

Licensing Committee

A meeting of Licensing Committee was held on Tuesday, 8th June, 2010.

Present: Cllr Bill Woodhead (Chairman); Cllr Mrs Eileen Craggs, Cllr Ken Dixon, Cllr Jean Kirby, Cllr Paul Kirton, Cllr Alan Lewis, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

Officers: M Vaines, C Barnes (DNS) J Nertney, P K Bell (LD).

Also in attendance: Mr N Y and his representative (Mr A Kadeer Dem) for agenda item 4 - New Application for Private Hire Driver; Mr T W T and his representative Mr P Steel for agenda item 7 - Private Hire Driver - Mr T W T.

Apologies: Cllr Dick Cains, Cllr Tina Large, Cllr Colin Leckonby and Cllr Ann McCoy.

L Declarations of Interest

8/10

There were no interests declared.

L The minutes of the meeting held on 16th March 2010 to be signed by the 9/10 Chairman as a correct record

The minutes of the meeting held on 16th March 2010 were signed by the Chairman as a correct record.

L Exclusion of the Public

10/10

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 Application For A Private Hire Drivers Licence - N.Y.

11/10

Consideration was given to a report on an application for a Private Hire Drivers Licence. The applicant was subject to "other relevant information" disclosed on his Criminal Record Bureau form regarding incidents that may be relevant to this application.

Mr N Y Y had submitted an application to become a licensed Private Hire driver with the Authority. A copy of his application was attached to the report.

Mr N Y Y had completed a Criminal Record Bureau Disclosure. This was returned in March 2010. The disclosure showed a number of convictions related to motoring offences. A conviction on 11th January 2006 for "using vehicle whilst uninsured" to do so on the 6th January 2006, and "driving whilst disqualified".

The sentence imposed was a two year driving ban and his licence was endorsed accordingly, with the addition of 100 hours Community Order.

Previous to this Mr N Y Y was convicted on 14 December 2005 again for "driving whilst uninsured" and "driving whilst disqualified" in relation to him being stopped on the 19th August 2005. Further to this, he was also convicted for

failure to surrender to custody at an appointed time. The conviction on this occasion was Community Supervision Order for 12 Months and 120 hours unpaid work requirement. His driving licence was also endorsed. A copy of his driving licence was attached to the report.

Mr N Y Y was interviewed in relation to the above convictions and in relation to additional information that was contained on the Criminal Record Bureau form that had been disclosed by the police. A copy of which was be available for Members to view at meeting.

The information was in relation to an allegation of a serious sexual nature that took place on 14th August 2005, for which Mr N Y Y was arrested, but not charged with any offences, due to lack of evidence.

In addition to the above Mr N Y Y was also arrested for "false imprisonment" of a female he was giving a lift to on 7th January 2006, one of the occasions when he was uninsured and disqualified from driving.

Mr N Y Y was interviewed by officers and a copy of the interview transcript was attached to the report.

A copy of the adopted guidelines relating to the Relevance of Convictions, Cautions, Reprimands, Warnings and Complaints and Character was attached to the report.

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

Mr N Y Y and his representative (???) were in attendance at the meeting and were given the opportunity to state their case.

Members had full regard for the report and attached appendices, copies of which had been given to Mr N Y Y prior to the meeting; Members also listened carefully to what Mr N Y Y and representative (Mr ???) had to say with regard to the matters disclosed.

Members felt that the application should be refused as Mr N Y Y was deemed not to be a "fit and proper" person. Members felt that Mr N Y Y did not meet the criteria that had been set out in the document "Relevance of Convictions, Cautions, Reprimands, Warnings, and Complaints and Character". A copy of which was given to Mr N Y Y prior to your application.

Members determined this as a result of the two convictions Mr N Y Y had for driving whilst disqualified and without insurance dated 14th December 2005 and 11th January 2006. It was also established at the meeting that Mr N Y Y's DVLA driving licence was returned to him in March 2008.

The Relevance of Conviction guidance document was quite clear of what it required from applicants,. In relation to Mr N Y Y's offences it stated, "if an applicant has a live endorsement in respect of a major traffic offence then the

application will be referred to the Licensing Committee and will normally be refused until at least four years after the most recent conviction.....after the restoration of their driving licence". Members did not hear any evidence or submissions from him which persuaded them to depart from the guidelines.

Members also took into consideration the other relevant information that was disclosed on Mr N Y Y's Criminal Record Bureau check in relation to two allegations against him which were investigated by Cleveland Police, one of a serious sexual nature and one concerning false imprisonment of a female in his vehicle. Members noted that no further action was taken against Mr N Y Y in relation to these allegations but it was a cause of concern to Members that he was investigated by the Police and that it was felt relevant to be disclosed by Cleveland Police on Mr N Y Y's CRB check.

