

Licensing Committee

A meeting of Licensing Committee was held on Wednesday, 28th July, 2010.

Present: Cllr Bill Woodhead (Chairman); Cllr Paul Kirton, Cllr Alan Lewis, Cllr Mrs Ann McCoy, Cllr Mrs Kath Nelson, Cllr Maurice Perry, Cllr Roy Rix and Cllr Fred Salt.

Officers: M Vaines, L Maloney (DNS) J Nertney, K Maddison-Walshe, P K Bell (LD).

Also in attendance: Mr A D and Mr Walker - Solicitor representing Mr A D for agenda item 5 - Mr A D; Ms M M and representative for agenda item 6; Mr M G and representative (Mr Ahmed) for agenda item 7.

Apologies: Cllr Dick Cains, Cllr Ken Dixon, Cllr Colin Leckonby, Cllr Mrs Eileen Craggs, Cllr Jean Kirby and Cllr Tina Large.

L Declarations of Interest

23/10

There were no interests declared.

L Minutes

24/10

The minutes of the meetings held on 27th April 2010 and 8th June 2010 were signed by the Chairman as a correct record.

L Exclusion of the Public

25/10

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 Private Hire Driver - A.D.

26/10

Consideration was given to a report on a Licensed Private Hire Driver, who was believed to be under investigation by the Department for Work and Pensions for fraud and was suspended for lying to officers during investigations into this matter.

Mr A D was a licensed Private Hire Driver with the Authority and had been since 1997 and his licence was due to expire on the 31st August 2010.

On the 21st April 2010 the Licensing Department was contacted by the Council's Benefit Investigations Department and they informed them that they had received documentary information from Mrs J D that Mr A D no longer lived at there. A copy of the documentary information was attached to the report.

Following on from that Mr A D was contacted and asked that he attend the Licensing Office as there was an issue with his address. Mr A D attended the office and during an informal interview with Simon Mills Licensing Officer and Paul Cummings Benefits Investigations Officer, he confirmed he no longer lived there and currently resided at 5 Flat 1 Stanton Street. He also stated that 68 Victoria Road, Thornaby, remained as a correspondence address.

During the interview it became apparent that Mr A D had continually lied to

Council Officers about his employment as a Private Hire Driver and also about his health, and as a result of this his Private Hire Drivers Licence was suspended. A copy of the suspension notice was attached to the report.

On the 18th May 2010 Mr A D emailed Simon Mills and apologised for lying to Council Officers and he stated that he had been under a lot of pressure. A copy of the email 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 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; or

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

(b) 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 that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

Mr A D and his solicitor (Mr Walker) were in attendance at the meeting and were given the opportunity to state their case.

After listening to the submissions made by Mr Walker (Solicitor) Members considered that the suspension of Mr A D's private hire drivers licence on 5th May 2010 had been as a result of him lying to officers at that time and that he had not provided any grounds that were considered sufficient for the suspension to be lifted at this time, pending further enquires being made in relation to the investigation being conducted by the Department of Works & Pensions.

It was therefore agreed to defer further consideration of this matter, as requested by Mr A D's solicitor, pending further information being attained from the Department of Works & Pensions regarding the progress of their investigations. It was further decided that the suspension of Mr A D's licence on 5th May 2010 would remain in place until the matter is referred back to the Licensing Committee.

RESOLVED that:-

1. The item be deferred as requested by Mr A D's solicitor, pending further information being attained from the Department of Works & Pensions regarding the progress of their investigations.

2. It was further decided that the suspension of Mr A D's licence on 5th May 2010 would remain in place until the matter is referred back to the Licensing Committee.

**L
27/10**

Private Hire Driver - M.M.

Consideration was given to a report on a licensed Private Hire Driver who received a conviction for destroying or damaging property at a value unknown, and did not inform the Licensing Department as per her licence conditions.

Ms M M was a licensed private hire driver and had been since August 2007, her licence was due to expire on 31st July 2010.

On the 9th June 2010 the licensing office received notification of a caution from Cleveland Police Notifiable Occupations Scheme. The circumstances of the incident being on 10th May 2010 at the Stag Inn Public House, Stockton Ms M M threw a glass bottle at windows causing them to smash. She received a £200 fine and ordered to pay £15 costs and £100 compensation. A copy of the Police Notification was attached to the report.

Ms M M had also been subject to a recent Criminal Record Bureau (CRB) check which confirmed details of this conviction. A copy of the CRB disclosure was available for Members at the meeting.

Ms M M was interviewed on 29th June 2010 regarding the complaint a summary of the transcript of the interview was attached to the report.

Ms M M confirmed that she had thrown a glass bottle, she had aimed the bottle at the wall but it hit the windows causing two to smash. This was after an altercation with staff at the pub. Ms M M confirmed she was drunk at the time and as a result of the incident she had also received a 1 year Stockton district pub watch barring. When asked why she had not informed the Licensing Department of her conviction within 7 days Ms M M said that she was knew she was in trouble so did not inform the department about it.

