

LICENSING PANEL HEARING held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on THURSDAY, 11 APRIL 2024 at 1.00 pm

Present: Councillor G Driscoll (Chair)
Councillors M Coletta, G Driscoll and J Moran

Officers in attendance: C Forster (Legal Advisor), K Jenkins (Licensing and Compliance Officer), S Nemeth (Licensing Support Officer) and C Shanley-Grozavu (Democratic Services Officer)

LIC49 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

LIC50 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that under section 1001 of the Local Government Act 1972, the public be excluded for the following items 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.

LIC51 DETERMINATION OF A HOME TO SCHOOL DRIVERS LICENCE

The Legal Advisor provided clarification on Section 5 of the Officers report. She explained that whilst the application was in relation to a Home-to-School Drivers Licence, the same standards were applied as Private Hire and Hackney Carriage Drivers.

The Licensing Support Officer presented their report which requested that members determine the application for a Home to School Drivers Licence.

In response to a question from the Panel, the officer confirmed that the applicant had a job offer for a company with an Uttlesford Operator's Licence, however they would be working on one of their satellite operations outside of the district.

The Applicant addressed the Panel and acknowledged the offences they had historically committed, which were as a result of a bad start in their early twenties. They explained that in the time since then, they had obtained licences to operate Public Service and Heavy Goods Vehicles and worked for a number of companies transporting members of the public. They also held a valid taxi licence from another Council.

In response to questions from the Panel, the Applicant clarified the following:

- The Applicant said that they were not guilty of the last offence disclosed as it was their friend in control of the vehicle, however

received the conviction due to their previous record. In hindsight, they felt that they should have taken legal advice on this at the time.

- The Applicant would be working outside of the district, in an area where they were already a licensed taxi driver. They had applied for an Uttlesford licence at the request of their employer who was an Uttlesford licenced Operator.
- Since committing the offences, they had turned their life around by meeting their partner and having two children. They also built up a business as a car mechanic which they recently passed over to their children in order to look after their partner who required end-of-life care.
- Following the death of their partner, they had returned to work becoming a taxi driver.

The Panel retired at 13:21 to consider their decision.

The meeting reconvened at 14:10

Decision Notice

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest person
- The safeguarding of children and young persons

The panel were asked to consider whether the Applicant was a fit and proper person to hold a licence despite the fact that the Applicant did not meet the requirements of the Uttlesford District Council ("The Council") published Suitability Policy.

Each case must be determined on its own merits.

Meaning that it was open to the panel to depart from their policy if it was reasonable in all the circumstances to do so.

The Panel asked the Applicant appropriate questions to determine whether they were a fit and proper person to hold a Home to School Drivers Licence.

The Applicant in addressing the panel in response to appropriate questions indicated they acknowledged their antecedents which were as a result of a bad start in their early twenties. They explained that in the time since then, they had obtained licences to operate Public Service and Heavy Goods Vehicles and worked for a number of companies transporting members of the public. They also held a valid taxi licence from another Council.

The Applicant further clarified:

- that they were not guilty of the last offence disclosed as it was their friend in control of the vehicle, however received the conviction due to

their previous record. In hindsight, they felt that they should have taken legal advice on this at the time.

- The Applicant would be working outside of the district, in an area where they were already a licensed taxi driver. They had applied for an Uttlesford licence at the request of their employer who was an Uttlesford licenced Operator.
- Since committing the offences, they had turned their life around by meeting their partner and having two children. They also built up a business as a car mechanic which they recently passed over to their children in order to look af-ter their partner who required end-of-life care.
- The Applicant asserted that people change and given their current age, not being a teenager, the Applicant was no longer a risk.

The panel considered the issue before them:

having taken into account the report, appendices, the verbal representations made, legislation, the Council's Suitability Policy and Statutory guidance. The panel felt that on the information and evidence before them and the representations made by the Applicant that they had not demonstrated that they were a fit and proper person to hold a Home to School Driver's licence.

The unanimous decision was made as follows:

That the Applicant be refused a Home to School Driver's Licence.

Reasons for the decision:

1. The Licensing Panel were determining a Home to School Driver's Licence application and were accordingly charged with ensuring the highest standard of conduct in decision making to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest person
- The safeguarding of children and young persons.

2. The Applicant had failed to persuade the Licensing Panel that their circumstances justified them being considered safe and suitable person, that is a fit and proper person to be granted a licence in accordance with the Council's Licensing Policy; pursuant to relevant part, specifically Section 2.22 of the UDC Driver Suitability Policy states:

"..... drivers are professional drivers charged with the responsibility of carry-ing the public. Any motoring conviction demonstrates a lack of professional-ism and will be considered seriously. It is accepted that offences can be com-mitted unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an exist-ing licence. Subsequent convictions reinforce the fact that the licencee does not take their professional

responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.”

