

Minutes

Licensing Committee

Venue:	Committee Room
Date:	Monday 5 September 2016
Time:	10.00am
Present:	Councillors C Pearson (Chair), Mrs J Chilvers, S Duckett, K Ellis, M Hobson, D Peart (sub for M Jordan), R Sweeting, J Thurlow, and Mrs D White.
Apologies:	Councillors M Jordan and B Marshall.
Officers present:	Kelly Dawson, Senior Solicitor; Tim Grogan, Senior Enforcement Officer; Barbara Patterson, Business Administration Assistant, and Daniel Maguire, Democratic Services Officer
Public:	0
Press:	0

18. MINUTES

The Committee considered the minutes of the Licensing Committee meeting held on 1 August 2016. The minutes were approved as a correct record and signed by the Chair.

RESOLVED:

To approve the minutes of the Licensing Committee meeting held on 1 August 2016.

19. DISCLOSURES OF INTEREST

There were no disclosures of interest.

20. PROCEDURE

The Committee noted the Licensing Committee procedure, including the section of the Licensing Policy regarding the relevance of convictions.

21. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Chair confirmed that a training session for councillors and officers would take place on Monday 17 October. The exact timings would be confirmed in due course.

It was reported that the Senior Enforcement Officer was retiring from the Council later in the year. The Committee expressed its thanks for his work during the previous 13 years and wished him well in his retirement.

22. PRIVATE SESSION

RESOLVED:

That, in accordance with Section 100(A) (4) of the Local Government Act 1972, in view of the nature of the business to be transacted the meeting be not open to the press and public during discussion of the following items as there will be disclosure of exempt information as described in paragraphs 3 of Schedule 12(A) of the Act.

23. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE (REPORT L/16/7)

The Senior Enforcement Officer confirmed that the application for a Private Hire Driver's Licence had been made speculatively by telephone. The Senior Solicitor advised that the item could not be considered by the Committee until a formal application had been submitted and a current Disclosure and Barring Service (DBS) check completed.

The applicant was invited into the meeting and the Senior Solicitor explained that he was required to submit a formal application before the Committee could consider his application. His attention was drawn to the Council's Licensing Policy, and specifically the guidance in relation to the relevance of convictions. It was confirmed that the applicant had received a copy of the guidance in advance of the meeting.

24. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE (REPORT L/16/8)

The Senior Enforcement Officer presented the report, which detailed concerns relating to a Disclosure and Barring Service (DBS) check made in connection

with an application for a Hackney Carriage Driver's Licence. It was noted that there was a minor change to the report in that the applicant, if successful, proposed to work for a different operator to the one stated in the original report. A copy of the DBS report was circulated to the Committee.

The applicant was in attendance and was able to answer questions from the Committee.

It was confirmed that the applicant had received one conviction for three similar offences, but that he had not realised the severity of the offence until first contacted by the Police after the last occurrence. The applicant confirmed that he was applying again, as three years had now passed since the conviction (the minimum period required under the Council's Licensing Policy). He noted that he had no other convictions and that he wanted to work as a Hackney Carriage driver as he had undertaken similar work previously and had enjoyed it.

The applicant and the Senior Enforcement Officer left the room while the Committee made its decision.

RESOLVED:

To refuse the application for a Hackney Carriage Driver's Licence.

Reason for decision:

The applicant's DBS check raised concerns about his ability to fulfil the requirement of being a 'fit and proper person' to hold a Hackney Carriage driver's licence, in accordance with the Council's Licensing Policy guidelines and specifically the requirement for a period of between three and five years to have elapsed from the date of conviction.

The applicant was invited back into the meeting and the Senior Solicitor advised him of the Committee's decision and the procedure if he wished to appeal the decision.

25. APPLICATION FOR AN EXEMPTION FROM ASSISTING PASSENGERS ON MEDICAL GROUNDS (REPORT L/16/9)

The Senior Enforcement Officer presented the report which detailed an application for an exemption from assisting passengers on medical grounds. The report had been before the Committee previously on 13 June 2016 and 1 August 2016 but on both occasions the applicant had been unable to attend.

The Committee was informed that the Council (and therefore its licensed Hackney Carriage drivers) had a duty under the Equality Act 2010 to provide reasonable assistance to all passengers regardless of a passenger's circumstances. The Committee was further informed that the Council could attach conditions to an individual driver's licence where a specific physical or

medical condition prevented him/her being able to assist certain passengers, such as wheelchair users.

The Committee was informed that the applicant had applied for an exemption from handling wheelchairs due to a back injury that had been sustained as the result of a road traffic collision in 2011. The Committee noted that letters from the applicant's General Practitioner and Specialist from the Department of Neurology at Hull Royal Infirmary had been submitted by the applicant as supporting evidence.

The Committee raised concern regarding the applicant's current physical condition as he appeared to walk with difficulty and had limited movement in his neck. The applicant confirmed that his condition was worse than usual as he had refrained from taking his medication for three days prior to his appearance at the meeting.

The applicant confirmed that his driving licence had been revoked by the Driver and Vehicle Standards Agency (DVSA) for a period of 17 months due to his medical condition but that it had since been reinstated in June 2014 following the completion of a satisfactory medical report for the DVSA.

The applicant confirmed that, although he had not been working as a Hackney Carriage driver during most of the previous four years due to his medical condition, he had undertaken approximately 40 hours of Hackney Carriage driving since January 2016 but that he had been unable to work for periods greater than three hours due to becoming tired.

The applicant and the Senior Enforcement Officer left the room while the Committee made its decision.

The Committee was concerned, based upon the evidence available at the meeting, that the applicant's physical condition meant that he did not currently meet the requirement of being a 'fit and proper' person to be a licenced Hackney Carriage Driver in the Selby district. The Committee further agreed that the applicant's physical condition was such that it represented a matter of public safety.

RESOLVED:

- (i) To defer the application for an exemption from assisting passengers on medical grounds until such time as the applicant can provide a statement from a medical professional;**
- (ii) To suspend the applicant's Hackney Carriage Driver's Licence with immediate effect and until such time as the applicant can provide satisfactory evidence to confirm he is a 'fit and proper person' to be a licenced Hackney Carriage Driver; and**
- (iii) That the suspension referred to above (ii) may be revoked by officers, after consultation with the Chair of the Licensing Committee, when satisfactory**

evidence is provided that the applicant is medically fit to be a licensed Hackney Carriage Driver.

Reasons for decision:

- (i) The Committee required confirmation from a medical professional regarding the ability of the applicant to handle wheelchairs.*
- (ii) Due to the applicant's current physical condition, in accordance with section 61(b) of the Local Government (Miscellaneous Provisions) Act 1976 (as amended) the Committee considered that there was reasonable cause to suspend the applicant's licence pending confirmation he is fit to operate a Hackney Carriage vehicle. The suspension was made in the interest of public safety and therefore was effective immediately.*

The applicant was invited back into the meeting and the Senior Solicitor advised him of the Committee's decision and the procedure if he wished to appeal the decision.

The meeting closed at 12.13pm.