

## GENERAL LICENSING COMMITTEE

A meeting of General Licensing Committee was held on Tuesday 4 July 2023.

**Present:** Cllr Eileen Johnson (Chair), Cllr Mick Moore (Vice-Chair), Cllr Jim Beall, Cllr Marc Besford, Cllr John Coulson, Cllr Clare Gamble, Cllr Elsi Hampton, Cllr Lynn Hall, Cllr Susan Scott, Cllr Mrs Ann McCoy, Cllr Marilyn Surtees and Cllr Hilary Vickers.

**Officers:** Natalie Hodgson, Sarah Whaley, Polly Edwards and Leanne Maloney-Kelly (DoAH&W).

**Also in attendance:** Applicant 141351, Applicant 155176 and Driver 001071

**Apologies:** Cllr Robert Cook, Cllr Diane Clarke OBE, Cllr David Reynard, Cllr Andrew Sherris and Cllr Hugo Stratton.

### **GLC/1/23 Evacuation Procedure**

The evacuation procedure was noted.

### **GLC/2/23 Declarations of Interest**

Cllr Mick Moore informed that Committee that he personally knew combined hackney carriage and private hire driver - 001071. In the interests of openness and transparency Cllr Moore left the meeting and did not take part in any discussion or vote on the item.

Cllrs Lynn Hall and Hilary Vickers informed the Committee that they knew a member of the public who had provided a written character witness for combined hackney carriage and private hire driver - 001071. Cllrs Hall and Vickers confirmed they were not predetermined and therefore took part in the discussion and voted on the item.

### **GLC/3/23 Minutes**

Consideration was given to the General Licensing Committee minutes from the meeting which was held on 14 March 2023 for approval and signature.

RESOLVED that the minutes be approved and signed as a correct record by the Chair.

### **GLC/4/23 Exclusion of the Public**

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.

### **GLC/5/23 Combined Hackney Carriage and Private Hire Driver Application– 155176**

Members were asked to consider and determine an application for a combined hackney carriage and private hire driver licence, from Applicant- 155176 who had a relevant conviction, meaning he did not meet current Transport Policy.

Applicant - 155176 attended the meeting and was given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- a copy of Applicant – 155176's application, and a copy of a DVLA check code which showed no live DVLA endorsements
- a summary transcript of an interview with Applicant - 155176 and Licensing Officers which was held 7th June 2023.

The Chair introduced everyone present and explained the procedure to be followed during the hearing.

The Committee noted that the application was for the grant of an application for a licence to drive private hire and hackney carriage vehicles.

The Committee heard that the Applicant – 155176's DBS check confirmed that he had been convicted on 13th April 2012 for the following:-

- 'Possessing a controlled drug' (Class A – Heroin)
- 'Possessing a controlled drug' (Class A – Cocaine), and
- 'Possessing a controlled drug' (Class A – Heroin).

Applicant - 155176 was sentenced to three years imprisonment concurrently for those offences.

Applicant – 155176's DBS check also confirmed that he was convicted on 14th September 2015 for:-

- 'Facilitate the acquisition/acquire/possess criminal property'; and
- 'Possessing controlled drug with intent to Supply' (Class A Heroin).

The Committee were informed that Applicant - 155176 was sentenced to 44 months imprisonment concurrently and a confiscation order for those offences.

Applicant - 155176 was interviewed by officers on Wednesday 7th June 2023, and asked about the convictions that led to his prison sentences. Applicant - 155176 explained to officers that he was unemployed and struggling for work at the time, had got in with the wrong crowd and began delivering drugs for them.

The Committee were also told that Applicant - 155176 went on to explain to officers that his 2015 offences were a continuation of this, and that when he was released from prison, he owed debt and was under pressure to pay this back, so began delivering drugs again.

The Committee noted that a drugs test was carried out post interview with Applicant - 155176 that tested for six illegal substances. Applicant – 155176 provided a negative sample.

The Committee heard that Applicant - 155176 did not meet the Council's current Policy as he had more than one conviction for a drugs related offence and he was unable to demonstrate that 10 years had elapsed since the completion of any sentence imposed.

The Committee also heard that Applicant - 155176 had advised officers that he was currently licenced by Redcar & Cleveland Council and worked as a taxi driver for Boro Cars.

The Committee were told that Redcar & Cleveland Council had confirmed that Applicant - 155176 had held a licence with their authority for 21 months following a committee hearing, and that no complaints had been made against him to them during this time.

Applicant - 155176 explained to the Committee that his motivation for applying to be licenced by Stockton-on-Tees Borough Council was financial; doing so would reduce his fuel costs and maximise profit as he would not be required to travel to Redcar and back for work.

