

General Licensing Committee

A meeting of General Licensing Committee was held on Monday, 13th February, 2023.

Present: Cllr Paul Kirton(Chairman), Cllr Eileen Johnson(Vice-Chair), Cllr Robert Cook, Cllr Evaline Cunningham, Cllr Mick Moore, Cllr Maurice Perry, Cllr Marilyn Surtees, Cllr Hilary Vickers, Cllr Julia Whitehill, Cllr Bill Woodhead MBE

Officers: Natalie Hodgson, Sarah Whaley (D o CS), Elliott Beevers, Polly Edwards, Leanne Maloney-Kelly, Amy Stephenson (D o AH),

Also in attendance: Combined Hackney Carriage and Private Hire Driver – 000928 and his representative Mr David Wilson.
Combined Hackney Carriage and Private Hire Driver Applicant– 119522 and his representative Mr David Wilson.
Private Hire Driver Applicant – 154676.

Apologies: Cllr Jacky Bright, Cllr Ken Dixon, Cllr Tina Large, Cllr Lee Spence

GLC 39/22 Evacuation Procedure

The Evacuation Procedure was noted.

GLC 40/22 Declarations of Interest

There were no declarations of interest.

GLC 41/22 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 42/22 Combined Hackney Carriage and Private Hire Driver – 000928

Members were asked to consider and determine the continued fitness of Combined Hackney Carriage and Private Hire Driver - 000928, who was arrested and currently suspended from driving licensed vehicles.

Combined Hackney Carriage and Private Hire Driver – 000928 and his representative Mr David Wilson attended the meeting and were 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 a final suspension letter to Combined Hackney Carriage and Private Hire Driver – 000928.
- A redacted summary provided by Cleveland Police.
- A summary transcript of an interview with Licensing Officers and Combined

Hackney Carriage and Private Hire Driver – 000928.

- Copies of Character references provided by Combined Hackney Carriage and Private Hire Driver – 000928.

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

Members noted that they were to consider and determine the continued fitness of Combined Hackney Carriage and Private Hire Driver – 000928 to remain a licensed hackney carriage and private hire driver with this Authority after Combined Hackney Carriage and Private Hire Driver – 000928 was arrested in August 2021 for the offences of, ‘Rape of a female aged 16 years or over’.

Members also noted that Combined Hackney Carriage and Private Hire Driver – 000928 was bailed following his arrest and subsequently the Police took No Further Action in the matter.

The Committee had regard to the report and appendices and listened to the oral submission given by Combined Hackney Carriage and Private Hire Driver – 000928’s representative, Mr David Wilson.

Members of the Committee considered the details of the report carefully and after some deliberation determined that they considered Combined Hackney Carriage and Private Hire Driver – 000928 to be a fit and proper person and resolved to lift the suspension of his licence and have his licence reinstated.

Combined Hackney Carriage and Private Hire Driver – 000928 was reminded to familiarise himself with the conditions imposed on him as part of Combined Hackney Carriage and Private Hire Driver – 000928’s licence and ensure that he report any future incidents directly to the Licensing Department.

Combined Hackney Carriage and Private Hire Driver – 000928 was asked to ensure that he always informed the Police, if he was arrested again, that he was a taxi driver.

RESOLVED that that Combined Hackney Carriage and Private Hire Driver – 000928 have his Combined Hackney Carriage and Private Hire Drivers Licence reinstated for the reasons as detailed above.

**GLC
43/22**

Combined Hackney Carriage and Private Hire Driver Application– 119522

Members were asked to consider and determine an application for a combined hackney carriage and private hire driver licence, from Applicant – 119522 who had previously been revoked by this authority.

Applicant – 000928 and his representative Mr David Wilson attended the meeting and were 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 -119522's application including a DVLA check code, showing 3 live DVLA points.
- A summary transcript of an interview with Licensing Officers and Applicant -119522.
- A copy of a committee meeting minute and warning letter to Applicant -119522's from a meeting dated 28th November 2017.

The Committee noted that the application was for the grant of an application to drive hackney carriage and private hire vehicles, full details of which were contained within the main report.

Members heard that DVLA information revealed three live penalty points on Applicant -119522's driving licence, and that DBS disclosure confirmed three convictions dated 17th October 2013 for 'exceed 50mph speed limit detected by ACD', 'resist or obstruct constable' and 'using a vehicle while uninsured'.

The Committee further noted that Applicant -119522 was previously a licensed private hire driver with Stockton-on-Tees Borough Council from 21st December 2010 until 1st July 2014.

The Committee heard that Applicant -119522 reapplied for a private hire driver licence and was re-licensed with a warning, after a Licensing Committee hearing in November 2017. The Committee noted that Applicant -119522's licence was revoked by the Authority in April 2019, due to not declaring speeding offences.

Applicant -119522's representative, Mr Wilson, and the Committee were given an opportunity to ask questions of the Officer.

Mr Wilson explained to the Committee that Applicant -119522's was previously licenced until the revocation in 2019, and that he had not been licenced for the past four years.

Mr Wilson informed the Committee that, in relation to the convictions from 2013, Applicant -119522 admitted giving false details to police when stopped by them in relation to speeding and driving whilst uninsured. Mr Wilson told the Committee that this was after a house fire and therefore Applicant -119522 was not thinking clearly as he was rushing to attend University, and that he later thought better of this and admitted his wrongdoing.

Mr Wilson told the Committee that in relation to the more recent speeding offence on the A66, Applicant -119522 had not appreciated that he was speeding, and that he had accepted the consequences of his actions in this regard.

