



MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE Wednesday, 9 October 2019

MEMBERS PRESENT: Councillor Matthew Lynch (Chair), and Councillors Danny Gee, Laura Lennox, Sheila Long and John Walker

OFFICERS: Nathan Howson (Enforcement Team Leader (Licensing)), Elizabeth Walsh (Solicitor), Andrea Wheeldon (Customer Services Officer (Enforcement)) and Philippa Braithwaite (Democratic and Member Services Officer)

19.29 Declarations of Any Interests

There were no declarations of interests received.

19.30 Procedure

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

19.31 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.

19.32 Determination of Application for the Grant of a Private Hire Operator's Licence

The Director of Customer and Digital submitted a report for the General Licensing Sub-Committee to determine whether the applicants were fit and proper persons to hold a Private Hire Operator licence.

One of the applicants was present at the Sub-Committee alongside his colleague. The second applicant was not present.

Members noted the history of the premises, that a private hire operator's licence had been held by a number of different proprietors at this premises for many years, with licensing records going back to 2000.

A licence was granted on 23 September 2013 which was due to expire on 22 September 2014 but, prior to its expiry, was surrendered. On the same day of its surrender a new private hire operator's licence was granted to which was due to expire on 16 July 2018. Again, prior to its expiry, on 27 June 2018 the licence was surrendered. On the same day as the surrender, a new private hire operator's licence was granted to. This licence was due to expire on 27 June 2023.

On 19 June 2019, the General Licensing Sub Committee reviewed this licence and determined to revoke the licence as they decided the licence holder were no longer fit and proper persons to hold the licence. The appeal against this decision is due before the Magistrates' Court on 11 November 2019.

Members heard that on 3 July 2019, an individual named on the revoked licence attended the Council offices and made an application for a Private Hire Operator's Licence with the two applicants for today's hearing named as the proprietors of the licence. Officers made a request for further information in relation to this application on 30 July 2019 and again on 3 September 2019 after a lack of response. The requested information was then provided by the applicant on 16 September 2019, and the Licensing Officer highlighted that the signature did not appear to match the one on the licence application.

On 26 September 2019, officers arranged to interview the two applicants at the Council Offices regarding their application. The Licensing Officer highlighted that at this interview, the applicant present today admitted that the individual named on the revoked licence had completed the application form on his behalf and that that individual would provide help as he was an experienced operator and knew the business well. The applicant confirmed that he and the other applicant had paid a deposit for the takeover of the business and that the final amount would be paid if the licence application was successful.

In response to Members' questions, the Licensing Officer stated that this application had been brought to the Sub-Committee owing to the relationship between this business and the previous business where the Private Hire Operator's Licence had been revoked. He advised that the appeal against that revocation had no bearing on today's decision.

The applicant queried whether the Council held any complaints, reports or negative information on him as a taxi driver from the past 35 years for which he'd held a licence, to which the Licensing Officer confirmed there was nothing to his knowledge. The applicant queried why this application had come before the Sub-Committee and the Council's legal representative responded that things had been said under interview which warranted further investigation.

The applicant gave an overview of his good character, that he had been a driver in Chorley for 35 years with no misconduct. He said he couldn't change the past or choose his family and clarified that the individual named on the revoked licence was his cousin and was the middleman brokering the purchase of the business. The applicant stated that, moving forwards, this individual would 'come in for a brew' and that he couldn't keep him out as he was family. He advised that, since the incident in October, the individual had been 'behaving himself' and stated that he might need the individual to do occasional operating shifts if there was no one else available to cover.

He confirmed that the lack of response to the initial letter asking for information was a mistake on his part and explained the personal circumstances that caused it. He advised that once he and the other applicant took over, they would invite Licensing Officers in and that they would be able to provide any information required.

The applicant stated that he and the other applicant had been good and reliable drivers for a long time and asked the Sub-Committee to consider this application.

In response to Members' questions, the applicant confirmed the individual named on the revoked licence had filled out the form on the applicant's request and otherwise so far had only been involved as an intermediary between the applicants buying the business and the other two individuals individual named on the revoked licence selling the business. The applicant confirmed that, if the licence were granted, this individual would have supervised access to the office and work shifts in urgent situations (i.e. when there was no one else to cover).

When asked if he was aware of the reasons why the individual's Private Hire Operator licence had been revoked, the applicant confirmed he was. When pressed on this the applicant advised that he knew of the accident and the insurance claim, and that the 'airport job' was a stupid mistake that he would have prevented if he had known beforehand. The applicant then stated that the individual had learnt from his behaviour that, if the licence were granted, he wouldn't be a prominent member of staff.

