

BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING SUB-COMMITTEE

Thursday, 11th October, 2018, 10.00 am

Councillors: Les Kew (Chair), Rob Appleyard and Deirdre Horstmann

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

9 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer advised the meeting of the procedure.

10 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

11 DECLARATIONS OF INTEREST

There were none.

12 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

13 TAXI PROCEDURE

The Chair drew attention to the procedure to be followed for the two taxi hearings.

14 EXCLUSION OF THE PUBLIC

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, **RESOLVED** that the public shall be excluded from the meeting for the next two items of business 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.

15 CONSIDERATION OF FIT AND PROPER PERSON IN THE ABSENCE OF A VALID DBS CERTIFICATE AND FAILURE TO COMPLY WITH REASONABLE REQUEST OF DELEGATED OFFICER - 16/00683/TAXI

The license holder was not present and had not communicated any explanation for his failure to attend the hearing.

Members **RESOLVED** to proceed with the hearing in his absence.

The Senior Public Protection Officer presented the report. As part of the three-yearly program of checks a letter had been sent to the license holder in January 2018

requesting him to submit a valid DBS certificate. The licence holder had failed to respond to this letter and to subsequent letters sent to his last known address.

The Sub-Committee **RESOLVED** that:

1. in the absence of a valid DBS certificate it was not possible to establish that the licence holder remained a fit and proper person to hold a combined Hackney Carriage/Private Hire driver's licence;
2. the failure of the licence holder to comply with the reasonable requests of delegated officer also called into question his status as a fit and proper person;
3. therefore the licence holder's licence should be revoked.

Reasons

Members have had to determine whether or not the licensee continues to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's Licence having failed to provide a copy of the Disclosure and Barring Service Certificate as required and having failed to comply with two reasonable requests to do so. In reaching their decision members had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

Members were satisfied the notice of hearing and report pack had been sent to the licensee's last known address. Members were satisfied that the licensee had been sent letters in January and July 2018 advising of the obligation to provide a DBS check and warning that failure to comply would result in a referral to the Licensing Sub Committee. The licensee had not attended the committee and the Senior Public Protection Officer confirmed there had been no contact from the licensee regarding the DBS or committee hearing. In all the circumstances Members were satisfied it was in the interests of public protection to determine this matter in absence given the licensee had been given reasonable notice of the hearing and had not provided a reason to defer the matter.

Members had regard to the contents of the report, annexes and noted the licensee made no written representations, had not contacted the office or attended the hearing.

Members noted:

- i. The licensee was first licensed in December 2005 and the current licence issued on 20 August 2018 subject to "a satisfactory DBS Check".
- ii. The Council's Policy on Hackney Carriage and Private Hire Licensing Standards States; "that all holders of a combined Hackney Carriage/Private Hire drivers licences will be subject to an Enhanced Disclosure & Barring Service check every three years from the date of the first licence issued". In line with this, the licensee was sent a letter to his last known address in January 2018 advising that a DBS check

- was due and that an appointment should be made for that purpose by 31 March 2018. No response was received from the licensee.
- iii. The licensee was sent a further letter on 31 July 2018 enclosing a copy of the January 2018 letter, advising the DBS was outstanding and requesting the licensee to contact the Taxi Licensing office within 7 days to avoid formal action. That letter advised no further reminders would be sent and failure to make contact would result in a referral to the Licensing Sub-Committee.
 - iv. The licensee failed to contact the Taxi Licensing team as requested and has failed to attend the LSC hearing giving no reason.

Members reminded themselves of their policy and noted that a DBS Check is an important tool in determining whether or not a licensee continues to be a fit and proper person to hold a licence. In all the circumstances and in the absence of a satisfactory DBS check Members could no longer be satisfied that the licensee continued to be fit and proper.

Accordingly members resolved to revoke the licensee's licence under section 61(1)(b) Local Government (Miscellaneous Provisions) Act 1976.

Authority delegated to the Public Protection Officer to give notice to this effect.

16 APPLICATION FOR A COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - 18/01001/TAXI

The applicant confirmed that he 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 the applicant and a written statement submitted by him. The hearing was adjourned to allow Members time to study these documents.

After the adjournment the applicant stated his case and was questioned by Members.

After 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.

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 the last offence was 17 years ago and he is a changed person since then and having been a licensed driver in Bristol and South Gloucestershire. When the recession hit the trade dropped off so he retrained as an electrician. At present he needed flexibility to juggle work with caring for his elderly parents which the taxi trade would provide.

Members noted the convictions fall outside the policy although disclose a propensity towards dishonesty and offences against the person. Members were uncomfortable with the applicant's presentation and his demeanour before them which at times was challenging and had to be satisfied that their friends and loved ones would be safe and secure in a vehicle alone being driven by the applicant. In view of the policy and all the circumstances, however, Members gave the applicant the benefit of the doubt and grant the licence with a warning that in the event of any future misconduct the matter will be referred to the committee for determination.

The meeting ended at Time Not Specified

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services