

LICENSING SUB-COMMITTEE

19 JULY 2012

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Thursday, 19 July 2012

PRESENT: Councillor Tony Sharps (Chairman)

Councillors David Cox and Ian Dunbar

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:

Solicitor (Mr. T. Dillon), Senior Licensing Officer and Committee Officer

1. APOLOGIES

None were received.

2. DECLARATIONS OF INTEREST

None were received.

3. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting for the following item as it is considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

4. APPLICATION FOR A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer introduced a report, the purpose of which was for Members to consider and determine an application for a Private Hire/Hackney Carriage (Joint) Driver's Licence. The report detailed the contents of the application (Appendix A) and also provided full details of all relevant convictions (Appendix B).

The Senior Licensing Officer advised that the application asks the applicant to disclose any occasion where the applicant has been convicted of any offences. The applicant did not disclose any previous convictions, however, on receipt of his Criminal Records Bureau (CRB) Disclosure a number of convictions were disclosed dating from 1968 to 1991. The applicant was asked to provide a written explanation of his offences which was provided and attached as Appendix C to the report.

The application had been considered under delegated powers and it was decided to refer the application to the Sub Committee to decide whether the applicant was a fit and proper person to hold a Joint Driver's Licence due to the nature and frequency of his convictions and his failure to disclose them.

The Chairman invited the applicant to comment and explain his convictions. The applicant responded to questions from the Panel in relation to the offences and referred to the difficulties he had experienced during his youth in his personal and family circumstances. He advised that he had made an unintentional mistake in not disclosing his convictions and deeply regretted his past actions. He also emphasised that he had a stable family life and there had been a significant length of time since his last offence. The Chairman enquired as to the applicant's employment prospects and the applicant responded that he was actively seeking work and had been offered an opportunity to commence employment with a local taxi company if his application was successful.

The Chairman asked the applicant if he had any further information to relate to the Panel and the applicant responded that he did not. When the Chairman was satisfied that the Panel had asked the applicant and the Senior Licensing Officer all relevant questions he asked the applicant and the Officer to leave the meeting whilst the Sub Committee made their decision.

5. DECISION

The Senior Licensing Officer and the applicant were invited to return to the meeting.

The Sub-Committee considered the application including the written and oral representations and agreed that on the balance of probabilities, the applicant was a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976, and decided to grant the application for a Private Hire/Hackney Carriage (Joint Driver) Licence subject to a 12 month probationary period. The Panel requested that the applicant applied for a Criminal Records Bureau check prior to expiry of the 12 month probationary period at the applicant's expense.

RESOLVED:

- (a) That in light of the evidence produced both in written form and orally at the meeting, the Committee agreed to grant the application for a Private Hire/Hackney Carriage (Joint Driver) Licence for a probationary period of 12 months; and
- (b) That the applicant, at his own expense, applies for a Criminal Records Bureau check prior to expiry of the 12 month probationary period.

6. DURATION OF MEETING

The meeting commenced at 10.00am and ended at 10.35am.

LICENSING SUB COMMITTEE
19 JULY 2012

Minutes of the meeting of the Licensing Sub Committee of Flintshire County Council held at County Hall, Mold on Thursday, 19 July, 2012.

PRESENT:

Councillor L.A. Sharps (Chairman)
Councillors D.L. Cox and A.I. Dunbar

OFFICERS OF FLINTSHIRE COUNTY COUNCIL

Solicitor (Mr. T. Dillon), Senior Licensing Officer and Committee Officer.

1. APOLOGIES

None were received.

2. DECLARATIONS OF INTEREST

None were received.

3. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That the press and public be excluded from the meeting for the following item as it is considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

4. APPLICATION FOR A PRIVATE HIRE/HACKNEY CARRIAGE DRIVER'S LICENCE

The Senior Licensing Officer introduced a report, the purpose of which was to consider a recent motoring conviction of a Private Hire/Hackney Carriage (Joint) Driver and determine whether he was fit and proper to continue to hold such a licence. The report detailed the contents of the renewal application (Appendix A) and also provided full details of his DVLA drivers licence (Appendix B).

