

General Licensing Sub-Committee

Thursday, 25 June 2009

Present: Councillor Keith Iddon (Chair) and Councillors Judith Boothman, Hasina Khan, Ralph Snape and Stella Walsh

09.LSC.01 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

09.LSC.02 DECLARATIONS OF ANY INTERESTS

None of the Sub-Committee Members declared an interest in any of the item for discussion on the meeting's agenda.

09.LSC.03 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 it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act.

09.LSC.04 SECTION 51 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instructions on an application for a Private Hire Drivers Licence.

The Council's adopted policy states that applicants for a private hire vehicles driver's licence should be over 21 years and have at least 3 years driving experience as the holder of a full driving licence. Although the applicant was over the age of 21 he had only held a full driving licence since 29 April 2008. Consequently under normal circumstances, he would not qualify for a private hire driver's licence.

The applicant advised Members that since he had passed his driving test he had driven approximately 20,000 miles. His father advised Members that his son had a vehicle ready in his own name, and if the licence was granted, he would be employed in a family run taxi business. The applicant would be expected to drive a few nights each week, and that he was aware of the responsibilities associated with driving a private hire vehicle. In addition the applicant's father informed Members he was currently arranging for all his drivers, including the applicant, to undertake the NVQ Course relevant to taxi licensing.

The Sub-Committee considered all aspects of the application, including the representations of the applicant and his father; driving experience; the fact that the applicant has passed the knowledge test and the statement of the Council's adopted Policy.

The Sub-Committee **RESOLVED:-** to grant a Private Hire Drivers Licence as they had been satisfied that applicant was a fit and proper person to hold a driver's licence.

09.LSC.05 APPLICATION TO RENEW HACKNEY CARRIAGE DRIVERS LICENCE

The Sub-Committee considered a report of the Corporate Director of Neighbourhoods seeking instruction on the renewal of a hackney carriage drivers' licence.

The applicant first applied for a hackney carriage driver's licence on 24 November 2005. At this time the applicant had failed to declare relevant driving convictions, although a copy of his driver's licence, which was produced at the same time, indicated that he did have a number of driving convictions. A copy of the applicants driving licence produced at the time of his original application was annexed to the report for the Committee's consideration. The original application for a hackney carriage driver's licence for Chorley Council had been successful and a licence was granted on 31 January 2006.

The applicant had also held a hackney carriage drivers licence issued by Preston City Council. On 13 October 2005 Preston City Council suspended his licence in response to complaints that the applicant routinely charged a higher tariff.

On 8 March 2006 the applicant appeared before the Licensing and Safety Committee at Chorley Council for failure to disclose that his licence had been suspended. The Committee resolved that the applicant could continue to drive his hackney carriage in Chorley and issued him with a warning by letter dated 13 March 2006, a copy of which was attached to the Committee report.

On 17 December 2008, the applicant reported to Chorley Council offices to renew his hackney carriage licence. At this time, as part of routine questions, the Licensing Enforcement Officer asked if the applicant had ever been refused a licence to drive a hackney carriage or private hire vehicle, or had a licence suspended or revoked. The applicant became agitated, and after speaking to his wife in his own language, they both left the office.

Officers later became aware that the applicant had appeared before Preston City Council Taxi and Miscellaneous Sub-Committee on 11 December 2008. On that occasion members of the Sub-Committee at Preston City Council resolved to revoke his licence with immediate effect. Preston Magistrates Court upheld the decision of the Committee at an appeal heard on 8 April 2009, and the appeal was dismissed.

A CRB check, which the applicant completed as part of the licence renewal application on 10 June 2009 revealed relevant driving convictions. The applicants licence was endorsed and he was disqualified from driving for 6 months.

The applicant, accompanied by this wife and legal representative attended the meeting to put forward representations urging the Sub-Committee to renew his hackney carriage licence.

The applicant's legal representative explained that the applicant had been confused when he filled in his original application form and that it had not been a deliberate attempt to deceive the Licensing Officers, particularly as the application was supported with a copy of his driving licence which had a record of all driving offences. It was accepted that the applicant failed to disclose his convictions on the November 2005 application form. The Applicant's legal representative confirmed that the convictions were revealed to Preston City Council in 2001, which further supported that the Applicant did not intend to deceive the Council.

The applicant's legal representative informed the Committee that the Applicant denies driving under the influence of alcohol. On the applicant's behalf, he explained the circumstances which led to his Hackney Carriage drivers licence being revoked by Preston City Council. The Committee was advised that in relation to the incident on 12 December 2007, it was the applicant who contacted the Police and that it was strange for the Applicant to take such action at the time. Members were informed that the

CPS, after all due consideration of the facts, decided there was insufficient evidence to proceed with a prosecution.

The Licensing Enforcement Officer drew members' attention to an incident which took place on 15 December 2007 at Preston Railway Station, when after taking an alcohol test from Mr Singh, his alcohol reading was 16 mg. The maximum amount allowed is 35mg.

The Applicant's legal representative asked the Committee to consider that Mr Singh had been taxi driver since 2001, The applicant worked as a taxi driver for 6 -7 years with Preston City Council and in that time, the Applicant was convicted of speeding.

The Sub-Committee assessed all elements and aspects of the case, including the implications and relevance of the convictions to the renewal applied for; the seriousness of the offences; the driver's representations; the public safety considerations, the Council's Licensing Policy and the optional course of actions available to the Sub-Committee.

The Sub-Committee had been concerned about the number of convictions the application had acquired in a relatively short space of time. Although Members acknowledged that the drink driving conviction was spent Members were concerned that he had received the maximum penalty for a first offence, which implied the seriousness of the offence. Members were also concerned about the applicant's drinking habits, the fact that he refused to provide a specimen 4 times to the Police and the result of the alcohol test taken at the taxi rank demonstrated a calendar of events relating to the applicant's alcohol-related conduct. There were some dishonesty issues which were supported within the report that the applicant was found charging a higher tariff and did not declare his convictions in the November 2005 Licence application. The Committee took into account the dismissal of the appeal by Preston Magistrates' Court, in respect of Preston City Council's revocation of the applicants licence and the grounds on which the appeal was dismissed. The Committee acknowledged that there had been no complaints against the Applicant during the Applicant's 12 months licence period with Chorley Council.

The Sub-Committee, **RESOLVED:-** that after taking account of all relevant factors, had not been satisfied that the applicant was not a fit and proper person to hold a hackney carriage licence, and in the interest of public safety refused the application for his hackney carriage licence to be renewed. In accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, the refusal to renew was on the ground of 'any other reasonable cause'.

The applicant had a right to appeal to the Magistrates Court within 21 days of notification of the decision.

Chair