The Committee heard from Mr Wilson that in relation to not disclosing convictions, Applicant -119522 felt that the application form did not clearly set out its requirements in this regard. The Licensing Team Leader advised the

Committee that the online form completed by drivers was very clear and unambiguous in relation to the applicant's requirement to disclose all convictions/warnings and cautions.

In response to the Committee's questions, Applicant -119522 suggested that he had disclosed his speeding offences from July 2022 within his application but accepted that this did not appear on the copy of his online application form before the Committee.

In response to further questioning by the Committee, Applicant -119522 confirmed that when convicted of the speeding offence in July 2022, he was "pottering" along the A66, talking to his mother who was a passenger in the vehicle, and had inadvertently exceeded the speed limit. The Committee heard Applicant -119522 apologise for this offence.

The Committee was given an opportunity to ask questions of Applicant -119522, with his representative, Mr Wilson, 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 and the applicant's representative, including in response to the Committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, 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.

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

The Committee found Applicant -119522 to be disingenuous when asked why he did not declare his conviction for speeding dated July 2022. The Committee noted that this was the third occasion upon which Applicant -119522 had failed to declare criminal convictions to the Licensing Authority, having been presented with information that Applicant -119522 had previously failed to declare convictions in 2011 and 2019.

The Committee felt that by repeatedly choosing not to declare his criminality, Applicant -119522 gave the Committee a valid reason to doubt his fitness and propriety to hold a licence.

The Committee's doubts in relation to Applicant -119522 fitness and propriety were compounded by his explanation of the circumstances that led to his conviction for speeding in July 2022.

The Committee found that Applicant -119522's justification that he was distracted by his conversation with his mother, a passenger in the vehicle, was particularly concerning. The Committee noted that their overriding consideration was the safety of the public, and that safe drivers were able to transport and

speak to their passengers without exceeding the speed limit.

Ultimately, the Committee did not believe that Applicant -119522 was a fit and proper person to hold a hackney carriage and private hire vehicle drivers licence owing to his repeated failures to declare criminal convictions and his attitude before the Committee in relation to the circumstances of his most recent conviction. The Committee were satisfied that the application should therefore be refused.

RESOLVED that that Applicant – 119522's, application for a Combined Hackney Carriage and Private Hire Drivers Licence be refused for the reasons as detailed above.

**GLC
44/22 Private Hire Driver Application – 154676**

Members were asked to consider and determine an application for a private hire driver licence, from Applicant – 154676 who had previously been revoked by this authority.

Applicant – 154676 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 – 154676's application which contained a DVLA check code, showing no live DVLA endorsements.
- A copy of a victim statement.
- A copy of Applicant – 154676's statement to Middlesbrough Borough Council Licensing Officers.
- A copy of a committee report relating to Applicant – 154676.
- A copy of a committee decision letter relating to Applicant – 154676.
- A summary transcript of an interview between Licensing Officers and Applicant – 154676.

Members of the Council's General Licensing Committee considered the above application, full details of which appeared before the Members in their agenda and background papers.

A copy of the report had been provided to everyone present and to members of the Committee.

The Committee noted that the application was for the grant of an application to drive private hire vehicles as detailed in the application.

The Committee heard that Applicant – 154676 had previously held a private hire

licence with Middlesbrough Borough Council, until he was revoked by their Licensing Committee on 29th July 2019. Middlesbrough Borough Council's Licensing Committee took this decision as they found on the balance of probabilities that Applicant – 154676 had made comments of a sexual nature to a young female passenger, which caused her to feel very uncomfortable and intimidated.

Members considered the contents of the documents relating to the revocation, provided by Middlesbrough Borough Council, including copies of the witness statements of the complainant and Applicant – 154676, the Committee report and the Committee's decision letter. The Committee heard that Applicant – 154676 did not appeal Middlesbrough Borough Council's decision.

Applicant – 154676 and the Committee were given an opportunity to ask questions of the Officer.

Applicant – 154676 explained to the Committee that he was shocked when the allegation that he had made sexual comments were made.

The Committee heard from Applicant – 154676 that he accepted that he had a conversation with the female passenger and that he made comments regarding her age however denied making inappropriate comments or any of a sexual nature.

In response to the Committee's questioning on why the passenger would fabricate such allegations, Applicant – 154676 said that in his opinion this may be due to racism or perhaps for financial gain.

In response to further questioning by the Committee, Applicant – 154676 urged the Committee to trust him and not the complainant, particularly as he had not received any other complaints.

The Committee was given an opportunity to ask questions of Applicant – 154676, with Applicant – 154676 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 and the applicant's representative, including in response to the Committee's questions.

Having carefully considered the written application and documentation before them and in reaching their decision, 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.

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

The Committee gave weight to the information provided by Middlesbrough Borough Council relating to their Licensing Committee's revocation from July

2019. The Committee noted that Middlesbrough Council's Licensing Committee took the decision to revoke Applicant – 154676's licence after hearing live evidence from the complainant, who they found to be a competent and believable witness with no reason to make up the complaint.

The Committee also gave weight to Middlesbrough Borough Council's decision that they found on the balance of probabilities that Applicant – 154676 had made comments of a sexual nature to a young female passenger, which caused her to feel very uncomfortable and intimidated.

Ultimately, the Committee did not believe that Applicant – 154676 was a fit and proper person to hold a private hire vehicle drivers licence owing to him making inappropriate sexual comments to a young female passenger, as determined by Middlesbrough Borough Council's Licensing Committee in 2019. The Committee were satisfied that the application should therefore be refused.

RESOLVED that that Applicant – 154676's, application for a Private Hire Drivers Licence be refused for the reasons as detailed above.