

Licensing & Appeals Sub-Committee – 26 October 2020

Minutes of the meeting of the **Licensing & Appeals Sub-Committee** held on **26 October 2020** when there were present:-

Chairman: Cllr P J Shaw

Cllr M J Lucas-Gill

Cllr Mrs C A Weston

OFFICERS PRESENT

C Irwin	- Solicitor
S Greener	- Principal Licensing Officer
S Worthington	- Principal Democratic & Corporate Services Officer
L Morris	- 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.

7 PROCEDURE DOCUMENT

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

8 RESTRICTED PRIVATE HIRE DRIVER'S LICENSE

The Sub-Committee considered the exempt report of the Assistant Director, People & Communities relating to an application falling outside the Council's licensing conditions by virtue of having a criminal conviction.

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 heard evidence from the Council's Licensing Officer, who stated that the Council's records indicate that the applicant has been licensed with the Council since 2012, although verbal evidence at the hearing suggested that the applicant had been licensed for over 25 years.

The applicant contacted the Licensing Officer on 5 August 2020 to apply for a Restricted Private Hire Driver's Licence and disclosed a driving ban due to receiving 12 points over a period of 3 years. The Licensing Officer further advised that Rochford District Council had adopted the Institute of Licensing's Guidance on Determining the Suitability of Applicants; based on this, the applicant would not be considered as a 'fit and proper person.' Previous convictions could also be taken into account to protect the travelling public, and as per section 4.45 any offence involving the use of a vehicle would result in a licence not being granted until 7 years after any sentence imposed.

The driver advised that due to vacating their previous address, they had received a driving ban for a period of 6 months due to not responding to communication regarding a previous speeding offence. The driver was advised that the ban would be backdated from June 2019 to December 2019, which did not come through as a formal notification of the court, resulting in a second hearing in January 2020 at which point the six month driving ban was applied from this date. The applicant stated that they had been driving since 1981, having driven a variety of vehicles and carried out school runs for children with learning difficulties. The applicant also advised that the parents of these children had been in contact asking when they would be able to return to work.

In response to Member questions, the applicant advised that the speeding offences had taken place on dual carriageways and motorways, but advised that they were unable to recall the circumstances of previous speeding offences that had resulted in speed awareness courses. The applicant also stated that they were 95% certain that they did not have passengers in the vehicle when the offences took place, but that they could have been on their way to or from a job. The applicant stated that they had a high client base and had not had any complaints from passengers in 25 years.

The driver stated that they felt they had been foolish and being out of employment for quite some time had given them adequate time to reflect on the mistakes that they had made, and they had no intention of putting themselves in this position again. The driver gave evidence relating to health conditions which made it difficult to apply for a variety of different jobs and advised that they had applied for a number of positions to get themselves back into employment but had only heard back from 2 positions. The applicant stated that due to the TT99 which would stay on their licence until 2022, they were aware that should they reoffend, this would result in a much more severe ban and a large fine. The driver concluded by stating that they could not imagine doing any other job; the working world had changed and they did not think that they would be able to adapt and that taxi driving was their passion. The applicant stated that due to their own actions they found themselves in a poor situation where they could no longer do the job they love and had therefore learnt their lesson about speeding.

The Sub-Committee considered all of the evidence, both oral and in writing, submitted at the hearing. The Sub-Committee had applied the 'fit and proper' person test to determine if they would feel safe with a member of their family getting into a taxi with the applicant, and they decided that they would not.

The Sub-Committee came to this decision based upon the history of the applicant's offences and the guidance adopted by Rochford District Council. The Sub-Committee felt that as the applicant had four convictions for speeding in addition to attending three speeding awareness courses, they had not previously learnt their lesson and this showed a pattern of offending that they were concerned would continue. The Sub-Committee was also concerned that as the applicant carried out school runs, there would be a risk of the applicant speeding with children in their vehicle. The Sub-Committee also felt that they had not heard anything from the applicant that would persuade them to

abandon guidance adopted by Rochford District Council to determine the suitability of applicants which states that where an applicant has a conviction for any offence which involved the use of a vehicle, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Resolved

That the application to hold a Restricted Private Hire Driver's Licence be refused. (ADPC)

The meeting commenced at 2.15 pm and closed at 4.54 pm

Chairman

Date

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