

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 26th October, 2017, 10.00 am

Councillors: Les Kew (Chair), Deirdre Horstmann and Caroline Roberts

Officers in attendance: Alan Bartlett (Public Protection Team Leader), John Dowding (Senior Public Protection Officer) and Shaine Lewis (Legal Adviser)

33 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

34 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

35 DECLARATIONS OF INTEREST

There were none.

36 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

37 MINUTES: 14 SEPTEMBER 2017

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

38 EXCLUSION OF THE PUBLIC

The Committee, having been satisfied that the public interest would be better served by not disclosing relevant information, **RESOLVED**, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972, that the public should be excluded from the meeting for agenda items 8-14, and the reporting of that part of the meeting be prevented, 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.

39 TAXI PROCEDURE

The Chair outlined the taxi hearing procedure.

40 APPLICATION FOR COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR S A H

Mr S A H confirmed that he understood the procedure to be followed for this hearing.

The Senior Public Protection Officer presented the report. With his application Mr S A H had submitted a DBS certificate showing a caution. He provided Members with a

copy of this and of a statement submitted by Mr S A H. The hearing was adjourned to allow Members time to study these documents.

After the adjournment Mr S A H stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr S A H was a fit and proper to hold a combined Hackney Carriage/Private Hire Driver's Licence. Authority was delegated to the Senior Public Protection Officer to issue the licence, subject to the applicant satisfactorily completing all the steps required by the licensing process.

Reasons

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

Members took account of the applicant's oral representations, written statement and balanced these against the information contained in the Disclosure and Barring Service Certificate.

The applicant stated that this was not something he did on a regular basis and was a result of peer pressure. Since then he had acted as a volunteer in different capacities and he is not an aggressive person. He further stated he is no longer friends with that group, he does not go out much these days and this was his first and only fight.

Members found the caution fell outside of the policy and that the applicant appeared to have matured since then. Accordingly he is a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver Licence.

Authority is delegated to the licensing officer to issue the licence subject to the applicant completing all steps required by the licensing process.

41 APPLICATION FOR A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR J R S

Mr J R S confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Mr J R S had been convicted of two motoring offences during the term of his licence which he had failed to disclose within seven days as required by a condition of his licence. He provided Members with a copy of Mr J R S's DVLA printout and a more legible copy of Mr J R S's letter contained in Annex B of the report. The hearing was adjourned to allow Members time to study these documents.

Following the adjournment Mr J R S made an oral statement and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** to give Mr J R S a stern 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 who has received 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.

The licensee said he had been licensed for a lot longer than stated. He also said the court report is horrendous and he had no idea why the court viewed the circumstances so badly. He said it was a silly, minor incident which involved a verbal altercation in the street with a road mender and he did not consider he was involved in an accident. The licensee did however accept the law deemed an offence was committed and he had pleaded guilty. With regard to not disclosing the matter he stated his wife had been taken into hospital and undergone an operation which made life at home chaotic for a while. Finally he said he would like to keep his licence to do occasional work for various operators.

Members took account of the licensee's oral representations, his written statement and balanced these against the information contained in the DVLA printout.

Members noted the licensee had been licenced since 2013 and had not been the subject of any complaints during that period. Whilst the licensee had disclosed the offences this was not done within 7 days of conviction as required under the terms of the licence. Members further noted the nature of the offences and that their Policy stated where more than one serious motoring offence occurred in a period of 5 years this would give rise to grave concerns about fitness to hold a licence. In all the circumstances Members took an extremely dim view of the licensee's conduct in that he failed to disclose the offences in a timely manner, they were committed whilst using a licensed vehicle and involved a member of the public going about his lawful business.

In disposing of this matter Members considered all the options including giving a warning as to future conduct, suspending or revoking the licence. Failing to stop and report an accident howsoever caused or minor is nevertheless a serious offence. Such offences are often committed in the course of concealing more serious offences, for example drink or dangerous driving and the courts and this committee take them very seriously. On this occasion, however, members have decided to give a stern warning as to his future conduct.

42 APPLICATION FOR A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - MR M S C

Mr M S C confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. A DBS certificate had disclosed previous convictions. Members were provided with copies of the certificate and of a statement submitted by Mr M S C. The hearing was adjourned to allow Members time to study these documents.

After the adjournment Mr M S C made an oral statement and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** that Mr M S C was a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, and authority was delegated to the Senior Public Protection Officer to issue the licence, subject to the satisfactory completion by the applicant of the remaining steps of the process.

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.

The applicant stated that he was in a bad situation at the time and he is extremely embarrassed by it. Since then he had turned his life around and had not overstepped the line since. He also said he had worked in high pressure situations whilst working as a doorman and presently drives for First Bus which he has done over the last 4 years.