In response to Members' questions, the applicant advised he had worked in Chorley as a Hackney Carriage driver before becoming a Private Hire driver. He confirmed he had only attended previous Sub-Committee meetings when accompanying other drivers. With regard to the business, the applicant's colleague advised they had about 15 drivers all of whom were good, loyal drivers.

The applicant confirmed he had read over and checked the application forms after they had been completed by the individual named on the revoked licence, and that he had been happy with the contents. With regards to the mis-matching signatures, the Licensing Officer confirmed this had been clarified and he was happy both signatures were from the applicant.

Members asked if the applicant was happy for the individual named on the revoked licence to carry out shifts, and the applicant responded that he was. He stated that it was his licence and his reputation at risk if anything went wrong. Members queried further, asking whether, knowing of the individual's previous actions, the applicant would have any concerns about putting him in a position of responsibility that he had previously breached. The applicant advised that he trusted him. He stated that the individual's actions had been out of character and in response to a family bereavement, and that he would not do it again. The applicant's colleague added that the individual's knowledge of the business and the trade was invaluable.

In response to a question on how the sale of the business had come about, the applicant confirmed he and the other applicant had approached the individual named on the revoked licence initially, as he had a closer relationship with him and that he was the better businessman of the three individuals. He and the other applicant had then spoken with the other two individuals named on the revoked licence. With regards to when this had taken place, the applicant wasn't certain but advised it was around March or April 2019. The applicant confirmed that the other two individuals were running the business at that time and were running it currently. The third individual was not involved in the business but was acting as the middleman for the sale.

The Sub-Committee asked further questions regarding this individual's involvement in the business and asked the applicant to demonstrate his understanding of the seriousness of the individual's convictions.

The applicant advised that the individual's involvement in the business would be in an advisory capacity during the handover period. He would not be a permanent member of staff as he was looking for different employment and did not have a taxi licence. The applicant confirmed that the individual would be supervised whenever he was helping.

The applicant stated he appreciated the seriousness of the incidents particularly as the public had been involved. He advised Members he and the other applicant did not operate like that, he took his licence very seriously and was not willing to put it or his livelihood at risk. The applicant stated that he believed that the individual named on the revoked licence had paid the price for his actions by losing his licence and his business.

The applicant reiterated that he would only ask the individual to help when he was desperate and that once the business was set up the individual would not be involved, though he would still come to the office as he was family.

In summing up, the applicant stressed that the business deal was not with the individual named on the revoked licence; he was brokering the deal between the two applicants and the two individuals currently running the business and, in the future, he would only be giving advice when it was needed.

The applicant stated he hoped that the offences committed by the individual during an acute period of his life wouldn't affect the decision being made today. He reiterated that he was a fit and proper person and asked the Sub-Committee to take this into account.

The aim of the local authority licensing of the taxi and private hire trades is to protect the public. Pursuant to Section 55 of the Local Government (Miscellaneous Provisions) Act 1976, a district council shall not grant a licence to operate private hire vehicles unless they are satisfied:

- That the applicant is fit and proper person to hold an operator's licence, and
- That the individuals are not disqualified, by reason of the applicant's immigration status, from operating private hire vehicles.

The Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. The proceedings are civil proceedings, not criminal and so the burden of proof applied should be that of the civil standard i.e. on the balance of probabilities.

After hearing from the Applicant, Members felt that the Applicant was not a fit and proper person to hold the Licence and therefore Sub-Committee **RESOLVED not to grant the Private Hire Operator's Licence subject for the following reasons:**

- 1. The Applicant did not demonstrate or provide any assurances that the business would be run solely by the applicants without the involvement of the individual named on the revoked licence. This individual has previously been found not to be a fit and proper person. The Authority have a duty to protect the public safety and must ensure that the public are not put at risk by individuals with a history of dishonesty, indecency or violence.**
- 2. Whilst they heard from the applicant that this individual would not be employed as 'staff' member, Members felt that the advisory capacity proposed by the applicant still meant that he would be in a position where**

he would have access to personal records and the day to day running of the business. The applicant did not demonstrate or propose any measures which would restrict this individual's access to the business and premises. For example, the applicant said that "he's family, I can't stop him coming in"

- 3. The Applicant did not demonstrate that he appreciated the implications or the seriousness of the previous convictions of this individual and therefore the Sub-Committee felt this impacted on whether he was a fit and proper person to hold a private hire operator licence.**

An appeal against the decision of the Council to refuse to grant the licence or to any conditions attached to the licence may be made by the applicant to the Magistrates' Court within 21 days from receipt of the determination notice.

Chair

Date