

GENERAL LICENSING COMMITTEE

A meeting of General Licensing Committee was held on Tuesday 28 May 2024.

Present: Cllr Eileen Johnson (Chair), Cllr Mick Moore (Vice-Chair), Cllr Marc Besford, Cllr Diane Clarke OBE, Cllr Robert Cook, Cllr Jason French, Cllr Clare Besford, Cllr Elsi Hampton, Cllr Mrs Ann McCoy, Cllr Susan Scott, Cllr Andrew Sherris, Cllr Marilyn Surtees and Cllr Hilary Vickers.

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

Also in attendance: Applicant 156919 and Applicant 062932

Apologies: Cllr Hugo Stratton.

GLC/1/24 Evacuation Procedure

The Evacuation Procedure was noted.

GLC/2/24 Declarations of Interest

There were no declarations of interest.

GLC/3/24 Minutes

Consideration was given to the General Licensing Committee minutes for the meetings which were held on 5 December 2023 and 30 January 2024.

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

GLC/4/24 Any Other Business

The Licensing Team Leader presented Members with a verbal update relating to the licensing of Uber Taxi's.

Due to an increase in taxi licensing applications following Uber being a licensed operator with this authority since January 2024, Members were advised that this could result in the need for more frequent General Licensing Committee meetings.

Most applications could be dealt with at officer level, however any applications that had adverse DBSs would need to be considered by the General Licensing Committee.

It was also explained to the Committee that there had been a spike in officer workload due to the increase in the number of applications being processed as well as impacting on the Cowpen Depot.

Uber operated the same processes as all the other 25 operators, the only difference being that it was cloud based.

The Committee were informed that an Uber representative had attended their first quarterly operators meeting since being licensed and there were no issues to report.

RESOLVED that the information be noted.

GLC/5/24 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/6/24 Private Hire Driver Application - 156919

Members were asked to consider and determine an application for a private hire driver licence, from Applicant 156919 who had relevant convictions, which did not meet current Transport Policy.

Applicant 156919 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 156919's application including a DVLA check code showing no live DVLA points.
- . a summary transcript of an interview with Licensing Officers.

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 private hire driver licence.

The Committee heard that an enhanced DBS certificate was received as part of the usual application process showing that Applicant 156919 had been convicted for the offences of 'Driving a Motor Vehicle with Excess Alcohol' on 21st August 2016, and 'Failing to Surrender to Custody at Appointed Time' on 6th September 2016. The Committee were told that Applicant 156919 was convicted of these offences on 13th July 2017 and received a £400 fine and was ordered to pay £135 costs, a £40 victim surcharge and was disqualified from driving for twelve months.

The Committee heard that the Council's current policy stated that a person who had been disqualified from driving as a result of a drink driving offence must show at least seven years free from conviction after the restoration of their driving licence, before

their application would be considered. The Committee were told that Applicant 156919's DVLA driving licence was restored in July 2018; 5 years 10 months ago.

The Committee were told that Applicant 156919 was interviewed on Monday 22 April 2024 by licensing officers in relation to the circumstances surrounding his previous convictions. The Committee heard that Applicant 156919 had advised officers that on the day of his arrest he was using his friend's car to take them to the hospital, despite having drunk alcohol.

The Committee heard that Applicant 156919 had admitted during interview that following the same incident he received six penalty points on his DVLA driving licence due to driving without insurance. The Committee noted that these endorsements did not appear on Applicant 156919's DVLA record as they had expired.

The Committee were advised that when Applicant 156919 was asked during his interview why he did not surrender to custody when on bail, he said, "A lot of things going on by then. I didn't get them how I was supposed to. I mean, my English, as I told you, wasn't that good in then and I didn't understand the proper things, what am I supposed to do".

The Committee heard that Applicant 156919 did not declare any convictions on his application form. The Committee were told that Applicant 156919 claimed that he had received help completing his application form online by an employee of Learning Curve, a training provider.

The Committee were told by the Licensing Team Leader it was likely that Learning Curve had assisted Applicant 156919 with his application, as he was known to have attended taxi and private hire training provided by Learning Curve, during which it was understood that they assisted attendees to complete such applications.

The Committee also heard, in response to being asked about driving without insurance that Applicant 156919 did not understand at that time how vehicle insurance worked in the UK as he had originally lived in Romania. Applicant 156919 assured the Committee that he now fully understood this as he worked as an HGV driver.

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

Having carefully considered the written 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 ("the Policy").

The Committee noted that under section 51 Local Government (Miscellaneous Provisions) Act 1976, the Committee shall not grant a driver's licence unless they are satisfied that Applicant 156919 is a fit and proper person. When determining this matter, the Committee considered this application on its merits.

The Committee had regard to Appendix E of the Policy, particularly section C; "A person who has been disqualified from driving as a result of a drink driving offence must show at least seven years free from conviction after the restoration of their driving licence before their application will be considered."

