

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



Andrew Grant Interim Chief Executive

AGENDA

Committee: LICENSING SUB-COMMITTEE

Date and Time: Tuesday, 1st February 2022 at 11.30am

Venue: Council Offices (via MS Teams)

Membership: Councillors Egan, Isaacs and Greig

Officers attending: Mel Harris - Head of Licensing & Safer Communities

Jason Bishop - Corporate Legal Adviser

Committee Enquiries: Loretta Hill, Ext. No. 2427

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 D

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

4. Decision

PROCEDURE FOR HEARING

Held Virtually - Via MS Teams

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

Usually, the Panel would withdraw at this point to consider its decision. This now takes place in concluding the meeting.

7. Conclusion

The Chairman will close the proceedings. The Panel will now consider its decision. During this time the Clerk will record the Panel's decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

8. Decision

The Licensing Team will notify of the Committees decision after the meeting has closed.

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AGENDA ITEM NO

3

LICENSING SUB COMMITTEE

01 February 2022

Subject:

Appeal against refusal to grant a Private Hire Driver's Licence -

Applicant D

Report of: Head of Licensing and Safer Communities

Purpose of Report 1.

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

2. Background

Applicant D applied for a Private Hire Driver's Licence in November 2021. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) certificate because it showed the following:

17 convictions with a total of 31 offences. The most recent of these were:

Conviction 17

Date of Conviction: 28 March 2017

Offence1: Using vehicle while uninsured Disposal: Driving licence endorsed

Offence 2: Driving whilst disqualified

Disposal: Imprisonment 8 weeks, disqualified from driving 42 months

Offence 3: Driving whilst disqualified

Disposal: Imprisonment 8 weeks consecutive

Offence 4: Exceeding 30mph on restricted road

Disposal: Driving licence endorsed

Offence 5: Using vehicle while uninsured

Disposal: Driving licence endorsed

3. CPBC Taxi Policy - Assessment of Previous Convictions

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 contain the following regarding motoring convictions:

Motoring Convictions

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

The Assessment of Previous Convictions is attached at Appendix 3

Fit and Proper

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 D 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 D submitted an appeal against this decision to the Council on 10 January 2022. A copy is attached at Appendix 4

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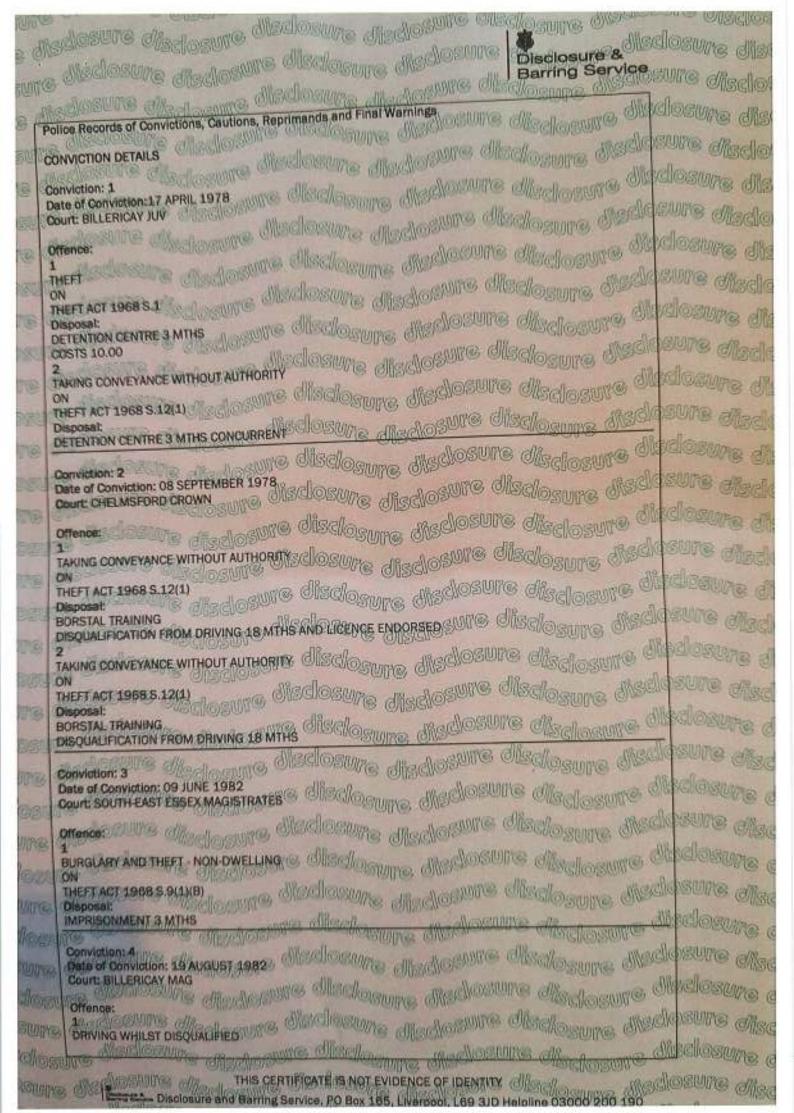
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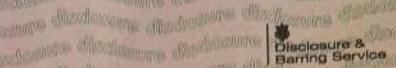
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Information from the list held under Section 142 of the Education Act 2002

