



Council Offices, Kiln Road,  
Thundersley, Benfleet,  
Essex SS7 1TF  
Tel. No: 01268 882200



**Andrew Grant**  
**Interim Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Wednesday, 16<sup>th</sup> March 2022, 11.30am</b>
<b>Venue:</b>	<b>Council Offices, Council Chamber</b>
<b>Membership:</b>	<b>Councillors Acott, MacLean &amp; S. Mumford</b>
<b>Officers attending:</b>	<b>Mrs Melanie Harris - Head of Licensing &amp; Safer Communities Jason Bishop – Corporate Legal Adviser</b>
<b>Committee Enquiries:</b>	<b>Loretta Hill, Ext. No. 2427</b>

### **PART I** **(Business to be taken in public)**

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee**
- 3. Appeal against refusal to grant a Private Hire Driver's Licence – Applicant A**

The report of the Head of Licensing and Safer Communities is attached.

- 4. Decision**

Agendas and Minutes can be viewed at [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Copies are available in larger print & audio format upon request  
If you would like a copy of this agenda in another language or alternative format:  
Phone: 0207 520 1431 or email [translations@languageline.co.uk](mailto:translations@languageline.co.uk)



**PROCEDURE FOR HEARING**

**1. Introductions**

- a. Chairman introduces Panel Members to the applicant.
- b. Chairman identifies officers and their roles.
- c. Applicant identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Objector(s) to be identified.

**2. Case Summary by the Head of Licensing and Safer Communities**

As shown at Agenda Item 3.

**3. Objector(s) presents objection(s)**

**4. The Applicant's Submission**

The applicant or their representative will submit their case

**5. Questions from Panel**

Opportunity for any questions from Panel to either side.

**6. Adjournment**

Proceedings will be adjourned while the Panel withdraw to consider its decision. During this time the Clerk will accompany the Panel to record the decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

**7. Decision**

The Panel will reconvene, and the Chairman will announce the decision.

**8. Conclusion**

The Chairman will close the proceedings

Agendas and Minutes can be viewed at [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Copies are available in larger print & audio format upon request  
If you would like a copy of this agenda in another language or alternative format:  
Phone: 0207 520 1431 or email [translations@languageline.co.uk](mailto:translations@languageline.co.uk)



When you have finished with  
this agenda please recycle it.

**Subject:** Appeal against refusal to grant a Private Hire Driver's Licence – Applicant A

**Report of:** Head of Licensing and Safer Communities

---

**1. Purpose of Report**

To consider the appeal made by applicant A against the refusal by the Council to grant a Private Hire Driver's Licence.

**2. Background**

Applicant A contacted the Licensing Department in January 2022 to apply for a Private Hire Driver's Licence. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) enhanced certificate.

Applicant A has the following convictions:

Date of conviction: 01 May 2014

Offences:

1. Have custody control of thing to change interfere with unique identifier of mobile phone for unlawful purpose.  
Disposal: Imprisonment 5 months concurrent. Forfeiture of phones found.
2. Being concerned in supplying controlled drug – class B – other.  
Disposal: Imprisonment 28 months. Forfeiture and destruction of all drugs and phones found.

A copy of the DBS certificate is attached at Appendix 1.

A copy of the application form is attached at Appendix 2.

The legislation relating to the refusal to grant a driver's licence is contained under the provisions of the LG(MP)A 1976, section 51, whereby at 51.(1) subject to the provisions of this part of this Act, a district council shall, on receipt of an application from any person for the grant of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence-

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence: or
- (b) to any person who has not for at least twelve months been and is not at the date of the application for a driver's licence, the holder of a licence granted under Part III of the Act of 1972 (not being a provisional licence) authorising him to drive a motor car.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(3) It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely-

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which granted; and
- (c) if the licence has a serial number, that number, and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

Under S52. Any person aggrieved by –

- (1) the refusal of the district council to grant a driver's licence under section 51 of this Act; or
- (2) any conditions attached to the grant of a driver's licence;

may appeal to a magistrate's court.

### 3. 'Fit and Proper'

Guidance on assessment of previous convictions was contained within the Department for Transport's (DfT) Statutory Taxi and Private Hire Vehicle Standards released in July 2020. These standards were adopted by the Council in November 2020 following a period of consultation and form part of the Council's Hackney Carriage and Private Hire Licensing Policy.

