

Licensing Committee

A meeting of Licensing Committee was held on Monday, 4th July, 2011.

Present: Cllr Paul Kirton (Chairman); Cllr Michael Clark, Cllr Evaline Cunningham, Cllr Phillip Dennis, Cllr Ken Dixon, Cllr Eileen Johnson, Cllr Jean Kirby, Cllr Ray McCall, Cllr Mrs Kath Nelson, Cllr Andrew Sherris (Vice Cllr Maurice Perry), Cllr David Wilburn and Cllr Bill Woodhead.

Officers: S Mills, P Edwards (DNS); J Nertney, P K Bell (LD).

Also in attendance: For agenda item 6 - Application for a Private Hire Drivers Licence Mr M P N - Mr M P N, Mrs N (Wife of Mr M P N); For agenda 7 - Application for a Combined Hackney Carriage and Private Hire Drivers Licence L A - Mr L A.

Apologies: Cllr Miss Tina Large, Cllr Alan Lewis and Cllr Maurice Perry.

L Declarations of Interest

8/11

There were no interests declared.

L Minutes

9/11

The minutes of the meetings held on 1st March 2011 and 12th April 2011 were signed by the Chairman as a correct record.

L Exclusion of the Public

10/11

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 - R.A.

11/11

Members were informed that Mr R A was not in attendance at the meeting. The Licensing Officer informed Members that an invite letter and a copy of the report was hand delivered to Mr R A's home early morning on 24th June 2011. Mr R A had not informed the Licensing Unit that he could not attend.

Members considered hearing the report in Mr R A's absence but felt as this was an application for a new licence they required Mr R A attendance at meeting so they could ask him questions in order to clarify issues and give him a fair hearing. Therefore it was decided to defer consideration of the report until the next available meeting.

RESOLVED that the item be deferred.

L Application For A Private Hire Drivers Licence - M.P.N.

12/11

Consideration was given to a report on an application from an applicant who was previously licensed by the Authority but had his licence revoked by the Committee in April 2009, after he received a caution for cultivating cannabis and was also arrested for driving with excess alcohol.

Mr M P N was a Licensed Private Hire Operator with the authority and had been since July 2003 and his Private Hire Operators Licence was due to expire on 30th November 2011. A copy of Mr M P N's application including driving licence was attached to the report.

Mr M P N was previously licensed as a driver by the Authority from June 2003 until April 2009 when his licence was revoked by the Committee when he was found to have driven with excess alcohol and had a police caution for cultivating cannabis. At the time of the decision Members were of the opinion that public safety was an issue and that the revocation took place with immediate effect. A copy of the meeting minute which referred was attached to the report. Also attached was a copy of the decision letter.

An important part of the vetting process was to undertake a Criminal Record Bureau check (CRB). This was done and returned to the applicant with a copy being sent to the Licensing Office. The record disclosed that Mr M P N had no further cautions or convictions since his last caution which he received on 10th April 2008 which was for cultivating cannabis. Other relevant information was also disclosed by Cleveland Police, this, related to when Mr M P N was found not guilty of rape in April 2008, and also when he was arrested for manslaughter in 2008 but was released with no further action. A copy of Mr M P N's CRB was available for Members at the meeting.

Due to Mr M P N's licence being revoked by the committee it was felt appropriate to interview him regarding his history, CRB disclosure and also to see what had changed since his licence was revoked in April 2009. A transcript of this interview was attached to the report.

Mr M P N was given a copy of the Council's guidelines on Relevance of Convictions at the time of his application and a copy was attached to the report.

Members were reminded that under the provisions of Section 51(1) (a) of the Local Government Miscellaneous Provisions Act 1976 which instructs District Councils 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.

Mr M P N and his wife were in attendance at the meeting and were given the opportunity to address Members.

Members indicated that their main concern at this time was over Mr M P N's caution for cultivation of cannabis. Members deemed this to be a serious offence. Members noted Mr M P N's explanation that he had accepted the caution, even though he alleged that the cannabis belonged to his son, and that he had done this as his son was wishing to apply to the Fire Brigade. Members had regard to their guidelines on the relevance of convictions and cautions. It was noted that under their guidelines Mr M P N was expected to have a further period of time free from conviction or caution. Members took into account a number of factors which persuaded them to depart from their guidelines.