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Other Relevant Information disclosed at the Chief Police Officer(s) discretion

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Enhanced Certificate
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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
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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.

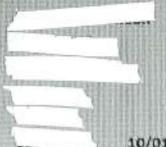
Offence	Elapsed period before licence should be issued
Crimes resulting in death	Never licensed
Exploitation	
Convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children.	Never licensed
Slavery, Child Sexual Abuse, Exploitation, Grooming, Psychological, Emotional or Financial Abuse. This is not an exhaustive list	
Sexual offences	
Conviction for any offence involving or connected with illegal sexual activity	Never licensed
Any applicant currently on the Sex Offenders Register or any barred list	Trever recenses
Offences involving violence against the person	
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
Possession of weapon	
Conviction of possession of a weapon or any other weapon related offence	At least 7 years since completion of sentence imposed

Dishonesty	
Conviction for any offence where dishonesty is an element of the offence	At least 7 years since completion of sentence imposed
Drugs	
Conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply	At least 10 years since completion of sentence imposed
Conviction for possession of drugs, or related to the possession of drugs	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
Discrimination	
Conviction involving or connected with discrimination in any form	At least 7 years since completion of sentence imposed
Motoring Convictions	(*)
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
Drink driving / driving under the influence of drugs	
Conviction for drink driving	At least 7 years since completion of sentence imposed
Conviction for driving under the influence of drugs	At least 7 years since completion of sentence imposed. An applican may also have to undergo drugs testing for a period at their own expense to demonstrate they are

not using controlled drugs
At least 5 years since completion of sentence imposed

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Council Licensing Sub Committee
To whom it may Concern.
Melanie Harris.



10/01/2022

Refusal of Taxi License.

I would like to appeal against my refusal of taxi license for reasons being.

I feel I have been wrongly treated for my refusal for reasons that have not been explained to me properly.

My past criminal convictions are for driving offences going back many years and the latest being 2017. I feel I have been punished enough over the years and have suffered severely for this as well as my family. I'm 60 years old and have a wife who is disabled for which I am her career. I understand that my convictions are many and you say to yourself he never learnt his listen. Driving whilst I was banned did not enter my mind at all even thou I was breaking the law as I needed to get to work and would get there by any means.

Even thou I was driving illegal I've had many driving jobs IE: NHS del person. Courier for Amazon. Mobile career. And many years ago taxi driving when it was an O license only needed. I am not a violent person, I am not a thief. I have worked in many schools and had lots of jobs regarding the public. I have never been a risk nor would I ever be a risk to the public. Since 2017 I have not broken the law as I have my license back clean and no endorsements. Which means I will never break the law regarding driving.

I have C.O.P.D stage 3 which means I cannot do any physical jobs due to my breathing for the past 6 yrs. I have been driving a 360 machine digger. And I have always wanted to become a taxi driving to serve the public. As for the signing of not having any convictions that was done by mistake as in the interview with Lucy I told her I have motoring convictions before I even signed anything and I just signed all paperwork without looking properly. If I had read it I would have noticed the bit about the convictions and would not of signed it until I put convictions in so I'm sorry for that there was no intention of hiding this as I had already told Lucy I had them.

I have passed all tests given to me and paid all fees.

Please will you reconsider my license?

Yours Faithfully









