

NORTHAMPTON BOROUGH COUNCIL

TAXI & GENERAL LICENSING COMMITTEE

Tuesday, 4 February 2020

PRESENT: Councillor Flavell (Chair); Councillor Sargeant (Deputy Chair); Councillors Ansell, Beardsworth, Davenport, Duffy, G Eales, Haque and Walker

1. APOLOGIES

An apology for absence was received from Councillor Phil Larratt.

2. MINUTES

The minutes of the meeting held on 10 December 2019 were signed by the Chair as a true and accurate record.

3. DEPUTATIONS/PUBLIC ADDRESSES

There were none.

4. DECLARATIONS OF INTEREST

Councillor Haque declared a personal interest in respect of item 7 by reason of knowing the Applicant. He advised that he would leave the room whilst these items were discussed.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100I of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12A to such Act.

The Motion was carried and the public and press were excluded on the basis that information relating to an individual and information which was likely to identify an individual.

7. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Applicant advised that he had brought a Councillor to represent him. The Councillor advised that she had known the Applicant for 18-19 years as a friend, teacher and community activist. She went on to give him a character reference.

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. He explained that the applicant had previously held a Private hire Driver's Licence and on 27 June 2019 had submitted a new Private Hire Driver application. As part of the application process, he was required to declare any previous criminal convictions. Following the submission of a DBS certificate a Common Law Police Disclosure to address a "pressing social need" was received (21 April 2017). Due to the nature of the Common Law Police Disclosure, the applicant was informed that his application would be referred to the Licensing Committee.

The Applicant addressed the Licensing Committee and advised that the complainant who alleged the complaint was his wife's younger sister. He does not have a good relationship with his wife's family. He added that his wife's sister had escaped from the home, the family had looked for her; a week later the Applicant had been arrested; he felt that complainant was being given guidance.

The Committee asked questions of the applicant and heard:

- The complainant was around 13-14 years old
- The complainant is the half- sister of the Applicant's wife, she did not live at the home of the Applicant and had never stayed there. She had been staying at his wife's sister's house
- The Applicant commended that it was `a drama` and the complainant was trying to humiliate him
- Since 2017 the Applicant has been working as a delivery driver and in a warehouse.

The Solicitor explained to Members their options and the relevant test to be applied; whether the applicant was deemed to be a "fit and proper person" to hold a licence as a Private Hire Driver and the relevant provisions of the Council's policy on convictions and allegations. He advised the Committee of case law "*Leeds County Council V Hussein*"

Members retired at 18:42 hours to make a decision.

The meeting reconvened at 18:55 hours.

RESOLVED:

The Committee had carefully considered the information in the report, the representations made by and on behalf of the applicant at the hearing, the responses to the questions asked of him, the character reference received.

The Committee made the following **findings**:

- A. The information suggests a serious offence or offences were committed. It is alleged that they were committed by the Applicant.
- B. They note that he has not been charged with or convicted of any offences.
- C. They also note that there is an e-mail in the bundle of documents in which the police state that; 'no cogent allegation of wrongdoing was asserted against the Applicant in the investigation'. The Committee is concerned as to what information the police do hold in relation to this matter.
- D. The Committee is not satisfied that it currently has sufficient information to determine whether the Applicant is a fit and proper person to hold a licence and therefore it requires further information to decide this, specifically additional details from the police.

Accordingly, the Committee **Adjourns** the Applicant's application for a private hire driver's licence pending further enquiries with Northamptonshire Police.

The Applicant confirmed that he was willing to sign a consent form which could be sent to the police to speed up the release of the information concerned.

8. REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE

The applicant advised that he had brought a friend to accompany him but not to represent him.

The Senior Licensing Enforcement Officer outlined the circumstances as set out in the report. He explained that the applicant had first been issued with a Private hire Driver's Licence on 30 January 2019. On 9 November 2019 Northampton Borough Council's Licensing Department undertook a multi-agency check alongside the DVLA and Northamptonshire Police. The Applicant was pulled over by the Police and at first he ignored them. The officers sounded their vehicle horn and eventually attracted the Applicant's attention. He then drove to the check site, the officers following close behind. The officers noted that the Applicant was driving without his headlights on and he drove most of the journey at approximately 20 mph, causing traffic disruption. A Police Officer provided an account of the journey and reported the Applicant for driving without due care and attention. The Applicant's vehicle was examined by DVLA staff and was deemed to comply with the Construction and use Regulations however, during the licensing inspection it was noticed that the Applicant was not displaying the vehicle plate securely to the rear of the vehicle. A written caution was issued for this offence. The Applicant was asked to provide his private hire drivers badge whilst his documentation was being checked. He responded by saying that he did not have his badge with him. The Licensing Officer then explained to the Applicant that the vehicle licence would have to be suspended as he could not demonstrate to officers and passengers that he was a licensed private hire driver. The Applicant then provided a copy of his private hire driver's badge. The Applicant was informed that he would be reported for providing a false identification document. The Applicant's vehicle licence was suspended for not providing a legitimate private hire drivers badge. The Applicant has not been brought to the attention of the Licensing Department prior to this incident.

