

MINUTES OF GENERAL LICENSING SUB-COMMITTEE

MEETING DATE Wednesday, 19 July 2017

MEMBERS PRESENT: Councillor Matthew Lynch (Chair) and Councillors Adrian Lowe, Margaret France, Sheila Long and John Walker

OFFICERS: Chris Moister (Head of Legal, Democratic and HR Services), Sarah Longden (Environmental Health Officer), Alex Jackson (Legal Services Team Leader), Stefanie Leach (Trainee Solicitor) and Nina Neisser (Democratic and Member Services Officer)

17.LSC.125 Declarations of Any Interests

No declarations of interests were received.

17.LSC.126 Procedure

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

17.LSC.127 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 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.128 Determine an Application to Renew a Private Hire Driver Licence Made Under the Local Government (Miscellaneous Provision) Act 1976

The Director of Early Intervention and Support submitted a report to the General Licensing Sub-Committee informing Members of a Private Hire Driver's (PHD) Licence renewal application. Members were recommended to consider the contents of the report and determine whether the applicant was a fit and proper person to hold a Private Hire Driver's Licence.

The applicant was invited to the meeting but did not attend.

Officers received an application to renew a PHD Licence on 12 June 2017. Council records indicated that the applicant had held a PHD licence with Chorley Council since July 2004 and his current PHD licence would expire on 12 July 2017. Following the submission of the applicant's Group II Medical, the Council's Medical Advisor recommended that the applicant was not medically fit to be awarded a PHD Licence.

The Council's Medical Advisor advised that the applicant was required to undergo a treadmill test before a licence could be recommended. Members noted the ongoing issues with the applicant failing to manage his records as required with his medical condition. Until these matters were resolved and the information be provided, the Council's Medical Advisor recommended that the applicant should be refused a licence.

Officers responded to the correspondence from the Council's Medical Advisor using the Council's scheme of delegation and suspended the applicant with immediate effect on 29 June 2017.

Post suspension, Officers contacted the applicant on 6 July 2017 to establish what progress had been made in relation to meeting the requirements of the Group II standards. The applicant stated that he was booked in for the treadmill test and had had a blood test some three weeks previous and was awaiting the results. The applicant was offered advice on what steps to take when he received the test results to avoid any unnecessary delays.

Further to this, Members noted issues with the applicant's medical on previous occasions. In September 2012 the Council required the applicant to provide a further medical. The Council received the medical on 8 October 2012, this medical was referred to the Council's Medical Advisor who advised that the applicant did not satisfy the Group II requirements; Officers at that time did not suspend the applicant's PHD licence. On this occasion, the applicant was written to in February 2013 requiring him to undergo the stated medical tests that would determine whether he was medically fit or not. He was again written to on 3 April 2013 in the same respect.

The applicant was invited to renew his PHD licence in April 2014; the completed application was received on 10 July 2014. Officers were unable to find any record of a medical being received to support that application, however the applicant's PHD licence was renewed at that time.

At the time of writing the report officers found no evidence that the applicant had engaged with the request and the matter remained outstanding.

After careful consideration the Sub-Committee **RESOLVED to refuse to renew the Private Hire Driver Licence for the following reasons;**

- 1. The Council's Medical Advisor advised that he should not be licensed.**
- 2. The Council had not received results of the treadmill test or the blood tests.**
- 3. There was no evidence that he applicant had dealt with correspondence from the Council in 2013 regarding further medical tests.**
- 4. The applicant was not present at the Sub-Committee and so there were no representations before Members as to why they should authorise renewal of the licence.**

Members asked that Officers inform any local authorities with whom the driver is known to hold a taxi licence of the refusal to renew.

17.LSC.129 Appeal Against Refusal of Street Trading Consent Application

The Director of Early Intervention and Support submitted a report for the General Licensing Sub-Committee to consider the appeal against the refusal of a Street Trading Consent Application. Members were to determine whether to uphold the decision to refuse the application for a street trading consent or issue the consent with the usual conditions.

In accordance with the Street Trading Policy introduced in February 2017, there was an informal appeals process to the General Licensing Sub-Committee in the absence of any appeal procedure within the legislation.

The applicant attended the meeting along with his representative to make his representations to the Sub-Committee.

In February 2016, the applicant changed his vehicle and failed to ensure that he obtained a new consent to reflect the new vehicle identification. Street Trading Consents cannot be transferred or the vehicle details updated, a new consent must be issued. When the applicant made his renewal in May 2016, he failed to provide the updated details of the vehicle on his application form and therefore the consent was renewed for the old vehicle. Consequently, the applicant was trading without a valid consent which is a criminal offence.

The vehicle to which the original consent applied was the subject of an investigation following an allegation of smoking in the vehicle. This prompted a PACE interview that took place on 9 May 2017. At this interview the applicant admitted that he had no involvement in this incident having sold the vehicle in question and subsequently acknowledged that he had been trading without a valid consent. The applicant was advised that he could not trade until he made an application for a new consent for the new vehicle. The applicant had held a consent since 2014 (initially in partnership with his brother, and then as a sole trader), he was therefore aware of the conditions of the consent and the need to have a valid consent in order to trade.

The applicant made a new application on 30 May 2017, which was therefore subject to a vehicle inspection. When arranging the vehicle inspection with the Environmental Health Officer, the applicant admitted to trading since he submitted his application, knowing that he did not have a valid consent. He offered to pay an additional fee to cover the extra time between the date of his application and the date when his consent would be issued.

Officers wrote to the applicant, having made the decision that under the circumstances his application for consent should be refused. The applicant appealed the decision of the Council to refuse his consent application by email on 4 July 2017.

Members noted previous occasions when the applicant had come to the attention of Officers. A warning letter was sent to the applicant in June 2015 as a result of complaints received by Environmental Health. The complaints were regarding the applicant parking his vehicle on double yellow lines and pedestrian crossings and becoming abusive when asked to move. The applicant was also involved in a lengthy dispute with another consent holder beginning in July 2015. Due to numerous complaints from both parties, they were offered mediation by Chorley Council in October 2015. This was agreed by both parties; however the applicant did not attend the arranged session.

Members requested reassurance from the applicant that he understood that licences were issued for use throughout the borough and not designated to a particular area. With regards to parking, it was reiterated to the applicant that there were certain laws and restrictions that must be adhered to.

The applicant's representative advised the Sub-Committee that this had arisen from a misunderstanding on the licence. He informed Members that the applicant's vehicle was a company vehicle and therefore not owned by himself. It was reiterated to Member's that the applicant did not obtain the vehicle at the time of the smoking incident as the vehicle was back with the company. He stated that the applicant had built up his business over the last four years but following his suspension, had subsequently been out of work for six weeks with no income.

After careful consideration, the Sub-Committee **RESOLVED to refuse to allow the appeal against the refusal to grant the street trading consent for the following reasons;**

- 1. The applicant knowingly traded without a valid street trading consent which is an offence**
- 2. He had failed to return the consent in relation to the old vehicle as requested by officers.**

Members considered the allegations in 2015 to be closed since there had been no further complaints since the warning letter from the Council so this was not part of the reasons for the decision. Members noted that the Environmental Health Officer accepted that the smoking offence was not committed by the applicant so this was not part of the reasons for the decision.

Chair

Date