

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

### **LICENSING SUB-COMMITTEE**

Thursday, 14th December, 2023, 10.00 am

**Councillors:** Steve Hedges (Chair), Toby Simon and Onkar Saini

**Officers in attendance:** Carrie-Ann Evans (Team Leader (Barrister), Legal Services) and Wayne Campbell (Public Protection Officer (Licensing))

#### **68 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

#### **69 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

#### **70 DECLARATIONS OF INTEREST**

There were none.

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

There was none.

#### **72 MINUTES OF PREVIOUS MEETING: 16TH NOVEMBER 2023 & 30TH NOVEMBER 2023**

The Sub-Committee **RESOLVED** to approve the minutes of the meetings held on 16<sup>th</sup> November 2023 and 30<sup>th</sup> November 2023.

#### **73 LICENSING PROCEDURE**

The Chair referenced the procedure that would be followed during the course of the meeting.

Those that were present confirmed that they had received and understood the licensing procedure.

#### **74 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.

It was **RESOLVED** that the public be excluded from the meeting for the following items 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.

**75 APPLICATION FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE:  
23/01519/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether an application for a combined Hackney Carriage/Private Hire Driver's licence could be granted.

He explained that the applicant had a number of previous convictions and asked the Sub-Committee to read the contents of his Disclosure and Barring Service certificate and his written statement.

The applicant left the meeting room while the Members read the documents they had been given.

On his return the applicant was asked by the Chair to address them on why he felt that he should be granted a licence and he responded to questions from the Sub-Committee.

Councillor Toby Simon asked if he could inform them of his current relationship with alcohol.

The applicant replied that he had never been a big drinker and that it had not really been part of his agenda growing up. He added that he didn't drink that much at all now, maybe once a month whilst at home with his girlfriend.

Councillor Onkar Saini asked if he had considered how he would deal with any difficult customers.

The applicant replied that he did not intend to do that much driving late at night and would not seek to aggravate any situation, should it occur. He added that if a customer refused to pay their fare, he would likely let them leave and then consider what action should be taken.

The Chair asked if he had given all the evidence that he wished to the Sub-Committee.

The applicant replied that he had.

Decision & Reasons

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

Members had read the applicant's written statement and considered the contents of the Disclosure and Barring Service certificate.

The applicant addressed Members in oral representations when he indicated that he is a polite, trustworthy and hardworking person who likes to achieve. He explained that he had put 6 months into trying to obtain his taxi licence and that it is important to him.

The applicant indicated that the offending behaviour started when he was 20 years old, and he is 34 years old now. On questioning he informed Members that he drinks alcohol very little, and this is normally whilst at home. The applicant asked Members to give him the licence on the basis that he has proved for a sustained amount of time that he is a balanced and fitting person for such a licence both career wise and personally.

Members noted that the applicant had been conviction free for an amount of time that was acceptable in policy terms. They were satisfied based on the evidence before them that alcohol misuse is not an issue for the applicant and that the applicant had matured since the offending behaviour 9 or more years ago.

On balance, members find that the applicant is fit and proper to hold the combined Hackney Carriage/Private Hire Driver's Licence.

Authority is delegated to the Licensing Section to grant the licence subject to satisfactory completion of the licensing process.

## **76 CONSIDERATION OF 'FIT AND PROPER' STATUS - 22/00544/TAXI**

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine whether a licensee remains fit and proper to hold their combined Hackney Carriage/Private Hire Driver's licence.

He informed the Sub-Committee that the licensee would not be attending the hearing and handed out copies of email correspondence from him.

The Members agreed unanimously to proceed with the hearing in the absence of the licensee.

### Decision & Reasons

Members have had to consider whether or not the licensee is a fit and proper person to continue to hold his combined Hackney Carriage/Private Hire Driver's licence in the light of a speeding offence, permitting an unlicensed driver to drive his licensed vehicle and dishonesty in his dealings with the Licensing Section. In doing so Members took account of the Local Government (Miscellaneous Provisions) Act 1976, Human Rights Act 1998, case law and the Council Policy.

The determination of this matter had been deferred from the meeting on 30<sup>th</sup> November, as the Licensing Section had received an e-mail from the licensee at 08:05am on the morning of the hearing indicating that he would not be attending due to his health.

