

LICENSING SUB-COMMITTEE

Monday 29 July 2019

Present:

Councillors Buswell, Henson, D and Newby

Also Present:

Solicitor, Environmental Health and Licensing Manager, Principal Licensing Officer, Legal Apprentice and Democratic Services Officer

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APPOINTMENT OF CHAIR

Councillor D. Henson was appointed as Chair for this meeting.

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DECLARATIONS OF INTEREST

The following Member declared an interest as indicated and left the meeting during consideration of the item:

COUNCILLOR	MINUTE
Councillor Newby	Min. No 44 (knew the applicant's father)

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

TOWN POLICE CLAUSES ACT 1847

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LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following item on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

43

HEARING TO DETERMINE WHETHER AN APPLICANT FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS LICENCE IS A FIT AND PROPER PERSON TO HOLD A THE LICENCE

Councillor Newby declared an interest and left the meeting during consideration of this item.

The Chair introduced the Licensing Sub Committee Members and Officers.

The applicant had been referred to the Licensing Sub Committee to determine if he was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Solicitor set out the procedure for the hearing and explained Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 stating that the Licensing Authority must be satisfied that a driver is a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Solicitor stated that evidential burden is on the applicant to prove fitness and propriety on the balance of probabilities. Every case before the Licensing Sub-Committee was heard on its individual merits and the main concern of the Licensing Sub-Committee was the safety of the travelling public.

The Principal Licensing Officer presented the report and gave evidence in respect of the application. The Applicant was in attendance to make a submission in support of their application and provided responses to questions from the Licensing Sub-Committee.

RESOLVED that the Licensing Sub-committee was satisfied that the Applicant was a fit and proper person to hold a driver's licence for a Hackney Carriage/Private Hire Vehicle.

The meeting returned to Part I

44

APPLICATION FOR THE GRANT OF A LICENCE RELATING TO A PRIVATE HIRE VEHICLE OVER 9 YEARS OLD.

The Chair introduced the Sub-Committee and the Solicitor set out the procedure for the hearing advising of the Council's policy and the requirements under Section 48(1) of the Local Government (Miscellaneous Provisions) Act 1976.

The Principal Licensing Officer presented an application from Mr DR to grant a Private Hire Vehicle licence in relation to a vehicle that was over nine years old at the time of renewal. He advised that the matter could not be dealt with under delegated powers, and that the vehicle registration date was 23 February 2010.

The Council's policy stated Vehicles presented for renewal that are between 9 and 10 years old will be referred to the Licensing Sub-Committee for determination. Applicants will be advised to provide a comprehensive report into the mechanical fitness of the vehicle as outlined above. Vehicles presented for renewal that are more than 10 years old shall not be granted. However, the applicant will be given the right to apply for the application to be considered by a Licensing Sub-Committee if they feel that their particular circumstances justify a deviation from the existing Policies.

The vehicle was a Toyota Avensis, registration LP59BZN, with a recorded mileage from the latest MOT on 25 March 2019 as 254,980 miles. The MOT certificate and an independent vehicle inspection certificate had been provided from the applicant. The vehicle had also been presented to the Licensing Authority for inspection on 22 May 2019 and was considered to be in a very good condition.

Mr DR was in attendance and spoke in support of the application. He explained that the vehicle was in a very good condition and that only minor matters such as a replaced bulb and wiper repair had been picked up recently with minor wear and tear also having occurred. He undertook servicing of the vehicle at approximately every 10,000 miles driven as he regarded maintaining the car in a good condition of paramount importance as some of his fares involved runs to Heathrow Airport.

RESOLVED that the application for the grant of a Private Hire Vehicle licence be approved for 12 Months.

45 **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION
OF PRESS AND PUBLIC**

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following item on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

46 **HEARING TO DETERMINE AN APPLICATION FOR AN ADJOURNMENT OF A
HEARING TO DETERMINE WHETHER A HOLDER OF A HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE IS A FIT AND PROPER
PERSON TO HOLD THE LICENCE**

The Solicitor advised that the Licensed Driver had been referred to the Licensing Sub-Committee to determine whether he was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle. The Licensed Driver had written to the Licensing Authority on Saturday 27 July 2019 at 9.22am requesting that the matter be adjourned to a later date. This request was put before the Licensing Sub-Committee in order to determine whether or not to adjourn the hearing.

The Principal Licensing Officer stated that the Licensed Driver had been put on notice that the hearing would take place by way of e-mail dated 17 July 2019. A further e-mail confirming that the hearing would be convened on 29 July 2019 at 9.30am together with the papers to be considered by the Licensing Sub-Committee was sent to the Licensed Driver dated Friday 19 July 2019. The Licensed Driver confirmed attendance to the Licensed Authority by e-mail on 24 July 2019.

The Principal Licensing Officer stated that, in response to the Licensed Driver's e-mail dated 27 July 2019, he had telephoned and informed the Licensed Driver that he would be required to attend the hearing in person in order to make an application to adjourn the hearing in person in order to make an application to adjourn the hearing and that the Licensing Sub-Committee would wait until 11.00am in order for him to attend to make the application otherwise the application would be heard based on the e-mail that the Licensed Driver had submitted. The Licensed Driver confirmed he could not attend and wanted the adjournment to be determined in his absence.

The Licensing Sub-Committee considered the Licensed Driver's e-mail dated 27 July 2019 together with submissions made by the Environmental Health and Licensing Manager.

RESOLVED: The Licensing Sub-Committee determined that the application to adjourn the hearing be refused on the following grounds:

- (1) The notice of hearing and documentation were provided to the Licensed Driver with sufficient notice of the hearing;
- (2) The matter to be heard raises important issues of public safety which need to be addressed as a matter of priority; and
- (3) That public safety is paramount to the concerns of the Licensing Authority when determining such matters and therefore it is in the public interest to determine this matter today.

**HEARING TO DETERMINE WHETHER A HOLDER OF A HACKNEY
CARRIAGE/PRIVATE HIRE DRIVERS LICENCE IS A FIT AND PROPER
PERSON TO HOLD A THE LICENCE**

The Solicitor set out the procedure to be followed at the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

The legal advisor stated that the evidential burden was not on the Licenced Driver to prove that he was fit and proper but for the Licensing Sub-Committee to be satisfied on the balance of probabilities, that the Licensed Driver was no longer a fit and proper person to hold a taxi licence. Every case before the Licensing Sub-Committee was heard on its individual merits and the paramount concern is the safety of the travelling public.

The Environmental Health and Licensing Manager presented the report and gave evidence in respect of the Licensed Driver. The Licenced Driver was not in attendance. Questions in respect of the evidence presented to the Licensing Sub-Committee were asked of the Environmental Health and Licensing Manager.

RESOLVED that the Licensing Sub-Committee were satisfied that the Licensed Driver was not a fit and proper person to hold a taxi driver's licence and the licence be revoked with immediate effect. The reasons are set out in the Notice of Revocation.

Full hearing transcript noted.

(The meeting commenced at 9.55 am and closed at 12.15 pm)

Chair