

**EXTRAORDINARY LICENSING AND ENVIRONMENTAL HEALTH
COMMITTEE held at COUNCIL OFFICES LONDON ROAD SAFFRON
WALDEN at 10am on 20 NOVEMBER 2017**

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

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

Also Present: The drivers in relation to items 3, 4, 5, and 6; M Hardy
(representing the driver in relation to Item 5) and Mr Khan
(Interpreter for and manager of the driver in relation to Item 6).

LIC29 **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.

LIC30 **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 Licensing Officer.

At the invitation of the Chairman, the driver made a statement to the Committee. The driver said that he had applied to be licensed by Uttlesford as there was too much competition in his previous area of operation in Norfolk. He said he had a job waiting for him if granted a licence which would help support his family as he expected more regular work.

Councillor Gerard asked if the investigation into the scrapped car and the subsequent six points the driver had received had come to a conclusion. The driver said it had not and the six points were still on his licence. The Chairman said he was surprised that the court had found him guilty when he had a receipt proving that the car had been scrapped. The driver said this was the result of him being unable to identify who was driving the car as well as the court being unable to track down the scrap company who had issued the receipt.

In response to a question from Councillor Gerard, the driver said he had received a six month driving ban in the distant past. The Chairman said this ban had not been declared in the background papers provided; the Licensing Officer

confirmed that he had not declared this offence. The driver said he thought the ban was irrelevant as it had happened many years ago and he had maintained a clean driving licence for the past six or seven years. He added that the ban was due to a culmination of speeding offences under the 'totting up' system.

At 10.20, the Committee withdrew to make its determination.

At 10.55, the Committee returned and read the decision to the driver.

DECISION

The driver has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a driving offence for which he received a fine and 6 points, details of which are set out in the officer's report. By virtue of the 6 point endorsement, the driver 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 circumstances of the offence. However, the driver has not provided any additional information to support his explanation of events, and in the circumstances, Members cannot go behind the conviction, and have to accept it as stated.

In addition, Members are particularly concerned to have heard during the course of this hearing that in fact the driver failed to complete his application form correctly and truthfully, by failing to disclose that he had been disqualified from driving as a result of a number of speeding offences under the totting up procedure.

Whilst the disqualification itself would not have been relevant as the driver would still have met licensing standards, the failure to declare it could amount to a criminal offence of making a false declaration to obtain a licence, and Members are unhappy with the dishonesty, whether knowing or reckless. The driver's explanation that he did not think it was relevant is no excuse, as the questions on the application form are clear.

In the circumstances, members are not satisfied that the driver is a fit and proper person and that it is therefore not appropriate to make a departure from its policy. The driver will not be granted a driver's licence.

LIC31

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

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

At the invitation of the Chairman, the driver made a statement to the Committee. The driver said his crime of theft was a mistake and he had been trying to redeem himself ever since. He had now matured and was a family man; he highlighted his position of trust as a team leader at Tesco's as proof of his development. He added that he had been driving for eleven years and had no driving convictions. If granted a licence, he had a job waiting for him with Phoenix Cars.

At 11.05, the Committee withdrew to make its determination.

At 11.25, the Committee returned and read the decision to the driver.

DECISION

The driver has applied to the council for a joint private hire/hackney carriage driver's licence. On his application form he disclosed a conviction details of which are set out in the officer's report. The conviction was for an offence of dishonesty. In respect of this offence he received a custodial sentence that was suspended. By virtue of the custodial sentences for an offence of dishonesty the driver 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 conviction was 7 years ago, and that it was his only conviction. He has had responsible employment since, and held a position of responsibility at Tesco's following his promotion to team leader. Members also note that the driver has a clean driving licence. Members have heard how the driver has learnt from his mistake, how he has matured, and how he is trying to redeem himself, and support his wife and family.

In the circumstances, members are satisfied that the driver is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The driver will be granted a driver's licence.

LIC32

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

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

At the request of the Chairman, the driver's representative made a statement on the driver's behalf. Mr Hardy said it was not this committee's role to consider the convictions that had already been dealt with in the past, and they could depart from licensing standards if they considered the driver to be a fit and proper person.

Councillor Gerard asked if the driver had received any driving penalties. The driver said he had been caught speeding five years ago, although he had no other driving convictions. In response to a question from Councillor Barker, the driver said he had conducted himself properly in the past 36 years and highlighted his work with BT where he was an engineer and one of a select few trusted enough to be allocated sensitive work.

At 11.45 the Committee withdrew to make its determination.

At 12.00, the Committee returned and read the decision to the driver.

