

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 16th February, 2016, 10.00 am

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

Officers in attendance: Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer) and Carrie-Ann Evans (Senior Legal Adviser)

123 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

124 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

125 DECLARATIONS OF INTEREST

There were none.

126 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

127 EXCLUSION OF THE PUBLIC

RESOLVED that the Sub-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 7, 8 and 9 and the reporting of the meeting be prevented under Section 100A(5A) 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.

128 TAXI PROCEDURE

The Chair explained the procedure to be followed for agenda items 7, 8 and 9.

129 APPLICATION FOR PRIVATE HIRE OPERATOR'S LICENCE - MR DM

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

The Senior Public Protection Officer summarised the report and provided Members with copies of a DBS certificate, a statement submitted by Mr DM and three references given on his behalf. The meeting was adjourned to allow Members time to read these documents.

Mr DM stated his case and was questioned by Members. He did not wish to make a closing statement.

Following an adjournment the Sub-Committee **RESOLVED** to grant Mr DM a Private Hire Operator's Licence.

Reasons

Members have had to determine an application for a Private Hire Operator'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 contained in the Disclosure and Barring Service report.

The applicant did not try to go behind his conviction which he noted was not for violence but explained that it arose out of a particularly stressful period involving private family proceedings. He explained to members that he had moved on and felt that his previous difficulties would not impact upon his ability to act as a Private Hire Operator.

Members noted that according to the Council's Policy, an applicant is expected to have not been convicted of an offence during the previous 3 years and Mr D M's conviction falls squarely within this period. Members felt however, that taking into account the nature, seriousness, frequency of offending and mitigating circumstances that Mr D M is a fit and proper person to hold a Private Hire Operator's Licence. Their reasons for this are that:

- The conviction was a one-off in Mr D M's antecedent record which is otherwise unblemished.
- The conviction arose out of a private, domestic matter at a time of extreme stress in Mr D M's life.
- Since that time, Mr D M has moved on and confirmed to members that his relationship with the complainant in relation to the conviction is now amicable.

130 CONSIDERATION OF CONVICTIONS OBTAINED - MR MJS

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

The Senior Public Protection Officer summarised the report and distributed a DVLA report showing three endorsements on Mr MJS's driving licence for speeding offences.

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

Following an adjournment the Sub-Committee **RESOLVED** to suspend Mr MJS's combined Hackney Carriage/Private Hire Driver's licence for one week.

Reasons

Members have had to determine what action, if any, to take against the holder of a combined Hackney Carriage / Private Hire Driver's Licence having obtained three 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.

Members took account of the applicant's oral representations and balanced these against the DVLA print provided.

Accordingly 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 and character.

The licensee accepted that he had received three convictions for speeding offences within the last three years and he did not seek to go behind those convictions. He explained that in each instance, as far as he could recall, he was only 5 or 6 miles per hour over the speed limit. On each occasion he said he was driving his licensed vehicle but was not on duty. Mr S said that he is normally very aware of speed and would not speed whilst he had members of the public on-board. He said he was definitely more aware of his speed since these instances.

Members noted that Mr S had been licensed since February 2003 and save for these convictions, had no complaints against his taxi licensing record. That said the Council's Policy expects a licensee not to have been convicted of 3 or more minor motoring offences during the previous 3 years. Mr S's convictions fall squarely within this part of the Policy. Members heard that Mr S had not taken up the Speed Awareness Course despite being offered it for his first speeding offence. Furthermore, Mr S committed his most recent two speeding offences in the space of 5 months and in similar circumstances, this frequency gave Members cause for concern. Whilst Mr S stated that he was not on duty at the time of these offences, there was a wider risk to pedestrians and other road users; this is not the conduct expected of a BANES licensed taxi driver.

For the reasons stated above Members take the view that Mr S's conduct has not been that of a fit and proper person but view revocation as disproportionate. Accordingly, members suspend Mr S's licence for a period of 7 days in order to allow him to reflect on his behaviour and deter him from misconduct in the future. Following the end of the period of suspension Members take the view that Mr S will be a fit and proper person again.

131 TAXI COMPLAINTS PROCEDURE

132 CONSIDERATION OF COMPLAINTS RECEIVED MR DF

Mr DF had sent an email to the Senior Public Protection Officer explaining that he was unable to attend today's hearing and requesting that the hearing be deferred.

RESOLVED to defer the hearing a future date to allow Mr DF to attend.

Reasons

Members considered the applicant's written request to defer the meeting due to his non-availability as a result of work commitments. In all the circumstances and in the interests of openness, transparency and fairness Members resolved to defer the meeting to the first suitable date where the licensee should present his case. Members noted that the matter may proceed in Mr D F's absence on the next occasion.

The meeting ended at 12.25 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services