

LICENSING SUB-COMMITTEE

Friday 31 January 2020

Present:

Councillors Begley, Newby and Wood

Also Present:

Litigation Solicitor, Solicitor, Licensing Officer and Democratic Services Officer (MD)

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APPOINTMENT OF CHAIR

Councillor Wood was appointed as Chair for this meeting.

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DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

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 items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

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APPLICATION FOR THE REPLACEMENT OF A HACKNEY CARRIAGE VEHICLE

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

The Licensing Officer presented an application from a licensed taxi driver which sought to replace their existing Hackney Carriage Euro 5 side loading wheelchair accessible vehicle with a Toyota Prius ultra-low emission vehicle (ULEV). The Applicant had attended an Occupational Health Assessment at the Royal Devon and Exeter Hospital on 20th December 2019 and had been granted an exemption from undertaking mobility assistance to passengers in wheelchairs (Section 166 Equality Act 2010), for reasons relating to back issues. The replacement vehicle had not been purchased at the time of the hearing, pending the consideration of the application by the Licensing Sub-Committee. A copy of the Applicants medical report was included with the report.

Members were referred to the report which detailed the Council's Policy for new vehicles plated for the first time (including existing proprietors on the change of vehicle) and the conditions that would need to be included.

The Applicant was in attendance and spoke in support of the application. He explained that he had suffered with back issues for some time and had taken a variety of pain killers and medicines to alleviate the pain and confirmed that he

avoided these medicines while driving. He expressed his desire to help disabled passengers, however the back pain caused an issue with supporting wheelchair based customers, which had led to hostility from some passengers who were unaware of his circumstances and why some pickups had to be refused.

The Licensing Sub-Committee adjourned to allow the Licensing Officer to obtain an example of the notice of exemption which was provided to drivers who were exempt from picking up wheel chair users and the statistics on wheelchair accessible vehicles.

The hearing reconvened and the notice of exemption was presented to Members together with the statistic information for Ultra-Low-Emission Vehicle's (ULEV's) highlighting that there were 43 wheelchair accessible vehicles and 42 Saloon vehicles in the fleet.

In response to questions from the Members, the Solicitor and the Licensing Officer, the Applicant explained:-

- That the current vehicle was a side loading vehicle and that he was the only driver;
- That the notice of exemption would be displayed in the front window of the vehicle;
- There would be no issues with supporting passengers with luggage, which was considered to be easier to pick up and less of a safety risk than carrying people.

RESOLVED that the application for the grant of a replacement Hackney Carriage Vehicle licence be approved in principle with powers delegated to the Licensing Officer to effect the replacement.

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

The Chair introduced the Licensing Sub Committee Members and Officers. The Applicant had been referred to the Licensing Sub Committee to determine if she 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 was on the applicant to prove their 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 Licensing Officer presented the report and gave evidence in respect of the application. The Applicant was in attendance and spoke in support of their application.

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.

**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 Chair introduced the Licensing Sub Committee Members and Officers.

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

The Solicitor set out the procedure for the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 stating that the Licensing Authority must be satisfied that a driver was a fit and proper person to hold a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Solicitor stated that the evidential burden was not on the Licensed Driver to prove he was fit and proper but for the Licensing Sub-Committee to determine on the balance of probabilities whether or not the Licensed Driver was no longer a fit and proper person. Every case before the Licensing Sub-Committee was heard on its individual merits and its paramount concern was to the safety of the travelling public.

The Licensing Officer presented the report and gave evidence in respect of the driver who had held a Hackney Carriage / Private Hire Licence. The driver was in attendance to and spoke in support of their propriety to hold a taxi licence.

RESOLVED that the Licensing Sub-Committee were satisfied that the Licensed Driver was no longer a fit and proper person to hold a taxi driver's licence and the licence be revoked with immediate effect. The reasons were set out in the Notice of Revocation.

(The meeting commenced at 10.00 am and closed at 12.53 pm)

Chair