Due to the nature of the offences, the Applicant was informed that his application would be referred to the Licensing Committee.

The Applicant explained that on the night in question he was sleeping in his car. He had been sleeping as he had been working since around 3.00 p.m. He heard a car horn and realised it was the police when he woke up. As he had been sleeping he was tired and did not put the headlights on, but he did when the police told him to. It was dark, so he drove slowly to be safe. He saw the light from the driving lights so thought the headlights were on. On the night he signed the police report but he only did it to get rid of them. He had to pay a £90.00 fee and attend a 3 hour road safety course. He had made a copy of his badge since his car had been broken into 3 times. Other documents had been taken from his vehicle, such as his wallet and his driving licence. The Applicant said that there was no space for the plate on the rear. He has now got a plastic holder for the plate so he can attach it.

In response to questions asked by Members of the Committee the Applicant stated that he had been working however, at the time the police approached him he was sleeping. Drivers are allowed to have a break during their shift and it is up to them when they finish. He was due to continue working after his sleep. He agreed that he was not alert after his sleep and that he could have been carrying a passenger instead of following the police. He was waiting for a fare to be allocated to him by his Private Hire Operator. He had driven cautiously as the police were behind him. He is a heavy sleeper and takes blood pressure tablets. The lights on his dashboard had come on so he believed that his headlights were on. It was around 9.30 p.m. when the incident occurred.

The copied Private Hire badge was provided to the Committee.

The Solicitor explained to Members their options and the relevant test to be applied; whether the applicant was deemed to be a “fit and proper person” to hold a licence as a Private Hire Driver and the relevant provisions of the Council’s policy on convictions. That the case of *McCool v Rushcliffe* is relevant in determining whether the Applicant is ‘a fit and proper person’ to hold a private hire driver’s licence. By signing and accepting a caution the Applicant has accepted that he committed the offence of driving without due care and attention so this is to be taken as fact. Section 54(2) of the Local Government (Miscellaneous Provisions) Act 1976 states that the driver must wear the badge issued to them by the Council and that failure to do so is an offence. In addition, Section 48 of the 1976 Act required that the plate for the vehicle is fixed to the vehicle at all times when in use as a private hire vehicle and it is an offence to fail to do so.

Members retired at 19:42 hours to make a decision.

The meeting reconvened at 20:05 hours

RESOLVED:

The Committee carefully considered the information in the report, the representations made by the Applicant at the hearing and the responses to the questions asked of him.

The Committee made the following **findings**:

- E. There is a risk to the public where a vehicle is driven without due care and attention. There is the potential to cause serious harm if a vehicle is driven in that way. Had the police not requested that he followed them to the check site it could have been that he drove in that manner with a member of the public in the vehicle. It appears that at the time the presence of the police car acted to alert other drivers and possibly avoided a collision.
- F. He had been uncooperative with police and argued with them however, he eventually conceded that he had driven inappropriately.
- G. The reason that the plate should be displayed is to ensure that the public are aware that the vehicle is licensed and that it can be identified as such if there are any problems.
- H. Similarly the driver’s badge should be worn or displayed whilst working so that he can be identified as a driver. The Council issued badge clearly identifies him as a licensed driver however, his copied badge is not so clear.
- I. He should be aware that in addition to the breach of the 1976 Act it is also possible that copying the badge could have amounted to other offences.
- J. Put together there were a large number of breaches in one short period of time on one night and this causes serious concerns as to the level of risk caused to the public; demonstrating that a period of suspension is necessary in order to reflect those concerns.

Accordingly, the Committee **SUSPENDS** the Applicant’s Private Hire Driver’s Licence for a period of **6 (six) weeks**.

9. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

Consideration of Agenda Item 9 was deferred to the next meeting of the Taxi and General Licensing Committee.

The meeting concluded at 8:10 pm