

## Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 28th November, 2006.

**Present:** Cllr Mrs K F Nelson (Chairman), Cllr C Coombs, Cllr K Dixon, Cllr E Johnson, Cllr C Leckonby, Cllr K Leonard, Cllr R Rix, Cllr J M Roberts, Cllr F G Salt, Cllr Mrs J Wade, Cllr B Woodhead.

**Officers:** P Edwards, S Forsythe, M Vaines (DNS); P K Bell, J Douglas (LD).

**Also in attendance:** W.H, Z. Ali (Secretary of Binks Cars) and Mr Ross (Solicitor) - Item 4; A.W - Item 5; G.M., R Mumtaz (Support for G.M), Middlesbrough Borough Councillor J McFarland (Support for G.M), Middlesbrough Borough Councillor P Kharn (Support for G.M), K Dodds (Fountain Chambers - Counsel for G.M) - Item 6; F.K.S and T Mahmood (Stockton Cars) - Item 7; J.R, the parent of the two children and a representative from Community Transport Department - Item 8.

**Apologies:** Cllr Kirton, Cllr Narroway and Cllr Woodhouse.

### **743 Exclusion of the Public**

RESOLVED that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 and 2 of Part 1 of Schedule 12A of the Act.

### **744 Private Hire Driver - KR**

Members were informed that K.R was not in attendance at the meeting and that Licensing Services had not received any notification that K.R would not be attending the meeting.

Members agreed that the item should be deferred to allow the K.R to attend the next meeting and state her case.

RESOLVED that the item be deferred.

### **745 Application For A Hackney Carriage Drivers Licence - WH**

Consideration was given to a report which detailed an application for the grant of a Hackney Carriage/Private Hire Driver's Licence from an applicant who attended the Licensing Committee with his solicitor Mr Alistair Ross on Tuesday 5th September 2006. This hearing was adjourned as W.H disputed the information held on his Criminal Records Bureau Check (CRB). This had now been resolved.

The response from the CRB had now been received which confirmed that the information was accurate and would not be amended. A copy of the letter received from the CRB was attached to the report. A copy of W.H's CRB was available at the meeting.

A copy of the original Committee Report dated 5th September 2006 was attached to the report.

Members were reminded of the provisions of Section 59(1) (a) of the Local Government Miscellaneous Provisions Act 1976 which instructs District Councils not to grant a licence to drive Hackney Carriage/Private Hire vehicles unless

they are satisfied that the applicant is a fit and proper person to hold such a licence.

A copy of the Council's guidelines relating to the Relevance of Convictions was attached in the original report for Members' information.

W.H, Mr Ross (Solicitor) and Z.Ali (Secretary of Binks Cars) were in attendance at the meeting and were given the opportunity to state their case.

Members considered W.H's previous convictions and also listened carefully to what Mr Alistair Ross (Solicitor) had to say with regard to the matters outlined. Whilst Members were concerned regarding W.H's past criminal record they decided to grant W.H's Hackney Carriage/Private Hire licence for a trial period. The licence would be issued on a temporary basis for 6 months, with W.H re-applying for renewal of the licence after 6 months. The Licensing Committee also decided that after 6 months W.H's renewal application should be put in front of them to review W.H's suitability to continue to be a licensed driver.

Due to the problems having arisen in the past, W.H was asked to provide three forms of identification confirming his home address. These must be current letters/bills from such people as energy providers, telephone provider or Bank/Building Society statements.

RESOLVED that:-

1. The application submitted by W.H for a Hackney Carriage/Private Hire Drivers Licence be granted on a temporary basis for 6 months, with W.H re-applying for renewal of the licence after 6 months.
2. After 6 months W.H's renewal application should be put in front of them to review W.H's suitability to continue to be a licensed driver.
3. W.H provide three forms of identification confirming his home address.

#### **746 Application For A Private Hire Drivers Licence - AW**

Consideration was given to a report which detailed an application for a private hire drivers licence from an applicant who had relevant convictions.

A.W, had submitted an application to become a licensed private hire driver with the Authority. A copy of his application was attached to the report, included in this was a copy of A.W DVLA driver's licence, which showed he has no motoring convictions.

