

General Licensing Sub-Committee

Wednesday, 5 November 2014

Present: Councillor Marion Lowe (Chair), and Councillors Anthony Gee, Mike Handley, Adrian Lowe and John Walker

Also in attendance

Officer: Elizabeth Walsh (Solicitor), Stephen Culleton (Licensing Officer) and Dianne Scambler (Democratic and Member Services officer)

14.LSC.15 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

14.LSC.16 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.

14.LSC.17 SECTION 51 OF THE LOCAL GOVERNMENT (MISCELLANEOUS) PROVISIONS ACT 1976

The Sub Committee convened for the determination of whether a person was a fit and proper person to hold a private hire drivers licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 in light of the Council's Policy relating to convictions.

The applicant could not attend the meeting, but had submitted a letter of representation ahead of the meeting that all Members of the Sub Committee had received. He had stated that he was happy for the matter to be determined in his absence.

The applicant had made an application for a Private Hire Drivers Licence on 12 August 2014 and had successfully passed the Council's Knowledge Test and DSA Private Hire Driver Test Assessment.

This application had identified that the applicant had received a conviction for an offence under The Public Order Act 1986 S.4 (1)(A) Using Threatening Abusive, Insulting Words or Behaviour with Intent to Cause Fear or Provocation of Violence. The relevant Disclosure and Barring Certificate had confirmed the offence took place on 2 August 2004 and that the applicant had received a Community Punishment Order for 80 hours.

The applicant was interviewed by officers in relation to this matter where he had stated that he was out with friends in the Town Centre and was caught up in a fight leading to his arrest. He has stated since that incident he has matured and settled down, an explanation that was repeated in his letter.

The applicant's DVLA Group II Medical indicated that he had Type 2 Diabetes and as such the matter was referred to the Council's Medical Advisor for consideration. The Council were advised that the risks from his medical condition were minimal so no specific restrictions were needed at present other than to advise the need to notify the Council of any change to his medication in the future.

The applicant currently holds a Hackney Carriage Drivers licence issued by Rossendale Council and drives a Rossendale Hackney Carriage vehicle for the Chorley based company Chorley Cars. The applicant has made an application to licence a vehicle for Private Hire use with Chorley Council and has delayed that licence application pending the outcome of this matter. The applicant is in alternative permanent full time employment.

After careful consideration and taking into account all the relevant factors the Sub Committee **RESOLVED that the driver was a fit and proper person and that his Private Hire Driver's Licence should be granted subject to conditions regarding his medical conditions which are as follows:**

- 1. As advised by the Council's Medical Expert, if the applicant's medication changes and he has to add either a 'sulphonylurea' drug or insulin either of which cause hypoglycaemia (a risk of incapacitation), he must notify the Council of any change of medication so that a further risk assessment can be made.**
- 2. Failure to report any change in his medication will be a breach of the condition to his Licence.**

14.LSC.18 SECTIONS 57 & 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

The Sub Committee convened for the determination of whether a driver was a fit and proper person to continue to hold a private hire drivers licence under Sections 57 and 61 of the Local Government (Miscellaneous Provisions) Act 1976 in light of the Council's Policy relating to convictions.

The driver had failed to comply with the requirements of his Private Hire Driver Licence conditions by failing to notify the Council of any convictions within 7 days of receiving that conviction. The driver had been convicted at Chorley Magistrates Court on 13 August 2014 for an offence of Driving a Motor Vehicle without Third Party Insurance on 3 March 2014, where he received 6 penalty points to his DVLA Driver Licence and a fine plus costs totalling £285.00. The driver now had 9 points showing on his DVLA Drivers Licence.

The Council were only made aware of this information when the driver applied for a Criminal Records Bureau Disclosure in support of his renewal application for his licence on 22 September 2014. The driver stated that he had not had time to notify the Council previously as he worked nights.

A history of the driver's licence history was also contained within the report that detailed previous driving offences that had led to the driver's licence being determined previously by the General Licensing Sub Committee in February 1999. However Members did not attach any weight to these offences other than to the most recent offences where he was convicted on the 4th March 2011 and the 13th August 2014.

The driver met with officers on 14 October 2014 and explained that he had received the points having been stopped by the Police whilst he was riding a motorcycle without insurance. He further explained in the meeting that he had thought that his car insurance would cover him for third party on the motorcycle that he was road testing, only realising that this was not the case when he was stopped by the police.

The driver attended the meeting with his representative who was his employer at a local firm in Chorley. His employer explained that he had also not been aware that drivers needed to notify the Council within a 7 day period and felt that it was an easy mistake to make by not realising that his car insurance would not cover him on a bike. His employer also added that the driver had already been reprimanded by the company for receiving the points as it affected the level of insurances for the company. His employer however supported the driver, stating that he was a reliable employee and in ten years of his employment this was the first incident they had incurred.

After careful consideration and taking into account all the relevant factors the Sub Committee **RESOLVED that the driver was a fit and proper person and that his application for a Private Hire Drivers Licence should be renewed.**

However, the Sub Committee did consider that although he had apologised for not declaring his conviction within 7 days, in line with the Council's Policy, Members felt strongly that the driver should be issued with a written warning as to his future conduct and that this should lie on his licensing file.

Chair