Members decided in the interests of all concerned to defer the meeting to today so that the licensee could appear before the Sub-Committee to give his account in

person. In making that decision, Members issued a warning that if he failed to attend on the next occasion, the matter could proceed in his absence. That warning was included in the papers sent to the licensee.

The licensee has failed to attend the hearing today and notified the licensing section by e-mail at 22:17 hours on 13<sup>th</sup> December that he would not be attending. In that e-mail the licensee indicated "*it is better to take the decision in his absence*". Having issued a warning to the licensee that the matter could proceed in his absence on the next occasion, and in the light of the licensee's invitation for Members to do so, they have determined it is in the public interest to deal with the matter today.

On 8<sup>th</sup> August 2023 the licensee provided a written statement to the Licensing Department regarding speeding offences carried out in his licensed vehicle.

In that statement he admitted that it was his father driving the vehicle on 30<sup>th</sup> August 2022 when it was caught speeding; that his father was not a licensed private hire driver at that time, and that he had informed the police his father was the driver. In relation to the speeding offence on 31<sup>st</sup> December 2022 he denied committing the offence and said he was abroad at the time.

He denied receiving the letter from the police and said he had no knowledge of it. He said that he did know that the person who had been nominated as the driver could not have been, because she was at work at the time of the offence. He denied any knowledge at all of this speeding offence. He said he was unaware that only licensed private hire drivers could drive his vehicle and said that until that day, he was unaware that his father had driven his licensed vehicle to the licensing office on 27<sup>th</sup> October 2022. The licensee denied any knowledge of who was driving the vehicle on 21<sup>st</sup> and 29<sup>th</sup> June when it was caught speeding by a community speed watch operation.

On 11<sup>th</sup> August 2023 the licensee contacted the Licensing Department by e-mail to say that it was him who was driving the vehicle on 31<sup>st</sup> December 2022. He said he was driving his vehicle to a friend's house before being driven to the airport by that friend.

The licensee attended the licensing office on 15<sup>th</sup> August 2023 to make a further statement. When giving that statement he admitted that he had lied again as he was driving to Gatwick airport on 31<sup>st</sup> December 2022 and not to his friend's house. The licensee explained in his statement that the reason he lied was because he panicked as he was unsure why his girlfriend had been nominated originally as the driver for the speeding offence on 31<sup>st</sup> December 2022.

He explained that he had requested a new form from the police so that he can inform them of who was driving at the time of the offence. He admitted he lied when he said he did not know his father had driven one of his private hire vehicles to the licensing office on 27<sup>th</sup> October 2022. He explained that he did know as he had to collect his father on that day. He apologised for not telling the truth on 8<sup>th</sup> August when he made his first statement and on 11<sup>th</sup> August when he sent an e-mail to the licensing section.

Members noted that the licensee had held his licence with BANES for just over 4 years and found that there had been no complaints against him from members of the public.

On balance, however, Members find that the applicant is no longer fit and proper to continue to hold the combined Hackney Carriage/Private Hire Driver's Licence for the following reasons:

- (1) He committed a speeding offence on 31<sup>st</sup> December 2022 when he was caught travelling at 61mph in a 50mph speed limit.
- (2) He had permitted his father to drive his licensed private hire vehicle on at least the 30<sup>th</sup> of August 2022 when his father was caught speeding, and on the 27<sup>th</sup> of October 2022 when his father drove the vehicle to a knowledge test at the licensing office. It is a criminal offence to drive a private hire vehicle without a private hire licence.
- (3) He had lied to the Licensing Section on 8<sup>th</sup> and 11<sup>th</sup> August 2023. This factor weighs heavily in the balance, as part of being fit and proper is being honest and reliable, and the licensee has shown through his conduct that he is not trustworthy.

Whilst the speeding and permitting his father to drive a licensed vehicle when he was not a licensed driver would not on their own have led to a revocation, the failure to be honest and open with the licensing office means that Members no longer regard the licensee as a fit and proper person.

Authority is delegated to the licensing section to issue a revocation on notice under section 61(2A) Local Government (Miscellaneous Provisions) Act 1976.

The meeting ended at 11.36 am

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**