DECISION

The driver 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 varied but included offences of dishonesty and violence. In respect of these offences he received a range of punishments including custodial sentences. By virtue of the custodial sentences for offences of dishonesty and violence the driver 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 and 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 the explanations given by the driver, detailed in the report and here today. The committee also note that the last offence was 36 years ago and that the driver has had no convictions of any nature since. Members also note that the driver has also only had one driving endorsement in all the time he has been driving, in a personal and professional capacity.

The driver has also had responsible employment with two different employers for whom he worked a considerable amount of time, and had carried out work that required a significant level of trust.

In the circumstances, members are satisfied that the driver is a fit and proper person and that it is therefore appropriate to make a departure from its policy. The driver will be granted a driver's licence.

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

The procedure for determining private hire drivers' licences was read to the applicant and his interpreter. The Committee considered the report of the Enforcement Officer. At the request of the Chairman, the driver's interpreter and manager made a statement on his behalf.

Mr Khan, of Lucketts of Watford Ltd, told members that the driver was a reliable employee who had never caused any problems for the company.

Councillor Gerard asked how long the driver had lived in Watford. The driver said he had lived there for fifteen years. Councillor Barker asked if the driver had any problems communicating with passengers, and the driver replied no. The Chairman asked if he ever spoke to his passengers, and the driver said he did not.

The Chairman asked why Mr Khan had attended the hearing if the driver was not in need of an interpreter. Mr Khan said his employee had been nervous and he was there for reassurance.

The Enforcement Officer asked the driver to describe the initial offence that had brought him into contact with the Council. The driver appeared not to understand until Mr Kahn explained the question to him. The driver said he had driven through a red light as he had not seen it.

In response to a question from the Chairman, Mr Khan said the driver only carried out work for the three contracts relating to three disabled children. Councillor Gerard asked if the driver would feel comfortable carrying other passengers. Mr Khan answered on the driver's behalf and said he would only drive these three children as that was the limitation of his contract.

The Enforcement Officer asked the driver how he could satisfy members that he could abide by Uttlesford's driving standards. The driver said if he breached standards again, he would notify the council.

Councillor Barker asked what work the driver did for Transport for London. The driver did not answer. Councillor Barker repeated the question and Mr Khan said the driver carried out taxi work. Councillor Gerard said he was not satisfied that the driver could understand and asked the driver if he felt his grasp of the English language was a problem. The driver said he did not think it was a problem.

At 12.20 the Committee withdrew to make its determination.

At 13.00, the Committee returned and read the decision to the driver.

DECISION

The driver has a joint private hire/hackney carriage driver's licence. Following the Council's annual driver check of the DVLA it was revealed that the driver had received a fixed penalty notice which he did not notify to the Council. As a result he had breached licensing conditions.

The driver was asked to attend the Council and explain to officers the circumstances surrounding the offence and failure to notify with a view to making a suspension of the licence by way of sanction.

However, as a result of the meeting, Officers were concerned that the driver did not meet the licensing standard of having a reasonable command of English to enable him to perform the functions of a licensed driver.

Members have heard a description from the Enforcement Officer of that meeting, and a written report has also been made, which Members have considered.

In this case, the driver needs to satisfy members that his command of English was sufficient to enable him to perform the functions of a driver.

Members have today had the opportunity to speak to the driver and ask him questions about his work, his driving history, and the fixed penalty notice he received. Members and officers have asked a number of questions, both open and closed to give the driver an opportunity to demonstrate that he understands spoken English and can respond appropriately.

Unfortunately, the driver has not appeared to have understood a large proportion of the questions being asked, and has required his manager to translate both the questions and the answers on his behalf. For example, he was unable to explain how he uses his licence from Transport for London until the question was interpreted and his interpreter answered for him. Likewise, he was unable to explain the circumstances surrounding his driving endorsement without assistance from his manager.

Members have heard the driver works carrying out school contract work only, carrying the same passengers each day, and that he is a reliable driver in that regard. His manager is satisfied with his conduct.

However the driver's licence is not limited to school work, and the Council's licensing standards apply across the board. Members have a responsibility to ensure the safety of passengers, and consider this is their paramount concern.

Members need to be satisfied that the driver can converse with passengers, and emergency services if so required, understand instructions, both verbal and written and be able to respond to questions.

In all the circumstances, Members are not satisfied that the driver has reasonable command of the English Language sufficient to enable him to perform the functions of a hackney carriage/private hire driver. The driver licence is therefore hereby revoked under s61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver is advised that he does have the right to appeal against this decision by application to the Magistrates Court within 21 days of receipt of the written decision notice. All the details will be contained in that letter.

LIC34

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

The driver relating to item 7 had informed the Enforcement Officer that he would be unable to attend the hearing. Members agreed to defer the hearing and allow the driver another opportunity to attend.

The meeting ended at 1.10pm.