3. The Licensing Panel noted the number of and classes of historic convictions of the Applicant all relevant to the application for determination namely, dishonesty, Theft Act offences and motoring offences directly relevant to the application before the panel for determination.
4. The Licensing Panel noted the level of offending, together with the age and maturity of the Applicant at the time of the offences, albeit the Applicant had family responsibility at the time of some of the offences, it was the view of the Licensing Panel that this evidenced poor decision making.
5. The Licensing Panel noted that the last recorded conviction disposed of 3 motoring offences each offence was dealt with by way of custodial sentence. The Applicant's antecedents having escalated to determination by Crown Court.
6. The Applicant asserted to the Licensing Panel that they were innocent as to the last recorded motoring convictions; further asserting that it was their friend in control of the vehicle, however the Applicant believed that they had received the conviction (custodial sentences to each of the 3 offences) due to their previous record.
7. The Licensing Panel noted that the last recorded conviction by the relevant Crown Court, therefore a jury conviction had not been subject to appeal despite the Applicant's insistence of being innocent.
8. The Applicant accepted that they should have taken legal advice as offered and as was their legal right to qualified legal representation in connection with the last recorded offences upon arrival at the police station, however insisted that to their mind that they were not guilty of the offences for which they were duly convicted and sentenced to a custodial sentence in respect of the 3 offences charged.
9. The Licensing Panel considered that the Applicant's demeanour was not to accept responsibility for the last recorded convictions, a jury having been satisfied beyond reasonable doubt, based upon the evidence before the Crown Court convicted the Applicant on all charges, such convictions had not been subject to appeal, the Applicant maintaining that they were not guilty; consequently the Licensing Panel were not satisfied that the Applicant was fully rehabilitated.
10. The Licensing Panel having considered the Department for Transport published standards, unanimously decided that they, without prejudice and based on the information before them, would not allow a person for whom they care, regardless of their condition to travel alone in a vehicle driven by the Applicant at any time of the day or night.

RIGHT TO APPEAL

There is a right to appeal this Panel's decision through an appeal to the Chelmsford Magistrates Court within 21 days of the date of this Decision Notice.

LIC52 DETERMINATION OF A HOME TO SCHOOL DRIVERS LICENCE

The Licensing and Compliance Officer presented their report which requested that members determine an application for a Home to School Drivers Licence.

The Legal Advisor provided clarification on Section 5 of the Officers report. She explained that whilst the application was in relation to a Home-to-School Drivers Licence, the same standards were applied as Private Hire and Hackney Carriage Drivers.

There were no questions raised to the officers.

The Applicant addressed the Panel and said that, until they had gone through the application process for a Home-to-School Drivers Licence, they were unaware that they had any points on their licence.

They had recently paid a fine to bailiffs, who had provided them with a court number and told them it was as a result of a driving offence; however, they did not realise that this also meant that there were points applied to their licence. Since then, they had hired vehicles, and had never been questioned about points, nor had it appeared on their DBS.

In response to questions from the Panel, the Applicant clarified the following:

- The Applicant was unaware of any incidents which occurred on the date of the offence and had not conducted any research into it. This was due to not having the time to do so, as they were working for a company supplying the NHS at the time of the Covid-19 Pandemic.
- At the time of the conviction, they had two vehicles in their ownership, however had not loaned them out to anyone.
- They had accepted the fine which was presented to them by the bailiffs without knowing the reason.
- They did not recall receiving a notice requesting information as to who was driving the vehicle at the time of the alleged offence.
- They had moved house in 2017 whereas the offence in question was stated as having occurred in March 2020, so any communications may have gone to the previous address.
- They were advised not to wear a hearing aid due to an existing medical condition, such device was said to exacerbate their medical condition.

The Panel retired at 14:36 to consider their decision.

The meeting reconvened at 14:52

Decision Notice

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest person
- The safeguarding of children and young persons

The panel were asked to consider whether the Applicant was a fit and proper person to hold a licence despite the fact that the Applicant did not meet the requirements of the Uttlesford District Council ("The Council") published Suitability Policy.

Each case must be determined on its own merits.

Meaning that it was open to the panel to depart from their policy if it was reasonable in all the circumstances to do so.

The Panel asked the Applicant appropriate questions to determine whether they were a fit and proper person to hold a Home to School Drivers Licence.

The Applicant in addressing the panel in response to appropriate questions indicated they were unaware that they had any points on their licence. Whereas, the relevant offence related to an MS90 conviction; representing a DVLA endorsement code for the motoring offence of failing to provide the driver details when requested by the police. The Applicant had not conducted any research into the offence and or conviction. It was further confirmed that at the time of the conviction, they had two vehicles in their ownership, and had not loaned them out to anyone.

The panel considered the issue before them:

having taken into account the report, appendices, the verbal representations made, legislation, the Council's Suitability Policy and Statutory guidance. The panel felt that on the information and evidence before them and the representations made by the Applicant that they had not demonstrated that they were a fit and proper person to hold a Home to School Driver's licence.

The unanimous decision was made as follows:

That the Applicant be refused a Home to School Driver's Licence.

Reasons for the decision:

1. The Applicant had failed to persuade the Licensing Panel that their circumstances justified a departure from the Council's Licensing Policy. The relevant policy stated that a licence would not normally be granted if an applicant has a conviction for a major traffic offence or similar offence a licence will not be granted until at least 7 years have elapsed from completion of any sentence imposed.

2. The Applicant whilst confirming that they were unaware of any incidents which occurred on the date of the offence for which they had been convicted had not conducted any research into the circumstances of the offence.
3. At the time of the conviction, they had two vehicles in their ownership, and had not loaned them out to anyone.
4. They had accepted the fine which had come to their attention by visiting court bailiffs without knowing the reason.
5. They did not recall receiving a notice requesting information as to who was driving the vehicle at the time of the offence to which the conviction related.
6. They had moved house in 3 years previously, albeit DVLA details had been updated.

RIGHT TO APPEAL

There is a right to appeal this Panel's decision through an appeal to the Chelmsford Magistrates Court within 21 days of the date of this Decision Notice.

Meeting ended at 14:54