

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

Apologies for Absence: None.

5. Confirmation of Minutes 29 July 2021

RESOLVED that the minutes of the meeting held on 29 July 2021 be confirmed.

6. Declarations of Interest

No declarations of interest were received.

7. 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.

8. To Interview an Applicant for a Private Hire Driver's Licence who has Previously had a Licence Revoked, Item Number: 03/2021

The Licensing Officer:

- a) stated that the applicant for a Private Hire Drivers Licence had previously had a private hire drivers licence revoked by the Sub Committee in 2018 and that an appeal by the applicant had been rejected at the Magistrates Court
- b) explained that the reason for the hearing was to determine whether the applicant was a fit and proper person to hold a licence and for members to answer the question 'Would I be comfortable in allowing my son, daughter, spouse or partner, mother or father, grandchild or any persons for whom I care, to get into a private hire vehicle with this person'
- c) highlighted that on 8 June 2021 the applicant submitted his documents and paid the application fee to apply for a new Private Hire Drivers Licence
- d) reported that the applicant previously held a private hire drivers' licence from 2008 until 2018 when it was revoked by the Sub Committee after he received a total of 12 penalty points on his driving licence in a six-month period
- e) referred to Appendices A, B, and C to the officer's report in which the report and appendices from the decision made to revoke the applicant's licence on 22 March 2018 could be viewed, together with the Decision Notice at Appendix D

- f) reported that the original decision was upheld in October 2018 by the Magistrates Court
- g) added that The District Judge refused to state a case for the High Court in November 2018 as detailed at Appendix E to the officer's report
- h) advised that the applicant had undergone a new DBS check which confirmed that he had no convictions and a DVLA check also revealed a clean licence

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

Members expressed particular concern as the applicant had appeared before the Sub Committee on two previous occasions and had been given the opportunity to attend speed awareness courses to address such issues which hadn't proved effective in the past. It was also noted that the District Judge had refused to state a case for the High Court in November 2018. Members requested assurances from the applicant regarding his honesty due to his past record.

The applicant assured members that his convictions dated back 7 years; since then, he had learnt his lessons, held a clean licence and was a safe driver.

The Decision was made as follows:

1. A special condition be imposed requiring a bi-monthly DVLA check to be carried out at the licence holder's expense for a duration of two years starting from the date of his new licence.
2. A strongly worded letter be issued which would emphasise the importance of declaring any further convictions or potential court proceedings, including an expectation that if any further offences were to occur then this may result in his Private Hire Drivers licence being revoked.

The reasons for this decision were:

Hackney Carriage and Private Hire Licensing Sub-Committee was not totally satisfied that the applicant was a fit and proper person to hold a licence however the committee felt that he could be given conditions to make him a fit and proper person to hold a licence. In reaching their decision, the Sub-Committee considered that:

1. The applicant needed to win the trust of Hackney Carriage and Private Hire Licensing Sub-Committee by avoiding any further convictions or court proceedings. They were prepared to give him one final chance to prove he was a fit and proper person to hold a private hire driver's licence with the imposition of the above conditions on his licence.
2. Hackney Carriage and Private Hire Licensing Sub-Committee were not entirely convinced of the applicant's previous honesty due to his conduct and appearances in front of them on previous occasions.
3. It was noted that during lockdown the applicant worked in a caring profession, providing services to the elderly and vulnerable therefore there

must have to be an element of trust involved in him to be employed in this capacity.

4. The applicant does currently have a clean driving licence and confirmed that he is not subject to any court proceedings or prosecutions.

The onus now was on the applicant to prove his trustworthiness

9. **To Interview an Applicant for a Re-Licence of a Private Hire Driver's Licence who has 11 Current Penalty Points, Item Number: 04/2021**

The Licensing Officer:

