

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **LICENSING SUB-COMMITTEE**

Thursday, 13th January, 2022, 10.00 am

**Councillors:** Rob Appleyard (Chair), Steve Hedges and Sally Davis

**Officers in attendance:** John Dowding (Lead Officer - Licensing), Wayne Campbell (Public Protection Officer (Licensing)) and Rebecca Jones (Deputy Team Leader - Legal Services)

#### **61 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer advised the meeting of the procedure.

#### **62 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **63 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **65 MINUTES OF PREVIOUS MEETING: 23RD SEPTEMBER 2021 & 7TH OCTOBER 2021**

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

#### **66 LICENSING PROCEDURE**

The Chairman explained the procedure to be followed for the meeting and all parties stated they had read, heard and understood the procedure.

#### **67 EXCLUSION OF THE PUBLIC**

The members of the Sub-Committee agreed that they were 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. They **RESOLVED** that the public should be excluded from the meeting for the following item(s) of business 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.

## 68 CONSIDERATION OF FIT AND PROPER – 19/01260/TAXI

The Public Protection Officer (Licensing) presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether the Licensee concerned remains fit and proper to hold a combined Hackney Carriage/Private Hire Driver's licence.

### Decision and Reasons

Members have had to consider whether a Licensee remained a fit and proper person to hold a combined Hackney Carriage / Private Hire Drivers licence issued by Bath and North East Somerset Council to drive in the Bath and North East Somerset area, subject to the conditions attached to the license and a satisfactory DBS check and DVLA check as appropriate.

The current licence is valid from **1 March 2019 to 28 February 2022**

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 reminded themselves that each case is taken on its merit, any economic impact of the decision is irrelevant and with public protection being the paramount importance the whole of a person's character is relevant.

Members had to:

- Consider the evidence presented by the licensing officers and license holder and his representative.
- Had to determine the issue
- Had to take any suitable action

The Members noted that the license holder was previously licensed by Wansdyke DC and has been licensed by B&NES Council since 1996.

### Licensing Officers Report

This hearing and consideration was triggered by the revocation of the license holders Private Hire Operators License.

The Licensing Officer gave his report and referred to previous concerns.

Following an incident on 30 November 2015 that the license holder drove dangerously, followed another vehicle and was aggressive to the driver, the license holder was given a warning, but was not formally interviewed.

In January 2020 the LSC considered an issue where the license holder failed on three occasions to produce an MOT certificate within the required timescales. The license holder was given a final warning.

On 7 October 2021 the LSC considered whether the license holder's Private Hire Operators License should be revoked and determined that it should be revoked.

### Licensee's Representations

The License holder was represented by counsel who handed up references from cab drivers, members of the public and councillors who use his services as a cab driver.

The license holder considered he was the victim in 2015 and was never formally interviewed before the warning was issued. The issue about MOT certificates was in 2020 and was dealt with by the LSC.

The issue considered by the LSC on 7 October related to the license holder's suitability to hold an operator's license, that is very different from suitability to be a driver. There are no complaints from the public or customers, which bring into question his suitability to hold a driver's license.

### Bath and North East Somerset Council Licensing Sub-Committee decision:

Not heard anything to warrant a view that the license holder is not a fit and proper person to hold a Hackney Carriage / Private Hire Driver's License.

## **69 RETURN TO PUBLIC SESSION**

The members of the Sub-Committee agreed to return the meeting to a public session.

## **70 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE – 21/02083/PHVL**

The Lead Officer - Licensing presented the report to the Sub-Committee. He explained that the report invited the Members to consider whether or not a vehicle that is non-compliant with the Clear Air Zone (CAZ) implemented by the Council in March 2021 is suitable to be licensed as a private hire vehicle.

### Decision and Reasons

Members have had to determine an application for a Hackney Carriage Vehicle Licence for two vehicles. 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 considered that they did not need to inspect the applicant's vehicles, which had been made available.

The current Bath and North East Somerset Council Public Hire Vehicle Policy was introduced on 18 December 2018 following widespread full consultation, including with the private hire trade. The policy was further amended in 2020. The policy conditions state:

*"During the life of this policy one or more Clean Air Zones may be introduced. A Clean Air Zone will impose charges on all vehicles driving within it which do not meet specified emission standards. All vehicles licensed by the Council must be (as a*

*minimum) compliant with the terms of the Clean Air Zone and meet with its emission standards, unless they are eligible for exemptions as detailed in the CAZ scheme.”*

During 2019 when it was known that a Clean Air Zone (CAZ) would be introduced, licensees were reminded by letter of the policy and the requirement for licensed vehicles to be CAZ compliant to be re-licensed.

