

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Friday, 1st March, 2019, 10.00 am

Councillors: Les Kew (Chair), Dine Romero (in place of Rob Appleyard) and Deirdre Horstmann

Officers in attendance: John Dowding (Senior Public Protection Officer), Michael Dando (Senior Public Protection Officer) and Shaine Lewis (Team Leader Resources - Legal Team)

57 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

58 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Councillor Rob Appleyard sent his apologies to the Sub-Committee, Councillor Dine Romero was present for the duration of the meeting as his substitute.

59 DECLARATIONS OF INTEREST

There were none.

60 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

61 MINUTES: 31 JANUARY 2019

The Sub-Committee confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

62 EXCLUSION OF THE PUBLIC

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 Sub-Committee RESOLVED that the public should be excluded from the meeting for agenda items 8 and 9 and that the reporting of this part 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.

63 TAXI DRIVER LICENCE RENEWAL/APPLICATION PROCEDURE

The Chairman explained the procedure to be followed for the next item of business.

64 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE /PRIVATE HIRE DRIVERS LICENCE AND CONSIDERATION OF COMPLAINTS RECEIVED AND FIT AND PROPER STATUS - 16/00518/TAXI

The applicant was present and accompanied by Reuben Chatterjee (SARI, Stand Against Racism & Inequality) and confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report to the Sub-Committee.

Reuben Chatterjee submitted an additional supporting letter on behalf of the applicant. The hearing was adjourned to allow Members time to study the letter. It stated that the applicant no longer works near the Bath Spa train station and that no complaints have been made against him for around a year.

After the hearing had been reconvened, the applicant stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** that the applicant was not a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence.

Reasons

Members have had to consider the renewal of a combined Hackney Carriage/Private Hire Driver's licence against the background of complaints calling in to question whether the applicant continues to be a fit and proper person to hold a licence. In determining the matter Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

In reaching a decision Members considered the applicant's oral and written representations. Members noted that when discussing the incidents today the applicant's recollections were more detailed than the accounts given in the complaint interviews taken shortly after the incidents occurred. Moreover, incidents that the applicant said had had a significant effect on him were not recounted at that time of complaint or during recorded interview.

In all the circumstances therefore Members do not find the applicant a credible, reliable or compelling witness and found his accounts inconsistent and at times fanciful. Having given confusing and conflicting evidence Members therefore looked for objective and corroborative evidence of the sustained campaign of intimidation against him alleged. Whilst Members noted the complainants had not attended to give evidence they found the accounts credible, consistent and when taken together with the mobile phone footage objective and compelling.

Members therefore find that, whilst the applicant portrayed himself as the victim, his behaviour over a sustained period was provocative, aggressive and at times racist. Members further found that on occasions the applicant was the aggressor, had alighted from his vehicle to initiate confrontation and at times this behaviour was in the presence of the travelling public.

Members considered that the behaviour demonstrated by the applicant is not that to be expected from a licensed driver and find on the balance of probabilities that, at this point in time, the applicant is not a fit and proper person to hold a combine

Hackney Carriage/Private Hire Drivers Licence. Accordingly the application is refused.

65 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE /PRIVATE HIRE DRIVERS LICENCE 19/00665/TAXI

The applicant was present with his wife and confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report and provided Members with copies of a letter from the applicant's GP. The hearing was adjourned to allow Members time to study the letter.

After the hearing had been reconvened, the applicant stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** that the applicant was a fit and proper person to hold a combined Private Hire/Hackney Carriage Driver's Licence and that authority is delegated to the licencing officer to issue the licence.

Reasons

Members have had to consider the renewal of a combined Hackney Carriage/Private Hire Driver's licence and determine whether the applicant continues to be a fit and proper person to hold such a licence in light of a medical report received. In doing so Members have had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant stated when the medical form was completed the locum Dr based the answers on information from the hospital that was 5 years old. Since that time further investigations were carried out and his consultant had stated the applicant's fatty liver was of no concern. In terms of alcohol consumption the applicant stated he is limiting his drinking and whilst he may have a drink in the evenings he does not look for a drink or have a problem with alcohol.

Members noted the applicant has been a licenced driver since September 1998 and his medical records appeared somewhat out of date. Members therefore took account of a letter from his GP, the applicant's explanation as to his alcohol consumption and whilst noting the Driver and Vehicle Licensing Agency Group 2 (Vocational) Medical Certificate Members accept it was produced by a locum Dr based on out dated medical records.

In all the circumstances Members believe the certificate to be a genuine mistake and find the applicant a fit and proper person to hold a combined Hackney Carriage/Private Hire Vehicle Drivers licence. Authority is delegated to issue the licence.

66 RETURN TO OPEN SESSION

67 TAXI VEHICLE PROCEDURE

The Chairman explained the procedure to be followed for the next item of business.

68 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE – 1900369PHVL

The applicant was present and confirmed that he understood the procedure to be followed for the hearing.

Members adjourned the meeting to conduct an inspection of the vehicle.

After the hearing had been reconvened, the Senior Public Protection Officer presented the report. Members noted that while the Council's current policy on Hackney Carriage and Private Hire Licensing Standards – Vehicles, Drivers and Operators state that *"all vehicles will normally be less than four years old when first licensed"* the applicant's vehicle was more than four years and four months old at the date of application.

The applicant stated his case and was questioned by Members.

Following a further adjournment the Sub-Committee **RESOLVED** that the vehicle was suitable to be licensed as private hire vehicle and delegated authority to the licensing officer to issue the licence, subject to the satisfactory completion of all necessary checks.

Reasons

Members have had to determine an application for a Private Hire Vehicle 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 also had the benefit of an inspection of the vehicle.

The officer stated that having viewed the vehicle there was an issue with the rear bumper that would need repairing if it were a licenced vehicle. With regard to the vehicle the applicant accepted it does not meet the requirements of the council's standard conditions that came into effect on 18 December 2018. He said the vehicle was purchased on the 18 December 2018 and with the intervening holiday period there was a delay in his application. He accepted the bumper needs addressing and would do so if the vehicle was licenced.

Having inspected the vehicle Members found it in good condition and were satisfied that it was suitable in type, size and design subject to the bumper being repaired. Members therefore depart from the policy and grant the application.

The meeting ended at 2.05 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services