

**Present:** Councillor Pat Vaughan (*in the Chair*),  
Councillor Kathleen Brothwell, Councillor  
Adrianna McNulty and Councillor Alan Briggs

**Apologies for Absence:** None.

**35. Confirmation of Minutes**

RESOLVED that the minutes of the meeting held on 30 January 2020 be confirmed.

**36. Declarations of Interest**

No declarations of interest were received.

**37. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**38. To Interview an Applicant for a Private Hire Driver's Licence who has given cause for Concern in Relation to being Fit and Proper**

The Licensing Officer:

- a) presented a report to determine whether the applicant was a fit and proper person to hold a Private Hire driver's licence.
- b) reported that the application had applied in October 2018 for a new Private Hire driver's licence.
- c) reported that the applicant held a full UK driving licence which he had held since November 2003 and currently had three penalty points recorded against him.
- d) reported that the applicant had passed the knowledge test on his second attempt scoring 8/10 in January 2019.
- e) reported that the applicant had received a low risk on the driver improvement course on his first attempt in November 2018.
- f) reported that the applicant had provided a certificate of good conduct from Bangladesh in December 2019 and had also allowed officers to re-check his DBS certificate which he had provided to the Council in December 2018 online. No convictions were recorded.

- g) reported that at the initial application in October 2018 he was aware of the applicant after East Lindsey District Council had made a request for information in relation to the applicant working within Lincoln in his Hackney Carriage vehicle through a Lincoln Private Hire operator. This was against East Lindsey District Council's intended use policy where the Hackney Carriage vehicle must be used predominantly within their boundary where the vehicle was licensed.
- h) reported that the applicant was referred to a sub-committee at East Lindsey District Council where a decision was made to revoke his licence.
- i) reported that he had requested information from East Lindsey District Council on the applicant, which was detailed at Appendix B to the report. This detailed that the applicant was the holder of a premises licence in Horncastle and that in August 2014 the licence had been revoked as a result of poor record keeping and that an immigration offender had been found on the premises, a matter which had been dealt with by UK Border Agency Officers.
- j) reported that the applicant was referred to a Licensing Committee at East Lindsey District Council in June 2015 in relation to a history of penalty points on his licence for speeding. He was required to undertake the driving assessment by the Lincolnshire Road Safety Partnership and he achieved a low risk whilst being issued with a warning.
- k) reported that the applicant was the holder of a Private Hire operator's licence from July 2012, however, in 2017 compliance officers at East Lindsey District Council had found that the applicant had failed to keep correct records of Private Hire bookings and also evidence of illegal plying for hire in his Private Hire vehicle. The applicant was therefore committing offences under the Town Police Clauses Act 1847 and Local Government Miscellaneous Provisions Act 1976 for which he could have been prosecuted.
- l) reported that in July 2017 East Lindsey District Council had revoked the applicant's Private Hire Operator's licence. The applicant had lodged and appeal but this was withdrawn on the day of the hearing.
- m) reported that the applicant also held a Hackney Carriage licence in East Lindsey District Council, however, in September 2018 this had been revoked after it was found that the applicant had breached the intended use policy, where he would operate predominantly within the East Lindsey District Council boundary, which he had signed.
- n) reported that the applicant, between 23 May 2018 and 12 July 2018 had been found to have undertaken around 700 hirings.
- o) reported that it was for the reasons outlined above, together with the information received from East Lindsey District Council, that officers had felt the need to refer the application to the Sub-Committee as there were serious concerns as to whether the applicant was a fit and proper person to hold a licence.

- p) reported that the current policy stated that the authority was entitled to use other records and information that may be available to it in determining applications, including information held by other local authorities.
- q) reported that the overriding aim of the Licensing Authority was to protect the safety of the public.

The decision was made as follows:

That the application for a private hire driver's licence be refused.

Reasons for the decision:

The Sub-Committee was not satisfied that the applicant was a fit and proper person to hold the licence. In reaching the decision the Sub-Committee considered that:

- the evidence submitted to the Council by a neighbouring licensing authority in relation to the applicant demonstrated a continued failure by the applicant to abide by the requirements of a succession of separate licences. The Council's policy was to take into account information shared in relation to those licensed by other licensing authorities. The Sub-Committee had received no evidence, other than the applicant's personal reassurances, that his ability or willingness to abide by licensing conditions had improved to a sufficient level to show that he was a fit and proper person to hold a private hire driver's licence;
- the applicant's explanation that his English language skills had been insufficient to understand previous licensing conditions was an inadequate excuse for his previous behaviour. The Sub-Committee particularly noted that the applicant's failure to keep and submit proper records had occurred in spite of a specific instruction from a licensing authority to do so after an earlier failure by the applicant. It was further noted that a licence applicant was to be expected to take all reasonable steps to understand the duties and restrictions associated with that licence. The earlier revocation of a premises licence and a private hire operator's licence should have impressed upon the applicant the need to apprise himself fully of the terms of a licence. In spite of these earlier revocations, the applicant subsequently had a hackney carriage vehicle licence revoked in 2018 for operating in contravention of that licensing authority's Intended Use Policy;
- the applicant had failed to provide a convincing explanation relating to his alleged illegal plying for hire in a private hire vehicle;
- the penalisation of the applicant for the employment of a worker without the proper immigration status was further evidence of a failure to give proper attention to significant duties. The Sub-Committee had regard to the time which had elapsed since the offence in 2014, while also noting that the offence had also been preceded by concerns by Border Agency officers in 2012 about the applicant's record keeping;
- having regard to the Sub-Committee's paramount duty to protect the safety of the travelling public and applying the proper test, being on the balance of probabilities, the applicant had not demonstrated that he was a fit and proper person to hold a private hire driver's licence.