In response to the Committee's questioning in relation to the likelihood of Applicant – 155176 re-offending, Applicant - 155176 explained that his circumstances were now completely different. Applicant - 155176 told the Committee that he now had two forms of income and no longer associated with the kind of people that he did before. Applicant - 155176 said that his offending was due to unemployment, and that he was in a different position now.

Applicant - 155176 told the Committee that he did not know any better at the time, he was approached to deliver drugs for cash, and he did not give much thought to it.

When Applicant - 155176 was asked if he had ever taken drugs in the past, Applicant - 155176 said that he had not, however when questioned further on this point, Applicant - 155176 admitted that he had taken cannabis in the past as part of a group but denied ever taking cocaine or heroin.

The Committee was given an opportunity to ask questions of Applicant - 155176, with Applicant - 155176 speaking last. In summing up, Applicant - 155176 stated that he had already held a licence for 21 months with Redcar & Cleveland Council and there had been no complaints made against him.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made by the applicant in response to the Committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, the Members had regard to the provisions of the Local Government (Miscellaneous Provisions) Act 1976. The Committee also had regard to the Council's Private Hire and Hackney Carriage Licensing Policy 2021 – 2026 ("the Policy").

Under section 51 Local Government (Miscellaneous Provisions) Act 1976, the Committee shall not grant a driver's licence unless they are satisfied that the driver is a fit and proper person. When determining this matter, the Committee considered this application on its merits.

The Committee considered Appendix D of the Policy, specifically the provisions that a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed for drugs related offences, and that a licence will normally be refused if an applicant has more than one conviction for drugs related offences.

The Committee noted that ten years had not elapsed since Applicant – 155176's convictions for drug related offences in 2015, plus Applicant - 155176 had two convictions for drug related offences in total. The Committee accepted that Applicant-155176 did not meet the Council's Policy.

The Committee further noted that the fact that Redcar & Cleveland Council's Licensing Committee decided to grant Applicant - 155176 a licence this had no bearing on Stockton-on-Tees Borough Council. Both authorities made their own decisions based upon on the information presented to them and the merits of each individual case. The Committee also appreciated that both authorities had their own individual licensing policies in relation to such applications.

The Committee noted that no character references were provided by anyone in support of Applicant – 155176's application.

The Committee took into consideration that despite admitting that he had made mistakes for which he was sentenced to prison, Applicant - 155176 appeared to minimise his past offending behaviour and was disingenuous in relation to his own use of drugs until questioned further by the Committee.

The Committee were not satisfied that they would allow people for whom they care to enter a vehicle with the Applicant – 155176 alone due to their doubts surrounding his two previous convictions for drugs offences, along with his attitude towards the Committee at the hearing.

Ultimately, the Committee did not believe that Applicant - 155176 was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence owing to his two previous convictions for drugs offences, along with his attitude towards the Committee at the hearing when questioned about his own drug use. The Committee were unanimously satisfied that Applicant – 155176's application should therefore be refused.

RESOLVED that Applicant – 155176's, application for a Combined Hackney Carriage and Private Hire Drivers Licence be refused for the reasons as detailed above.

### **GLC/6/23 Combined Hackney Carriage and Private Hire Driver – 001071**

Members were asked to consider and determine the continued fitness of a licensed hackney carriage and private hire driver who was arrested and currently suspended from driving licensed vehicles with this authority.

Combined hackney carriage and private hire driver - 001071 attended the meeting and was given the opportunity to make representation. Combined hackney carriage and

private hire driver - 001071 also provided two character witness statements which with the agreement of the Chair were taken into consideration at the hearing.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- a copy of an email from combined hackney carriage and private hire driver – 001071 to the licensing department advising Officers he had been arrested on the night of Thursday 1 December 2022
- a copy of a delegated decision and suspension letter relating to a previous suspension of combined hackney carriage and private hire driver – 001071
- a copy of a common law disclosure relating to combined hackney carriage and private hire driver – 001071
- a copy of a further delegated decision and suspension letter relating to combined hackney carriage and private hire driver – 001071
- a copy of a police legal file relating to combined hackney carriage and private hire driver – 001071
- a copy of a summary transcript of an interview with combined hackney carriage and private hire driver – 001071 and Licensing Officers.
- copies of letters from both Education and Transport and Licensing which were sent to combined hackney carriage and private hire driver – 001071.

The Chair introduced everyone present and explained the procedure to be followed during the hearing.

The Committee noted that they were to consider the continued fitness and what action to take in relation to the suspension of combined hackney carriage and private hire driver – 001071 drivers' licence with this authority.

