

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Monday, 7th April, 2014, 10.00 am

**Councillors:** Manda Rigby (Chair), Bryan Chalker (In place of Roger Symonds) and Anthony Clarke

**Officers in attendance:** John Dowding (Senior Public Protection Officer) and Simon Barnes (Principal Solicitor)

#### **118 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the procedure.

#### **119 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Councillor Roger Symonds, for whom Councillor Bryan Chalker substituted.

#### **120 DECLARATIONS OF INTEREST**

There were none.

#### **121 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

Members stood in silence for one minute to show their respect for the late Councillor Gabriel Batt, a Member of the Sub-Committee, who had died the previous week. They sent their condolences to his family.

#### **122 MINUTES: 4TH MARCH 2014**

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

#### **123 LICENSING PROCEDURE - DRIVER APPLICATION**

**RESOLVED** that the procedure for agenda items 127-130 be noted.

#### **124 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 next four items 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.

#### **125 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR AA**

The Sub-Committee considered the report, which sought determination of Mr AA's application for the grant of a combined Hackney Carriage/Private Hire Driver's licence.

Mr AA was present. He confirmed that he understood the procedure for the hearing.

The Senior Public Protection Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken, which had revealed previous convictions. He circulated the Disclosure and Barring Service check, personal statement and reference for Mr AA. The applicant and Senior Public Protection Officer withdrew from the meeting while Members took some time to consider these documents.

Mr AA put his case and was questioned. He also made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr AA be refused a combined Hackney Carriage/Private Hire Driver's licence.

#### Reasons for decision

Members have had to determine an application by Mr AA for a combined Hackney Carriage and Private Hire Driver's licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Equality Act 2010, case law and the Council's policy.

Members had to consider whether Mr AA is a fit and proper person to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr AA.

Members noted that Mr AA had been convicted of drink driving on 25 September 2006 and, in accordance with the Council's policy, they took a serious view of this offence, despite it being over 5 years old. Members also noted that Mr AA had been convicted of a number of offences between 2005 and 2011, primarily criminal damage, but also interfering with a vehicle and a public order offence. The last conviction was on 23 May 2011 meaning that 3 years has not yet elapsed. Members noted a theme of drink and aggression running through the convictions.

To assist them in making a determination, Members had regard to Mr AA's written statement and his reference and listened to his representations. Mr AA stated that he was much younger when the offences had occurred and they were as a result of drinking.

Members decided that Mr AA is not a fit and proper person to hold a private hire and hackney carriage drivers licence due to the nature and extent of his previous convictions, the fact that he has not been free of convictions for three years and the fact that drink and aggression featured in many of the offences. Accordingly his application is refused.

**126 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR BB**

The Sub-Committee considered the report, which sought determination of Mr BB's application for the grant of a combined Hackney Carriage/Private Hire Driver's licence.

Mr BB was present. He confirmed that he understood the procedure for the hearing.

The Senior Public Protection Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken, which had revealed a previous caution. He circulated the Disclosure and Barring Service check, personal statement and references for Mr BB. The applicant and the Senior Public Protection Officer withdrew from the meeting while Members took some time to consider these documents.

Mr BB put his case and was questioned. He also made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr BB be granted a combined Hackney Carriage/Private Hire Driver's licence.

Reasons for decision

Members have had to determine an application by Mr BB for a combined Hackney Carriage and Private Hire Driver's licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Equality Act 2010, case law and the Council's policy.

Members had to consider whether Mr BB is a fit and proper person to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr BB.

Members noted that Mr BB was cautioned for a public order offence on 13 December 2010 resulting from a drunken argument on the way home from the pub. Members noted that the caution was over 2 years old and that Mr BB has good references, including from the Head Chef of the restaurant in which he worked which stated that Mr BB is able to work in a pressurised environment.

In his representations to the Committee, Mr BB stated that the incident was a one-off, it would not happen again and he was grown up and wanted to start his professional life.

In light of the age of the caution, the references and Mr BB's frank explanation of the incident, Members are satisfied that Mr BB is a fit and proper person to hold a private hire and hackney carriage drivers licence and accordingly his application is granted.