The Committee members were not satisfied that they would allow people for whom they cared for to enter a vehicle with Applicant 156919 due to his previous convictions for 'Driving a Motor Vehicle with Excess Alcohol' and 'Failing to Surrender to Custody at Appointed Time' in 2016. The Committee noted that Applicant 156919's DVLA driving licence was restored in July 2018; 5 years 10 months ago.

The Committee did not feel that there were any exceptional reasons before them to depart from the Policy that Applicant 156919 should demonstrate seven years free from conviction after the restoration of his driving licence. The Committee noted that, without further conviction, that would be July 2025 at the earliest.

Ultimately, the Committee did not believe that Applicant 156919 was a fit and proper person to hold a private hire drivers licence. The Committee were unanimously satisfied that Applicant 156919's application should therefore be refused.

RESOLVED that Applicant 156919's, application for a Private Hire Drivers Licence be refused for the reasons as detailed above.

GLC/7/24 Combined Hackney Carriage and Private Hire Driver Application – 062932

Members were asked to consider and determine an application for a combined hackney carriage and private hire driver licence, from Applicant 062932 who had previously held a combined hackney carriage and private hire driver licence with this authority, and which was revoked via the Councils delegated Decision process.

Applicant 062932 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 062932's application, including a DVLA check code and a current full licence with no endorsements.
- . A summary transcript of an interview with Applicant 062932 and Licensing Officers which was held 13 March 2024.
- . A copy of an 'Intention to Revoke' letter dated 28 February 2023, to Applicant 062932.
- . A copy of Applicant 062932's written comments dated 2 March 2023.
- . A copy of a written letter of support for Applicant 062932.
- . A copy of the delegated decision and revocation letter to Applicant 062932.
- . A copy of an email from Stockon Borough Councils lawyer outlining a summary of a court decision dismissing Applicant 062932's appeal which stated that Applicant 062932 was not a fit and proper person.

. A copy of the refusal letter to Applicant 062932 from when Applicant 062932 first applied for a licence in 2003.

. A copy of the grant letter to Applicant 062932 from when Applicant 062932 applied for a licence in 2006 as Applicant 062932 was compliant with the Councils transport policy relevance of convictions guidelines.

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 combined hackney carriage and private hire driver licence.

The Committee noted that Applicant 062932's previous combined licence was revoked in February 2023, due to testing positive for cannabis following a random drug test, conducted whilst Applicant 062932 was working in his licenced vehicle. The Committee heard that it was standard practice for new applications to come before them for determination following a revocation.

The Committee were informed that during an interview with licensing officers, Applicant 062932 advised them that he was a fit and proper person because he was not a drug user. The Committee were told that initially, Applicant 062932 denied to officers that he had taken drugs. The Committee heard that Applicant 062932's explanation of the circumstances that led to his positive drug test result then changed; Applicant 062932 later admitted to 'smoking a joint' on his day off, a few days prior to the positive drugs test result.

The Committee heard that during the interview, Applicant 062932 advised officers that he would not even think of being intoxicated whilst working as a taxi driver and stated that he had previously been a licensed driver for around sixteen years and had never been in trouble before.

The Committee heard that Applicant 062932 had exercised his right to appeal against the revocation to Teesside Magistrates' Court, and that the appeal was heard on 1st August 2023. The Committee were advised that the Court dismissed Applicant 062932's appeal; stating that they did not consider Applicant 062932 to be a fit and proper person, and that he had compounded his behaviour by lying to officers when he denied the use of cannabis, despite the initial screening test indicating a positive result.

The Committee questioned Applicant 062932 on his stance that he had never been in trouble before, despite him being previously convicted (pre-2002) of assault, possession of a class B drug, namely cannabis, and soliciting a woman for prostitution. In response to the Committee's questions, Applicant 062932 stated that beside these matters, he had never been in trouble.

The Committee also heard from Applicant 062932, in response to being asked about driving with drugs in his system, that Applicant 062932 was not, in his view, intoxicated, and that he did not receive any complaints, despite testing positive for cannabis later that evening.

The Committee noted that in response to a question about the drug test conducted, Applicant 062932 stated that he had been drug tested by police many times and had never tested positive.

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

Having carefully considered the written 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"). The Committee noted that 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 Members were not satisfied that they would allow people for whom they care to enter a vehicle with Applicant 062932 due to concerns regarding his explanation of testing positive for cannabis only last year, and his responses to their questioning about the circumstances surrounding this. The Committee found Applicant 062932's manner to be defensive, and they were concerned at Applicant 062932's admission that he had been drug tested by police 'many times', which seemed unusual to the Committee.

Ultimately, the Committee did not believe that Applicant 062932 was a fit and proper person to hold a combined hackney carriage and private hire vehicle drivers licence. The Committee were unanimously satisfied that Applicant 062932's application should therefore be refused.

RESOLVED that Applicant 062932's, application for a Combined Hackney Carriage and Private Hire Drivers Licence be refused for the reasons as detailed above.