An important part of the vetting process was to undertake a Criminal Record Bureau check. This was done and returned to the applicant with a copy being sent to the Local Authority. The record disclosed that A.W had a number of convictions and those convictions were detailed within the report. A copy of the record was available at the meeting.

A.W was interviewed regarding his convictions on the 1st September 2006 and

a copy the transcript was attached to the report.

A copy of the Councils guidance on the Relevance of Convictions was attached to the report for Members information.

A.W had previously held a private hire drivers licence with the Authority but he had not renewed his licence.

Member were respectfully reminded that under the provisions of section 51(1)(a) of the Local Government (Miscellaneous Provision) Act 1976 District Councils were instructed not to grant a licence to drive private hire vehicles unless they were satisfied that the applicant was a fit and proper person to hold such a licence.

A.W was in attendance at the meeting and was given the opportunity to state his case.

Members decided to refuse A.W's application for the grant of a Private Hire drivers licence on the grounds that A.W was not considered to be a fit and proper person at this time because of his history of convictions for theft, being drunk and disorderly, racially aggravated criminal damage and assault on the Police. The Committee arrived at this decision after consideration of the report, the comments made at the meeting by A.W and to the Councils guidance on the relevance of convictions. Members also noted that A.W's last conviction for assault on a Police officer was only two years ago and suggested that whilst A.W was free to make a further application at any time he should demonstrate a further period of at least twelve months free from conviction before making such an application.

RESOLVED that A.W's application for the grant of a Private Hire drivers licence be refused on the grounds that A.W was not a fit and proper person at this time because of his history of convictions for theft, being drunk and disorderly, racially aggravated criminal damage and assault on the Police.

#### **747 Private Hire/Hackney Carriage Driver - GM**

Consideration was given to a report on a Private Hire/Hackney Carriage Driver who had been convicted at Magistrates Court for Driving Without Due Care and Attention and Dangerous Load of Passengers.

G.M was a Licensed Combined Driver. He was first licensed on 11th March 1998; his current Licence would expire on 30th November 2006.

G.M was involved in an accident in the early hours of New Years Day 2006. He collided with another Hackney Carriage being driven on Oxbridge Lane, Stockton on Tees. As a result of this accident both vehicles were written off and extensive damage was also caused to a Bus Shelter. At the time of the accident Mr G.M had five passengers in his vehicle, which was only licensed to carry four.

On Tuesday 14th November 2006 G.M appeared at Teesside Magistrates Court and was convicted of Driving Without Due Care and Attention and Dangerous

Load of Passengers. His DVLA Licence was endorsed with 6 penalty points, and he was fined £500.00 and ordered to pay costs of £500.00. He was also ordered to pay £500.00 compensation to the other Hackney Carriage Driver. A copy of a letter from G.M's Solicitor Leigh, Turton, Dixon informing the Licensing Unit of his conviction was attached to the report. A copy of G.M's Driving Licence was attached to the report.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he had since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

G.M., R Mumtaz (Support for G.M), Middlesbrough Borough Councillor J McFarland (Support for G.M), Middlesbrough Borough Councillor P Kharn (Support for G.M), K Dodds (Fountain Chambers - Counsel for G.M) were in attendance at the meeting and were given the opportunity to outline their case.

Members felt that the convictions for Driving Without Due Care and Attention and Dangerous Load of Passengers for which G.M was awarded 6 points on his DVLA licence, fined £500 with £500 costs, also a compensation payment of £500 greatly concerned the Committee as protection of members of the public was paramount. Members felt that whilst both offences were serious, they were particularly concerned that G.M had carried more passengers than he should have. This was a serious public safety risk and indeed had resulted in the incident where the five passengers he was carrying were injured. G.M also damaged beyond repair another Hackney Carriage vehicle and public property, namely a bus shelter. If this accident had happened at a different time of day it could have had more serious consequences. It was also noted that G.M had an additional 3 points on his DVLA licence, which he had failed to notify to the Licensing Department.

Due to the serious nature of this incident Members deemed that G.M's Hackney Carriage Drivers Licence was to be suspended for a period of six weeks with immediate effect under Section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976. G.M must also attend the Driver Improvement Scheme at a cost of £150 to be paid by G.M.

