

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 15th September, 2015, 10.00 am

Councillors: Paul Myers (Chair), Caroline Roberts and Mark Shelford

Officers in attendance: Carrie-Ann Evans (Senior Legal Adviser) and John Dowding (Senior Public Protection Officer)

42 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

43 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

44 DECLARATIONS OF INTEREST

There were none.

45 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

46 MINUTES: 18TH AUGUST 2015

These were approved as a correct record and signed by the Chair.

47 EXCLUSION OF THE PUBLIC

RESOLVED that, the Committee 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 agenda items 49-52 because of the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act, as amended.

48 TAXI PROCEDURE

The Chair explained the procedure to be followed for agenda items 49-52.

49 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE: A T

Mr A T confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. He circulated copies of a DBS certificate relating to Mr A T, a statement submitted by him and references. The hearing was adjourned to allow Members time to study these documents.

Mr AT stated his case and was questioned by Members.

Mr AT made a closing statement.

Following an adjournment the Sub-Committee **RESOLVED** to refuse the application.

Reasons

Members have had to determine an application for a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In making a determination Members took account of the applicant's oral representations, his statement, references and balanced these against the information provided by the Disclosure and Barring Service.

The applicant accepted that he had made some mistakes but had grown and was willing to move on and be a better person. He explained that he felt working would make him a better person. When questioned regarding his personal development the applicant indicated that he had been working with the Probation service for a year and felt he had been taught a lot and had learned to walk away. When asked how he would react if his friend was involved in a confrontational situation now, he explained that he would pull his friend away; would not become involved physically and would talk the situation through. Mr T indicated in closing that he had a young son and wants to be a taxi driver in order to support him more.

Members noted that the Council's Policy stated that where an applicant has a conviction for an offence such as an assault or common assault they should have remained free from conviction for a period of 3 years. Members were mindful that each case will be decided on its own merits and that they may depart from the policy where there are reasons for doing so. In this case however, Mr T's last conviction for battery was in 2014 and Members were not satisfied that Mr T had developed the maturity and skills at this time, to be a fit and proper person.

Members took the view that the applicant was not a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence and accordingly, his application was refused.

50 CONSIDERATION OF CONVICTION OBTAINED: L D

The licence holder confirmed that she had received and understood the procedure to be followed for the hearing. She was represented at the hearing by a solicitor.

The Senior Public Protection Officer presented the report.

Ms D's solicitor made a statement on her behalf. Ms D was questioned by Members. Ms D's solicitor made a closing statement.

Following an adjournment the Sub-Committee **RESOLVED** to issue Ms D with a clear warning about her future conduct.

Reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence having obtained convictions during the course of her licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In making a determination Members took account of the oral representations made on behalf of the licensee by her solicitor.

Members took into account the mitigation presented on behalf of the licensee in respect of the circumstances of the offences in question and took into account the licensee's background as a BANES licensed taxi driver. Members noted that Ms D expressed emphatically that she was now aware of her insurance responsibilities as a licensed taxi driver and there would not be a repeat of this kind of incident.

Members took a dim view of the offences committed by Ms D and viewed them seriously but felt that at this time, on balance, Ms D remained a fit and proper person. Ms D was however, given a clear warning as to her future conduct and warned that if she appears before the Licensing Sub-Committee again she is at risk of suspension or revocation.

51 CONSIDERATION OF CONVICTION OBTAINED: S E

Mr E confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and provided Members with a copy of a DBS certificate relating to Mr E and a statement submitted by him. The hearing was adjourned to allow Members time to study these documents.

Mr E stated his case and was questioned by Members. He made a closing statement.

Following an adjournment the Sub-Committee **RESOLVED** to issue Mr E with a warning to be diligent in relation to the conditions of his licence and his conduct.

Reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence having obtained a conviction during the course of his licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In making a determination Members took account of the licensee's oral representations and his statement and balanced these against the information provided by the Disclosure and Barring Service.

Members noted that Mr S E had indicated on his renewal application form in 2013 that he had been convicted of an offence since the grant of his last licence and that he had not previously declared this to the Council. Members noted that there was an element of human error, which they make no criticism of, which had resulted in this not being followed up at the time.

Members took the view that the offence in 2012 was an isolated domestic incident arising out of a particularly stressful personal situation. Members were impressed by Mr E's presentation and commitment to being an ambassador for BANES in his role as a licensed taxi driver. Members issued Mr E with a warning to be diligent in relation to the conditions of his licence and his conduct however, Members were satisfied that Mr E is able to conduct himself in a calm, rational and professional manner and accordingly took the view he is a fit and proper person to continue to hold a combined Hackney Carriage/Private Hire drivers licence.

52 CONSIDERATION OF CONVICTION OBTAINED: G Z

Mr Z confirmed that he had received and understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report.

Mr Z made a statement and was questioned by Members. He made a closing statement.

Following an adjournment the Sub-Committee **RESOLVED** to issue Mr Z with a clear warning as to his future conduct.

Reasons

Members have had to determine what action to take against the holder of a combined Hackney Carriage/Private Hire Driver's Licence having obtained convictions during the course of his licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In making a determination Members took account of the licensee's oral representations and balanced these against the information in relation to his recent convictions.

Members had to decide whether the licensee continued to be a fit and proper person to hold a licence taking into account all the circumstances including his driving history, record as a licenced driver and his character.

Members noted Mr Z's early admission of guilt, his candour and the fact that he did not seek to minimise his wrongdoing.

Members took a dim view of the offences committed by Mr Z and viewed them seriously but felt that at this time, on balance, he remained a fit and proper person. Mr Z was however, given a clear warning as to his future conduct and warned that if he appears before the LSC again he is at risk of suspension or revocation.

The meeting ended at 1.30 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services