

LICENSING SUB-COMMITTEE
17 FEBRUARY 2016

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Clwyd Committee Room, County Hall, Mold CH7 6NA on Wednesday, 17 February 2016

PRESENT: **Councillor Tony Sharps (Chairman)**
Councillors Jim Falshaw and Mike Reece

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:
Licensing Team Leader, Solicitor, and Committee Officer

Applicants

Interested Party

1. VARIATION IN ORDER OF AGENDA

Prior to the start of the meeting the Chairman indicated that there would be a change in the order of the agenda and item 4 would be brought forward.

2. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None were received

3. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE 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 4 of Schedule 12A of the Local Government Act 1972 (as amended).

4. HEARING AND DETERMINATION OF THE APPLICATION

The Chairman welcomed the applicant and introduced the panel members. Permission was granted for the applicant's prospective employer to remain in the room during the hearing but not to participate unless asked to do so. The prospective employer was asked to introduce himself and give a brief outline of his business and the reason for his attendance. The Chairman explained the procedure for the hearing including how the application would be determined.

5. APPLICATION FOR A PRIVATE HIRE / HACKNEY CARRIAGE (JOINT) DRIVER LICENCE

The Licensing Team Leader introduced the report to consider an application for a Private Hire/Hackney Carriage (Joint) Driver Licence.

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In presenting the report, the Licensing Team Leader provided background information and referred to the main considerations. She explained that on receipt of the applicant's Disclosure and Barring Service (DBS) enhanced criminal records check four convictions were shown. The report detailed information on the applicant's offences and the Council's adopted guidance on dealing with such matters. The applicant was advised that due to the nature of the convictions and the most recent offence she would be invited to appear before the panel to determine whether she was a fit and proper person within the meaning of the Local Government (Miscellaneous Provisions) Act 1976 to hold a Private Hire/Hackney Carriage (Joint) Driver Licence.

The Chairman asked the applicant if she wished to provide any additional information in support of her application. The applicant explained the circumstances leading up to the past and most recent offence and detailed the personal difficulties she had experienced in her relationship with her partner and the loss of a close family member. She stated that the earlier offence had been carried out in her youth and was a source of embarrassment to her. The applicant said that the most recent offence had been committed as a result of ongoing provocation by another person and she expressed remorse for her actions.

The panel asked the applicant questions regarding her family circumstances, employment history, and character. The Solicitor sought further details around the most recent offence and explained that this was necessary to determine whether the applicant was a fit and proper person to hold a joint driver licence. The applicant responded to the questions asked and acknowledged that she had a responsibility to be drink aware in social situations and to be held to account for her actions. She stated that the offence was out of character and reiterated that she had reacted as a result of provocation and was deeply remorseful for her actions.

The Chairman invited the applicant's prospective employer to explain why he was prepared to employ the applicant if she was granted a licence and the nature of the work that she would be undertaking. The prospective employer said the applicant was known to him as an acquaintance of his wife and had been truthful during the interview process in raising and explaining the offences that had been committed.

When asked by the Chairman the applicant said that she did not wish to raise any questions with the panel.

The Licensing Team Leader, the applicant and prospective employer were asked to leave the meeting whilst the application was determined.

5.1 Determination of the Application

In determining the application, the panel considered the Council's guidance on the treatment of convictions, cautions, criminal charges or other recorded sanctions, which was appended to the report. The panel paid particular

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attention to paragraph 4.18 that relates to violence convictions and applied that to the applicant's circumstances. The panel felt that the applicant had given an honest and full explanation of the circumstances which had given cause to the most recent offence and had expressed regret for her actions. Following consideration of this and all representations made, the panel considered the applicant to be a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Drivers Licence.

The Licensing Team Leader and the applicant were invited to return so that the meeting could be reconvened.

5.2 Decision

The Chairman advised that the panel considered the applicant to be a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Drivers Licence and was granted a licence for a probationary period of twelve months.

The Chairman thanked the applicant and the interested party for their attendance.

RESOLVED

That the applicant was a fit and proper person to hold a Private Hire/Hackney Carriage Driver's Licence under the Local Government (Miscellaneous Provisions) Act 1976 and was granted a licence for a probationary period of twelve months.

