

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 6th October, 2009.

Present: Cllr Bill Woodhead (Chairman), Cllr Jim Beall, Cllr Mrs Eileen Craggs, Cllr Jean Kirby, Cllr Miss Tina Large, Cllr Colin Leckonby, Cllr Alan Lewis and Cllr Fred Salt.

Officers: S Mills, C Barnes (DNS); Mrs T Harrison, J Nertney (LD).

Also in attendance: Mr N.A, Mr D.T, Mr G.S, Mr J.H.C, Mr J.R.F, Mr M.S.G and representative.

Apologies: Cllr Mrs Kath Nelson, Cllr Dick Cains, Cllr Ken Dixon, Cllr Paul Kirton, Cllr Maurice Perry and Cllr Roy Rix.

L Declarations of Interest

41/09

There were no declarations of interest.

L Minutes

42/09

The minutes of the meeting held on 7th July 2009 were signed by the Chairman as a correct record.

L Private Hire Driver - N.A.

43/09

Members were provided with a report on a renewal application from a Licensed Private Hire Driver who had eleven penalty points on his DVLA driving licence for speeding.

Mr N A was a Licensed Private Hire Driver with this Authority and had been since July 2008; his current licence expired on the 31st July 2009. Mr N A had submitted his renewal application form however, it was understood that Mr N A was unable to produce his DVLA driving licence because he had lost it. He requested a replacement from DVLA. Mr N A last produced his DVLA driving licence to the Licensing office on the 9th June 2009, Members were provided with a copy of the licence he produced at the time.

Officers using delegated powers had renewed this licence but only until 6th October 2009 pending the outcome of this meeting.

On the 16th May 2008 Mr N A applied to become a licensed driver with this Authority. Unbeknown to the Licensing Department on the 28th May 2008 Mr N A was stopped by Police for speeding on the A66, when he was recorded travelling at 66 mph on 50 mph road. Mr N A was convicted of speeding at court on the 19th September 2008 where he received an £80 fine and 8 penalty points on his driving licence.

Mr N A had notified the Licensing Department but only after his conviction within 7 days as per his licence conditions.

On the 26th November 2008 Officers spoke with Mr N A regarding the conviction. He explained the reason for his speed was that he had received a call from a friend informing him that the Police were at his brothers Pizza Shop and he was concerned about what was happening there.

At that time officers decided that Mr N A be given a written warning as to his future conduct.

On the 10th April 2009 Mr N A accepted a fixed penalty ticket from Police after he was caught speeding on a 30 mph road in West Yorkshire. On the 8th May 2009 Mr N A notified the Licensing Department of his conviction.

Mr N A was interviewed under caution about his motoring conviction by officers on the 10th July 2009. During the interview he explained that he was caught travelling at 35 mph on a 30 mph road.

Mr N A was made aware that any further convictions of any nature would place his position as a "Fit & Proper" person to hold the private hire drivers licence into serious doubt. On this occasion Members felt that Mr N A be granted the renewal of his licence. This was done on the understanding that Mr N A complete the Driver Improvement Course he was booked on to a satisfactory standard. Mr N A was made aware that if this was not done on the appointed dates he must inform one of the Licensing Staff of this. This could result in Mr N A being referred back to the Licensing Committee for further consideration.

RESOLVED that:-

1. Mr N A's Private Hire Driver's application be granted.
2. Mr N A be issued with a Final Written Warning in relation to his driving convictions.
3. Mr N A attend the Driver Improvement Course that he is booked on to a satisfactory standard.

**L
44/09** **Private Hire Driver - D.T.**

Consideration was given to a report to determine the continued fitness of a licensed private hire driver who had his original licence granted by the Committee with a warning and who received a further motoring conviction.

Mr D T was a licensed private hire driver. He has been licensed with the Council since January 2008 and his current licence was due to expire on 31 January 2010.

Mr D T's original licence was granted by the Committee on 22 January 2008 with a warning as to his future conduct because of concerns over his conviction for speeding in 2005 and 2006 which had resulted in him having 9 points on his DVLA licence. (Minute 60/07 refers).

Members were provided with a copy of the warning letter which had been issued to him at the time.

On 11 February Mr D T notified the Council that he had received a further motoring conviction for which he had received a £60 fine and 3 points on his licence. His DVLA licence showed the conviction to be a TS10 which was 'failing to comply with traffic light signals'.