Ms M M last attended Licensing Committee 27th April 2010 when Members determined what action to take when she received a caution for common assault on 15th December 2009, and did not inform the Licensing Department as per her licence conditions. In this instance the committee resolved to issue a final written warning as to Ms M M's future conduct. A copy of the minute 4/10 which referred and a copy of the decision letter were attached to the report.

Ms M M was granted her private hire driver licence in July 2007 by the committee, after members made a determination regarding her relevant convictions. The licence was granted initially for a 6 month period. After the 6 month period Ms M M was interviewed by Licensing Officers who determined that she had remained a fit and proper person since the grant of her licence. A copy of minute 18/07 which referred and a copy of the decision letter were

attached to the report.

Since the grant of her private hire driver licence Ms M M had received a number of motoring convictions and had 9 live penalty points on her DVLA driving licence. On the 14th and 15th May 2009 at the request of the Licensing Department Ms M M completed the driving improvement course. A copy of Ms M 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 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; or

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

(b) any other reasonable cause.

Members were also advised of the revisions to Section 61 introduced under the Road Safety Act 2006 as follows:-

(2a) 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 the notice is given to the driver under subsection (2)(a) of this section

(2b) If it appears that 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 that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.

A copy of the adopted guidelines on the Relevance of Convictions was attached to the report for Members information.

Ms M M was in attendance at the meeting.

At the request of Ms M M and her representative David Wilson Members agreed to defer the matter to the next Licensing Committee on 31st August 2010. Members considered the report which included details of Ms M M's previous disciplinary history and her recent conviction for criminal damage as detailed in the letter from Cleveland Police dated 09 June 2010. Members deemed this to be sufficient 'reasonable cause' under the provisions of Section 61(1) (b) of the above mentioned legislation and accordingly Ms M M's licence to drive hackney carriages vehicles/private hire vehicles was suspended.

Due to the serious nature of the incident which involved alcohol and violence, Ms M M was informed that under the new provision of Section 61(2B) and in the interest of public safety the suspension would have immediate effect and Ms M

M was therefore no longer authorised to drive such vehicles. Ms M M's licence would remain suspended until these matters have been determined by the Licensing Committee.

RESOLVED that:-

1. The item be deferred to the next meeting of the Licensing Committee.
2. Ms M M's Private Hire Driver licence be suspended until the matter has been determined by the Licensing Committee.

**L
28/10**

Application For A Private Hire Drivers Licence - M.G.

Consideration was given to a report on an applicant for a private hire driver's licence from an applicant who had had a previous licence revoked by the Licensing Committee. Mr M G's licence was revoked after a conviction was imposed on him for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847, and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr M G had submitted an application for a licence to drive private hire vehicles with the Authority. A copy of his application including his DVLA driving licence was attached to the report.

In his application Mr M G has declared one conviction:-

On 28th October 2006 Mr M G was convicted of using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr M G had been subject to a Criminal Record Bureau (CRB) check which confirmed there had been no further convictions.

Mr M G was previously a licensed by the authority in 1990. Legal proceedings were instituted against Mr M G on the 30th April 2007 following an enforcement operation undertaken by Officers in October 2006 when he agreed to carry under cover officers in his private hire vehicle without being pre-booked.

Mr M G was found guilty in his absence at Teesside Magistrates Court on 12th June 2007 for illegally plying for hire contrary to section 45 of the Town Police Clauses Act 1847 and using a vehicle uninsured against third party risks contrary to the Section 143 Road Traffic Act 1988.

Mr M G was fined £150 for plying for hire and £300 plus 6 penalty points on his DVLA drivers licence for the no insurance offence. He was also ordered to pay £50 towards costs.

On the 27th November 2007 the Licensing Committee resolved to revoke Mr M G's licence with immediate effect. In addition to the convictions the Committee also noted that there was a discrepancy between the statement of means form Mr M G had completed which detailed he earned £80 per week. The Committee were provided with a copy of a shift report for the month of April 2007 from Royal Cars which showed Mr M G had worked 285 hours and earned £2102.50p in cash. When asked by the Committee if he had declared his

income to the Benefits department Mr M G stated "yes, I declare it every year". However, documentary evidence was produced to the Committee from the Councils Benefits Department who confirmed that Mr M G had not reported any income since 2004. The Committee found Mr M G to be dishonest in this matter. A copy of the minute 46/07 which referred and a copy of the decision letter were attached to the report.

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

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

Members were advised that Mr M G has passed the medical, driving standards and knowledge test requirements and if considered to be a fit and proper person at this time his application would proceed and his licence would be granted.

Mr M G and his representative (Mr Ahmed) were in attendance at the meeting.

Members decided to defer the matter in order for Mr M G to provide additional information to Members on the outcome on the investigation by the Department of Works and Pensions into his benefit claims.

RESOLVED that the matter be deferred in order for Mr M G to provide additional information to Members on the outcome on the investigation by the Department of Works and Pensions into his benefit claims.