In the September / October 2019 annual re-licensing all Private Hire proprietors who applied to renew their licence were required to sign a set of licensing conditions stating that they understood and accepted the attached conditions of licence. All vehicle proprietors that renewed were also provided with a copy of the conditions for their reference. The applicant signed a copy of the conditions on 28 October 2019.

Public consultation was held about the CAZ and specific events held for the PHV trade, including information about the financial assistance scheme (FAS) available to upgrade vehicles.

The Council has adopted an exemption to the policy, which provides that all vehicles licensed by the Council must be (as a minimum) compliant with the terms of the CAZ and meet with its emission standards, unless they are eligible for exemptions as detailed in the CAZ scheme, i.e. that they are adapted for wheelchair use or are going through the Financial Assistance Scheme.

All licenses expire annually on 31 October. Applications for renewal can be made from 1 September.

On 30 October 2021 the applicant applied to renew his licenses for:

- Fiat Scudo 144,002 miles on the clock with a non-compliant diesel engine, that does not meet the Euro 6 standard.
- Mercedes E250 201,978 miles on the clock with a non-compliant diesel engine, that does not meet the Euro 6 standard.

The vehicles have not been granted an exemption from CAZ.

In January 2021 the applicant had expressed an interest in the FAS and in March started the process for consideration. The Bath Clean Air Zone (CAZ) came into effect in March 2021. In June 2021 the applicant was given a ‘basic eligibility letter’ and provided with a list of potential finance providers. The letter was valid for three months until early September 2021. The applicant did not contact a provider until August and was told they could not assist as they did not fund sole traders and advised to contact other providers. The applicant did not do so before the letter expired.

The applicant contacted the CAZ Team late October 2021 and the offer of financial assistance has been extended should the Council be minded to disapply its policy and grant the applications to renew the private hire licence for non-compliant vehicles that are not subject to a CAZ exemption at the time of application.

The applicant stated that he had delayed as he had waited to see if his private hire work would pick up following the Covid lockdowns, that when the first FAS funder declined his application, he hesitated to contact other funding providers in case it affected his credit rating, that one of the funding providers had stated they did not work with B&NEs and he had been working in France for about a month.

The applicant accepted he had had notice of the CAZ, the requirements for licensed private hire vehicles to comply, the terms for an exemption and the FAS scheme.

#### Bath and North East Somerset Licensing Sub-Committee decision:

The Members are not minded to make an exemption to the Bath and North East Somerset Council Policy to licence the two vehicles. The Applicant has had notification of the scheme, time and assistance to make a timely application for a basic eligibility letter and to apply for funding from the financial assistance scheme. Nothing presented to the Licensing Sub-Committee persuaded them to make an exemption.

## **71 CONSIDERATION OF VEHICLE SUITABILITY TO BE LICENSED AS A PRIVATE HIRE VEHICLE – 21/02084/PHVL**

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#### Decision and Reasons

Members have had to determine an application for a Hackney Carriage Vehicle Licence for two vehicles. 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 considered that they did not need to inspect the applicant's vehicles, which had been made available.

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The applicant contacted the CAZ Team late October 2021 and the offer of financial assistance has been extended should the Council be minded to disapply its policy and grant the applications to renew the private hire licence for non-compliant vehicles that are not subject to a CAZ exemption at the time of application.

The applicant stated that he had delayed as he had waited to see if his private hire work would pick up following the Covid lockdowns, that when the first FAS funder declined his application, he hesitated to contact other funding providers in case it affected his credit rating, that one of the funding providers had stated they did not work with B&NEs and he had been working in France for about a month.

The applicant accepted he had had notice of the CAZ, the requirements for licensed private hire vehicles to comply, the terms for an exemption and the FAS scheme.

Bath and North East Somerset Licensing Sub-Committee decision:

The Members are not minded to make an exemption to the Bath and North East Somerset Council Policy to licence the two vehicles. The Applicant has had notification of the scheme, time and assistance to make a timely application for a basic eligibility letter and to apply for funding from the financial assistance scheme. Nothing presented to the Licensing Sub-Committee persuaded them to make an exemption.

The meeting ended at 12.15 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**