

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
10.00 A.M., TUESDAY 6 OCTOBER, 2009
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Bennett, K. L. (Chairman)
Williams, Mrs. P. (Vice-Chairman)

Allen, F.W.C.	Green, M.R.
Burnett, J.	Grice, Mrs. D.
Easton, R.	

(Apologies for absence were received from Councillors Mrs. P.A. Ansell and Mrs. D.M. Todd).

12. Minutes

RESOLVED:

That the Minutes of the meetings held on 30 July, 2009 be approved as a correct record.

13. Exclusion of the Public

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Paragraph 2, Part I, Schedule 12A, Local Government Act 1972 (as amended).

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10.00 A.M., TUESDAY 6 OCTOBER, 2009
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PART 2

14. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 5.1 – 5.15 of the Official Minutes of the Council).

The Applicant attended the hearing to present his case.

The Chairman then invited all those present to introduce themselves.

The Officer of the Licensing Authority presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. The Officer stated that the Applicant attended an appointment with the Council's Medical Advisor on 3 August, 2009 and failed to meet the DVLA group 2 medical standard due to monocular vision in one eye. The Council's current policy required all licensed drivers to meet the DVLA Group 2 standard. Therefore the Committee were asked to determine whether the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Licence in light of the DVLA Group 2 Policy requirement. The Committee were also asked to bear in mind the DVLA Guide for Medical Practitioners given that the Applicant had acquired 'Grandfather Rights'.

The Applicant was then afforded the opportunity to ask questions of the Officer. The Applicant confirmed he had no questions he wished to ask.

Members of the Committee were then afforded the opportunity to ask questions of the Officer. A Member was keen to know if the Council had had a similar case previously. The Officer stated that she believed there was one previous case.

The Applicant was afforded the opportunity to put his case. The Applicant stated that in his opinion there was no reason why he could not undertake the job and that he had previously driven in excess of 30,000 miles per year with his previous employer.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked the Applicant if there was anyway in which his eyesight could be improved. The Applicant stated that it could not be improved. A Member asked if the Applicant had had any accidents and whether his eye condition had stopped him from working. The Applicant stated that he had had no accidents in the last 6 years and that his condition had not stopped him from working. A Member referred to the motoring offences and asked what speed he was travelling at on the motorway. The Applicant claimed he was driving at approximately 80 mph and could not be exact given that he was driving a lease car at the time and was only aware of the fact that he had been caught speeding.

A Member asked the Applicant if he would undertake the Staffordshire County Council Driving Assessment should the Committee grant him the licence. The Applicant stated that he would take the test.

The Officer was then afforded the opportunity to ask questions of the Applicant. The Officer asked the Applicant when he first passed his driving test. The Applicant stated that he passed his test around 1970/71. The Officer then stated that the Applicant met the criteria for acquiring 'Grandfather Rights'.

Finally, both parties were afforded the opportunity to sum up their respective cases. The Panel then deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

RESOLVED:

- (A) That having regard to all the circumstances, the application for a Hackney Carriage/Private Hire Drivers' Licence be granted as the Committee was satisfied that the Applicant was a fit and proper person to hold a licence.
- (B) That the Applicant undertakes the Staffordshire County Council driving assessment.

Reasons for Decision

The Panel gave careful consideration to the report presented by the Officer and to the representations made by the Applicant, together with a letter of support from the Applicant's new employer. Due regard was also given to the definition of who is a fit and proper person to hold a hackney carriage/private hire driver's licence and the relevant guidance issued by the DVLA in relation to an Applicant's medical condition.

The Panel took note of the fact that the Applicant had considerable driving experience despite his vision impairment, and that he satisfied the C1 'Grandfather Rights'. However, in light of the Applicant having only monocular vision and the fact he had 9 points endorsed on his DVLA licence, the Panel were minded to grant the application/licence only if he first successfully undertook the Staffordshire County Council Driving Assessment.

15. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 6.1 – 6.17 of the Official Minutes of the Council).

The Applicant attended the hearing to present his case.

The Chairman then invited all those present to introduce themselves.

The Officer of the Licensing Authority presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. The Officer stated that the Applicant had previously been before the Committee and a Hackney Carriage/Private Hire Licence was granted on the condition that a review would take place within 6 months of its issue so long as there had been no breaches of Licensing Regulations. It was reported that a number of matters had arisen since the grant of the licence in respect of the Applicant failing to notify the Licensing Authority that he had moved address and a number of other issues

which were contained within the Report.

The Applicant was then afforded the opportunity to ask questions of the Officer. The Applicant confirmed he had no questions he wished to ask.

Members of the Committee were then afforded the opportunity to ask questions of the Officer. A Member asked for clarification as to the reasons why the Applicant was before the Committee and also asked if any complaints had been received. The Officer confirmed that there were a number of reasons which included that of not notifying the Council that he had moved address, his cheque bouncing and Officers being unable to contact him. She also stated that no complaints had been received from Cannock Chase residents although complaints had been received by Staffordshire residents in respect of a local newspaper article which appeared on the 'front page' for 4 consecutive weeks.