The Senior Licensing Officer advised that the applicant had applied to renew his Joint Driver licence and in the application had disclosed a motoring offence. The applicant verbally informed the Licensing Section that he had accrued penalty points on his DVLA drivers licence and that he had attended Court. The applicant produced a copy of his DVLA drivers licence which disclosed a history of motoring offences. However, he did not inform the Licensing Section in writing of his motoring convictions within the required

timescale in accordance with the Standard Conditions of Licence for Private Hire Drivers. The applicant was asked to provide a written explanation of his recent offence which was provided and attached as Appendix C to the report.

The application had been considered under delegated powers and it was decided to refer the application to the Sub Committee to decide whether the applicant was a fit and proper person to hold a Joint Driver's Licence due to the nature and history of his convictions and his failure to disclose them within the required timescale.

The Chairman invited the applicant to comment and explain his convictions. The applicant responded to questions from the Panel in relation to the offences and provided details of the circumstances which gave rise to the recent conviction, including that he was stuck behind a slow moving vehicle whom he thought the driver and passenger of that vehicle were tormenting him and purposefully driving slow to antagonise him prior to him overtaking. He also explained that he had been driving a new vehicle which had performed faster than he anticipated. In questioning, the applicant did concede that third party driving misdemeanours that he witnessed whilst driving on the road did make him angry. He also made a detailed account of a previous incident involving another motorist whilst he was driving on the road. The applicant commented on the difficulties in his financial and family circumstances and advised that he regretted his action.

The Chairman asked the applicant if he had any further information to relate to the Panel and the applicant responded that he did not. When the Chairman was satisfied that the Panel had asked the applicant and the Senior Licensing Officer all relevant questions he asked the applicant and the Officer to leave the meeting whilst the Sub Committee made their decision.

5. DECISION

The Sub-Committee considered the application including the written and oral representations and agreed that on the balance of probabilities, the applicant was a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976, to continue to hold a Private Hire/Hackney Carriage (Joint Driver) Licence. However this was subject to a 12 month probationary period.

The Panel had a duty to protect the public and were very concerned about the applicant's multiple speeding offences. The Panel were of the view, after considering all the representations and the fixed penalty evidence from the DVLA, that the applicant was an habitual speeder and was very fortunate to retain his drivers' licence by the Magistrates. The Panel also, after considering all the representations including the applicant's detailed accounts of previous driving incidents concerning third party motorists and the applicant by his own account conceding after questioning that other motorists' driving misdemeanours made him angry, were of the view that anger/road rage may be a cause for him speeding sometimes and may have played a part in his most recent conviction.

Although considered a fit and proper person to retain a Private Hire/Hackney Carriage (Joint) Driver Licence, the duty to protect the public was

paramount and would be supported and maintained if the applicant complied with certain conditions. The Panel considered the proposed conditions to be fair to the applicant and the public as well as necessary and proportionate in the circumstances.

The Sub-Committee considered it necessary to impose a 12 month probationary period on the licence to afford the applicant an opportunity to demonstrate that he is a fit and proper person to retain a licence and also to protect the public should the applicant fail to complete the period due to a further driving conviction or indeed any other conviction, in which case the applicant would be brought before the Sub-Committee again for determination.

To assist in the detection of any further convictions, cautions or reprimands during the probationary period the applicant was requested to undergo both a CRB check and DVLA check to be undertaken at the applicant's own expense.

The Sub-Committee also considered it fair, necessary and proportionate to impose an anger management/road rage course upon the application at the applicant's own expense. The Panel had concerns about the applicant becoming involved in road rage type incidents that may have influenced his driving manner including speeding. The Panel were very concerned about the public in this regard and thought the applicant may also benefit from it long term. Such a course will have to be arranged through the applicant's General Practitioner and at the applicant's own expense.

The Sub-Committee also considered it fair, necessary and proportionate for the applicant to attend a knowledge test as suggested by the Licensing Officer as such a test covered matters concerning speeding and the driver's code. Such a test can be arranged by the Licensing Authority.

