

Licensing and Regulatory Sub-Committee



St Edmundsbury
BOROUGH COUNCIL

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on **Monday 11 September 2017** at **10.00 am** in **Ground Floor Room 13, West Suffolk House**, Western Way, Bury St Edmunds IP33 3YU

Present: **Councillors**

Chairman Margaret Marks

Sarah Broughton Frank Warby

Substitutes attending:

Bob Cockle was not required to act as substitute, and subsequently left the Hearing.

71. **Apologies for Absence**

There were no apologies for absence.

72. **Substitutes**

There were no substitutes at the meeting.

73. **Election of Chairman**

With the vote being unanimous, it was

RESOLVED:

That Councillor Margaret Marks be elected Chairman.

74. **Exclusion of Press and Public**

With the vote being unanimous, it was

RESOLVED:

That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as prescribed in Part 1 and Part 2 of Schedule 12A of the Local Government Act 1972 and indicated against each item.

75. **Application for Grant of Private Hire/Hackney Carriage Driver's Licence (Para 1 and 2) - (Report No: LSC/SE/17/006)**

The Business Partner (Litigation/Licensing) welcomed all present to the Hearing, reported that no declarations of interest had been received and introductions to the Sub-Committee were made by the Chairman.

The Chairman then outlined the procedure for the conduct of the Hearing.

The purpose of the report was for the Sub-Committee to consider an application for a Hackney Carriage/Private Hire Driver's Licence under the provisions of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Officer informed the Sub-Committee that the applicant had provided additional supplementary documentation in support of their application in the form of a character reference. The Chairman confirmed that the Sub-Committee would take this into consideration.

The Licensing Officer then presented the report and drew attention to Exempt Appendix 3 of (Report No: LSC/SE/17/006), which set out the Taxi and Private Hire Vehicle Licensing Criminal Convictions' Policy, which served as guidance for Members.

Also attached to Report No: LSC/SE/17/006 was:

- Exempt Appendix 1: Copy of the application form (type of licence - new); and
- Exempt Appendix 2: Summary of Disclosure and Barring Service' (DBS) enhanced disclosure detailing convictions and a caution dating from July 2014 to October 2014.

The Sub-Committee was advised that the DBS disclosure was dated 2 February 2016. However, the applicant was registered with the DBS Update Service and following the Council's check, it was confirmed that the Disclosure was up to date.

The Sub-Committee needed to be satisfied that the applicant was a fit and proper person to hold a licence issued by the Council.

The applicant attended the meeting, accompanied by a third-party representative. The applicant presented their case and answered Member's questions.

Members questioned the applicant's history of offending in 2014 and her explanation as to why she had remained free from convictions. Members also questioned her past and current employment history.

The applicant then summed up their case, followed by the third-party representative who provided a statement that the applicant had been working in the taxi office over the last three years organising and co-ordinating drivers work schedules and school transport routes. She was an exceptionally hard

working employee and on many occasions had worked long hours to cover staff absences. He also explained that it would be helpful for the applicant to hold a drivers licence so that she could go to the schools to resolve any problems which might arise.

Following the summing up, at 10.20am, all those present, other than the Sub-Committee, the Business Partner (Litigation/Licensing) and the Democratic Services Officer (Scrutiny), would be asked to leave the Hearing to allow the Sub-Committee to give further consideration to the application.

At 10.30am all parties were recalled back to the Hearing, and the Chairman advised on the Sub-Committee's decision.

With the vote being unanimous, it was

RESOLVED:

That the application be **REFUSED**.

The Sub-Committee felt that, due to the number and seriousness of the offences committed in 2014, it could not depart from the council's policy on this occasion (there was a general requirement to remain free from convictions for a least three years).

The applicant would be advised on the right of appeal to the Magistrates' Court by Licensing Officers outside of the meeting.

76. Review of Combined Hackney Carriage/Private Hire Driver's Licence (Para 1 and 2) - (Report No: LSC/SE/17/007)

The purpose of the report was for the Sub-Committee to review the licence holders combined Driver's Licence under the provisions of Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Licensing Enforcement Officer informed the Sub-Committee that the licence holder had sent his apologies due to a family incident and therefore was unable to attend the Hearing.

The Licensing Enforcement Officer then presented Report No: LSC/SE/17/007 and drew Members attention to relevant sections of the report. In particular the Members were advised that the licence holder had been arrested by Suffolk Police on 2 July 2017 for driving whilst under the influence of drugs. At the time of the arrest, the licence holder was driving a St Edmundsbury licenced Private Hire vehicle.

In view of the allegation and impending Court case, the Licensing Authority and the Sub-Committee needed to be satisfied that the licence holder was a fit and proper person to hold a Hackney Carriage/Private driver's licence issued by the Council. To date a Court date had not been set, therefore the Licensing Authority was unable to gauge how long the licence holder would be driving whilst the allegation was taken to Court.

Attached to Report No: LSC/SE/17/007 was:

- Exempt Appendix 1: Letter dated 4 August 2017 addressed to the licence holder requesting a urine test for drugs;
- Exempt Appendix 2: Email from Suffolk Police alleging that the licence holder was 16 times over the legal limit, according to the lab analysis;
- Exempt Appendix 3: Warning letter dated 25 October 2016 relating to a complaint received regarding the manner of the licence holders driving;
- Exempt Appendix 4: Letter dated 6 February 2017 requesting the licence holder completes a driving test with one of the Councils approved testers;
- Exempt Appendix 5: Drugs test data sheet; and
- Exempt Appendix 6: Witness Statement from Suffolk Police confirming events and drugs readings.

The Sub-Committee considered all the evidence provided, and with the vote being unanimous, it was

RESOLVED:

That the licence be **REVOKED**, on the grounds of public safety.

Although the licence holder had not yet been convicted, the Sub-Committee felt that the information provided by the police, together with consideration of previous complaints about the licence holder (and his apparent failure to complete a further driving test as requested by the Licensing Authority), was sufficient for the members to determine that he was not a "fit and proper" person to hold a hackney/private hire driver's licence.

The licence holder would be advised after the Hearing on the right of appeal to the Magistrates' Court.

The Meeting concluded at 10.37am

Signed by:

Chairman
