

LICENSING SUB-COMMITTEE

Thursday 12 October 2023

Present:

Councillors Warwick, Foale and Holland

Also Present:

Service Lead - Environmental Health & Community Safety, Licensing Officer (GP), Legal Advisor, Apprentice Solicitor and Democratic Services Manager

73

APPOINTMENT OF CHAIR

Councillor Holland was appointed as Chair for this meeting.

74

DECLARATIONS OF INTEREST

No declarations of interest were made by Members.

75

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's 1 and 2 of Part I, Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

76

APPLICATION TO RENEW HACKNEY CARRIAGE / PRIVATE HIRE VEHICLE LICENCE OVER 10 YEARS OLD

The Chair introduced the Sub-Committee Members and Officers.

The Apprentice Solicitor set out the procedure for the hearing advising of the requirements under Section 48(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Officer presented the application to renew a Private Hire Vehicle licence in relation to a 4 passenger Mercedes Estate E220 which was over 10 years old at the renewal date. The vehicle was first registered on 31 May 2013.

The Applicant had submitted vehicle MOT certificate dated 30 August 2023 showing a recorded mileage of 242,085 miles and the MOT history indicated that the vehicle had failed its MOT, twice in seven years. An independent mechanical inspection report dated 4 September 2023 had also been submitted, together with photographs of the vehicle. The vehicle had been inspected by a Licensing Officer who considered the vehicle to be in very good condition.

The Licensing Officer explained the Taxi Policy, which stated that vehicles over 10 years old should not be granted, however, the Applicant had the right to apply for the application to be considered by a Licensing Sub-Committee if the Applicant considered that their circumstances justified a deviation from the policy.

The Applicant was in attendance and spoke in support of their application and responded to questions, from Members, the Apprentice Solicitor, and the Licensing Officer.

RESOLVED that the application for the renewal of a Private Hire Vehicle licence be granted for six months.

77 **APPLICATION TO RENEW HACKNEY CARRIAGE / PRIVATE HIRE VEHICLE LICENCE OVER 10 YEARS OLD**

The Chair introduced the Sub-Committee Members and Officers.

The Apprentice Solicitor set out the procedure for the hearing advising of the requirements under Section 48(1) and (2) of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Officer presented the application to renew a Private Hire Vehicle licence in relation to a 4 passenger Mercedes Benz E250 which was over 10 years old at the renewal date. The vehicle was first registered on 10 September 2013.

The Applicant had submitted vehicle MOT certificate dated 15 September 2023 with a mileage of 480,064 miles and an MOT history showing that the vehicle had failed six times in nine years. An independent mechanical inspection report, was also submitted, dated 18 September 2023, along with photographs of the vehicle. The vehicle was also inspected by a Licensing Officer on 22 September 2023 and was considered to be in excellent condition.

The Licensing Officer explained the Taxi Policy, which stated that vehicles over 10 years old should not be granted, however, the Applicant had the right to apply for the application to be considered by a Licensing Sub-Committee if the Applicant considered that their circumstances justified a deviation from the policy.

The Applicant was in attendance and spoke in support of the application and responded to questions, from Members, the Apprentice Solicitor, and the Licensing Officer.

RESOLVED that the application for the renewal of a Private Hire Vehicle licence be refused.

78 **APPLICATION FOR CONSENT TO ENGAGE IN STREET TRADING**

The Chair introduced the Sub-Committee Members and Officers.

The Apprentice Solicitor set out the procedure together with the requirements under section 7(2), (4) and (10) Local Government (Miscellaneous Provisions) Act 1982 and policy considerations.

The Licensing Officer, presented the report advising that the Applicant was seeking the approval of a street trading consent for a static food and drinks van, selling a range of hot and cold food and drinks.

The Applicant had applied for consent to trade for 12 months Monday to Friday between 08:00am and 16:00pm at the Nightingale Hospital car park. Photographs of the menu and van had been submitted, which were included with the report presented at the meeting. The Applicant was registered as a food business with Environmental Health at Exeter City Council, with a food hygiene certificate at level 2 and had public liability insurance. No representations had been received in

relation to the application.

Reference was made to the Applicant trading at the hospital with permission from the hospital, but the Applicant had since been made aware that that consent was required in order to continue trading and subsequently submitted an application.

Members noted that the application was previously listed for consideration at two previous Licensing Sub Committees, and the Applicant had not attended those meetings.

The Applicant was in attendance and spoke in support of the application and responded to questions, from Members, the Apprentice Solicitor, the Legal Advisor, and the Licensing Officer.

The Licensing Sub Committee having considered the application, welcomed the service and food products provided to hospital staff and visitors and considered there was no reason to refuse the application.

RESOLVED that the application be approved with the following conditions:

- a) all of the conditions contained within Appendix A of the Street Trading Policy dated 2015 should be included in the consent;
- b) the consent holder will provide a bin for customer use and that the consent holder will ensure that any rubbish in the vicinity (within 100m of the business), emanating from the business is cleared away at regular intervals;
- c) the use of A boards and flags be prohibited;
- d) the consent holder will not conduct fly posting;
- e) in the event that issues do arise from this consent, then this consent may be revoked by the Service Lead Environmental Health and Community Safety in consultation with the Chair of the Licensing Committee; and
- f) in line with the Council's resolution of 24th April 2018, any cutlery, food/ drink containers, and drinking straws used should not be made from single use plastics.

79

HEARING TO DETERMINE WHETHER AN APPLICANT FOR 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 a licence to drive a Hackney Carriage/Private Hire Vehicle.

The Legal Advisor set out the procedure for the hearing and the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976. The Licensed Driver confirmed that the procedure was understood.

The Legal Advisor stated that evidential burden was not on the Licensed Driver to prove 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. Every case before the Licensing Sub-Committee was heard on its individual merits and its paramount concern was the safety of the travelling public.

The Service Lead - Environmental Health & Community Safety presented the report and gave evidence in respect of a Licensed Driver who on 28 September 2023, had notified the Licensing Authority that he had been convicted of an assault

that had taken place on 5th May 2022. The driver had made himself available on 28th September 2023 to attend a meeting at the Civic Centre to discuss the matter further with the Service Lead - Environmental Health & Community Safety and the Senior Licensing Officer, providing information of the conviction. The Service Lead - Environmental Health & Community Safety was satisfied that a false application had not been made, nor that the Licensing Authority had been misled by the Licensed Driver. There had been no complaints made against the driver from the parties involved or the Police.

The Licenced Driver was in attendance and was accompanied by his partner, to give evidence in respect of the matter. He responded to questions from Members, the Legal Advisor, and the Service Lead - Environmental Health & Community Safety.

The Licensing Sub Committee, having considered the report and submissions from the Licensed Driver, considered the driver to be a fit and proper person, however, felt that a written warning with penalty points should be issued.

RESOLVED that the Licensing Sub-committee were satisfied that the Licensed Driver was a fit and proper person to hold a taxi driver's licence and the licence should remain in place with a written warning and 9 penalty points being issued by the Chair of the Licensing Sub Committee with regard to future conduct.

(The meeting commenced at 10.00 am and closed at 1.15 pm)

Chair