- a) provided a report to determine whether the licence holder was a fit and proper person to continue to hold a private hire driver's licence following 11 valid penalty points having been received on his driving licence
- b) stated that the licensee had held a licence since June 2017, when he appeared before Members of the Sub Committee as he was unable to provide a certificate of good conduct
- c) explained that the licensee made an application for a re-licence on 22 April 2021 and declared that he hadn't received any criminal findings of guilt and wasn't prosecuted as far as he was aware
- d) advised that a DBS check as detailed at Appendix A of the officer's report showed relevant information disclosed at the discretion of the Chief Police Officer stating that the applicant had allegedly been involved in a road traffic collision with a cyclist whilst working as a private hire driver and that the matter was due to be heard at the Magistrates Court
- e) reported that the applicant was subsequently contacted and informed he was required to appear before Members and to inform the Authority of the outcome of the hearing
- f) stated that the applicant provided officers with paperwork on 19 July 2021 which stated that he had been found guilty of driving without due care and attention, a copy of the endorsement could be viewed at Appendix B and a copy of the fine and collection order at Appendix C of the officer's report
- g) added that a further DBS check revealed 11 penalty points on his driving licence
- h) alerted the Sub Committee to the current Hackney Carriage and Private Hire Licensing Policy which stated the following in relation to penalty points and taking a stepped approach to driver licence 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.'*

The Sub-Committee questioned the applicant about his convictions and received responses from the applicant.

Members expressed particular concern as to the applicant's trustworthiness and honesty with officers and members of the Sub Committee regarding his convictions and required assurances from him that he was a fit and proper person to continue to hold a Private Hire Driver's Licence

The Solicitor for the City of Lincoln Council viewed an e mail trail between the applicant and the Court which was forwarded to her during the hearing by the applicant in his defence The Court advised the applicant he would be granted a Statutory Declaration to allow him the chance to say why the case against him should be reopened, for the Court to then determine whether this would happen. He had been convicted of criminal findings of guilt, subsequently fined and his drivers' licence endorsed with 8 additional penalty points although he disputed having received any paperwork from the Court. His appearance before members this afternoon was the result of the offence against him of driving a vehicle without due care and attention

Members of Hackney Carriage and Private Hire Licensing Sub Committee requested and obtained permission from the applicant to contact his Private Hire Driver's employer to confirm details he said had given to them of two witnesses to the alleged road traffic collision who had stated it was not his fault.

It was agreed the company would be contacted the following morning for this assurance to be obtained.

The Decision was made as follows:

That the application for the grant of a private hire driver's licence be granted subject to the following conditions:

1. A special condition be imposed requiring a quarterly DVLA check to be carried out at the licence holder's expense for a duration of two years starting from the date of his new licence.
2. A strongly worded letter be issued which would emphasise the importance of declaring any further convictions or court proceedings as a legal requirement, to keep the Licensing Authority updated on all outcomes including that of the Statutory Declaration and subsequent appeal of his conviction and that the licensing authority reserves the right to call him back to committee once we have the outcome of these matters. There was an expectation that if any further offences were to occur then this may result in his Private Hire Drivers Licence being revoked.

The reasons for this decision were:

Hackney Carriage and Private Hire Licensing Sub-Committee was not totally satisfied that the applicant was a fit and proper person to hold a licence. However, the Sub-Committee considered that by imposing the above conditions on the applicant's licence - they would consider him fit and proper:

1. The applicant felt that he had conducted himself correctly at the time of the accident in reporting it to his employer including providing his employer with the contact details of the two witnesses involved.

2. Hackney Carriage and Private Hire Licensing Sub-Committee expressed concern that the applicant had failed to report the accident to the Licensing Authority.
3. It was noted that the Court had accepted there had been some confusion over the issue of the initial summons.
4. The applicant explained to the Sub-Committee that he was in the process of contesting and appealing against his original conviction. He said that he had been found guilty in his absence because of an administrative error and that everyone had a right to a fair hearing, and it was his right to prove to the Court that he had not received notification of Court proceedings. He was therefore currently awaiting a date to make a statutory declaration before the court of the above.
5. Members did believe that following the accident, the applicant had done everything correctly in relation to the accident.

Foot note: Following enquiries made to the applicant's private hire driver's employer regarding contact details of witnesses the applicant stated he had given to his employer after the accident, it was confirmed by the employer that the applicant had not provided any witness details or reported the accident to them.

In these circumstances it was agreed by the Chair that the applicant was required to appear again before Hackney Carriage and Private Hire Licensing Sub-Committee to explain himself further on this matter in order to satisfy members that he was a fit and proper person to hold a private hire driver's licence before his licence could be reissued to him.

A hearing was set for 29 September 2021. 5.30pm, Committee Rooms1/2