Mr M P N assured Members that he did not have an alcohol problem and that he did not take drugs. It was noted that as part of the application process Mr M P N had agreed to submit to a drugs test and this had been negative. Members also took into consideration that Mr M P N had built up his business as an

Operator and was licensed to drive public service vehicles. As there were no complaints before Members in relation to his business Members were persuaded to depart from their guidelines and granted Mr M P N's licence.

Mr M P N was informed that the licence was granted with a warning as to his future conduct.

Members also warned Mr M P N that there had in the past been concerns about possible excessive use of alcohol and allegations of drug taking. Members advised Mr M P N that they had resolved to put a lot of trust in him and they did not expect Mr M P N to breach that trust and appear before them again.

RESOLVED that Mr M P N's application For A Private Hire Drivers Licence be granted subject to a warning as to his future conduct.

L
13/11 **Application For A Combined Hackney Carriage and Private Hire Drivers Licence - L.A.**

Consideration was given to a report on the suitability of an applicant for a combined hackney carriage and private hire drivers licence, who had previously had their licence revoked by the Committee.

An application for a combined hackney carriage and private hire drivers licence had been received from Mr L A. A copy of his application including a copy of his DVLA licence was attached to the report.

Mr L A was licensed with the Authority from May 2005 until January 2008. During that time he received one warning letter from the Licensing Department following a complaint from another taxi driver about his manner of driving. A copy of the letter was attached to the report. A check of Council records showed no further complaints about Mr L A while he was a licensed driver.

Mr L A attended Licensing Committee in January 2008 after he notified the department that he had been convicted of "Perverting the Course of Justice". He was given a six month custodial sentence, suspended for two years and 250 hours unpaid work. A copy of the CRB was available for Members at the Meeting.

At Committee in January 2008, Members decided to revoke Mr L A's combined hackney carriage and private hire driver's licence. A copy of the previous report and appendices were attached to the report. Minute L 58/07 that referred and a copy of the decision letter was attached to the report.

During interview with Officers in March 2011, Mr L A provided his explanation of events and a transcript of the interview was attached to the report. Mr L A advised that he was a new driver when he was caught speeding, twice in a few weeks, he sought advice from other drivers who advised him that if he got 6 points on his DVLA licence he would have his taxi badge revoked. Mr L A therefore said his wife was driving and put the speeding points on her DVLA licence.

Mr L A advised Officers this deception was only discovered when his son, living at the same address, was caught speeding and the Police then looked in to the

matter further. Mr L A admitted he had done wrong and that he had taken and followed bad advice.

Mr L A apologised for his mistake and stated he had learnt a valuable lesson from this and would not make such an error again.

During interview Mr L A was advised of the Relevance of Convictions Guidelines document and had it explained to him that despite the offence being over three years since ago, it is only 18 months since the end of his suspended sentence. Officers advised Mr L A that his convictions for "Perverting the Course of Justice" came under a Dishonesty offence and the guidelines state he must demonstrate at least three years free from further conviction, from the end of any sentence imposed. Three years will be September 2012.

Mr L A had no convictions on his current DVLA licence at the time of his application.

Mr L A had a hackney carriage drivers licence with Berwick upon Tweed Council and drove a hackney carriage with Tees Valley Cabs for private hire work.

Mr L A had provided a satisfactory medical. He had passed his DSA driving test and passed the Council written knowledge test.

A copy of the guidance on the Relevance of Convictions was available for Members information at the meeting.

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 L A was in attendance at the meeting and was given the opportunity to address Members.

Members had full regard to the report presented, a copy of which Mr L A had received prior to the meeting. Members considered the facts and took into account what Mr L A had to say in relation to the matters in question and Mr L A's past convictions.

Members had regard to their guidelines on the relevance of convictions. For offences of dishonesty an applicant would normally have to show a period of three years free from conviction. It was noted that Mr L A's last offence was in September 2007. The offences for which he was convicted were in the opinion of Members extremely serious. However it was noted that they were from over 3 years ago and Members believed Mr L A had learnt a valuable lesson. Members indicated that they were minded to put their trust in Mr L A and grant him his hackney carriage and private hire drivers licence, with this warning as to his future conduct.

RESOLVED that Mr L A's application for a hackney carriage and private hire drivers licence be granted with a warning as to his future conduct.

