said there were triggers from at least 2012 which could have been responded to. There had now been three instances of the driver failing to disclose information when it had been requested. This indicated the business was not being operated as it could have been. Councillor Hicks said he was

concerned about the driver's inability to understand the conditions of the licence and the expectations placed upon him.

The driver said he was under a lot of stress. Revenue had been cut dramatically by Uber and other companies. A taxi firm was a very hard business to run these days. The potential loss of his private hire licence was causing him more stress than ever.

In response to questions from Councillor Barker, the driver said his mother was now doing the administration work at the office. He could not afford to hire someone else. He had been driving the company car when caught speeding.

The driver said he had never had any complaints about his company. He put heart and soul into his business and it was proving very hard to run. Gantries were proving to be a problem for a lot of drivers. He had only ever had a ticket for speeding a couple of miles over the speed limit.

At 11:45, the committee withdrew to make its decision.

At 12:00, the committee returned.

DECISION:

The application before the Panel today is for the suspension or revocation of the driver's joint private hire/hackney carriage licence number PHD0585 dated summer 2015, in accordance with S61 (1) (b) Local Government (Miscellaneous Provisions) Act 1976.- any other reasonable cause. The three year licence is due to expire on 30th September 2018. The driver is also the holder of the private hire operator licence for Connections Cars and is the proprietor of four private hire vehicles.

We have had the opportunity of reading the officer's report in this case, a copy of which has been served on the driver, and we have also seen, as has he, the following background documents:-

- a. Uttlesford District Council licensing standards for drivers.
- b. Uttlesford District Council conditions of licence for drivers.
- c. Suspension letter dated 15 October 2012.
- d. Suspension letter dated 11 December 2014.
- e. Fixed penalty notice dated 07 December 2016.
- f. Drivercheck of DVLA records for the driver dated 26 October 2017.
- g. Notes of meeting with the driver dated 14 November 2017.

The Licensing Department carries out annual DVLA checks on all licensed drivers as part of the Council's due diligence process. The driver's check was carried out on 26th October 2017 and revealed two motoring offences. These were firstly, a SP30 (speeding) offence committed on 10 November 2016 for which his licence was endorsed with three penalty points. Secondly, it also revealed an MS90 offence (failure to give information as to identity of driver) on 19 December 2016 in respect of which he was convicted on 23 May 2017 and

for which he received six penalty points on his licence. He therefore has a total of 9 penalty points on his licence and we note that a previous fixed penalty notice for speeding on 08 January 2014, has dropped off in January 2017 under the totting up procedures.

Since the driver has nine points upon his licence, six of which were imposed on one occasion, he does not meet paragraph 2 of Appendix A of the Council's Licensing Standards for Drivers. This states:-

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

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

"Any convictions, cautions or fixed penalty notices (save for in respect of civil parking fixed penalty notices which cannot result in the endorsement of points upon the driver's licence) within 7 days of the date of conviction, caution or the issue of a fixed penalty notice"

The driver attended a meeting with the Licensing Officer on 14th November 2017. He gave the following explanation:-

- He confirmed that he was the operator of Connection Cars which employs six drivers (including himself) and that he has four vehicles.
- The driver was first asked about the SP30 offence on 10 November 2016 involving travelling at about 38mph in a 30mph zone in Bishops Stortford. He was caught by a speed gun. He was asked why he failed to report this and he said that his wife normally deals with the administration for the business but she is bed bound with chronic fatigue. He also explained that he is suffering from depression and admitted that he is 'letting things slip.'
- The driver was then asked about the MS90 offence and he explained that it was in relation to a speeding offence on the M25. He said that he was caught speeding in both Kent and Essex within approximately four minutes doing about 57mph in a 50mph speed limit. He was not aware that two offences had taken place and paid the Kent fine straight away. He then claimed that he then received a telephone call from Essex Police stating that he failed to respond to their notice of intended prosecution within the given time and was to be summonsed to Colchester Magistrates Court; he claimed that he knew nothing of this notice of intended prosecution. For this offence he was fined a total of £750 and his license was endorsed with six penalty points. He did not appeal the decision. Again, his explanation for failing to notify the Council of this offence amounted to blaming his wife. The driver stated that his wife did the bookings, accounts, dealt with fines and other administration and now mistakes are being made

We have read the papers before us and we have heard from the driver. He has accepted no responsibility for his actions and is blaming everyone but himself for the events of the past year. We appreciate that he may be under stress but

nevertheless he has been apprehended on three occasions for speeding, he has failed to disclose information to the police and he has failed to disclose the convictions to Uttlesford District Council

We also note the driver's history, and that is one of failing to disclose speeding offences to the Council. He has shown no contrition, but instead has sought to blame others for his own omissions. His operator's licence is not up for review today, and if the driver is not driving full time, then he has an opportunity to put his house in order.

However, the primary function of this Committee is the protection of the public and we consider that we have no alternative but to revoke the driver's licences under S61 (b) of the 1976 Act as he is no longer a fit and proper person to hold them.

There is a right of appeal against this decision which must be exercised within a period of 21 days and during this period the licenses remain in force. The driver will receive a letter from the Legal Department explaining this.

The meeting ended at 12pm.