

GENERAL LICENSING COMMITTEE
26TH JUNE, 2012

PRESENT – Councillor Nutt (in the Chair) Councillors L. Haszeldine, C.L.B. Hughes, B. Jones, D. Jones, Lawton, J. Lyonette, Stenson, Thistlethwaite and J. Vasey. (10)

APOLOGIES – Councillors Lee, Newall and L. Vasey. (3)

L6. DECLARATIONS OF INTEREST – Councillor Lawton declared a personal and prejudicial interest in respect of L5 (1) below, as the applicant's character witness was a dear personal friend and left the meeting taking no part in the discussion or voted there on.

Councillor C.L.B. Hughes also declared a personal and prejudicial interest in respect of L9 (1) below, as the applicant's character witness was known to her and left the meeting taking no part in the discussion or voted there on.

Councillor L. Haszeldine declared a personal and prejudicial interest in respect of L9 (2) below, as one applicant lived in her Ward and considered the other to be an associate and left the meeting taking no part in the discussion or voted there on.

L7. MINUTES – Submitted – The Minutes (previously circulated) of the meetings of this Licensing Committee held on 29th May 2012.

RESOLVED – That the Minutes subject to minor amendments be approved.

L8. EXCLUSION OF THE PUBLIC – RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1, 7 and 14 of Part I of Schedule 12A to the Act.

L9. DETERMINATION OF HACKNEY CARRIAGE/PRIVATE HIRE DRIVER LICENCE APPLICATIONS AND REVIEWS OF DRIVER LICENCES (EXCLUSION PARAGRAPH NOS 1 AND 7) – The Director of Place submitted a report (previously circulated) inviting Members to consider an application to lift a suspension and to renew a hackney Carriage Drive Licence, a differed application to renew a Hackney Carriage Driver Licence and two reviews of Hackney Carriage Driver Licences in light of relevant convictions, cautions, medical issues and other incidents.

(1) Ref. No. 01/12 – Pursuant to Minute Number L47 (2)/Jan/2012 a review of a Hackney Carriage Driver licence in respect of information received from a member of the Trade advising that the licence holder had lost his job with his firm due to falling asleep at the wheel of his vehicle while carrying a passenger. After discussion with the Licensing Manger on 18 January 2012, the Chair agreed to suspend the licence with immediate effect. The Chair had made this decision under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 after he concluded that the licence holder could no longer satisfy this Council that they were a fit and proper person to hold this driver licence on the following grounds:- The loss of consciousness at the wheel of a licensed vehicle whilst carrying a passenger. This has brought into question his medical fitness to drive. The suspension was also made in accordance with the provisions of Section 52 of the Road Safety Act 2006 on the grounds of public safety. The driver has submitted an application to renew his licence pending the outcome of his medical investigations.

The applicant addressed the meeting and responded to Members' questions in relation to the incident and to why he felt he was a fit and proper person to hold a Hackney Carriage Driver Licence, advising that he had been diagnosed with sleep apnoea but a sleep specialist had been able to confirm that it was now under control and it was his intention to return to working night shifts as he slept better during the day.

Members discussed that the applicants sleep specialist had confirmed that this condition is now under control and that he had been deemed to be fit to drive vehicles to the DVLA Group II standard, which was supported by a Group II medical from his own GP.

RESOLVED – That the licence be renewed subject to a requirement that future applications must be accompanied by a Group II medical and an annual update from the sleep specialist.

(2) **Ref. No. 13/12** – Pursuant to Minute Number L5 (4)/May/2012 a review of a Hackney Carriage Driver Licence in light of a speeding conviction and failing to report the matter to the Licensing Department. This review was due to be considered at the previous meeting of the Committee and Members agreed to defer the review until the driver was able to be present. The driver addressed the meeting and responded to Members' questions in relation to the incident.

Members discussed the drivers past history and that he not had committed a speeding offence for a number of years and the fact that he did not report the incident within 7 days as required by the Council's Byelaws. Members considered the Council's policy of referring to the Driver Improvement Scheme all drivers with 9 penalty points or a history of poor driving and decided on this occasion that it was not proportionate to do so given that his last motoring conviction was in 2003.

