

Minutes of the Licensing Sub Committee 2

27th June 2017 at 10.00 am
at The Council House, Oldbury

Present: Councillor Dr. Crumpton (Chair);
Councillors Edis and Millard.

Apology: Councillor Gavan.

5/17

Exclusion of the Public

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order, 2006, relating to any individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

6/17

Application for the Grant of a Private Hire Driver's Licence in respect of Mr N K

Mr N K was not present at the meeting, therefore, consideration of the renewal of the Private Hire Driver's Licence in respect of Mr N K was deferred to a future meeting of the Committee.

Resolved that the application for the grant of a Private Hire Driver's Licence in respect of Mr N K be deferred to a future meeting of the Committee.

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Application for the Grant of a Private Hire Driver's Licence in respect of Mr S H

Members considered an application for the grant of a Private Hire Driver's Licence in respect of Mr S H.

Mr S H was present at the meeting along with his partner for support.

Mr S H had provided a written explanation of the circumstances surrounding his convictions.

The conviction in May 2001, for theft, was a misunderstanding of his company's policy regarding consuming company products during working hours. Mr S H regretted his actions and admitted that he should have read and understood the company policy in respect of handling and consuming company products.

The conviction in August 2003, for affray, was due to an argument with a colleague who was insulting Mr S H's family which turned into a scuffle. Mr S H used excessive force to defend himself as he had trained in martial arts. The colleague was not charged with any offences. Mr S H had subsequently attended an SIA training course and now understood how to interact and liaise with customers and the public.

In respect of the conviction in February 2011, for making false representation to make gain for oneself, Mr S H explained that a friend had used his credit card to obtain goods fraudulently. He accepted that he should have been more careful with his information. His friend was never arrested for the offence as he evaded the police, he had subsequently died.

Mr S H stated that he had worked as a security officer and concierge for the past three years and was an honest and trustworthy person. He also worked on community youth projects in a voluntary capacity. He felt that he had turned his life around and now had a family to consider.

Mr S H wanted to change his career to a more flexible role as he needed to share the child caring responsibility when his partner returned to work.

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The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them, the Committee decided to grant the Private Hire Driver's Licence in respect of Mr S H with a warning that any future inappropriate behaviour would mean he would be requested to appear before the Committee.

The reason for the decision was that members felt Mr S H was a fit and proper person and although the convictions were of a serious nature they were over six years old.

Resolved

- (1) that the Private Hire Driver's Licence in respect of Mr S H be granted;
- (2) that Mr S H be warned in respect of his conduct and the effect any further issues may have on his licence.

In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy and Guidelines, the Local Government (Miscellaneous Provisions) Act 1976 and the case of *McCool v Rushcliffe Borough Council* 1998.

8/17

Application for the Review of a Private Hire Driver's Licence and a Hackney Carriage Driver's Licence in respect of Mr S M S

Members considered an application for the review of a Private Hire Driver's Licence and a Hackney Carriage Driver's Licence in respect of Mr S M S.

Mr S M S was present at the meeting.

The Licensing Officer advised the panel that Mr S M S had previously appeared before the Licensing Committee on 13th October 2015, when the Licensing Committee granted a

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Hackney Carriage Driver's Licence for an initial six month period.

On 8th May 2017, Mr S M S attended the Taxi Licensing Office to report that he had received convictions for failing to report an accident and failing to stop at the scene.

Mr S M S explained the circumstances surrounding the accident. He stated that he didn't realise that he had been involved in an accident but accepted that he could have hit the vehicle with his Hackney Carriage and not realised. If he had realised that he had been involved in an accident he would have reported it and stopped. There was only the word of the driver involved, however Mr S M S had pleaded guilty to the offence as he was unsure if he had hit the car.

Mr S M S also explained that the conviction in 2009 in respect of no insurance was due to the fact that he only had a provisional licence, therefore, not covered by the insurance held.

Mr S M S did regret the offences and apologised for his behaviour.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them, the Committee decided to suspend the Private Hire Driver's Licence and Hackney Carriage Driver's Licence in respect of Mr S M S for a period of two months. The Committee accepted that Mr S M S had not realised that he had been involved in an accident, however he had pleaded guilty to the offence.

The reason for the decision was that the Committee deemed that Mr S M S had received convictions for offences of a serious nature and had exhibited inappropriate behaviour with that expected of a Sandwell licence holder.

Resolved that the Private Hire Driver's Licence and the Hackney Carriage Driver's Licence in respect of Mr S M S be suspended for a period of two months.

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In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy and Guidelines, the Local Government (Miscellaneous Provisions) Act 1976 and the case of McCool v Rushcliffe Borough Council 1998.

Mr S M S was advised of his right to appeal, and should he wish to exercise that right, must do so to the Magistrates' Court within 21 days of receiving written notification of the decision.