RESOLVED that the application be refused as Mr N Y Y was deemed not to be a "fit and proper" person. Mr N Y Y did not meet the criteria that had been set out in the document "Relevance of Convictions, Cautions, Reprimands, Warnings, and Complaints and Character".

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12/10** **Private Hire Driver - M.A.**

The Licensing Officer informed Members that Mr M A was not in attendance at the meeting.

Members were informed that Mr M A had failed to submit an application to enable his three yearly criminal record check to be carried out.

Members were advised that Mr M A's licence had expired on 31st May 2010 and that he had not submitted any application to renew it. On this basis Members determined that any application for the fresh grant of a licence received from Mr M A at any time in the future would be brought before Members for their determination and when this matter would be revisited.

RESOLVED that Mr M A's position be noted.

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13/10** **Private Hire Driver - M.Z.**

The Licensing Officer informed Members that Mr M Z was not in attendance at the meeting.

Members were informed that Mr M Z had failed to submit an application to enable his three yearly criminal record check to be carried out.

Members were advised that Mr M Z's licence had expired on 31st May 2010 and that he had not submitted any application to renew it. On this basis Members determined that any application for the fresh grant of a licence received from Mr M Z at any time in the future would be brought before Members for their determination and when this matter would be revisited.

RESOLVED that Mr M Z's position be noted.

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14/10** **Private Hire Driver - T.W.T.**

Consideration was given to a report on a licensed driver who had received a Police Caution for Handling Stolen Goods.

Mr T W T had been a licensed private hire driver since April 2007, and his Licence was due to expire on 30th April 2011.

Mr T W T had received a Police Caution for 'Handling Stolen Goods (arranging to receive)'. The caution was dated 15th March 2010. A Copy of the notification from Cleveland Police was attached to the report.

The initial notification of Mr T W T's arrest was made to the Council was November of 2009 and a copy of that notification under the Notifiable Occupations Scheme Home Office Circular 6/2006 was attached to the report.

The above notification was the second notification the Licensing Unit had received from the Police in relation to Mr T W T's alleged activity. On 25th September 2008 the Licensing Unit received information of his arrest following allegations relating to 'possess proceeds of criminal conduct'. No action was taken at that time as it was part of a protracted investigation involving the Police and Trading Standards. However no further action was taken against Mr T W T by the Police or Trading Standards in relation to the allegations. This was confirmed in a recent e-mail from the Police dated 25th May 2010. A copy of that e-mail and the original notification was attached to the report.

Mr T W T was interviewed in relation to both of the matters on 26th November 2009. A copy of the interview transcript was attached to the report.

A copy of the Councils document entitled 'Relevance of Convictions, Cautions, Reprimands, Warnings and Complaints and Character' was attached to the report.

Mr T W T had no previous history of complaints or disciplinary matters on his file.

Mr T W T and his representative (Mr ???) were in attendance at the meeting and were given the opportunity to state their case.

Members had full regard to the report and attached appendices, copies of which had been given to Mr T W T prior to the meeting. Members also listened carefully to what Mr T W T and his representative (Mr ???) had to say with regard to the matters disclosed.

Members felt that Mr T W T's Private Hire Drivers licence should be revoked.

Members had reference to the guidelines on the Relevance of Convictions document and noted that the offence outlined above for which Mr T W T received the Police Caution, was an offence of dishonesty.

Under the Councils guidelines a person receiving a caution or conviction for that type of offence, one of dishonesty would be expected to show three years free from conviction, caution or reprimand before being considered fit and proper to hold a licence.

Members did not consider there were any grounds for them to depart from the guidelines. Members also considered whether there were any mitigating factors in relation to the offence for which Mr T W T was cautioned. Members found there were no mitigating factors in relation to the offence itself and on the contrary were of the view that the offence was deemed serious given that Mr T W T had commissioned the offence while working as a licensed taxi driver.

It was noted that Mr T W T had effectively arranged the item to be stolen to order by making an arrangement with two of his passengers. In the view of Members this made Mr T W T more culpable and questioned his fitness to hold a licence.

Taxi drivers were expected to be honest and Mr T W T's behaviour fell far short of the expected standard. Members considered other mitigation in relation to Mr T W T's fitness including the fact that the Council had not received any other complaints about him since he had been licensed. Members did give Mr T W T credit for this but were of the view that Mr T W T was no longer a 'fit and proper' person to hold a licence.

RESOLVED that Mr T W T's Private Hire Driver licence be revoked as Mr T W T was no longer a 'fit and proper' person to hold a licence.

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15/10 **Private Hire & Hackney Carriage Driver - M.A.**

The Licensing Officer informed Members that the solicitor who was acting on behalf of Mr M A was away on annual leave and had requested that the item be deferred to the next meeting. Members agreed with the request.

RESOLVED that the item be deferred to the next meeting.