



MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE Friday, 25 November 2016

MEMBERS PRESENT: Councillor Marion Lowe (Chair), and Councillors Margaret France, Adrian Lowe, Mick Muncaster and John Walker

OFFICERS: Stephen Culleton (Lead Licensing Enforcement Officer), Tracy Brzozowski (Licensing Enforcement Officer), Elizabeth Walsh (Solicitor), Stefanie Leach (Legal Assistant) and Nina Neisser (Democratic and Member Services Officer)

16.LSC.86 Declarations of Any Interests

No declarations of any interests were received.

16.LSC.87 Procedure

The Chair outlined the hearing procedure that would be used to conduct the meeting.

16.LSC.88 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 grounds 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.

16.LSC.89 Application for the Grant of a Private Hire and Hackney Carriage Drivers Licence Made Under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report for the members of the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Drivers Licence.

The applicant attended the meeting to make representations to the Sub Committee.

On 9 August 2016 officers received an application for a co-terminus application under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the grant of a Private Hire Drivers Licence (PHD) and under Section 46 of the Town and Police Clauses Act 1847 for the grant of a Hackney Carriage Drivers Licence (HCD). The application and Disclosure Barring Service (DBS) certificate identified a number of

convictions that fall within the Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing.

The applicant submitted an application for a Private Hire and Hackney Carriage Drivers Licence on 9 August 2016; he successfully passed the Council's Knowledge Test, the Council's Group II Medical requirements, and DSA Private Hire Driver Test Assessment.

The applicant has previously held a Chorley Council Private Hire Drivers Licence; this was issued on 12 November 2012 and expired on 12 November 2015. In light of a number of convictions disclosed at the time of application, the application was determined by delegated officer decision; this was taken in conjunction with the Chair of licensing at the time.

The applicant's DBS certificate has identified a number of offences reproduced below:

- 1) On March 10 1993 at Reedley Magistrates Court, the applicant was convicted of; Assault Occasioning Actual Bodily Harm on Offences Against the Person Act 1861 S. 47 Disposal; Conditional Discharge 12 Months, Compensation £75.00. Costs £35.00.
- 2) On July 5 1995 at Burnley and Pendle Magistrates Court, the applicant was convicted of; Using a Vehicle with no Test Certificate, Forging Document with Intent to Deceive (Not Otherwise Coded) on Road Traffic Act 1988 S.173 (1)(A). Disposal; Fine £60.00
- 3) On 5 July 1995 at Burnley and Pendle Magistrates Court, the applicant was convicted of; Using a Vehicle with no Test Certificate, Forging Document with Intent to Deceive (Not Otherwise Coded) on Road Traffic Act 1988 S.173 (1)(A). Disposal; Fine £50.00, Costs £45.00
- 4) On 17 June 2015 at Burnley Pendle and Rossendale Magistrates Court, the applicant was convicted of; Use of Threatening Abusive Insulting words/Behaviour or Disorderly Behaviour to Cause Harassment/Alarm/Distress on Public Order Act 1986 Section 4.A (1). Disposal; Fine £200.00, Costs £85.00, Compensation £150.00 Restraining Order – protection from Harassment 16/06/2016 on Conviction Victim Surcharge £20.00.

Officers invited the applicant to attend an interview on 8 November 2016 to discuss the application made and the circumstances of the convictions and cautions received. The applicant attended and by way of explanation to the convictions on 17 June 2015 identified above has stated; "It was a family dispute and believes they were treated unfairly by the Police".

Member's attention was drawn to the offence the applicant was convicted of on 17 June 2015, which occurred during the currency of their now expired PHD licence. As a condition of the PHD licence, the licence holder must inform the council of any conviction received within 7 days of that conviction during the currency of that licence.

The applicant informed Members that they were not aware of their duty to notify the council of their convictions as their licence had expired however they had notified the security company they were working for at the time of the conviction. The importance of informing the council of any convictions as a local authority and not solely notifying their employer at the time was strongly reiterated to the applicant.

When questioned about the different address on their previous PHD licence, the applicant informed the committee that they had moved house in 2013 and again to their current address in July 2016, however the applicant did not notify the council of this as they were not working at the time and did not think it relevant to do so.

Members noted the applicant's mitigated circumstances for the offence surrounding their conviction and their reason for not informing the council of their conviction. It was noted by members that the applicant had failed to notify the council of their change of address during their previously held licence.

After careful consideration of all the relevant factors, the sub-committee **RESOLVED; to refuse the application for a Private Hire and Hackney Carriage Driver's Licence for the following reasons;**

- 1) The applicant had failed to declare their conviction which occurred during the currency of their now expired PHD licence. It is a condition of a PHD licence to inform the council of any conviction received within 7 days of that conviction during the currency of the licence. Members regarded this omission of the applicant not informing the council as a breach of the council's conditions of licensing.**
- 2) Members felt that the applicant should have informed officers of the offence at that time, due to the nature of the offence the matter would have been put to members with a view to consider the applicant's fit and proper status to continue to hold a PHD licence. Members felt that the applicant had clearly intended not to inform the council and in doing so protected their PHD licence from any action the council may have taken.**
- 3) Disclosure of their conviction is clearly required and as the applicant failed to do this members considered this created a trust issue.**
- 4) The council's policy states that an application with one or more convictions for other offences of violence should expect the application to be refused until a period of at least 3 years has elapsed from the date of conviction or their release from prison. Members considered that a period of less than 17 months since the conviction was not a sufficient rehabilitation period.**

The applicant is able to reapply for a PHD licence in 19 months. This will be when at least 3 years has passed since their conviction.

The applicant has 21 days from receipt of notice of the decision to appeal to the local Magistrate's Court.

Chair

Date