

# **BATH AND NORTH EAST SOMERSET COUNCIL**

## **LICENSING SUB-COMMITTEE**

Thursday, 6th June, 2019, 10.00 am

**Councillors:** Manda Rigby (Chair), Sue Craig and Karen Warrington (in place of Michael Evans)

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

### **1 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

### **2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies were received from Cllr Michael Evans, for whom Cllr Karen Warrington substituted.

### **3 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

### **5 MINUTES OF PREVIOUS MEETING: 25 APRIL 2019**

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

### **6 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, 9 and 10 and that the reporting of this part of the meeting should 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.

### **7 TAXI DRIVER'S PROCEDURE**

The Chair drew attention to the procedure to be followed for agenda items 8, 9 and 10.

### **8 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - 18/02743/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 in respect of the applicant and a 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. The applicant made a closing statement.

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

### Reasons

Members have had to consider an application for a combined Hackney Carriage/Private Hire Driver's licence in light of a Disclosure and Barring Service certificate disclosing a number of previous convictions. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant read his statement which showed his convictions resulted from a troubled upbringing. His last conviction was in 2007 and since then his life has been turned around working his way up through the licensing trade to hold a personal licence. He said Drugs and alcohol were no longer an issue for him and that he had moved on with my life and a licence would future proof his career.

Members heard that the applicant was not proud of his convictions and that he had moved on with his life. He had a positive attitude, was well presented and mature. In all the circumstances and as the convictions fell outside of the Policy Members found him a fit and proper person to hold a combined hackney Carriage/Private Hire Driver's licence. Authority was delegated to issue the licence subject to completion of the licensing process.

## **9 APPLICATION TO RENEW COMBINED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE - CONSIDERATION OF CONVICTION - 19/00916/TAXI**

The licence holder confirmed that he understood the procedure to be followed for the hearing.

The Senior Public Protection Officer presented the report. No additional documents were submitted. The hearing was adjourned to allow Members time to consider the applicant's written statement, which had been included in the report.

After the adjournment the licence holder stated his case and was questioned by Members. The licence holder made a closing statement.

After a further adjournment the Sub-Committee **RESOLVED** that the licence holder continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's 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 in light of a conviction received. In doing so Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant stated that whilst he had been convicted of 2 common assaults he was appealing against these convictions. He further stated this was totally out of character, he was disgusted with himself and had since removed himself from a difficult domestic situation. He stated he was not a threat to the general public but rather is a good taxi driver doing a lot of work with children and vulnerable people.

Members noted that whilst the applicant had been a licensed driver since 2005 the convictions were fresh and they could not go behind them. Members noted that whilst the applicant had been drinking this may have been due to the pressures and stresses associated with very difficult personal circumstances from which he had now removed himself. Given the length of his career, his remorse and the way he presented himself members departed from their Policy and granted the licence subject to completion of the necessary processes.

#### **10 APPLICATION TO RENEW COMBINED PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE - CONSIDERATION OF CAUTION - 19/02507/TAXI**

The licence holder 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 DBS certification in respect of the licence holder and a statement submitted by him. The hearing was adjourned to allow Members time to consider these documents.

The licence holder stated his case and was questioned by Members. He made a closing statement.

After a further adjournment the Sub-Committee **RESOLVED** that the licence holder continued to be a fit and proper person to hold a combined Hackney Carriage/Private Hire Driver's 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 caution received. In doing so Members had regard to the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council's Policy.

The applicant stated the incident happened after he had first applied for a licence and before it had been issued and had expected it to be picked up as part of the process. He said he did not intentionally hide the caution which arose as a result of a drunken incident involving some pushing and shoving.

He was embarrassed by it and realises now it should have been mentioned during the process. The applicant said he now fully understood and nothing like that will happen again.

Members noted that the applicant had been licensed since 2015 without complaint and was sorry and embarrassed by the incident. Members further noted that the failure to mention the caution was a genuine mistake rather than a deliberate attempt to deceive. Accordingly, Members find this a one off incident and the applicant a fit and proper person to hold a combined hackney Carriage/Private Hire Driver's licence. Authority is delegated to issue the licence subject to completion of the necessary process.

## **11 RETURN TO OPEN SESSION**

The Sub-Committee returned to open session.

## **12 TAXI VEHICLE PROCEDURE**

The Chair drew attention to the procedure to be followed for the next item of business.

## **13 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A HACKNEY CARRIAGE VEHICLE - 19/01557/HCVL**

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

The Senior Public Protection Officer presented the report.

The applicant stated his case and was questioned by Members.

The applicant made a closing statement.

After an adjournment the Sub-Committee **RESOLVED** that the vehicle was suitable to be licensed as a Hackney Carriage/Private Hire Vehicle.

### **Reasons**

Members have had to determine an application for a Hackney Carriage Vehicle Licence. In doing so they took account of the Local Government (Miscellaneous Provisions) Act 1976, Town and Police Clauses Act 1847, Human Rights Act 1998, the Council's Policy adopted in December 2018 and the applicant's oral representations. Members also had the benefit of an inspection of the vehicle.

The applicant stated he had attended a meeting about the changes to vehicle specifications during the summer of 2018. He then sought clarification from the licensing office as to when these changes might come in and claims he was told they may come in in February 2019. Having purchased a vehicle it subsequently became clear the changes were effective from December 2018 and he feels hard done by and misled having sought to engage with the office throughout. He did, however, accept that the vehicle does not meet the requirements of the council's Policy.

The officer stated there was a widespread Policy consultation and did not accept the suggestion that the applicant was given incorrect information or prevented from applying for a vehicle licence. The officer confirmed he had written to the applicant on two separate occasions suggesting a way forward, however, the applicant did not respond. As far as the Policy introduction was concerned all the information and meeting dates were on the council's website and the licensees fully consulted with throughout. At no point were licensing officers obstructive, attempt to persuade the applicant not to apply or misinform the applicant.

Members noted the applicant acknowledged the vehicle did not meet the requirements of the council's Policy adopted in December 2018. Members also noted the applicant's suggestion he was misled through the process. Members do not accept this suggestion. Nevertheless, given the condition of the vehicle and the specifics of the timings Members take the exceptional step to depart from the Policy and grant the licence subject to all necessary checks.

The meeting ended at 12.04 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**