As 3 points had come off his licence he was back on 9 points so Mr D T was offered the opportunity to attend the Driver Improvement Scheme as an alternative to appearing back before the Committee. He agreed to this and arranged to attend a course in August.

However, Licensing Officers had been informed that he failed to attend the course that had been booked for him.

Members were of the view that Mr D T should attend the Driver Improvement Course as soon as possible. Mr D T was made aware that any further convictions of any nature would place his position as a "Fit & Proper" person to hold the private hire drivers licence into serious doubt.

Members gave careful consideration of Mr D T's financial situation and Members decided on reflection that Mr D T would benefit from the attendance on the Driver Improvement Course, as an alternative to other courses of action. It was acknowledged that Mr D T had, had some problems contacting the course administrator but this would be resolved on his behalf.

The matter was then deferred by the Committee until such times as a course can be arranged for Mr D T to attend. Once this has been done Mr D T will be notified of dates and times to attend. Mr D T was advised that he should put financial arrangements in place to meet the costs of the course. This is done on the understanding that Mr D T complete the Driver Improvement Course he is booked on, to a satisfactory standard. Mr D T must be aware that if this is not done on his appointed dates he must inform one of the Licensing Staff of this. Mr D T will then be referred back to the Licensing Committee for further consideration.

RESOLVED that the item be deferred until Mr D T can be booked on to the Driver Improvement Course.

**L
45/09**

Private Hire Driver - G.S.

Members considered a report in respect of a licensed private hire driver who had his licence approved with a warning as to his future conduct and who had been convicted of using his mobile phone whilst driving.

Members considered Mr G S's continued fitness to hold a private hire drivers licence.

Mr G S was a licensed private hire driver who was first licensed in September 2006 and his current licence expired on 30 September 2009.

Mr G S's original application was approved by officers, using delegated powers, subject to a warning as to his future conduct because of past convictions. Members were provided with a copy of the warning letter.

Mr G S was written to again on 24 September 2008 for failing to notify a motoring conviction that he had received for speeding on 23 January 2008.

On 28 July 2009 Mr G S notified the Council that he had been convicted of a

CU80 offence, using a mobile phone whilst driving, in July 2009 for which he received 3 points and a fixed penalty of £60.

At the meeting Mr G S was represented by Javid Khazir, and on Mr G S' behalf asked for an adjournment as has he had only just received the paperwork in relation to the case.

RESOLVED that the item be deferred to the next meeting.

**L
46/09**

Private Hire Driver - J.H.C.

Members considered a report in respect of an application for renewal of a private hire drivers licence from a driver who had 6 points on his DVLA licence for two speeding offences which have been committed after completing a driver improvement course.

Mr J H C was a licensed private hire driver who had held a licence since November 1996 and his last licence expired on 31 August 2009.

Mr J H C had applied to renew his licence; In view of the timescale in being able to bring this matter before the Committee, officers had approved his renewal only until the date of the Licensing meeting, pending the Committees' decision.

In June 2009, Mr J H C presented his DVLA licence as one of the documents required for his criminal record disclosure application. When checked it was revealed that he had been convicted for speeding on 2 March 2009, for which he received 3 points, and that he had failed to notify the Council of the conviction as per the conditions of his licence.

A letter was sent to him regarding this failure and on 13 August 2009 a letter was received from Mr J H C informing the Council that he had received a further 3 points for speeding on 4 August 2009.

A copy of Mr J H C's DVLA licence was provided to Members which showed he had 6 'live' points on his licence.

Records indicated that Mr J H C was sent a warning letter on 15 September 2004 in respect of his motoring convictions and following a complaint regarding his manner of driving. Whilst he had 9 points on his licence he was not recommended to attend the driver improvement scheme as 3 points came off at the end of that month.

However, Mr J H C received a further 3 points for speeding in March 2005 so he was advised to attend a driver improvement course, as per the agreed procedure. Mr J H C attended the course on 25 and 26 November 2005.

Members were advised that there were no records of any further complaints against Mr J H C.

Members felt that Mr J H C's licence should be renewed on this occasion. However Mr J H C must be careful as to his future manner of driving. If he were to acquire any further conviction motoring or others he would be in a very

precarious situation regarding any future renewals.