The Committee noted that combined hackney carriage and private hire driver – 001071 was suspended due to his arrest on 1 December 2022, for the alleged offence of 'Rape of Female over the age of 16 years old'.

The case was concluded by Cleveland Police, who determined to take no further action and confirmed the complainant withdrew her support of a prosecution but maintained that the account she provided was true and accurate. Police confirmed that evidence led prosecution was considered, but due to no corroborative evidence being available and the absence of a victim, the case was concluded. Police stated that there was insufficient evidence available to pass the threshold for CPS charging advice, and there was no realistic prospect of a conviction at Court.

The Licensing regime allowed all aspects of complaints, arrests, convictions, cautions to be taken into consideration, regardless of the amount of time that had passed. Combined hackney carriage and private hire driver – 001071 advised the Committee that the allegations were untrue, the rape for which he was accused and arrested did

not take place. Combined hackney carriage and private hire driver – 001071 confirmed to the Committee that he was a fit and proper person, and that the Committee Members could trust combined hackney carriage and private hire driver – 001071 to be a responsible and safe licensed driver.

The Committee noted combined hackney carriage and private hire driver – 001071's long positive history as a licensed driver with minimal complaints, and determined they were satisfied that he was a fit and proper person to hold a licence. The Committee placed their trust in combined hackney carriage and private hire driver – 001071 and concluded to lift the suspension and reinstate his combined hackney carriage and private hire drivers licence.

RESOLVED that Combined Hackney Carriage and Private Hire Driver – 001071 have his suspension lifted and his Combined Hackney Carriage and Private Hire Drivers Licence be reinstated for the reasons as detailed above.

### **GLC/7/23 Combined Hackney Carriage and Private Hire Driver Application– 141351**

Members were asked to consider and determine an application for a combined hackney carriage and private hire driver licence, from applicant - 141351 who was previously revoked by this authority in 2017 and had relevant convictions which meant he currently did not meet Transport Policy.

Applicant - 141351 attended the meeting and was given the opportunity to make representation.

Committee papers and reports had been provided to all relevant parties prior to the meeting.

The report detailed the following:

- a copy of Applicant – 141351's application which contained a DVLA check code, showing no live DVLA endorsements
- a copy of a summary transcript of an interview with Applicant – 141351 and Licensing Officers which was held on 16th March 2023
- a copy of a letter to Applicant – 141351 granting him his licence in 2016 which included a warning
- a copy of the revocation letter to Applicant – 141351 dated 2017.

The Chair introduced everyone present and explained the procedure to be followed during the hearing.

The Committee noted that they were to consider an application from Applicant – 141351 who's DBS disclosure confirmed two convictions for battery on 1st May 2016; and who was sentenced to 8 weeks imprisonment and fined a victim surcharge of £115 and costs of £620 for these offences.

The Committee were told that the victims in this matter were Applicant – 141351's wife and daughter.

The Committee also heard that Applicant – 141351 had previously held a private hire vehicle drivers' licence with this Authority, which was revoked in 2017 following his battery convictions.

Applicant – 141351 was interviewed by officers on Tuesday 16th March 2023, and was asked about the incident that led to his prison sentence. Applicant – 141351 had told officers that bamboo sticks were found in his house by police, however denied hitting his wife or daughter with these.

The Committee noted that Applicant – 141351 had advised officers that in his view the incident was an internal family matter and that he would not be aggressive with customers or members of the public.

The Committee further heard that Applicant – 141351's comments during his interview concerned officers; Applicant – 141351 struggled to understand what a vulnerable person was and when questioned about transporting a lone female, he suggested that he would take her to the police station rather than transport her home safely.

The Committee noted that when questioned further on this point, Applicant – 141351 made comments that he did not trust women and said "because, you know, in this country, women have power".

The Committee also heard that Applicant – 141351 received a police caution on 2 August 2012 for common assault; Applicant – 141351 stated in interview at the time that this was due to a disagreement with a friend outside his child's school.

Applicant – 141351 explained to the Committee that he was a joiner by profession, however, would like to be a taxi driver as he enjoyed this previously and it was less strenuous than joinery as he aged.

The Committee heard from Applicant – 141351 that in his view he made a mistake and was punished; he now wished to support his family by working as a taxi driver.

In response to the Committee's questioning in relation to the incident in 2016, that led to Applicant – 141351's conviction for battery, Applicant – 141351 explained that he was trying to educate his teenage daughter after she shared a photograph of herself on social media. Applicant – 141351 told the Committee that his wife took their daughter's side in this disagreement, and he had shouted at them both, and that they had subsequently telephoned the police.

