

## Licensing & Appeals Sub-Committee – 24 February 2021

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Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **24 February 2021** when there were present:-

Chairman: Cllr Mrs C A Weston

Cllr M J Lucas-Gill  
Cllr P J Shaw

Cllr Mrs L Shaw

### OFFICERS PRESENT

S Worthington	- Principal Democratic & Corporate Services Officer
S Greener	- Principal Licensing Officer
C Irwin	- Solicitor
K Smith	- Democratic Services Officer

### EXCLUSION OF THE PRESS AND PUBLIC

#### Resolved

That the press and public be excluded from the meeting for the remaining business on the grounds that exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 would be disclosed.

#### 1 PROCEDURE DOCUMENT

The Sub-Committee noted the procedure to be followed in hearing the appeal.

#### 2 COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee considered the exempt report of the Assistant Director, People & Communities relating to an applicant falling outside the Council's licensing conditions as a result of 3 speeding offences.

The Sub-Committee considered all the exempt evidence circulated in advance of the hearing and the oral evidence and clarifications provided at the meeting.

The Council's Licensing Officer confirmed that the driver had held a Hackney Carriage and Private Hire Combined Driver's badge since 2018. This was due to expire on 13 March 2021. The driver had attended the Council offices on 28 January 2021 to disclose their DBS as part of the renewal process. However, it became apparent during this process that there were 3 motoring offences on the driver's licence relating to speeding, 2 in 2018 and 1 in 2020.

Reference was made to paragraphs 3.7 to 3.11 which set out relevant legislation and guidance. It was emphasised that the Institute of Licensing's Guidance on Determining the Suitability of Applicants had been adopted by the Council.

It was noted that the driver had 9 penalty points on their DVLA licence, one of the related speeding offences was due to expire on 14/04/2021 after which the driver would have six penalty points on their licence, which would not fall outside the Council's licensing conditions.

In response to questions from Members, the following points were noted:-

- The Council had adopted the Institute of Licensing's Guidance in April 2018. At the time of their licence renewal the driver didn't meet the suitability criteria as they had more than 7 penalty points on their DVLA licence.
- The driver was not licensed with any other local authorities.
- If a driver's licence is refused or revoked an application cannot be made automatically when any convictions are spent; there would need to be a licensing hearing.

During the hearing the Sub-Committee heard evidence from the applicant who advised that this was their first professional driving job. They had held a clean driving licence for years. The first speeding offence happened within their first four weeks as a taxi driver while still learning the job. The offence had happened at around 1.00 am and the driver had been unaware that they had gone over the speed limit in a low speed zone. The next offence had occurred 2 months later, again in the early hours of the morning and the driver again did not realise that they had been speeding, going at around 36-37mph in a 30mph zone at around 3.30 am. The last offence took place in July 2020 during lockdown while driving for a private company. The driver had not been able to get work driving taxis, hence had been forced to take another private driving job. The driver had been driving through an industrial estate where there were no speed markers and was caught by a Police trap driving at a speed of 39mph in a 30mph zone. The Police Officer assured the driver that they would be offered a speed awareness course; however, due to national lockdown at the time, this did not happen and 3 points were added to their DVLA licence.

In conclusion, the applicant emphasised that they had overlooked reporting the last offence to the Council as there had been national lockdown since March 2020 and the driver had not been taxi driving for 5 months. They emphasised that they wanted to continue taxi driving until retirement as it was a job they loved.

In response to questions the following points were noted:-

- The driver drove a wheelchair accessible vehicle that had been purchased for taxi work.
- The driver had not challenged the fact that they had not been offered a speed awareness course as they believed they may have not been eligible

as a result of travelling 9mph in excess of the speed limit.

- The driver had been unaware of the licensing conditions stipulating a 7 penalty point limit and had thought the limit was 9 points.
- The driver had been driving for at least 25 years and had no other speeding convictions.
- Essex Police had confirmed that the number of speed awareness courses had been reduced during the pandemic and these were run remotely; they had applied more stringent eligibility criteria in offering courses to offenders as a result of the pandemic and the reduction in courses.

The Sub-Committee carefully considered all of the evidence presented, both oral and in writing during the hearing.

The Sub-Committee Members regarded the 9 points on the driver's licence in a serious light. However, they also took into consideration the fact that the driver had not been carrying passengers at the time the last offence was committed and that the driver had not had any accidents.

The Sub-Committee determined therefore that the driver was a fit and proper person to hold a Combined Driver's Licence. However, the Sub-Committee deemed it appropriate that the driver's licence be suspended until such time as the driver undertook a Rochford District Council approved driving test with an external provider. Once this condition had been met the driver could continue with their licence renewal application.

### **Resolved**

That the Combined Hackney Carriage and Private Hire Driver's Licence be suspended until such time as the driver undertakes a Rochford District Council approved driving test with an external provider. (ADPC)

The meeting commenced at 1.45 pm and closed at 4.27 pm

Chairman .....

Date .....

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