

MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE Monday, 18 December 2017

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

OFFICERS: Carl Gore (Empty Properties and Enforcement Officer), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)

17.LSC.136 Declarations of Any Interests

There were no declarations of interests received.

17.LSC.137 Procedure

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

17.LSC.138 Exclusion of the Public and Press

RESOLVED – That the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

17.LSC.139 Application For The Grant of a Private Hire Driver's Licence Made Under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

The Director of Early Intervention and Support submitted a report for Members to determine whether the applicant was a fit and proper person to hold a Private Hire Driver Licence (PHD).

The applicant, his partner and his representative were all present to make their representations to the Sub-Committee.

Before outlining the report, the Licensing Officer addressed an apparent erroneous entry on the applicant's DBS. It was confirmed that the two offences took place on 11 August 2014. The applicant confirmed that he had recently submitted an appeals form to the DBS regarding the inaccurate dates and an appeal against the classification of the caution as a conviction.

Members were also informed that the new plates, following the amendment of the applicant's private hire vehicle insurance, had been collected subsequent to the writing

of the report. As outlined in the report, officers were informed that the applicant was suffering financially since the expiration of his licence and therefore advised that the applicant could amend his private hire vehicle insurance to include another driver, to whom he could then rent the vehicle. The Licensing Officer presented a letter which confirmed this amendment.

The applicant made an application for a PHD licence on 23 November 2017 under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976. The applicant had previously been licensed at Chorley Council since July 2014 until his licence lapsed in October 2017. Therefore, the new application was to be treated as for a grant as his previous licence had expired and therefore could not be renewed.

When originally licensed in 2014 the applicant produced his Enhanced DBS Certificate as required. The applicant was convicted in May 2003 of offence for failing to report an accident that took place in December 2002 and fined £80 as a result. At the meeting, the applicant confirmed the details of the incident whereby a vehicle undertook him and clipped his mirror, words were exchanged but the applicant was in the car with his son and so drove off. Four months later the police came to the applicant's house for not reporting the incident when he was required to do so within 24 hours.

At the time of his application, the applicant also completed a Knowledge Test in October 2014 in which he identified that a taxi driver must notify the Council in writing within 7 days of any conviction in any court. The applicant was again required to produce a new Enhanced DBS Certificate for the new application. The Certificate revealed a conditional caution of Offence Destroy or Damage Property and a caution for the Offence of Battery in August 2014. This was in addition to the Conviction disclosed in the original DBS Certificate. The information on the DBS revealed that the applicant was convicted as above during the application process for his PHD licence but did not reveal this information to Chorley Council at the time.

It was noted that during the application process the applicant satisfied all of the other required criteria, provided a suitable medical report, passed the Knowledge Test, and Advanced Driving Course. Members were also made aware that the applicant changed his address a number of times during the period of his licence. As such, the applicant complied with the conditions of his licence by informing the Council of this information. Furthermore, the applicant did not come to the attention of the Council in a negative way during the period of his previous licence.

Following queries from the Legal Officer it was confirmed by the Licensing Officer that the Knowledge Test was not comprehensive in every aspect. The signed declaration document on page 12 of the report was also clarified to the Legal Officer by the Licensing Officer. It was noted in this declaration that cautions were relevant and were required to be disclosed.

The applicant's partner provided the Sub-Committee with a detailed account of how the two cautions came about in August 2014, for which she blamed herself. Essentially, the incident was associated with the intoxication of both parties and some confusion. The police were called and they arrested the applicant; subsequently he

was held in a cell overnight and released the next day with a caution. The applicant's partner reassured Members she did not make up the statement to protect her partner and confirmed that she was not injured. The applicant reiterated the details of the event and advised the Sub-Committee that he just wanted to leave the police station the next day and therefore accepted the caution.

Following queries from the Legal Officer, the applicant explained the requirements of the conditional caution.

The applicant informed the Sub-Committee that the incident had occurred in between him applying for his licence in 2014 and it being granted. He admitted a misunderstanding and he thought he did not have to inform the Council of his caution as it had not been through the courts. The applicant acknowledged the seriousness of not declaring this caution to the Council and recognised the requirement of informing the Council with regards to future conduct. He stated that this situation had put him under severe pressure and strain and he would not do it again.

The applicant's representative informed the Sub-Committee that the applicant had been a taxi driver for 7 years in total and had never been subject of complaint to the council where he was previously licensed. The applicant had no convictions prior to 2003 and no cautions or motoring offences. The applicant's representative also provided the Sub-Committee with positive references from a parent whose child travelled under a school contract with the applicant. It was advised that regardless of these incidents, the applicant was physically and mentally fit and there was no reason to believe that he was a danger to the public.

The Sub-Committee **RESOLVED** that the applicant was a fit and proper person to hold a Private Hire Driver Licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and that his application be granted for the following reasons:

- 1. More than three years had elapsed since the cautions in 2014. The rehabilitation period for battery under the Council's policy is three years.**
- 2. There had been no complaints regarding the applicant in connection with his taxi licence at Chorley.**
- 3. The applicant had made full disclosure on both application forms in 2014 and in 2017 in relation to his convictions and cautions at the material time.**
- 4. Members attached weight to the representation from the applicant's partner regarding the circumstances of the incident which were associated with the intoxication of both parties and some confusion.**

Members suggested that the applicant apply in good time before the expiration of his licence when it was next due for renewal to avoid any period when he cannot taxi and to not inconvenience officers and Members in having to summon an ad hoc Sub-Committee at short notice.

Chair

Date