

BATH AND NORTH EAST SOMERSET

LICENSING (TAXIS, STREET TRADING AND MISCELLANEOUS) SUB-COMMITTEE

Tuesday, 7th February, 2012

Present:- Councillors Douglas Nicol (Chair) (In place of Sarah Bevan), Gabriel Batt (In place of Bryan Chalker) and Malcolm Lees

Also in attendance: John Dowding (Senior Licensing Officer), Andrew Tapper (Licensing Officer / Senior Licensing Officer), Enfys Hughes and Shaine Lewis (Senior Legal Adviser)

25 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the emergency evacuation procedure set out on the agenda.

26 APOLOGIES FOR ABSENCE

There were apologies from Councillor Sarah Bevan, Councillor Douglas Nicol was her substitute and Councillor Bryan Chalker, Councillor Gabriel Batt was his substitute.

27 DECLARATIONS OF INTEREST

See minutes number 36.

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR(PERSON)

There was none.

29 MINUTES - 6TH SEPTEMBER 2011

RESOLVED that the minutes of the meeting of Tuesday 6th September 2011 be confirmed as a correct record and signed by the Chair(person).

30 LICENSING PROCEDURE - HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE DRIVERS HEARING

RESOLVED that the procedure for this part of the meeting be noted.

31 APPROVAL OF VEHICLE FOR PRIVATE HIRE - MR ANTHONY D HUDD

The Sub-Committee considered the report which sought approval of a Mercedes Viano vehicle for use as a private hire vehicle.

The applicant Mr Hudd was present. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that the vehicle fell outside the age requirements as stipulated in the private hire vehicle licence conditions. He added that Officers could exercise some discretion when the vehicle was between two and five years old. This vehicle was just over five years old, therefore the application was presented to the Sub-Committee for determination.

Members adjourned the meeting to inspect the vehicle, then the meeting continued.

Mr Hudd put his case and was questioned.

Following an adjournment it was

RESOLVED that the Mercedes Viano be approved for use as a Private Hire Vehicle subject to the standard conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations and took account of the inspection by a Licensing Officer and their own inspection of the vehicle during the meeting. Although the vehicle fell outside the Council's policy Members found notwithstanding the vehicle's high mileage and age, that it was suitable in type, size and design and was comfortable and of good visible appearance. Therefore the vehicle was approved and licensed subject to the standard conditions.

32 EXCLUSION OF THE PUBLIC

RESOLVED "that, having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items(s) of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended."

33 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR F D C

The Sub-Committee considered the report which sought determination of an application by Mr FDC for the grant of a combined hackney carriage/private hire driver's licence.

The applicant Mr FDC was present with his friend. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a certified and translated check was undertaken for any driving offences

obtained in Romania prior to Mr FDC's arrival in the UK, which had revealed one driving offence. He circulated the check and a statement in respect of Mr FDC. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr FDC put his case and was questioned. Mr FDC then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr FDC be granted subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations, took into account a Criminal Record check and his statement. Whilst noting the circumstances of the drink driving offence and the other minor motoring matters Members considered the applicant had presented himself very well, was apologetic for his past behaviour and satisfied them that this sort of offending was in the past. Members warned him as to his future conduct and dis-applied the policy having considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant and found him a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

34 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR A T V

The Sub-Committee considered the report which sought determination of an application by Mr ATV for the grant of a combined hackney carriage/private hire driver's licence.

The applicant Mr ATV was present with his cousin. He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and stated that as part of the application process a certified and translated check was undertaken for any driving offences obtained in Romania prior to Mr ATV's arrival in the UK, which had revealed a number of driving offences. He circulated the check and a statement in respect of Mr ATV. The applicant and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr ATV put his case and was questioned. Mr ATV then made a closing statement.

Following an adjournment it was

RESOLVED that a hackney carriage/private hire driver's licence in respect of Mr ATV be granted subject to the standard terms and conditions.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members listened carefully to the applicant's representations, took into account a Criminal Record check and his statement. Members considered that he had presented himself very well, was apologetic for his past behaviour and had satisfied them that this sort of offending was now in the past. Whilst warning him as to his future conduct Members dis-applied the policy having considered they would be happy if their family, friends or loved ones were to travel in a vehicle driven by the applicant. He was therefore found to be a fit and proper person to hold a Hackney Carriage/Private Hire driver's licence.

35 CONSIDERATION OF CONVICTION OBTAINED:- MR M Y

The Sub-Committee considered the report which sought consideration of a conviction obtained by Mr MY during the term of his hackney carriage/private hire driver's licence.

Mr MY was present with Mr H (Bath Taxis Association). He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received a letter from Mr MY informing him that he had received a conviction. He circulated the letter, further information and a CRB check. Mr MY, Mr H and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr MY put his case and was questioned. Mr MY then made a closing statement.

Following an adjournment it was

RESOLVED that no further action be taken in respect of Mr MY's conviction.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members had to consider what action, if any, to take in light of the conviction obtained by Mr MY during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr MY was a fit and proper person to hold such a licence and therefore had regard to his history as a Licence holder, his Criminal Records' check, his representations and his supporting information. However, with regard to a person's fitness, Members disregarded matters relating to Mr MY's livelihood.

Members noted Mr MY was convicted of the offence of possessing a prohibited weapon and was sentenced to a 20 week term of imprisonment suspended for 6 months together with a home detention curfew for 3 months. Members took a serious view of licensed drivers carrying weapons of any description in a public vehicle whatever the justification offered for doing so. However, they considered that Mr MY had served his sentence and notified the Council of his conviction according to the conditions of his licence, learned his lesson and should be given credit for

doing so. Nevertheless, Members did not endorse the carrying of any potentially offensive weapons in a public vehicle by its licensed driver and therefore gave Mr MY a stern warning as to his future conduct.