Applicant – 141351 told the Committee that the police thought that he had hit his wife and daughter as they found bamboo sticks in the house that he used for gardening. Applicant – 141351 said that during the argument he grabbed his wife and daughter hard, however he felt that they had sensitive skin which marked easily. The Committee noted that Applicant – 141351 repeatedly denied hitting his wife and daughter, despite his convictions for battery against them.

The Committee heard from Applicant – 141351 that he lived happily and peacefully with his wife and daughter, and they now also had a two-year-old daughter; three daughters in total. Applicant – 141351 told the Committee that he knew he was wrong, made a mistake and was punished for it.

In response to the Committee's questioning in relation to the incident in 2012, for which he accepted a police caution for common assault, Applicant – 141351 said that this incident was him joking with a friend, where they were pushing and shoving each other. Applicant – 141351 told the Committee that his friend was a short man, and that Applicant – 141351 had pushed him too hard and he fell into a bush. Applicant – 141351 said that the school called the police as they believed they were fighting. During the hearing, the Committee heard Applicant – 141351 denied any aggression towards his friend.

Applicant – 141351's further responded to the Committee's questioning about the comments he made in interview about women, Applicant – 141351 said that he could not explain himself properly and that this was a misunderstanding. Applicant – 141351 explained to the Committee that he had previously formed the view that women had power because during the incident with his wife and daughter, the police listened to his daughter and not him. Applicant – 141351 assured the Committee that he now understood that men and women had equal rights. Applicant – 141351 reiterated to the Committee that he had made mistakes, but now understands his wrongdoing.

The Committee was given an opportunity to ask questions of Applicant – 141351, with Applicant – 141351 speaking last.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made by the applicant in response to the Committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, the Members had regard to the provisions of the Local Government (Miscellaneous Provisions) Act 1976. The Committee also had regard to the Council's Private Hire and Hackney Carriage Licensing Policy 2021 – 2026 ("the Policy").

Under section 51 Local Government (Miscellaneous Provisions) Act 1976, the Committee shall not grant a drivers licence unless they are satisfied that the driver is a fit and proper person. When determining this matter, the Committee considered this application on its merits.

The Committee considered Appendix F of the Policy, specifically the provision that a licence would normally be refused if an applicant had more than one conviction in the last ten years for an offence of a violent nature.

The Committee noted that Applicant – 141351 had two convictions within the last ten years for battery, plus a police caution for common assault from 2012, eleven years ago.

The Committee further noted the provision within the Policy that stated that the Council deemed incidents of domestic violence to be extremely serious because if an individual is prepared to assault an individual in a domestic or home environment, then they would have concerns over the person's ability to maintain their temper when working in an environment dealing with members of the public. The Committee noted that Applicant – 141351's offending was against his wife, daughter, and someone whom he considers a friend, and therefore they could not be satisfied that he would behave appropriately towards strangers; members of the public.



The Committee noted that no character references were provided by anyone in support of Applicant – 141351's application.

Committee Members took into consideration that despite admitting that he had made mistakes and been punished, Applicant – 141351 appeared to minimise his past offending behaviour and did not seem to offer any genuine remorse for his actions.

The Committee Members were not satisfied that they would allow people for whom they cared for to enter a vehicle with the applicant alone due to their doubts surrounding his previous two battery convictions against his family and a police caution for common assault, along with his concerning comments made during interview about how he would deal with a lone female.

The Committee Members gave weight to their view that Applicant – 141351 took no responsibility for his actions against his wife and daughter in 2016, and that he appeared to blame them for the incident which led to his convictions. This was compounded by the fact that Applicant – 141351 minimised the incident for which he received a police caution for common assault, by asserting that this was simply "joking around".

The Committee noted that Applicant – 141351 told them that during the argument in 2016, he grabbed his wife and daughter hard, yet denied hitting them with bamboo sticks. The Committee members felt that any form of aggression towards his family members was unacceptable, and this added weight to their view that the applicant was not a fit and proper person.

The Committee noted information contained within the committee papers, which detailed Applicant – 141351's interview with licensing officers in 2016, where Applicant – 141351 admitted an argument with a friend during which he pushed his friend to the floor. The Committee noted that this differed from Applicant – 141351's assertion to the Committee during the hearing that this incident was in jest and was not aggressive.

Ultimately, the Committee did not believe that Applicant – 141351 was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence owing to his previous aggressive behaviour towards friends and family, along with concerning comments made during his interview about how he would deal with a lone female and his views on women. The Committee were unanimously satisfied that the application should therefore be refused.

**RESOLVED** that Applicant – 141351's, application for a Combined Hackney Carriage and Private Hire Drivers Licence be refused for the reasons as detailed above.