9/17

Application for the Grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M N A

Members considered the application for the grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M N A.

Mr M N A was present at the meeting and outlined why, in his view, he should be granted a Dual Private Hire and Hackney Carriage Driver's Licence notwithstanding his numerous convictions.

Mr M N A explained the circumstances surrounding the accusation of growing cannabis. Mr M N A's address had been used to hire a warehouse which was subsequently used as a cannabis farm. No charges were brought against Mr M N A.

In respect of the conviction in 2010, for disorderly behaviour, Mr M N A stated that he had been angry when someone had parked in a parking space that he was trying to reverse into. Mr M N A got out of his vehicle and shouted at the other driver, therefore, police charged him with the offence.

Mr M N A accepted that the conviction in 2010, for driving without insurance, was due to him moving his uninsured vehicle and he was wrong to do this.

The convictions in 2005, for driving a dangerous vehicle, resisting or obstructing a constable and having no insurance was due to the fact that this was Mr M N A's first vehicle, he was in the process of obtaining insurance and he had a defective tyre. He had argued with the police regarding the insurance.

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Mr M N A stated that he had learned from his mistakes and wanted to change. He was working as a taxi driver at the moment and held a licence with Wolverhampton City Council.

The legal advisor asked why he had failed to declare at least four offences on his application form. Mr M N A replied that he had forgotten about the offences as they were a long time ago.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them the Committee were minded not to grant a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M N A.

The reason for the decision was that the panel did not consider Mr M N A to be a fit and proper person and had exhibited inappropriate behaviour with that expected of a Sandwell licence holder. The safety of the public was of paramount importance to the Committee and the number and serious nature of the offences had been considered.

Resolved that the application to grant a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M N A be refused.

In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy, the Local Government (Miscellaneous Provisions) Act 1976 and the case of McCool v Rushcliffe Borough Council 1998.

Mr M N A was advised of his right to appeal, and should he wish to exercise that right, must do so to the Magistrates' Court within 21 days of receiving written notification of the decision.

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10/17

Application for a Review of a dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M I S

Members considered a review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M I S.

Mr M I S was present at the meeting and explained why, in his view, no action should be taken in respect of his Dual Private Hire and Hackney Carriage Driver's Licence, notwithstanding a conviction for failing to give the identity of a driver in December 2016.

Mr M I S stated that one of his friends had used his licence as identification to hire a car. Subsequently Mr M I S received a speeding notification. He sent back the notification stating that it could be any number of five friends who had been driving the hire car, however he was convicted for failing to give information as to the identity of a driver. Mr M I S now had nine points on his licence.

Mr M I S was asked why he did not attend the Taxi Licensing Office within 7 days of court decision, he replied that he reported it in December when he had received his licence back with the points added.

The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them the Committee decided to revoke the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M I S.

The reason for the decision was that the Committee did not consider that Mr M I S was a fit and proper person to hold a Sandwell licence. The offences were recent and Mr M I S had failed to disclose the conviction within the seven day time period.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M I S be revoked.

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In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy, the Local Government (Miscellaneous Provisions) Act 1976 and the case of McCool v Rushcliffe Borough Council 1998.

Mr M I S was advised of his right to appeal, and should he wish to exercise that right, must do so to the Magistrates' Court within 21 days of receiving written notification of the decision.

11/17

Application for the Grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S

Members considered an application for the grant of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S.

Mr M S attended the meeting along with his friend Mr T for support.

Mr M S had previously appeared before the Licensing Committee on 20th September 2016, when the matter was deferred for further information in respect of the historic DVLA endorsements, unfortunately, further information was not available.

Mr M S explained the circumstances surrounding the driving disqualification and driving without a licence and insurance. He was involved in an accident in 2008, convicted of dangerous driving and disqualified from driving for 3 years. He had been driving on the motorway, had lost control of the vehicle and crashed into the barrier, no other vehicle was involved. In 2011, Mr M S was stopped by police for driving whilst disqualified. He stated that he had used his nephew's vehicle to deliver medication to his mother.

Mr M S apologised for his previous behaviour and remarked that he has been working as a delivery driver for the last two years and had not received any further convictions or complaints about his driving. He wanted to become a taxi driver so that he could work more flexibly and fit in with his child care responsibilities.

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The Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

Having considered all the information before them the Committee decided to grant the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S.

The reason for the decision was that the Committee felt that Mr M S was a fit and proper person to hold a Sandwell licence. They considered his recent driving record was good and were satisfied that the convictions were older than three years.

Resolved that the application for Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr M S be granted.

In making the decision the Committee had regard to the Human Rights Act 1998, Council Policy, the Local Government (Miscellaneous Provisions) Act 1976 and the case of McCool v Rushcliffe Borough Council 1998.

(proceedings ended at 1.45pm)

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