36 CONSIDERATION OF CAUTION OBTAINED:- MR A W

Councillor Gabriel Batt declared a personal interest in that he knew of Mr AW but did not know him socially, therefore felt he would not be prejudiced in determining this matter.

The Sub-Committee considered the report which sought consideration of a caution obtained by Mr AW during the term of his hackney carriage/private hire driver's licence.

Mr AW was present with Mr H (Bath Taxis Association). He confirmed he had read and understood the procedure for the meeting.

The Licensing Officer presented the report and informed Members that he had received information from Mr AW that he had accepted a police caution. He circulated information relating to the caution, a chronology of complaints against Mr AW and a letter received from the other driver in relation to the caution. Mr AW, Mr H and the officer withdrew from the meeting while Members took some time to consider these documents.

Mr AW put his case and was questioned. Mr AW then made a closing statement.

Following an adjournment it was

RESOVED that the hackney carriage/private hire driver's licence in respect of Mr AW be revoked.

Reasons for decision

Members took into account the Human Rights Act 1998, the Local Government (Miscellaneous Provisions) Act 1976 and the Council's Policy.

Members had to consider what action, if any, to take in light of the Police Caution obtained by Mr AW during the term of his Hackney Carriage/Private Hire Driver's Licence. In doing so Members had to consider whether Mr AW continued to be a fit and proper person to hold such a licence and have therefore had regard to his history as a Licence holder, caution, his representations and supporting information. However, with regard to fitness Members have disregarded matters relating to Mr AW's personal circumstances.

In order to hold a combined Hackney Carriage/Private Hire Vehicle driver's Licence the holder must be a fit and proper person and a Licensing Authority may suspend, revoke or refuse to renew a licence if the holder has since its grant (i) been convicted of an offence involving dishonesty, indecency or violence (ii) been convicted of an offence or failed to comply with the Acts of 1847 or 1976 or any other reasonable cause.

Mr AW stated that although he had accepted the complaints at the time they were made the complaints did not all relate to him as some related to a driver he had employed, however he could not be specific as to which incidents were which. Mr AW also stated the assault was a result of a push and shove playground type incident arising from what he considered to be an illegal manoeuvre by Mr B, the other driver. So far as the incident with the 15 year old boy was concerned, Mr AW stated he was stuck behind a dust-cart for 20 minutes and the boy could have asked him to stop once the fare reached £6, however, he didn't and started to kick the seat when he was being taken back to the taxi rank. Mr AW said he was proud to be a taxi driver, had taken an NVQ and was aware that his manner could be seen by others as being abrupt.

In looking at Mr AW's history Members noted he had a history of complaint from the fare paying public and other road users dating from 2002. With regard to him taking the blame for his employee Members noted he was unable to pin point any incidences and considered it unlikely that any other driver could be responsible in light of the investigation procedure outlined by the Licensing Officer and in any event took a dim view if Mr AW was in fact covering for another driver. Nevertheless, Mr AW's file disclosed complaints relating to dangerous driving, poor manners, refusing to take a person with a guide dog, threatening and abusive behaviour, overcharging and the assault. For example, on the 11/09/07 a complaint was received that Mr AW got out of his vehicle holding a long handled torch and proceeded to threaten and abuse another road user. Further, on the 09/11/09 Mr AW was hired by a 15 year old boy to take him on his regular journey; the boy had £6 which always covered the cost. On this occasion, however, the boy was taken over a prolonged route resulting in him being 20 pence short of the fare whereupon Mr AW returned him to the taxi rank and left him. On the 12/02/11 Mr AW assaulted a fellow taxi driver in the tunnel at the Bath Spa Railway Station by repeatedly pushing him to the chest forcing him against the tunnel wall causing grazes to the victim's arm. Mr AW was interviewed by police and accepted a caution for common assault.

Members found that Mr AW had consistently attracted complaint, had been warned of his conduct by licensing officers and formally cautioned for refusing to take a customer with a guide dog. Moreover, Members were particularly concerned by the following: firstly when Mr AW got out of his vehicle with a long handled torch and threatened and verbally abused another road user which continued when he and the road user met in the Sainsbury's petrol filling station some time later; secondly, when Mr AW abused the trust placed in him by a 15 year old boy doubtless causing distress by extended the journey without first notifying him only to return him to the taxi rank when the boy was 20p short of the fare; and finally, with regard to the police caution, Members found this conduct extraordinary particularly as it occurred whilst acting in the course of employment, on a taxi rank and could easily have been witnessed by members of the public doubtless bringing the trade and its law abiding members into disrepute.

It was clear that Mr AW had not only failed time and again to live up to the responsibility that came with being a hackney carriage/private hire driver but also had a propensity towards confrontation and often got out of his vehicle to engage in it. For example the assault followed an incident where Mr AW felt his victim had driven illegally and having dropped his fare Mr AW returned to the rank and confronted him. Following the argument Mr AW returned to his vehicle although Mr

B, the victim, approached him whereupon Mr AW got out of his car, followed him to the tunnel and assaulted him. Members considered there was no justification for him to do this and he could have quite simply remained in his vehicle.

Members found Mr AW's behaviour over a long period of time was not what they expected from a fit and proper person and heard nothing from Mr AW to satisfy them that their family, friends or loved ones would be safe in a vehicle driven by him. Moreover, and notwithstanding his victim having stated that he did not wish to be the cause of Mr AW losing his livelihood, Members considered Mr AW only had his own conduct to blame for the loss of his licence and therefore revoked his licence on the ground of any other reasonable cause.

The meeting ended at 1.58 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services