

Present: Councillors Pat Vaughan (*in the Chair*),
Alan Briggs, David Clarkson, Adrianna McNulty and
Lorraine Woolley

71. Confirmation of Minutes - 16 March 2023

RESOLVED that the minutes of the meeting held on 16 March 2023 be confirmed and signed by the Chair as a true record.

72. Declarations of Interest

No declarations of interest were received.

73. 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.

74. To Interview an Existing Driver who has 9 Current Penalty Points - Item Number: 03/2023

The Licensing Officer:

- a) stated that the licensee held a private hire drivers licence since 29 June 2022.
- b) highlighted that the licensee contacted a member of the Licensing Team on 16 March 2023 to inform them he had received a further 3 penalty points. A copy of the contact was attached at Appendix A to the report.
- c) explained that a DVLA check was requested which showed endorsements that totalled 9 penalty points for one SP30 offence and one CU80 offence.
- d) added that within the Hackney Carriage and Private Hire Licensing Policy, it stated the following in relation to penalty points and taking a stepped approach to driver license enforcement:

'If a driver receives 9 or more penalty points for minor or some hybrid traffic offences, the matter will be referred to the Hackney Carriage and Private Hire Sub-Committee for a hearing. The driver will be expected to address the issues before the Sub-Committee'.
- e) added that within the Hackney Carriage and Private Hire Standards, which were adopted in March 2022, it stated the following in relation to using a handheld device whilst driving:

'Where an applicant has a conviction for using a hand-held mobile telephone or a handheld device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later'.

- f) requested Members determined whether the licensee was a fit and proper person to hold a Private Hire driver's license and provide full and frank reasons for the decision.

The licensee confirmed to the Sub-Committee that he had been told in a letter that he could take legal advice about this matter.

The Sub-Committee asked the licensee appropriate questions to determine whether he was a fit and proper person to continue to hold a Private Hire licence.

The decision was made as follows:

The Sub-Committee was not prepared to depart from the Policy and to risk the safety of the public by granting the retention of the licensee's Private Hire driver's licence. Therefore, the licence was revoked with the licensee being able to re-apply in 12 months' time.

Reason for the decision:

- a) The applicant had failed to persuade the Sub-Committee that his circumstances justified a departure from the Council's Hackney Carriage & Private Hire Licensing Policy and Hackney Carriage and Private Hire Standards.
- b) The Sub-Committee was sympathetic to the licensee's personal circumstances but was of the view that the offences had been serious and the CU80 offence had occurred only 3 days prior to his license being granted.
- c) The safety of all passengers was the primary consideration within deliberations and the accumulation of 9 points in a short period of six months concerned the Sub-Committee.
- d) The reference received for the licensee was extremely complimentary and was considered with weight.
- e) The licensee had discussed the circumstances of the offences listed at 3.3 of the report openly and answered all questions asked. He appeared genuinely remorseful.
- f) The Sub-Committee was not minded to depart from Policy and the Hackney Carriage and Private Hire Standards. However, given the genuine remorse demonstrated and the complimentary reference received, the Sub-Committee agreed to exercise discretion and grant the licensee the right to re-apply in one year instead of five years.

75. To Interview An Existing Driver Who Has Failed To Disclose A Previous Conviction

The Licensing Officer:

- a) stated that the applicant submitted his application in October 2022 to apply for a new private hire driver's licence.
- b) highlighted that the applicant declared that he had no convictions or cautions at question fifteen of the application form.
- c) explained that a DBS check was requested which showed that the applicant had failed to disclose a conviction of assault by beating of an emergency service worker as detailed at 3.4 of the report.
- d) added that within the Hackney Carriage and Private Hire Standards, which were adopted in March 2022, it stated the following in relation to a violent offence:

'Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed'.

- e) confirmed that a DVLA check was requested which showed the applicant held a full UK driving license with no endorsements.
- f) added that the applicant had completed the Driver Improvement Programme (DIP Test) and gained a low-risk score on his first attempt and passed the knowledge test with a score of 8 out of 10.
- g) requested Members determined whether the applicant was a fit and proper person to hold a Private Hire driver's licence and provide full and frank reasons for the decision.

The applicant confirmed to the Sub-Committee that he had been told in a letter that he could take legal advice about this matter and also that he could bring an interpreter to the hearing, however he had chosen to come alone.

The Sub-Committee asked the applicant appropriate questions to determine whether he was a fit and proper person to hold a Private Hire driver's licence.

The decision was made as follows:

That the applicant be granted a Private Hire Drivers Licence.

Reason for the decision:

- a) The applicant came well prepared for the hearing and appeared honest, calm and transparent when questioned regarding the nature of the conviction.

- b) The conviction did not show on a basic Disclosure Barring Service (DBS) check as evidenced by the applicant's submission at the hearing. The penalty of £50 compensation appeared a concessionary payment and was not accompanied by a fine nor a term of imprisonment nor a conditional discharge so was accepted to be of a low level.
- c) The Sub-Committee extensively considered the Council's policies in relation to violent offences and giving or making false declarations, both of which would normally result in a licence not being granted. However, given the minor level of violence, minimal penalty received, the applicants calm and apologetic demeanour and the weight given to his full, clean UK driving license for over a decade, the Sub-Committee noted that its decision was finely balanced in finding that the driver was a fit and proper person to hold a licence.
- d) The Sub-Committee considered convictions for violent offences extremely seriously but was satisfied by the driver's account and that the offence was an isolated incident at the lower end of the scale of violent offences, as indicated by the minimal penalty received.
- e) The Sub-Committee could not find any valid reasons why the applicant should be refused a private hire driver's licence and therefore deviated from the policy due to the specific circumstances for this driver.