

General Licensing Sub-Committee

Wednesday, 1 April 2015

Present: Councillor Anthony Gee (Chair), Councillor (Vice-Chair) and Councillors Doreen Dickinson, Hasina Khan, Matthew Lynch and Ralph Snape

Also in attendance

Officer: Alex Jackson (Legal Services Team Leader), Lesley Miller (Regulatory Services Manager) and Dianne Scambler (Democratic and Member services Officer)

15.LSC.31 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interest.

15.LSC.32 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED - That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of schedule 12A of the Local Government Act 1972.

15.LSC.33 APPLICATION FOR THE GRANTING OF A PRIVATE HIRE DRIVER'S LICENCE UNDER SECTION 51 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of Public Protection, Street Scene and Community to determine whether an applicant was a fit and proper person to hold a private hire driver's licence.

On 29 September 2014, the Council had received an application made under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the granting of a private hire driver's licence (PHD). The application was attached to the report for Members information. The applicant had previously held a private hire drivers licence with Salford City Council and had a number of convictions reported against him. The applicant had successfully passed the Council's Knowledge Test, DSA Private Hire Driver Test Assessment.

Members were informed that this application was first considered on 4 February 2015 and had been adjourned as the medical report had not arrived at the time of the hearing. The Councils Group II Medical requirements had revealed that the applicant had been drug dependant within 3 years of the date of the medical and that he had a resting ECG. The Councils Medical Advisor recommends that the applicant should be subject to a spontaneous drug test to determine whether he has any drug dependency. However the practical implications of administering such a test would be difficult for the Council to resource. The Committee were also advised that he did not appear to have completed a drug rehabilitation programme.

The applicant had disclosed with his application a number of convictions recorded against him, in addition to the information contained in the Disclosure and Barring Service (DBS) disclosure certificate and Members were informed of the full details of his convictions. In 2012, the applicant was convicted of Possessing Controlled Drug with Intent to Supply, Class A – Cocaine on Misuse of Drugs Act 1971 Section 5(3), and was sentenced to imprisonment for 3 years.

Members noted that there seemed to be a considerable gap in the applicant's record when there were no convictions recorded against him and asked him to explain the reason for this. He explained that after an unsettled time in his younger years, he had managed to sort his life out; he had married, had a family and obtained a good job where he was highly respected and progressed to a senior position within the company. His life however had spiralled out of control once again when the company was taken over and he was forced to make hundreds of people redundant including himself. He lost his marriage and family under the strain of it all and it was at that point that he got involved with the drugs scene as he was back in touch with people from his old life that were a bad influence on him.

He stated that he was extremely sorry for his actions and that it was one of the worse periods of his life. He had been fortunate to meet a new partner and he had made a life changing decision to cut all ties with Salford and move to Chorley to start a fresh life.

The applicant explained that he had been asked to deliver three small bags of white powder for a drug dealer which he very much regretted.

In relation to the caution for possessing an offensive weapon the applicant explained that he was a keen chef and would transport his kitchen knives in the back of his car to cooking events. Due to the tension and nature of his local area the police issued him with a street caution for a paring knife in the back of his car used for cutting vegetables.

He also explained that he had been drug free for some time and was determined to stay so. He had not completed the drugs rehabilitation course at the time as he was due to serve his time in prison, but he did complete a course throughout his sentence and was willing to do what it took to prove to the Council that this would continue.

After careful consideration and taking into account all the relevant factors the Sub Committee **RESOLVED to refuse the application for a private hire driver's licence for the following reasons:**

- 1. Members acknowledged that the applicant is trying to turn his life around and avoid repeating his past behaviour**
- 2. However members take a very dim view of drug-taking and dealing in drugs. The conviction for dealing in Class A drugs as distinct from possession for personal use puts the matter at the higher end of the scale of offending.**

3. **Members had regard to Paragraph C1.2 of the Council's Policy on Previous Convictions which provides that where an applicant has been a drug addict a period of 5 to 10 years will need to elapse after completion of treatment before an application will be entertained.**

15.LSC.34 APPLICATION FOR THE GRANTING OF A PRIVATE HIRE DRIVER'S LICENCE UNDER SECTION 51 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report of the Director of Public Protection, Street Scene and Community to enable Members to determine whether an applicant was a fit and proper person to hold a Private Hire Driver's Licence.

On 19 December 2014 the Council had received an application made under section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the granting of a private hire drivers licence (PHD) and a copy of the application was attached for Members information.