RESOLVED:

- (a) That in light of the evidence produced both in written form and orally at the meeting, the Sub-Committee agreed to allow the applicant to continue to hold a Private Hire/Hackney Carriage (Joint) Driver Licence for a probationary period of 12 months;
- (b) That the applicant applies, at his own expense, for a Criminal Records Bureau check prior to expiry of the 12 month probationary period to be arranged by the Licensing Authority;
- (c) That the applicant applies, at his own expense, for a DVLA report on motoring offences at the end of the probationary period;
- (d) That the applicant, at his own expense, in consultation with his General Practitioner attends an anger management/road rage course and provides a certificate of attendance within 6 months to the Authority; and
- (e) That the applicant attends the knowledge test provided for applications for a Joint Driver licence within 6 months.

6. **DURATION OF MEETING**

The meeting commenced at 10.40am and ended at 11.25am.

LICENSING SUB COMMITTEE
19 JULY 2012

Minutes of the meeting of the Licensing Sub Committee of Flintshire County Council held at County Hall, Mold on Thursday, 19 July, 2012.

PRESENT:

Councillor L.A. Sharps (Chairman)
Councillors D.L. Cox and A.I. Dunbar

OFFICERS OF FLINTSHIRE COUNTY COUNCIL

Solicitor (Mr. T. Dillon), Senior Licensing Officer and Committee Officer.

1. APOLOGIES

None were received.

2. DECLARATIONS OF INTEREST

None were received.

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The Senior Licensing Officer introduced a report, the purpose of which was for Members to consider and determine an application for a Private Hire/Hackney Carriage (Joint) Driver Licence. The report detailed the contents of the application (Appendix A) and also provided full details of all relevant convictions (Appendix B).

The Senior Licensing Officer advised that the application asks the applicant to disclose any occasion where the applicant has been convicted of any offences. The applicant disclosed a motoring offence and also indicated that he had further driving related convictions although he was unsure of the date or any sentence imposed. On receipt of the applicant's Criminal Records Bureau

(CRB) Disclosure a number of further convictions were disclosed. The applicant was asked to provide a written explanation of his convictions which had not been received in time to distribute with the report but was tabled at the meeting for the Panel's consideration.

The application had been considered under delegated powers and it was decided to refer the application to the Sub Committee to decide whether the applicant was a fit and proper person to hold a Joint Driver's Licence due to the nature and frequency of his previous convictions.

The Chairman invited the applicant to comment and explain his convictions. The applicant responded to questions from the Panel in relation to the offences and referred to his friendship with anti-social groups during his youth. He reported that it had been a number of years since his last conviction and he regretted his past behaviour and was determined not to repeat his previous mistakes. He was now in a stable relationship with his girlfriend. The Chairman enquired as to the applicant's employment prospects and the applicant responded that he had been offered the opportunity to work with a local taxi company if his application was successful.

The Chairman asked the applicant if he had any further information to relate to the Panel and the applicant responded that he did not. When the Chairman was satisfied that the Panel had asked the applicant and the Senior Licensing Officer all relevant questions he asked the applicant and the Officer to leave the meeting whilst the Sub Committee made their decision.

5. DECISION

The Senior Licensing Officer and the applicant were invited to return to the meeting.

The Sub-Committee considered the application including the written and oral representations and agreed that on the balance of probabilities, the applicant was a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976, and decided to grant the application for a Private Hire/Hackney Carriage (Joint Driver) Licence subject to a 12 month probationary period. The Panel requested that the applicant applies for a Criminal Records Bureau check prior to expiry of the 12 month probationary period at the applicant's expense.

RESOLVED:

- (a) That in light of the evidence produced both in written form and orally at the meeting, the Committee agreed to grant the application for a Private Hire/Hackney Carriage (Joint Driver) Licence for a probationary period of 12 months; and
- (b) That the applicant applies, at his own expense, for a Criminal Records Bureau check prior to expiry of the 12 month probationary period.

6. **DURATION OF MEETING**

The meeting commenced at 11.25am and ended at 11.50am.

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Chairman