RESOLVED – That the licence be retained and the driver be issued with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the Licensing Committee.

(3) **Ref. No. 14/12** – A review of a Hackney Carriage Driver Licence in light of a recent speeding conviction and the discovery that the drivers DVLA licence had expired and the driver had not notified the Council's Licensing Department of his change of address.

The applicant addressed the meeting and responded to Members' questions in relation to the incident and the confusion around his DVLA driver licence and the change of address.

Members expressed concern that his last attendance at Committee was only in February 2011 for motoring convictions in February 2011 when he received a warning letter about his future conduct.

RESOLVED – (a) That the licence be retained subject to the driver successfully completing the Driver Improvement Scheme, at his own expense and within the next two months; and
(b) That the driver be issued with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received he would be referred immediately to the Licensing Committee.

(4) **Ref. No. 15/12** – A review of a Hackney Carriage Driver Licence in light of the three yearly Criminal Record Check being undertaken which had highlighted two Police Cautions for

battery and being concerned in the production of controlled Class B Drugs. The driver had not reported either matter to the Council's Licensing Department.

The applicant addressed the meeting and responded to Members' questions in relation to the incident and to why he felt he was a fit and proper person to hold a Hackney Carriage Driver Licence.

Members took into consideration the Council's Hackney Carriage and Private Hire Licensing Policy which specifically states that the Council will consider it extremely serious when existing holders of licences receive criminal convictions, cautions, reprimands, warnings or complaints and that existing holders of licences who commit offences may expect the Council to consider revoking their licence. The Policy also states that in respect of offences of violence and drugs offences the Council will normally require a period of at least three years free from conviction, caution, reprimand or final warning.

Members expressed grave concerns that the driver had withheld information by failing to declare the Police Cautions on application forms (one in 2011 and both in 2012) and that the Council only became aware of them after he was required to undertake a 3 yearly Criminal Record Check. Members were also deeply concerned to hear from the Police that when had asked for employment details at the time of the cautions the driver had declared "transport driver" rather than "taxi driver". This meant that the Council was not notified through the Notifiable Occupations Scheme of the cautions.

Members considered that the driver could no longer satisfy the Council that he was a fit and proper person to hold a Hackney Carriage Driver Licence on the following grounds: that the driver had received two Police Cautions; that the driver had failed to declare either caution to the Council's Licensing Department and failure to declare his occupation as a taxi driver to the Police

RESOLVED – That the licence be revoked in accordance with Section 61 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

L10. SUPPLEMENTARY ITEM - DETERMINATION A PRIVATE HIRE DRIVER LICENCE REVIEWS OF DRIVER LICENCE (EXCLUSION PARAGRAPH NOS 1 AND 7) – With prior approval of the Chair to the matter being treated as urgent to enable the General Licensing Committee to consider the review at the earliest opportunity. The Director of Place submitted a report (previously circulated) inviting Members to consider a review of Private Hire Driver Licence following the driver being diagnosed with sleep apnoea.

(1) Ref. No. 16/12 – A Review of a Hackney Carriage Driver Licence following the driver informing the Licensing Department that he had been diagnosed with sleep apnoea.

After discussion with the Licensing Manger on 20 June 2012, the Chair agreed to suspend the licence with immediate effect on the grounds of public safety and that the matter be referred to the next meeting of the General Licensing Committee. The Chair had made this decision under Section 61(1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 after the driver advised the Council that he had recently been diagnosed with sleep apnoea. The driver attended the meeting and the Licensing Manager reported that he had subsequently provided information from his consultant confirming that this condition is now under control and that you he is now fit to drive vehicles to the DVLA Group II standard.

Members discussed the fact that the driver's consultant had confirmed that this condition is now under control and that he had been deemed to be fit to drive vehicles to the DVLA Group II standard.

RESOLVED – That the licence be renewed subject to a requirement that future applications must be accompanied by a Group II medical and an annual update from the sleep specialist.