Mr J H C was advised that this would be his Final Warning with regards to his future conduct.

RESOLVED that:-

1. Mr J H C's Private Hire Driver's application be granted.
2. Mr J H C be issued with a Final Written Warning in relation to his driving convictions.

**L
47/09**

Application For Private Hire Drivers Licence - J.R.F.

Members considered a report relating to the fitness of an applicant for a private hire driver's licence who had a relevant conviction for a sexual offence.

Mr J R F submitted an application for a licence to drive private hire vehicles with this Authority. Members were provided with a copy of his application.

In his application Mr J R F had declared one conviction:-

24/01/2002 Mr J H F was convicted of Soliciting a women for prostitution from a motor vehicle causing nuisance to other persons under the Sexual Offences Act 1985.

Mr J H F had been subject to a Criminal Record Bureau (CRB) check which confirmed details of his conviction for which he received a fine of £150.00 with costs of £25.00 and which revealed no further convictions. Mr J H F had no motoring convictions.

Members decided to grant Mr J R F with a Private Hire Drivers Licence. However, Members noted that Mr J R F's licence be issued with a written warning as to his future conduct. As a licensed driver the Council expect Mr J R F to demonstrate a high standard of driving at all times and reminded him that he should behave in a fit and proper manner at all times.

Mr J R F should be in no doubt that should any complaints be received concerning his behaviour then this could call into question his continued fitness to hold a licence and he would be liable to having his licence revoked.

The warning letter would therefore remain on his file and would be referred to should any future complaint or disciplinary matter come to the attention of the Licensing Unit.

RESOLVED that:-

1. Mr J R F's Private Hire Driver's application be granted.
2. Mr J R F be issued with a Final Written Warning as to his future conduct.

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Application For A Private Hire Drivers Licence - W.H.

48/09

Members were informed that Mr W H was not in attendance at the meeting as he had a hospital appointment. Members agreed that the item should be deferred to the next meeting.

RESOLVED that the item be deferred.

**L
49/09**

Hackney Carriage Driver - M.S.G.

Members considered a report relating to an application for renewal of a hackney carriage drivers licence from a driver who had a history of motoring convictions which resulted in him having 12 points on his driving licence but no disqualification was imposed by the court because of exceptional hardship.

Mr M S G was a licensed Hackney Carriage Driver with this authority and had been licensed with this Authority since 1990. His last licence expired on 31st May 2009.

In January 2009, the licensing department received a late notification from Mr M S G advising them that he had received a motoring conviction offence code CU80 (using a mobile phone whilst driving a motor vehicle) on 15th December 2008 for an offence committed on 23rd June 2008. He received 3 penalty points and a £75 fine.

Mr M S G was interviewed by officers on Monday 9th March 2009 in relation to this conviction, which he denied and said he was going to appeal.

After the interview Mr M S G also informed officers that in April 2008 he was charged for overtaking on a pelican crossing in Yarm High Street. Mr M S G advised officers that he was also appealing this conviction. It was therefore decided by officers to await the outcome of the appeal before bringing Mr M S G before the Licensing Committee.

At the time of the mobile phone offence, June 2008, Mr M S G had six penalty points and the additional 3 would have taken his total to 9. However, by the time Mr M S G notified the licensing department of his offence 3 points had come off and he remained at 6 points. Members are advised that Mr M S G attended and completed the Driver Improvement Course in April 2008.

Mr M S G subsequently informed the Council that he had lost his appeal and in relation to overtaking on a pelican crossing in Yarm High Street he was fined £175 and issued £100 costs and 3 penalty points. Mr M S G was not disqualified, under the totting up procedure, due to extreme hardship.

Members were provided with a copy of Mr M S G's DVLA driving licence which showed he had 9 live penalty points at the time on the meeting.

Members were advised that Mr M S G had been previously warned by Officers about using a mobile phone when driving in October 2005.

Members decided that on this occasion, to issue Mr M S G with a final written warning and to remind him as to his future conduct as such behaviour will not be tolerated. Licensed drivers were expected to demonstrate a high standard of

driving and to behave in a civil and orderly manner at all times.

The Members hoped that Mr M S G has learnt a valuable lesson from this situation.

RESOLVED that:-

1. Mr M S G's Hackney Carriage Driver's application be granted.
2. Mr M S G be issued with a Final Written Warning in relation to his driving convictions.