
OUTCOME OF RECENT COURT PROCEEDINGS

Purpose of Report

1. To advise Members of the outcome of recent Court proceedings in relation to licensing matters.

Information and Analysis

2. The schedule attached to this report gives details for an individual relating to the outcome of a Court Appeal against a decision made by the Licensing Committee.
3. Members are invited to note the contents of this report.

Legal Implications

4. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Crime and Disorder Act 1998 Section 17

5. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The decision taken by the Licensing Committee included consideration of criminal offences.

Recommendation

6. That Members note the contents of this report.

**Richard Alty
Director of Place**

Background Papers

No background papers used in the preparation of this report.

Appendix 1 Mr Kevin Guest

Pam Ross Extension 388647

Name of Appellant Mr Kevin Guest

Date of Committee 02 July 2013

Committee Decision:

That Mr Guest's application for a Hackney Carriage driver licence be refused on the grounds that he was not a fit and proper person to hold such a licence because

- he had a long history of offending from 1980 to 2010;
- he had been convicted in May 1988 of an offence of unlawful sexual intercourse with a girl under 16 years of age (i.e. 15 years) when he was 24 years of age and this had been raised by the Chief Constable as part of his criminal record check and also by the Council's safeguarding Manager.
- Members had also expressed concern that it had taken him 10 months and 7 attempts to pass the Council's legislation test.

Appeal Details: 05 November 2013 at Darlington Magistrates Courts.

Appeal Information:

Mr Guest attended Court with his wife and was legally represented. He advised the Court that he had deliberately failed the legislation test on some occasions to enable him to extend his application period so that his 2010 offences would be 3 years old by the time he was considered by Committee.

The Council's Licensing Manager advised the Court that this would be of concern to the council as it would further indicate Mr Guest's dishonesty. Mr Guest maintained he was not aware that the girl with whom he had unlawful sexual intercourse was under 16 years of age despite the assertions of the Chief Constable to the contrary and the Licensing Manager advising the Court that Mr Guest had not exercised his right to challenge any information on his criminal record through the appropriate channels.

Mr Guest further contradicted himself when giving evidence as he had submitted a statement saying he had been dismissed by his employer in 2010 because of his criminal convictions (for Battery) in 2010 but in cross examination said this was not the case and that his contract had ended.

Appeal outcome:

The Bench stated that they were satisfied the Licensing Committee was correct to conclude that Mr Guest was not a fit and proper person and dismissed his appeal. The Bench further granted the Council's costs of £860 to be paid at £5 per week.