

Licensing Committee

A meeting of Licensing Committee was held on Friday, 15th February, 2008.

Present: Cllr Bill Woodhead (Chairman), Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

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

Also in attendance: JHWW, Partner of JHWW, Mr Crocker - Solicitor for JHWW, Mr Imran Khan - Witness.

Apologies: Cllr Dick Cains, Cllr Ken Dixon, Cllr Kevin Faulks, Cllr Paul Kirton and Cllr Stephen Walmsley.

L Declarations of Interest

62/07

There were no interests declared.

L Exclusion of the Public

63/07

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

L Private Hire Driver - JHWW

64/07

Consideration was given to a report on a Licensed Private Hire Driver who was charged by Police for drink driving and leaving the scene of an accident whilst in a Private Hire Vehicle. At the time of the incident Mr J H W W's partner confirmed he had been drinking and that he had left the house in his taxi and when he returned it was damaged. The case was dropped at court as Mr J H W W's partner at the time did not attend court to give evidence. When interviewed by licensing officers Mr J H W W denied he was driving and implicated his sister. Mr J H W W sister had refused to be interviewed by officers regarding this matter and officers had not been able to conclude their investigations.

Mr J H W W was a licensed private hire driver. He was first licensed on 29th July 2005, his current licence was due to expire on 31st July 2008.

On 4th August 2006 an e-mail was received from PC1881 Neil Bennett from the Cleveland Police Road Policing Unit stating that Mr J H W W had been arrested and charged with drink driving. A copy of the e-mail was attached to the report, and a copy of the arresting officer's statement was attached to the report. Mr J H W W's partner at the time, Ms M S gave police a statement when she stated that Mr J H W W was drunk and they had argued, he had then driven off in the taxi and returned approximately 30 minutes later stating that he had two flat tyres. A copy of Ms M S's statement was attached to the report.

Mr J H W W was immediately suspended by the Trading Standards & Licensing Manager using his delegated powers. A Copy of the suspension letter was attached to the report.

Mr J H W W was interviewed regarding the circumstances surrounding his

arrest where he stated that his sister, Ms J C was driving the private hire vehicle. A copy of the transcript of this interview was attached to the report.

At Court the main witness, Ms M S, did not attend and therefore the Police were unable to offer any evidence and the case was dismissed. As a consequence of this the suspension of Mr J H W W Private Hire driving licence was lifted and he was given written authorisation to drive pending further investigation by Licensing Officer's.

Mr J H W W's sister, Ms J C, who was not a licensed driver was invited to attend for interview on two occasions but declined through her solicitor. She also declined to answer any questions via correspondence relating to her involvement in the matter.

On the 4th December 2007 Mr J H W W was interviewed for a second time regarding a Statement that was obtained from Mr Imran Khan one of the owners of Royal Cars who own the vehicle involved in the accident. In this statement he said that Ms J C had informed him that she had not been driving the private hire vehicle on the night in question, and that it was actually her brother Mr J H W W who was driving. A copy of this statement was attached to the report. During the interview Mr J H W W still denied that he was the person driving the taxi and that it was his sister Ms J C. A copy of the interview transcript was attached to the report.

Members were advised that Mr J H W W attended before the Licensing Committee on 12th July 2005 when his initial application was considered. This was for members to determine his fitness to hold a Private Hire drivers licence due to his previous criminal convictions. He was granted his licence for an initial 6-month period after which he had to re-apply and appear before the Licensing Committee for members to determine his continued suitability to be a licensed driver. A copy of the Committee decision letter was attached to the report, and a copy of Minute 168, which refers, was attached to the report.

Members were respectfully reminded that under the provisions of Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 the Local Authority may suspend, revoke, or refuse to renew the licence of a driver on any of the following grounds:-

a) That he has since the grant of the licence:-

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

ii) Been convicted of an offence of fails to comply with the provisions of the Act of 1847, or part of this Act or,

iii) Any other reasonable cause.

And Section 61(2)

(A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

(B) If it appears in the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr J H W W was present at the meeting with his solicitor Mr Crocker and his current partner.

Members acknowledged Mr Imran Khan was also in attendance to support his statement.

Members noted that the issue for the Committee to consider concerned an incident when a private hire vehicle that was in Mr J H W W's charge was involved in an accident on Thornaby Road, and the vehicle had left the scene of the accident. The vehicle was found by a Police Officer parked on a driveway in Scarthwood Close, Ingleby Barwick. The Police Officer noted in his statement that the bonnet of the vehicle was still hot. Mr J H W W was present in the property along with his then partner Ms M S. Ms M S informed the Police Officer that Mr J H W W had been out for the evening together and that he had been drinking. When Mr J H W W returned home he had an argument, Ms M S then went upstairs, the front door then slammed and the taxi was driven away. Ms M S stated that about 30 minutes later Mr J H W W returned home and said that he had two flat tyres. Approximately 30 minutes after that the Police arrived at the property and arrested Mr J H W W for drink driving. Mr J H W W informed the Police Officer that he could not remember anything. Ms M S stated in her statement "there is no doubt about it, Mr J H W W drove off in his car after we had argued and after he'd had a lot to drink, as I've said, he was drunk".