RESOLVED that:-

1. G.M's Hackney Carriage/Private Hire Drivers Licence be suspended for a period of six weeks with immediate effect under Section 61(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976.

2. G.M must also attend the Driver Improvement Scheme.

**748 Application for a Private Hire Driver Licence - FKS**

Consideration was given to a report which detailed an application for the grant of a private hire driver's licence from an applicant who had a previous application refused for cheating in the written knowledge test part of his assessment.

An application had been received from F.K.S for a licence to drive private hire vehicles. A copy of the application was attached to the report.

Members were advised that F.K.S had made similar applications over the past three years when he had failed the private hire knowledge test on six occasions and cancelled a further eleven test appointments. On 3rd February 2006 he attempted a further written knowledge test during which he was found cheating by the officer in charge when papers containing names and addresses of premises, which formed part of the test, were found hidden under his test paper.

F.K.S's application was subsequently refused because of his dishonesty and a copy of the refusal letter was attached at to the report.

F.K.S had made two further attempts to pass the knowledge test and had been successful on his last test on 19th October 2006.

F.K.S had no criminal convictions and had a clean driving licence.

Members were reminded that under the provisions of Section 51 (1)(a) of The Local Government (Miscellaneous Provisions) Act 1976 district councils were instructed not to grant a licence to drive private hire vehicles unless they were satisfied that the applicant was a fit and proper person.

A copy of the council's guidance on the Relevance of Convictions was attached for Members information.

F.K.S and T Mahmood (Stockton Cars) were in attendance at the meeting and were given the opportunity to state their case.

Members decided to approve F.K.S's application for the grant of a Private Hire drivers licence, subject to a written warning as to his future conduct.

After consideration of the report and the comments made by F.K.S and on his behalf at the meeting, Members expressed their concern as to F.K.S past actions whilst sitting the Councils written knowledge test.

RESOLVED that F.K.S's application for the grant of a Private Hire drivers licence be approved, subject to a written warning as to his future conduct.

**749 Private Hire Driver - JR**

Consideration was given to a report which detailed complaints received from a

Private Hire Operator, a Parent and the Community Transport Department regarding a driver who had allegedly made inappropriate comments to school children whilst driving them on the school run.

J.W.R was a licensed Private Hire driver. He was first licensed on 22nd February 2005, his license was due to expire on 28th February 2007.

On 9th October 2006 the Licensing Unit received a complaint from a Private Hire Operator regarding one of his drivers J.W.R. He informed the Licensing Unit that he had suspended this driver at the request of Community Transport as allegations had been made that he had made inappropriate comments and threats to children on his school bus. A copy of the Private Hire Operator's Statement attached to the report. A Copy of Community Transport Contact and Recording sheets was also attached to the report.

A further complaint was received from a parent of two of the children aged 12yrs and 14yrs, who were on the school bus, They had told her that J.W.R had joined in inappropriate conversations. A copy of the parent's statement was attached to the report.

J.W.R was formally interviewed by Licensing Officers on Monday 30th October 2006 regarding these allegations, which he denied. Copy of the record of interview was attached to the report.

Further investigations revealed that in October 2005 that similar complaints had been received by the Licensing Unit for inappropriate comments and behaviour towards two children with special needs. Due to lack of evidence and the parents not wanting their children to give statements J.W.R was given a written warning at that time. A copy of warning letter was attached to the report.

Members were reminded that under the provisions of Section 61 (1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may suspend or revoke or refuse to renew the licence of a hackney carriage and/or private hire driver on the following grounds: -

That he had since the grant of a licence:-

(i) been convicted of an offence involving dishonesty, indecency or violence;  
or

(ii) been convicted of an offence under or fails to comply with the provisions of the Act of 1847 or of this part of this Act;

(iii) any other reasonable cause.

J.W.R, the parent of the two children and a representative from Community Transport Department were in attendance at the meeting and were given the opportunity to state their case. J.W.R declined the opportunity to state anything to the Committee.

Members felt that due to J.W.R's behaviour he was not fit and proper person to be a licensed driver and that therefore J.W.R

RESOLVED that J.W.R's Private Hire Drivers Licence be revoked as the behaviour of J.W.R was not fit and proper for a licensed driver pursuant to Section Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

(Councillor Roberts left the room during consideration of the above item.)