

General Licensing Sub-Committee

Wednesday, 14 May 2014

Present: Councillor Marion Lowe (Chair) and Councillors Adrian Lowe, Mick Muncaster, Steve Murfitt and Alan Platt

Also in attendance

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

14.LSC.1 APOLOGIES FOR ABSENCE

No apologies were received.

14.LSC.2 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

14.LSC.3 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.4 SECTION 51 & 59 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCE

The Sub Committee considered a report of the Director of People and Places to consider whether a driver was a fit and proper person to hold a Private Hire and Hackney Carriage Drivers Licence.

On 11 November 2013, officer's had received an application made under section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 for the granting of a private hire and hackney carriage drivers licence. The application could not be determined by officer delegated authority, as the driver had an offence that was recorded against him relating to his employment as a private hire base operator.

On 7 April 2014, the Chair of the Licensing and Public Safety Committee, decided that the General Licensing Sub Committee should determine the application, due to the nature of the conviction recorded against him.

The applicant had first made an application for a Private Hire/Hackney Carriage Drivers licence in 2004, where he had simultaneously held a Hackney Carriage Drivers Licence with Burnley Council. His previous Chorley Council Private Hire/Hackney Carriage licenses appeared to have expired in 2008.

Members were informed that the applicant had satisfactorily completed the Council's Knowledge Test and DSA Driver Assessment. His DVLA Group 2 Medical had been referred to Dr Parker who made comments on the 1 April advising that although he was presently fit to drive he needed to keep the Council informed as to any changes

regarding his diabetes medication and that he should see an optician for a review of his glasses.

Members also noted the applicant had not declared a conviction on his application as he had been required to do so. The applicant had received a police caution for the offence of: Send by Communication Network Offensive/Indecent/Obscene/Menacing Message or Matter in 2012

Officers had interviewed the applicant regarding the matter and Members were informed as to the explanation that had given. The applicant had admitted that by means of a mobile phone he had inappropriately used the contact details of a female customer of the taxi operator whom he worked for to send obscene messages using words of a sexual nature. Although officers had requested further information regarding the matter from Lancashire Constabulary, nothing had yet been received to date. The applicant had also received a number of driving related convictions in the past that had not been declared on his application.

The applicant attended the Sub Committee meeting along with his current employer and his representative.

The Sub-Committee asked questions of the applicant, his employer, representative and the Council's licensing officer regarding matters contained within the report.

The applicants employer, spoke in support of the applicant and stated that although the caution had been received using information from his company's records, the incident had been totally out of character and that he considered that the applicant totally understood his actions were not acceptable and that he would trust him not to do anything like that again.

The incident had happened at a period in the applicant's life when he had been under extreme stress owing to a marital breakdown. The applicant's employer also said that he had worked with the applicant in previous years when he had held his previous drivers licence and that was a good driver who was well thought of by different operators in Chorley.

The applicant's representative stated that his client was extremely sorry for his actions regarding the police caution. He said that the applicant had not thought to declare the caution as it was a verbal one and that he had also not declared his driving offences as they were some time ago and had since lapsed.

Members decided not to adjourn because there had been no indication from the police of whether or when a statement from the victim in relation to the applicant's caution might be forthcoming. The application had been received in November 2013 and sufficient time had passed for this information to have been sought.

After careful consideration of all the relevant factors, the Sub Committee **RESOLVED to refuse the application for the Private Hire and Hackney Carriage Driver's Licence for the following reasons:**

- **The applicant had accepted a caution for making obscene phone calls to a female passenger and there was a risk that he could behave inappropriately if he were to be licensed as a driver.**
- **The applicant had failed to declare the caution on his application form when its disclosure was clearly required, which Members considered, created a trust issue.**
- **Members considered that a period of less than two years since the caution was not a sufficient rehabilitation period.**

14.LSC.5 SECTION 51 & 59 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - APPLICATION FOR A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCE

The Sub Committee considered a report of the Director of People and Places drawing Members attention to an application that had been received under Section 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 for the granting of a Private Hire and Hackney Carriage Driver's Licence.

The driver had applied to the Council on 20 January 2014 for the granting of a Private Hire and Hackney Carriage Driver's licence. The driver had completed the Council's medical, knowledge test and DSA Driver Assessment and held a full valid DVLA Driver's licence which detailed no current endorsements.

However, his Disclosure and Barring Service had revealed the following offence:

In November 2008, the driver was convicted at Preston Crown Court for: Using Threatening, Abusive, Insulting Words or Behaviour with intent to cause fear or provocation of Violence on 16 May 2008 under the Public Order Act 1986 S. 4(1)(A) and for Common Assault on the 16 May 2008 under the Criminal Justice Act 1988 S.39, disposal by way of a Conditional Discharge 18 months concurrent for both offences.

In addition to the recorded offence the Chief Police Officer had used his discretion to disclose information he believed to be relevant to the application which was disclosed to the Members of the Sub Committee.

Members noted that the driver had previously held a Hackney Carriage and Private Hire Driver's Licence with this authority, first issued on 10 October 2003 in respect of his Private Hire Driver's Licence and secondly on 1 October 2007 in respect of the Hackney Carriage Driver's Licence. It was accepted that the driver had worked and was involved in a family business in Chorley and had held a number of Private Hire Vehicle Licences.

At a meeting of the General Licensing Sub Committee on 7 January 2009, the driver had had his licences revoked and a copy of the report and decision was contained within the report for Members' attention. Following the decision of the General Licensing Sub Committee, the driver appealed the decision to the Magistrates Court and on the 17 August that appeal was upheld.

Following the decision of the Magistrates Court, the Councils Licensing Manager in conjunction with the Councils Director of Corporate Governance and Chair of Licensing gave instruction to appeal the Magistrates' decision to the Crown Court and on 23 March 2010 the Council's appeal was upheld. A copy of the decision and reason for the ruling was provided for the Sub Committee.

The driver had previously made an application to the Council on 1 November 2010 for the granting of a Private Hire and Hackney Carriage Driver's Licence. That application had been refused by the Sub Committee on 16 March 2011 and a copy of the decision was made available to Members.

Members noted that the driver currently held a Hackney Carriage Driver's Licence with Wigan Council.

Having considered all the information at the meeting Members **RESOLVED to grant the drivers application for a private hire/hackney carriage driver's licence where he would be subject to the requirements of the standard conditions for the following reasons:**

- **More than five years have elapsed since his conviction and the granting of a taxi driver licence is therefore within the Council's policy on previous convictions under paragraph E2.**
- **The applicant had not been convicted of any further offences in the intervening period and has expressed remorse.**
- **The applicant had been driving in Wigan without any known issues.**

In accordance with paragraph E2 of the policy on previous convictions, Members authorise the Licensing Officer to issue a written warning to the driver, as to his future conduct to lie on his Licensing File.

Members wished to make it clear to the driver, that should he appear before the Sub Committee on a future occasion they would give very serious consideration to revoking his driver's licences.

Chair