Mr J H W W was arrested and charged with drink driving. Members were informed that when the matter got to Court Mr J H W W had split up with Ms M S and she had moved to Scotland. At Court Mr J H W W's sister, Ms J C, attended and informed the Prosecutor that she had been driving the private hire vehicle when it was involved in the accident. As there were problems with securing Ms M S attendance at Court the Crown Prosecution Service took the decision to offer no evidence against Mr J H W W and the drink driving charge against Mr J H W W was dismissed.

Mr J H W W gave evidence to Members that he could remember very little of the night in question but that both Mr J H W W and his partner, Mrs M S, had been out drinking in Stockton, they had gone out at approximately 7 p.m. and returned to Mr J H W W home at Ingleby Barwick at approximately 1 a.m. the following morning. Mr J H W W stated that he had argued and Ms M S had gone upstairs, Mr J H W W had then fallen asleep on the settee. Mr J H W W stated that the next recollection he had was when he was woken by the Police Officer. Mr J H W W stated that prior to the hearing in the Magistrates Court he was informed that his sister Ms J C had been driving the vehicle. Mr J H W W stated that he was prepared to take the blame for the incident, as he did not wish to get his sister into trouble. However, when Mr J H W W attended at Court he said that his sister must have felt guilty as she attended and informed the Prosecutor/Court that she had been driving the vehicle on the night in question.

When Mr J H W W was questioned closely about the events of the evening, he gave evidence that he was asleep on the settee and could remember very little until the Police arrived. Mr J H W W's evidence was that his sister Ms J C had fallen out with her husband and had got a taxi from Billingham to Ingleby Barwick at or around 1 a.m. Ms J C had a key to his house and she had let herself in, neither Mr J H W W or Ms M S heard her enter the property. Ms J C then found the keys to the Private Hire Vehicle and took it for a drive, she returned to the house, again without Mr J H W W or Ms M S hearing her. Ms J C entered the property putting the car keys back and she then left. At no time did Mr J H W W see or hear Ms J C.

When questioned on Mr J H W W relationship with his sister, Ms J C, he stated that he no longer spoke to her as he had fallen out over this incident. Mr J H W W also stated that he had not spoken to her for over a year.

When Mr J H W W was asked why he had not brought Ms J C to the meeting as she was in effect his main witness to the events of the evening, Mr J H W W stated that he had not asked her. Members found this to be particularly strange especially as Mr J H W W knew that Members had the power to revoke his licence. When asked why Mr J H W W had not asked Ms J C to attend he replied that he was aware she would not assist the Council so why would she help him. When asked how Mr J H W W was aware that Ms J C would not assist the Council, Mr J H W W stated that the Council had "hand delivered" a letter to her asking her to assist and that she had not helped the Council so she would not help him. Mr J H W W was asked how he knew that the letter to Ms J C had been hand delivered if he had not spoken to her for 12 months, Mr J H W W stated that it was in the Committee papers. Mr J H W W was invited to point out where it made mention of that in the Committee papers. Mr J H W W could not do so and then said that he had assumed the letter had been hand delivered as his letter inviting him to Committee had been.

Members were advised by their legal adviser that as these were civil proceedings they could admit hearsay evidence such as the statement of Ms M S and the comments Mr J H W W were making in respect of his sisters statement but should attach whatever weight they saw fit. Members had to consider all of the evidence before them and decide on the balance of probabilities whether Mr J H W W was driving the vehicle when it was involved in the accident or whether in fact Ms J C had been driving as contended by Mr J H W W.

After giving the matter due consideration the Members found Mr J H W W's explanation that Ms J C had been driving the vehicle to be unbelievable. Members found that the evidence Mr J H W W gave was untruthful. Members found on the balance of probabilities that Mr J H W W was driving the vehicle when it was involved in the accident and that Mr J H W W was over the drink drive limit. It was noted that Mr J H W W had also left the scene of an accident when damage had been caused to street furniture, namely bollards. These findings were a reasonable cause to call into question Mr J H W W's continued fitness to hold a private hire drivers licence. Members also noted that Mr J H W W was first licensed on 29th July 2005 and that at the time Mr J H W W's application had been referred to Members for their consideration. Members had concerns over Mr J H W W's criminal record and had issued his licence with a warning as to his future conduct. Members had given Mr J H W W a chance to

prove himself and his behaviour in driving over the drink drive limit and leaving the scene of an accident fell far short of that expected of a licensed driver. Members also found Mr J H W W's evidence to be wholly untruthful which was another damning example of his fitness.

RESOLVED that:-

1. Mr J H W W's Private Hire Drivers Licence be revoked as Mr J H W W is not a fit and proper person to hold such a Licence.
2. As the revocation was on the grounds of public safety the revocation take immediate effect under the provisions of Section 61(2)(B).