Excerpt from the policy regarding assessment of previous convictions is attached at Appendix 3.

The definition of what is a fit and proper person is not defined in law however the generally accepted test is:

*- Would you allow your son, daughter, mother, spouse or other person you care about to get into a vehicle with this person alone?*

This definition was supported in the judgement by HHJ Silber in the case of Leeds City Council v Hussain which surrounds the suspension of a driver:



... 'the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault people.'

As Applicant A has been convicted of the above offences he is not regarded as a fit and proper person to hold a Private Hire Driver's Licence and the Council made the decision to refuse to progress the application.

Applicant A submitted a written appeal against this decision to the Council on 21 February 2021. A copy is attached at Appendix 4

#### **4. Legal implications**

Decisions in relation to the grant of a licence give rise to the obligations under the Human Rights Act 1998. The Council will therefore ensure that there is a review hearing before the Licensing Sub-Committee. It should be noted that Applicant A has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Sub-Committee.

#### **5. Options**

The Sub-Committee is advised that it has the following options when determining this application.

- (i) Uphold the decision to refuse to progress the Private Hire Driver's Licence application
- (ii) Allow the Private Hire Driver's Licence application to progress.

#### **Recommendation**

**The decision of the Sub Committee is required following proper consideration of the application and any representations made to the Sub Committee.**

#### **Appendices**

Appendix 1 – DBS certificate

Appendix 2 – Application form

Appendix 3 - Hackney Carriage and Private Hire Licencing Policy - Assessment of Previous Convictions

Appendix 4 – Appeal request

**Background Papers:**

Local Government (Miscellaneous Provisions) Act

1976[http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga\\_19760057\\_en.pdf](http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga_19760057_en.pdf)

Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020

[Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards-2020)



## Enhanced Certificate

Page 1 of 2

Disclosure &  
Barring Service

DBS Fee Charged

Certificate Number

Date of Issue

15 FEBRUARY 2022

## Applicant Personal Details

## Employment Details

Surname:

Position applied for:

Forename(s):

OTHER WORK FORCE TAXI DRIVER

Other Names:

NONE DECLARED

Name of Employer:

SELF EMPLOYED CPBC

Date of Birth:

## Countersignatory Details

Place of Birth:

LAMBETH

Registered Person/Body:

CASTLE POINT BOROUGH COUNCIL

Gender:

MALE

Countersignatory:

MELANIE HARRIS

## Police Records of Convictions, Cautions, Reprimands and Warnings

Surname:

Last known occupation:

Forename(s):

CAR SALESMAN

Gender:

Alias Name(s):

Birth Details:

NONE RECORDED

Alias Date of Birth:

NONE RECORDED

## Conviction Details

Conviction:

Date of Conviction:

01 MAY 2014

Court:

WOOLWICH CROWN

Offence:

Dispose:

HAVE CUSTODY CONTROL OF THING TO  
CHANGE/INTERFERE WITH UNIQUE  
IDENTIFIER OF MOBILE PHONE FOR  
UNLAWFUL PURPOSE

IMPRISONMENT 5 MTHS CONCURRENT  
FORFEITURE OF PHONES FOUND

ON  
MOBILE TELEPHONES

(REPROGRAMMING) ACT 2002 S.2(1)

IMPRISONMENT 28 MTHS - T2014/7023

2 BEING CONCERNED IN SUPPLYING  
CONTROLLED DRUGS CLASS B - OTHER  
ON

VIETNAM SURCHARGE 120.00

ABUSE OF DRUGS ACT 1971 S.4(3)(B)

FORFEITURE AND DESTRUCTION OF ALL DRUGS &  
PHONES FOUND

CONFISCATION \$1075.87 IMPOSED ON 05/08/15

## Information from the list held under Section 143 of the Education Act 2002

NONE RECORDED







### Application for the grant of a Private Hire Driver's Licence

Office use

Date received

PHD number

Name

Address

Age and DOB

one 07456 email a.

Present occupation and employer

SELF EMPLOYED - PERSONAL TRAINER

Do you currently hold or have you previously held a licence with another authority?

NO

Have you ever been refused a licence or had a licence revoked or suspended?

NO

How long have you held a full licence to drive a motor vehicle?

38 YEARS

Have you spent a period of 3 continuous months or more, since the age of 18 years, living or working outside the United Kingdom.