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

RESOLVED:

That the press and public be excluded from the meeting for the following item as it was considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

7. APPLICATION FOR A PRIVATE HIRE / HACKNEY CARRIAGE (JOINT) DRIVER LICENCE

The Chairman welcomed the applicant and introduced the panel members. He explained the procedure for the hearing.

The Licensing Team Leader introduced the report to consider an application for a Private Hire/Hackney Carriage (Joint) Driver Licence. In presenting the report, she provided background information and referred to the main considerations. The Licensing Team Leader explained that on receipt of the applicant's Disclosure and Barring Service (DBS) enhanced criminal records check four convictions were shown. The report detailed information on the applicant's offences and the Council's adopted guidance on dealing with such matters. The disclosure document also contained other relevant information

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disclosed at the discretion of the Chief Officer, Cheshire Police, in relation to an ongoing police investigation. The applicant was currently on bail for the offence and further police enquiries were being conducted. The applicant was advised that due to the nature of the convictions and the additional information provided by Cheshire Constabulary, he would be invited to appear before the panel to determine whether he was a fit and proper person within the meaning of Part II of the Local Government (Miscellaneous Provisions) Act 1976 to hold a Joint Driver Licence.

The Chairman asked the applicant if he wished to provide any additional information in support of his application. The applicant referred to his previous offences and said he did not feel that they would impact on his ability to obtain work if he was granted a licence. He commented that he had previously held a licence with Chester County Council but this had lapsed. In response to a request from the Chairman the applicant provided further details around his previous convictions and explained the circumstances leading up to his recent arrest and the current ongoing police investigations.

The Solicitor sought further details around the reasons for the applicant's arrest and ongoing investigations by Cheshire Constabulary. He explained that this was necessary to determine whether the applicant was a fit and proper person to hold a licence. The applicant responded to the questions and stated that he held the view that his actions and behaviour on the occasions referred to had been misinterpreted by the police and this had subsequently resulted in his arrest. He emphasised that he was currently on bail without conditions. The Solicitor questioned the applicant in detail around his personal circumstances, social behaviour, and use of social media and other applications.

The Chairman invited the applicant to raise any questions with the panel. The applicant referred to the possible inclusion of additional measures if a licence was granted and asked for clarification of this. The Licensing Team Leader provided an explanation of what 'additional measures' referred to.

The Licensing Team Leader and the applicant were asked to leave the meeting whilst the application was determined.

7.1 Determination of the Application

In determining the application, the panel considered the Council's guidance on the treatment of convictions, cautions, criminal charges or other recorded sanctions, which was appended to the report. The panel paid particular attention to paragraph 4.17 that relates to indecency and other sexual offences. The panel were greatly concerned about the applicant's inconsistent accounts of the most recent matter of which he is currently being investigated by Cheshire Police. The panel considered that the applicant was not being honest about the actual circumstances that led to the investigation by the police.

The panel were very mindful of the overarching duty to protect the public and took the view that on balance the protection of the public would be

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undermined if he had a licence. They were particularly concerned about the safety of women.

The Licensing Team Leader and the applicant were invited to return so that the meeting could be reconvened.

7.2 Decision

The Chairman advised that the panel had considered all the representations made including the applicant's accounts of the most recent alleged offence which the Police were currently investigating. He said that it appeared from the representations that the alleged offence being investigated was for outraging public decency and on balance was of a sexual nature relating to the filming of womens' behinds whilst out in public. The panel were very concerned about the inconsistencies in the applicant's account of the alleged offence incident and felt that the applicant had not been forthcoming with the truth. The Chairman advised that the panel had an overarching duty to protect the public and with that in mind concluded that the applicant was not a fit and proper person to hold such a licence and therefore the application was refused.

RESOLVED

That the application be refused as the applicant was not considered to be a fit and proper person to hold a Private Hire/Hackney Carriage (Joint) Driver Licence under the Local Government (Miscellaneous Provisions) Act 1976.

8. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or the public in attendance.

(The meeting started at 9.30 am and ended at 11.44 am)

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