

LICENSING SUB-COMMITTEE

8 APRIL 2021

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Remote Attendance meeting on Thursday, 8 April 2021

PRESENT: Councillor Tony Sharps (Chairman)

Councillors: Ron Davies and Adele Davies-Cooke

OFFICERS OF FLINTSHIRE COUNTY COUNCIL:

Solicitor, Licensing Officer, and Democratic Services Officer

Applicant

Interested Party – (Applicant's representative)

Prior to the start of the meeting the Chair explained that the applicant had asked that his representative also be present at the meeting for support purposes.

The Chair welcomed the applicant and the Interested Party and introduced the Members of the Sub-Committee and the Council's Officers. He explained the procedure for the hearing, including how the application would be determined.

1. **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

None were received

2. **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 items as they were 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).

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

The Licensing Officer presented the report to consider an application for a Private Hire/Hackney Carriage (Joint) Driver Licence, licensed by the Authority.

The Licensing Officer explained that the application had requested details of any previous convictions and the applicant provided a previous Disclosure and Barring Service (DBS) criminal records enhanced certificate which showed three convictions and a caution. On receipt of the applicant's DBS certificate which had been completed by Flintshire County Council for this application the same three convictions and one caution were shown. This was attached as appendix B to

the report. The applicant was asked to provide a written explanation of his convictions which was attached as appendix C to the report.

The Licensing Officer reported that the applicant had previously submitted two applications to Flintshire County Council for a Private Hire/Hackney Carriage (Joint) Driver Licence and referred to the hearings of the Licensing Sub Committee held on 2 November 2015 and 29 February 2016. On his application form the applicant informed that he had also made applications for a similar licence to Wrexham County Borough Council which had been refused. His current application to Wrexham County Borough Council had not yet been heard.

The Licensing Officer advised that Flintshire County Council had adopted guidance on the treatment of convictions, cautions, and other recorded sanctions, and this was attached as appendix F to the report. The relevant paragraphs of the guidance were detailed in the report.

Due to the nature of the applicant's previous convictions and his application to drive a taxi or private hire vehicle which involved driving for a considerable length of time day and night and being in a vehicle on a one to one basis with potentially children, vulnerable adults, and people who may have consumed alcohol or other substances, the applicant was invited to appear before the Licensing Sub Committee to determine whether he was a fit and proper person to hold a Joint Driver's Licence with the Authority.

The Chairman invited members of the Panel to question the applicant. The Panel sought further information from the applicant concerning the circumstances which had given rise to his convictions. The applicant was also questioned about his previous applications and the refusal to grant him a licence. The applicant responded that he was disappointed but not angry about the decision and accepted the outcome at the time.

The Solicitor referred to the applicant's DVLA check which had been circulated prior to the hearing and showed details of all previous endorsements. He drew attention to the fixed penalty notice in 2017 and a conduct hearing in 2017 and asked the applicant to explain the reasons for the offences, which the applicant confirmed related to use of a mobile phone. The Solicitor also referred to the applicant's application form and asked him why he had not included details of the fixed penalty notice in section 5 which asked for details of any occasions on which the applicant had been cautioned or convicted of any offences (including minor motoring offences). The applicant apologised for the omission and said he had not intended to deceive but had made reference to his DBS certificate in his application which he understood recorded details of his convictions, cautions, reprimands and warnings. He said he also understood the offence to be recorded on his DVLA which would be provided to the hearing.

The Solicitor questioned the applicant in detail on his conviction in 1995 for causing death by dangerous driving and asked the applicant to explain the circumstances which had caused the offence. The Solicitor referred to the guidance on the treatment of convictions, cautions, criminal charges or other recorded sanctions which was appended to the report. The applicant explained that he deeply regretted the accident and said it had been due to the conditions

on the road at that time and he had pleaded guilty to the offence. He advised that through experience his driving had improved and he was cautious now.

The Solicitor questioned the applicant on his conviction for fraudulent evasion of duty in 2002 and asked him to explain the circumstances which gave rise to the offence, the cost compensation order, and disqualification from driving. The applicant outlined the role he had undertaken in a fraudulent scheme which was operated in conjunction with others and had given rise to the conviction. He said he regretted his actions and since serving his sentence was a reformed character who wanted to “put right the wrong” and was asked to give examples of how he tried to achieve this.

The Solicitor questioned the applicant on the caution he received in 2018 for using threatening, abusive, insulting words or behaviour with intention to cause fear or provocation of violence, and asked the applicant to describe the events which resulted in the conviction. The applicant informed that the offence did not involve a police officer but related to an incident between a security doorman and a female and he had intervened to help as he felt that she was being mishandled. On reflection the applicant said he would be more cautious of his language and actions in the future but did not regret trying to assist another person in a difficult situation.

The Solicitor questioned the applicant on his previous applications to Flintshire County Council and Wrexham County Borough Council and the decisions of the subsequent hearings. He also referred to the applicant’s subsequent decision to challenge the Licensing Sub Committee’s verdict in both the Magistrates Court and Crown Court.

The Chair asked the applicant to outline his reasons for applying for a joint driver’s licence. The applicant explained his employment status and situation and said he wished to gain the licence so that he could be a reserve driver in his business.

When the Chairman was satisfied that all relevant questions had been raised he requested that the applicant, the interested party, and the Licensing Officer leave the meeting whilst the application was determined.

3.1 Determination of the Application

In determining the application, the Sub-Committee considered the Council’s guidance on the treatment of convictions, cautions, criminal charges or other recorded sanctions which was appended to the report.

The Licensing Officer, the applicant, and the interested party were invited to return and the meeting was reconvened.

3.2 Decision

The Chairman advised the applicant that the Panel were very concerned about his convictions and had an overarching duty to protect the public. With that in mind the Panel’s decision was that the application for a Combined Hackney Carriage and Private Hire Vehicle Driver Licence be refused as the Committee

did not consider the applicant to be a fit and proper person to hold such a licence. The Committee considered the application, report, and representations made by the applicant and the Council's guidance on convictions and had regard to the relevant parts of the Statutory Taxi & Private Hire Vehicle Standards. The Committee did not consider that there was any compelling reason to deviate from the guidance on convictions.

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.

(The hearing commenced at 10.00 am and ended at 12.00 noon)