Yes ☐ - Please provide datesNo ☒

If you answered YES please provide evidence of a criminal record check or Certificate of Good Character from the country/countries covering the relevant period

Have you ever been convicted in court or received any fixed penalty notices?

Yes/No \*Delete as appropriate

Give details of all convictions, fixed penalty notices or any court or proceedings pending against you.

Offence	Court	Date	Fixed penalty
BEING CONCERNED IN SUPPLYING CONTROLLED DRUG CLASS B	WOLVICH GROWN	1-5-2014	28 MONTHS

If any person knowingly or recklessly makes a false statement or omits any material particularly when giving information under this section, they shall be guilty of an offence.

Signed Date

23-02-2022

The information provided by you will be held and processed by Castle Point Borough Council in accordance with the Data Protection Act 2018 and the General Data Protection Regulations. The Council will process your data in line with our privacy notices and our policies and procedures. Full details can be found on the Council's website at <https://www.castlepoint.gov.uk/info-governance> or by contacting us for further information.



## Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is fit and proper. The following reflects this.

Each case will be considered on its own merits and applicants / licensees are entitled to a fair and impartial consideration of their application.

Where a period is given below it will be taken to be a **minimum** in considering whether a licence should be granted or renewed in most cases. This puts passenger safety first while enabling past offenders to sufficiently evidence that they have rehabilitated.

Offence	Elapsed period before licence should be issued
<b>Crimes resulting in death</b>	Never licensed
<b>Exploitation</b>  Convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children.  Slavery, Child Sexual Abuse, Exploitation, Grooming, Psychological, Emotional or Financial Abuse. This is not an exhaustive list	Never licensed
<b>Sexual offences</b>  Conviction for any offence involving or connected with illegal sexual activity  Any applicant currently on the Sex Offenders Register or any barred list	Never licensed  Never licensed
<b>Offences involving violence against the person</b>  Conviction for an offence of violence against the person, or connected with any offence of violence	At least 10 years since completion of sentence imposed
<b>Possession of weapon</b>	

Conviction of possession of a weapon or any other weapon related offence	At least 7 years since completion of sentence imposed
<b>Dishonesty</b>  Conviction for any offence where dishonesty is an element of the offence	At least 7 years since completion of sentence imposed
<b>Drugs</b>  Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply  Conviction for possession of drugs, or related to the possession of drugs	At least 10 years since completion of sentence imposed  At least 5 years since completion of sentence imposed An applicant may also have to undergo drugs testing for a period at their own expense to demonstrate they are not using controlled drugs
<b>Discrimination</b>  Conviction involving or connected with discrimination in any form	At least 7 years since completion of sentence imposed
<b>Motoring Convictions</b>  It is accepted that offences can be committed unintentionally, a single minor traffic offence would not prohibit granting a licence or revocation of an existing licence providing the authority considers that the licensee remains a fit and proper person  Applicants with multiple motoring convictions	May indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally
<b>Drink driving / driving under the influence of drugs</b>  Conviction for drink driving  Conviction for driving under the influence of drugs	At least 7 years since completion of sentence imposed  At least 7 years since completion of sentence imposed. An applicant may also have to

	undergo drugs testing for a period at their own expense to demonstrate they are not using controlled drugs
<b>Using a hand held device whilst driving</b>  Conviction for using a hand held mobile phone or device whilst driving	At least 5 years since completion of sentence imposed





Helen Collins

---

**From:** ~~helen.collins@nhs.uk~~  
**Sent:** 21 February 2022 17:58  
**To:** Licensing  
**Subject:** Re: Refusal to Grant Drivers Licence

Good afternoon.

Thank you for your prompt email.  
I'd very much like to appeal the refusal decision if possible.

There are many reasons why I feel I should be granted a licence.  
But I'll keep it as brief as possible for the email.

Firstly, I am no threat to anyone's wellbeing or safety.

I was briefly involved with crime and was caught soon after I started.

I was never involved in criminal activities before, and once I finished my sentence over 7 years ago.

I've not been involved in any criminal activities.

And will not be involved in any in the near or far future.

Just to add.

I went guilty at court and owned my crime.

I wasn't found guilty by trial.

I served my time and learnt my lesson.

Thank you for allowing me to say a little but about it.

Regards

