

## Licensing & Appeals Sub-Committee – 10 January 2020

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Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **10 January 2020** when there were present:-

Chairman: Cllr M G Wilkinson

Cllr D S Efde

Cllr A L Williams

### OFFICERS PRESENT

C Irwin	- Solicitor
S Greener	- Acting Principal Licensing Officer
C Brooke	- Licensing Assistant
S Worthington	- 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 HACKNEY CARRIAGE COMBINED 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 by virtue of having received a ban from driving at the magistrates court as a result of totting up after receiving more than 12 penalty points on his DVLA licence for 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 Council's records indicated that the applicant had been licensed with the Council since 2006 after passing the required suitability tests. However, verbal evidence at the hearing suggested that the applicant had been licensed with the Council since 2000. He further advised that the applicant had contacted the Council on 6 December 2019 advising of an upcoming court appearance to appeal against a driving ban. As a result of this the applicant was banned from driving for 6 months, which was backdated from June 2019 to 12 December 2019.

During the hearing the Sub-Committee heard evidence from the applicant advising that he had moved from his rented flat in January 2019 and did not have any permanent accommodation until June 2019. He had therefore not

received any of the notifications relating to a speeding offence that took place in December 2018. He had received a letter in November 2019 confirming that he had been banned from driving, which was the first time he was made aware of the matter. He immediately lodged an appeal against the ban with the magistrates court.

When questioned about the circumstances surrounding the speeding offences, the applicant had no specific recollection of the events although he told the Sub-Committee that he did not believe that he had passengers with him at the time. He also confirmed that he had attended three speed awareness courses, the last of which was in December. It was further noted that the last offence which had resulted in his driving ban had effectively cleared all previous penalty points from his DVLA licence. However, due to an administrative error the court had advised the DVLA that the applicant's driving ban commenced in December 2019 and expired in June 2020. The applicant therefore did not currently hold a DVLA licence until this issue was resolved.

The applicant gave details of extenuating circumstances for speeding relating to personal and family health conditions and advised that he had no recollection of the 2012 over-charging incident included in the written evidence. The applicant accepted that he had left his taxi unattended on the taxi rank in Rayleigh High Street in 2017. In conclusion, the applicant emphasised that he had a large client base and also undertook private school runs for a number of parents.

The Sub-Committee carefully considered all of the evidence presented, both oral and in writing at the hearing. It had not given any particular weight to the evidence relating to overcharging and unattended vehicle in taxi rank incidents. It did, however, take into account the applicant's extensive history of speeding offences going back to 2006 and the fact that the applicant had attended three separate speed awareness courses. The Sub-Committee did not consider that the courses had had a positive impact on the applicant's driving. The Sub-Committee was also mindful of the fact that the applicant had been banned from driving by the magistrates court.

The Sub-Committee was aware of the fact that if the applicant was to apply for a new hackney carriage combined licence now he would not be eligible and it would not be granted. The Sub-Committee had also taken into account the fact that the Council had endorsed the Institute of Licensing's Guidance on Determining the Suitability of Applicants which states that where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. The Sub-Committee, although mindful of the extenuating circumstances presented by the applicant, nevertheless could not depart from this guidance and had a duty to protect the travelling the public.

The Sub-Committee, although sympathetic to the driver's personal circumstances, heeded the guidance issued by the Institute of Licensing that hardship was not a consideration to be taken into account when determining whether or not a driver was a fit and proper person to hold a hackney carriage and private hire driver's licence. The Sub-Committee Members had asked themselves whether they would allow a family member to get into a vehicle driven by the driver, ie, was he a safe and suitable person to hold a combined driver's licence and had determined that they would not.

The Sub-Committee determined therefore that the driver was not a fit and proper person to hold a combined driver's licence under the licensing regime and that the combined driver's licence should be revoked with immediate effect. This was in order to promote the interests of public safety, given the repeated nature of the applicant's speeding offences. As a result, the appeal in relation to condition 24.5 of the Council's taxi licensing conditions was dismissed.

### **Resolved**

That the combined hackney carriage driver's licence should be revoked and the appeal relating to condition 24.5 of the Council's taxi licensing conditions be dismissed. (ADPC)

The meeting commenced at 10.00 am and closed at 12.43 pm

Chairman .....

Date .....

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