Members took account of the applicant's oral representations, written statement and balanced these against the information contained in the Disclosure and Barring Service Certificate.

Members noted that whilst the offences involved an element of dishonesty they were committed during 1995 and therefore fall outside of their Policy. Given the historic nature of the offences and the applicant's continued employment engaged with members of the public Members find him a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver Licence.

Authority is delegated to the licencing officer to issue the licence subject to the applicant completing all steps required by the licensing process.

43 FAILURE TO RETURN REQUIRED DBS CERTIFICATE - MR W H

Mr W H was accompanied by a representative. They confirmed that they understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Mr W H had failed to present a valid DBS certificate when required to do under the program of three-yearly checks, even though the DBS web portal confirmed that a certificate had been issued to him, and had failed to reply to two reminder letters.

Mr W H made and his representative made oral statements and were questioned by Members. Mr W H had brought a valid DBS certificate with him and allowed Members to inspect it.

Following an adjournment the Sub-Committee **RESOLVED** that Mr W H continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

Reasons

Members have had to determine whether the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

It was stated on behalf of the licensee that he received the DBS on 21 February 2017, had attempted to submit the DBS and was told the licensing officer was not available and a copy could not be taken. The DBS was delivered to a member of staff in Passenger Transport Services at the Locksbrook Road Depot. However this was not provided to the Licensing Authority as the licensee had anticipated. In short the licensee had attended the office on more than one occasion, had provided the DBS and when the second reminder was received had been on holiday. At no stage was the licensee attempting to hide the DBS, as he enjoys being a taxi driver.

Members noted the licensee had been a licensed driver since November 2010 and that the current licence was issued subject to a satisfactory police check. Members noted there had been a degree of confusion surrounding the production of the DBS Certificate, which in part was due to the Regulations governing the DBS process and various Council Departments. It was however clear that the DBS was submitted on 18 July 2017, and having had sight of it this morning Members note it gives no cause for concern.

Accordingly, Members consider the licensee continues to be a fit and proper person.

44 FAILURE TO RETURN REQUIRED DBS CERTIFICATE - MR P I O

Mr P I O failed to attend the hearing. The Senior Public Protection Officer reported that after the circulation of the agenda for today's meeting, Mr P I O had produced a valid DBS certificate.

After discussion the Sub-Committee **RESOLVED** that while Mr P I O continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence, he should be given a stern warning about failure to produce a valid DBS in a timely manner or an explanation for failure to do so in future.

Reasons

Members have had to determine whether the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members heard that the Disclosure and Barring Service Certificate has now been produced giving no cause for concern about the licensee's fitness. Nevertheless, Members have taken a dim view of the licensee's failure to attend and explain the reasons why the DBS was not produced in a timely manner leading to the necessity for this hearing.

Whilst finding the licensee continues to be fit and proper in terms of criminal behaviour, Members give a stern warning that should these circumstances recur he must attend and explain his failure.

45 FAILURE TO RETURN REQUIRED DBS CERTIFICATE - MR J L W

Mr J L W failed to attend the hearing.

After discussion the Sub-Committee **RESOLVED** to defer the hearing of this matter to the next meeting of the Sub-Committee on 9th November 2017 with notice given to the licensee that if he failed to attend on that occasion, the matter might be dealt with in his absence.

Reasons

Members were asked to determine whether the licensee continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

The licensee, however, failed to attend and Members determined in the interests of fairness to defer the matter until the next Licensing Sub Committee meeting on notice to the licensee that should he fail to attend on the next occasion the matter may be dealt with in his absence.

46 FAILURE TO RETURN REQUIRED DBS CERTIFICATE - MR T M S

Mr T M S confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. Since the circulation of the agenda the licence holder had produced a valid DBS certificate, but had not provided an explanation of why he had failed to do so previously.

Mr T M S made an oral statement and was questioned by Members.

Following an adjournment the Sub-Committee **RESOLVED** that Mr T M S continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence.

Reasons

Members have had to determine whether the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence. In doing so they had regard to 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 noted the Disclosure and Barring Service Certificate had been produced.

The licensee stated that when first contacted by the licensing office he had followed the DBS process. On attending the office he was advised by an officer that he was unable to leave the DBS or have a copy taken. Since then his family and professional life had become stressful and he had assumed that he had done what was necessary. Once he received the letter advising him of this hearing he produced the DBS.

Members noted the licensee has been a licensed driver since 2006 with his current licence issued subject to a satisfactory police check. Members found there was an element of confusion surrounding the DBS, and having been advised that the DBS has now been produced considers that there is no cause for concern, finds the licensee fit and proper and that no further action should be taken.

The meeting ended at 12.20 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services