

Licensing & Appeals Sub-Committee – 23 September 2019

Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **23 September 2019** when there were present:-

Chairman: Cllr B T Hazlewood

Cllr D S Efde

Cllr D Merrick (for items 1-6)

Cllr M J Lucas-Gill (for items 7-8)

OFFICERS PRESENT

R Hurst	- Senior Solicitor
C Irwin	- Solicitor
S Greener	- 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.

3 PROCEDURE DOCUMENT

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

4 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 12 or more points on his DVLA licence and a 6-month ban from driving.

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 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 took into account the driver's previous convictions and the fact that the driver had previously received a written warning from this Authority. It had been noted that the driver had built up 13 points on their licence within a relatively short period of time. In addition, it was mindful of the fact that four speeding offences were committed within two years and deemed that this established a pattern of repeat offending that called into question the driver's driving ability.

The Sub-Committee Members had asked themselves whether they would allow a family member to get into a vehicle driven by the driver and had determined that they would not.

The Sub-Committee determined, based on the driver's recent driving record, that the driver was not a fit and proper person and that the combined driver's licence should therefore be revoked.

Resolved

That the combined hackney carriage and private hire driver's licence be revoked. (ADP&C)

5 PROCEDURE DOCUMENT

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

6 HACKNEY CARRIAGE COMBINED DRIVER'S LICENCE

The Sub-Committee considered the exempt report of the Assistant Director, People & Communities relating to an application for a combined hackney carriage and private hire driver's licence.

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 Sub-Committee took account of the guidance issued by the Institute of Licensing, particularly paragraph 4.42 which refers to applicants with 7 or more points on their DVLA licence and states that a licence should not be granted in those circumstances. It noted that the driver had 7 points from two offences; however, it considered that this was a borderline case in respect of the points. The Sub-Committee had looked at the evidence as a whole when considering the fit and proper person test. It was noted that the applicant was a licensed driver with Transport for London for 13 years with no licensing issues during that period. It noted that the two offences were committed within a very short period of time with no subsequent offences while the applicant had driven within the local area. It did not consider that these two offences could be said to form a pattern of speeding.

The Sub-Committee Members had asked themselves whether they would allow a family member to get into a vehicle driven by the driver and had determined that they would. Furthermore, the Sub-Committee was satisfied that the driver had disclosed his convictions; how these had been disclosed was not a matter for the Sub-Committee in determining whether or not the driver was a fit and proper person and this had not formed part of its deliberations.

The Sub-Committee had determined, based on the driver's recent driving record, that the driver was a fit and proper person to hold a combined driver's licence.

Resolved

That the driver's application for a combined hackney carriage driver's licence be approved. (ADP&C)

7 PROCEDURE DOCUMENT

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

8 HACKNEY CARRIAGE COMBINED DRIVER'S LICENCE

The Sub-Committee considered the exempt report of the Assistant Director, People & Communities relating to an application for a combined hackney carriage and private hire driver's licence.

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

Although the Sub-Committee was sympathetic to the applicant's commitment to passing the knowledge test and becoming a licensed taxi driver, it emphasised the need to consider the Council's licensing conditions. The Sub-Committee carefully considered the Council's condition relating to the requirement to pass the knowledge test and specifically condition 2.1 which states that a licence will not be granted when the test is failed on four occasions. The Sub-Committee emphasised that the applicant could re-sit the test after a period of 12 months had elapsed since the last attempt, ie, in May 2020.

The Sub-Committee had looked at the evidence as a whole when considering the fit and proper person test. The Sub-Committee Members had asked themselves whether they would allow a family member to get into a vehicle driven by the driver and had determined that they would not. The Committee therefore determined, based on the applicant's recent failed knowledge tests, that the applicant was not a fit and proper person, at the current time, to hold a combined driver's licence.

Resolved

That the application be refused. (ADP&C)

The meeting commenced at 9.40 am and closed at 3.05 pm

Chairman

Date

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