

General Licensing Committee

A meeting of General Licensing Committee was held on Tuesday, 14th March, 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 Bill Woodhead MBE

Officers: Natalie Hodgson, Sarah Whaley (D o CS), Elliott Beevers, Sarah Blair, Leanne Maloney-Kelly (D o AH)

Also in attendance: Private Hire and Hackney Carriage Driver Application – 154855

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

GLC 45/22 Evacuation Procedure

The evacuation procedure was noted.

GLC 46/22 Declarations of Interest

There were no declarations of interest.

GLC 47/22 Minutes from the General Licensing Committee which was held on 31st January 2023

Consideration was given to the General Licensing Committee minutes from the meeting which was held on 31 January 2023 for approval and signature.

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

GLC 48/22 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 49/22 Combined Hackney Carriage and Private Hire Driver – 001223

Members were asked to consider a request which had been made by Combined Hackney Carriage and Private Hire Driver – 001223's legal representative to defer this item to the next meeting of the General Licensing Committee to enable him to consider additional information prior to the hearing.

A vote took place, and the deferment was agreed.

RESOLVED that this item be deferred to the next committee meeting of the General Licensing Committee scheduled for 18 April 2023.

GLC 50/22 Private Hire and Hackney Carriage Driver Application –

154855

Members were asked to consider and determine a new application for a combined private hire and hackney carriage driver licence for applicant – 154855.

Applicant - 154855 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 – 154855's application, including a DVLA check certificate showing no live DVLA points

- A summary of an interview transcript with licensing officers and applicant - 154855

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 applicant – 154855 provided an enhanced Disclosure & Barring Certificate during the application process, which revealed convictions for:

- failing to surrender to custody at appointed time in 2011

- battery in 2015

- driving a motor vehicle with excess alcohol on 29th July 2017, for which he was fined £184, ordered to pay costs of £85 plus a victim surcharge of £30. Upon conviction on 29th November 2017, applicant – 154855 was also disqualified was also disqualified from driving for 36 months.

The Committee heard that when applicant – 154855 was interviewed by officers on 28th February 2023, he explained that the offence of failing to surrender to custody related to him refusing to give a sample of breath when his vehicle was stopped after drinking alcohol. The Committee noted that applicant – 154855 told officers that due to his refusal to co-operate with police officers at the roadside he was detained in custody for one day.

The Committee heard that when officers carried out further investigations following applicant – 154855's interview, they discovered that the offence of failing to surrender to custody actually referred to applicant – 154855 jumping bail in 2011. The Committee noted that when applicant – 154855 was asked again about this via email, he responded that the Court date had slipped his

mind and he was therefore detained overnight by police and taken to Court the following day.

The Committee noted that during interview, applicant – 154855 had disclosed to officers that at the time, in 2011, he was also convicted of driving a motor vehicle with excess alcohol and was banned from driving for 36 months. The Committee heard that applicant – 154855's driving licence was subsequently reinstated in 2014.

The Committee heard that in relation to the offence of Battery in 2015, applicant – 154855 had explained to officers during interview that this occurred during a difficult time in his life due to the death of his baby son.

The Committee further heard that applicant – 154855 was asked in interview why he was disqualified from driving for a long period of time in 2017, following his conviction for driving a motor vehicle with excess alcohol. The officer told the Committee that applicant – 154855 claimed that this was due to it being his second driving disqualification, having been disqualified previously for 36 months.

Applicant – 154855 and the Committee were given an opportunity to ask questions of the officer.

The Committee heard from applicant – 154855 that he wished to become a licenced private hire and hackney carriage driver as this work was flexible around childcare. The Committee further heard that applicant – 154855 had experience of the taxi industry as he had previously worked for taxi companies as a call handler / dispatcher.

The Committee noted that applicant – 154855 had provided the following documents to the Committee for consideration:

- a number of positive character references
- a death certificate of applicant – 154855's son

In response to the Committee's questioning and concerns in relation to applicant – 154855 having two convictions for driving a motor vehicle with excess alcohol, applicant – 154855 stated that he was in a "bad head space" following the death of his baby son, but that he does not drink alcohol now.

In response to the Committee's questioning on his battery conviction, applicant – 154855 confirmed that a physical altercation took place in Yarm Lane in Stockton-on-Tees. The Committee heard from applicant – 154855 that this incident took place due to an argument with a friend over a football match. The Committee heard from applicant – 154855 that because his friend's injuries were worse, he was arrested rather than his friend.

The Committee was given an opportunity to ask questions of applicant – 154855, with applicant – 154855 speaking last.

Once applicant – 154855 had left the Committee room, he had asked officers if he could re-address the Committee as he felt very nervous and had not expressed everything that he wanted to say. As no decision had been made, the Committee agreed, and applicant – 154855 returned to the Committee room and re-addressed the Committee.

Applicant – 154855 reiterated his points to the Committee. Following questioning, applicant – 154855 confirmed to the Committee that his driving licence was most recently reinstated in 2020, following a 36 month driving ban.

The Committee was given a further opportunity to ask questions of applicant – 154855, with applicant – 154855 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, including in response to the Committee’s questions, and the documents submitted by the applicant.

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 2022 – 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 considered and gave weight to the Council’s Private Hire and Hackney Carriage Licensing Policy 2022 – 2026, particularly Appendix E paragraph (c):- Alcohol related offences.

The Committee noted that as applicant – 154855’s driving licence was most recently reinstated in 2020, had he only had one conviction for a drink driving offence, he would have needed to demonstrate seven years free from conviction after the restoration of his driving licence before his application would be considered. This would not have been until 2027 at the earliest.

The Committee further noted that applicant – 154855 had two convictions for driving a motor vehicle under the influence of alcohol. When applying the policy in these circumstances, the Committee noted that applications were normally refused if an applicant had more than one conviction of this kind.

The Committee had regard to the six-character references submitted in support of the applicant, however Members were not persuaded that they were sufficient evidence to find that applicant – 154855 was a fit and proper person when taking into account his criminal convictions.

The Committee did not add weight to the character references provided, as Members found it reasonable to assume that the referees were not fully aware of the full evidence before the Committee, including the applicant’s antecedent criminal convictions.

Ultimately, the Committee did not believe that applicant – 154855 was a fit and proper person to hold a private hire and hackney carriage vehicle drivers licence owing to his criminal convictions, particularly his two convictions for driving a motor vehicle with excess alcohol in 2011 and 2017. The Committee were satisfied that the application should therefore be refused.

RESOLVED that applicant – 154855's application for a private hire and hackney carriage driver licence be refused for the reasons as detailed above.