**127 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR CDC**

The Sub-Committee considered the report, which sought determination of Mr CDC's application for the grant of a combined Hackney Carriage/Private Hire Driver's licence.

Mr CDC was present. He confirmed that he understood the procedure for the hearing.

The Senior Public Protection Officer presented the report and stated that as part of the application process a Disclosure and Barring Service check was undertaken, which had revealed previous convictions. He circulated the Disclosure and Barring Service check and references for Mr CDC. The applicant and Senior Public Protection Officer withdrew from the meeting while Members took some time to consider these documents.

Mr CDC put his case and was questioned. He also made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr CDC be granted a combined Hackney Carriage/Private Hire Driver's licence.

Reasons for decision

Members have had to determine an application by Mr CDC for a combined Hackney Carriage and Private Hire Driver's licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Equality Act 2010, case law and the Council's policy.

Members had to consider whether Mr CDC is a fit and proper person to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr CDC.

Members noted that Mr CDC had held a taxi licence issued by the authority between 1998 – 2010 and that the Committee had refused his application to renew the licence on 9 March 2010 due to cautions for forgery in 2000, intimidation of a witness in 2006 and a conviction for common assault in 2009. Members also noted that Mr CDC had breached the conditions of his licence by failing to notify the authority of the witness intimidation caution. He also had a conviction for theft dating back to 1996.

In his representations to the Committee, Mr CDC explained the circumstances of the offences. Members noted that the offences were relatively old in terms of their policy. Members were impressed by Mr CDC's frank explanation. They took account of his previous 12 years as a driver. Members were satisfied that Mr CDC realises the value of a licence and will not do anything to jeopardise it in the future.

Members also had regard to the written references provided.

In light of this, Members decided that Mr CDC is a fit and proper person to hold a private hire and hackney carriage driver's licence and accordingly his application is granted.

**128 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:- MR CS**

The Sub-Committee considered the report, which sought determination of Mr CS's application for the grant of a combined Hackney Carriage/Private Hire Driver's licence.

Mr CS was present. Because of his limited English, he was accompanied by a friend to interpret for him. Mr CS confirmed that he understood the procedure for the hearing.

The Senior Public Protection Officer presented the report and stated that as part of the application process a certified translation of Mr CS's driving history had been obtained from Romania, which had revealed previous convictions. He circulated the certified translation, Mr CS's personal statement and references. The applicant, his friend and the Senior Public Protection Officer withdrew from the meeting while Members took some time to consider these documents.

Mr CS put his case and was questioned. He also made a closing statement.

Following an adjournment it was

**RESOLVED** that Mr CS be refused a combined Hackney Carriage/Private Hire Driver's licence.

Reasons for decision

Members have had to determine an application by Mr CS for a combined Hackney Carriage and Private Hire Driver's licence.

In doing so, they took account of the Local Government (Miscellaneous Provisions) Act 1976, the Human Rights Act 1998, the Equality Act 2010, case law and the Council's policy.

Members had to consider whether Mr CS is a fit and proper person to hold such a licence and therefore asked themselves whether they would allow their son, daughter, spouse, partner or anyone they cared about to travel alone in a vehicle driven by Mr CS.

Members noted that Mr C S had been convicted in Romania of 12 traffic offences including speeding, illegal stopping and using a mobile phone between 2008 – 2013 and that 6 of those offences had occurred within 3 years of the date of his application.

To assist them in making a determination, Members had regard to Mr CS's written statement and listened to his representations. Mr CS stated that he had worked in Romania as a medicine delivery driver and was therefore always rushing from place to place. He said that the police in Romania are corrupt and it is common to get convicted of such offences. However, Members were mindful that there was nothing before them to indicate that the convictions were unlawful and that they had to take the convictions at face value.

Members also had regard to the references provided.

Members reminded themselves of the Council's policy that minor traffic offences are not normally a bar to a licence being granted, provided there have not been more than three offences within the three years immediately preceding the application. In this case the policy was breached and Members saw no reason to depart from it.

Members decided that Mr CS is not a fit and proper person to hold a private hire and hackney carriage driver's licence and accordingly the application is refused.

The meeting ended at 11.55 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**