The applicant has successfully passed the Councils Knowledge Test, DSA Private Hire Driver Test Assessment and Group II Medical. The applicant had passed his DVLA UK Driver Test in November 2013 and had a fixed penalty offence attracting three penalty points on his Licence for the offence of LC20 which is driving otherwise than in accordance with a licence on 17 October 2013. The applicant stated that he was unaccompanied at the time of the offence and as his vehicle did not display Learner Plates, the vehicle he had been travelling in at the time was seized by the police at the time of the offence.

The applicant had been driving in the UK under his international driving licence from February 2012 that was valid for 12 months. It would however appear that the provision to drive under that authority had run out prior to 17 October 2013. Members noted that the applicant had in fact been driving without a licence for approximately eight months.

Members were aware that the Council's conditions of application require applicants to have held a full DVLA driver licence for a period of least 3 years and at the time of the application the applicant did not meet this requirement. However, the applicant had presented a copy of an international permit to drive that had been issued by Republique Tuisienne, the driver's licence indicated that he has been entitled to drive from 9 December 2002 and that he had also passed a mini bus test on 27 October 2006.

After careful consideration of all the relevant facts and representations from the Council's Licensing Officer, the applicant and his representative, the Sub Committee **RESOLVED to grant the application for the private hire driver's licence for the following reasons:**

1. **The applicant has been driving in the UK for some time.**

2. **Apart from LC20, the applicant is free from other motoring convictions**
3. **Members are satisfied that the applicant is fit and proper and so do not insist on the usual policy requirement for 3 years driving on a UK licence.**

15.LSC.35 SUSPENSION OF A PRIVATE HIRE DRIVER'S LICENCE UNDER SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee considered a report to determine whether a driver was a fit and proper person to continue to hold a private hire drivers licence. Officers had been made aware that the driver had had his DVLA Driver's licence revoked and in response to this information the Director of Public Protection, Street Scene and Community had suspended his Private Hire Drivers Licence under Section 61 (1) (B) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver had held a Private Hire Driver's Licence from 6 March 2014 which would expire on 6 March 2017 and Members received a copy of his application along with his current licence for information. It was explained that the driver had attended the Council's offices on 27 February 2015 of his own accord to report a speeding conviction that he had received in June 2014, the offence related to a SP30 (exceeding the 30mph speed limit). Members were aware that a driver is required as a condition on the private hire driver's licence to inform the council in writing of any conviction within seven days of a conviction.

At that meeting the driver also explained that he had received a letter from the DVLA informing him that his DVLA Driver Licence had been revoked as he had not responded to requests regarding the offence or to the endorsing of his driver's licence in relation to the SP30 he had received.

The driver also informed the Council of his new address at the time of the visit, which again was contrary to conditions on his licence as he should have notified the authority within seven days. The driver was verbally advised at this meeting that he was suspended from driving under the authority of his licence and a written suspension notice was served by hand to his new address.

Members decided to proceed in the driver's absence since over an hour had elapsed since the published time of the hearing and there had been no communication from him of any sort explaining his absence or requesting an adjournment.

Having considered all the information contained within the report and the licensing officer's representation at the meeting, the Sub Committee **RESOLVED to suspend the driver's private hire driver licence under Section 61 (1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.**

If the driver produces to the Licensing Unit a current UK DVLA licence without any endorsements other than those already known to the

Council by 31 May 2015 the Lead Licensing and Enforcement Officer is authorised to lift the suspension as soon as reasonably practicable.

If a current UK DVLA licence as described has not been produced to the Council by 31 May 2015 the Lead Licensing and Enforcement Officer is authorised to revoke the licence under Section 61 (1)(b) of the Local Government Miscellaneous Provisions Act 1976.

For the following reasons:

- 1. The driver does not hold a current DVLA licence and there has been no further contact from him since as he did not attend the hearing or send any documents to advise that this is no longer the case. Members noted that Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a driver licence may only be granted to someone who is fit and proper and holds a driver licence. Whilst this was not an application for the granting of a licence, members did not consider that lifting the suspension was consistent with the purpose of Section 51.**

- 2. The driver had breached two of the conditions of his private hire driver licence, namely in failing to notify the Council in writing within 7 days of his conviction for speeding and secondly in failing to notify the Council of his change of address. There had been no explanation or mitigation from the driver regarding these breaches of conditions since he did not attend the hearing or send any documents. Members considered that breach of the conditions cannot be ignored if they are to remain credible and there had been no information before members to suggest that the breaches should not be subject of sanction.**

Chair