The Applicant was afforded the opportunity to put his case. The Applicant stated that the cheque in question was issued to the Council through his partner and he confirmed to the Committee that she had written a letter outlining the reason why it had happened. The Applicant also stated that although his cheque had bounced he had paid for 6 months when his licence was first issued so he was licensed at the time. He referred to the report and stated that he moved house on 27 July, 2009 and had previously arranged a meeting with an Officer from the Council. He claimed that he was asked by the Officer to write a letter regarding his change of address and had also sent an email to the Officer and the Licensing Authority on 27 July, 2009 which he stated he could not locate. With regard to being contacted by the Council the Applicant stated that the likelihood of answering withheld numbers on his private mobile number was 'slim' and claimed that the driver who should have passed on messages to him never did and consequently the driver had left the company under 'strange circumstances'. The Applicant confirmed that the appeal he had lodged against another Local Authority was withdrawn following the advice he received from the Clerk of the Court on the day. The Applicant referred to a contract he was undertaking and stated that at the time of the local newspaper reports he had completed part of the contract and that he had received a letter from the contractor which stated that the capacity would increase. He advised that he had no alternative but to relinquish the contact as he could not meet the requirements.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked the Applicant why the Licensing Authority was not informed in writing of his change of address and also asked who his emails had been sent to. The Applicant stated that he thought by forwarding an email it had a greater chance of reaching the intended person and stated that his emails were forwarded to an Officer at the Council. A Member asked why the Applicant would not answer his phone when the Council were trying to contact him. The Applicant advised that the number he was being contacted on was that of a personal mobile but he also stated that he had an office contact number and a mobile for business. The Applicant also confirmed that the Council were aware of his business address and his office contact number would always be re-directed to a driver if there was no one present in the office. He also claimed that he had a problem with a driver trying to 'stitch' him up.

The Officer was then afforded the opportunity to ask questions of the Applicant. The Officer stated that she had no questions to ask of the Applicant.

Finally, both parties were afforded the opportunity to sum up their respective cases. The Panel then deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

Councillor J. Burnett tendered his apology at 11.40 a.m. and left the meeting.

Members raised a number of points that they wished to be clarified by the Officer which the Applicant had referred to.

At this point the Senior Committee Officer referred to point 18 of the procedure and stated that if it was the Committee's intention to call on the Officer referred to for clarification of the points raised, they were advised that in the interest of everyone concerned all parties should return.

The Council's Legal Advisor then gave advice to the Committee and it was agreed that the Officer in question be called to clarify Members questions.

The Officer was called and clarified Members questions. All parties were then called back to the hearing where the Council's Legal Advisor read from a statement which had been discussed by the Committee in respect of clarification of the questions asked of the Officer. The statement advised that the first time contact had been made was on 6 August, 2009 and words exchanged on 7 August, 2009 given that the Officer in question was on annual leave on 27 July, 2009. It was confirmed that the Applicant had been advised to put something in writing by the Officer in question regarding his address. The Applicant however advises that he recalls being asked to put something in writing by another Officer, however accepted that it would have been appropriate to send a letter and not just an email.

The Panel again deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

RESOLVED:

That having regard to all the circumstances, and having carefully considered the submissions made, the Applicant's Hackney Carriage/Private Hire Driver's Licence be suspended for a period of 28 days due to failing to notify the Licensing Authority of a change of address within 7 days.

Reasons for the Decision

The Committee considered all the evidence before it and upon listening to the Licensing Officer, the Applicant and the Officer in question, the Committee noted that the Applicant clearly failed to deal with the issue of his change of address in accordance with the conditions of his licence.

With the agreement of the Chairman, the order of the Agenda was amended.

16. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 8.1 – 8.16 of the Official Minutes of the Council).

The Applicant attended the hearing to present his case.

The Chairman then invited all those present to introduce themselves.

The Officer of the Licensing Authority presented the Council's case by taking the Committee

through the report outlining the relevant issues for consideration. The Officer stated that an anonymous telephone call had been received by the Council which claimed that the Applicant was using an unlicensed vehicle to carry out work on behalf of his hackney carriage company. The matter was investigated and evidence indicated that the Applicant was using unlicensed vehicles to carry out unlicensed private hire activity.

The Applicant was then afforded the opportunity to ask questions of the Officer. The Applicant confirmed he had no questions he wished to ask.

Members of the Committee were then afforded the opportunity to ask questions of the Officer. A Member asked the Officer if any complaints had been received about the business. The Officer stated that if there was anything of concern Members of the Committee would have been advised in the report submitted to them. The Officer then confirmed that there had been minor occurrences a number of years ago and one had resulted in the procedure for early morning drivers being reviewed.

The Applicant was afforded the opportunity to put his case. The Applicant stated that he accepted the reason why he was before the Committee, although he had been in a similar position last year and claimed that he was instructed by a different Local Authority to carry on his duties.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked the Applicant if he was insured to drive the passenger in question. The Council's Legal Advisor then clarified the question and asked the Applicant when he picked up the passenger was it in a Hackney Carriage or was it personal. The Applicant stated that it was a personal pick up, even if it had been in his taxi. He claimed he was not driving the passenger for money and if he did it would cost £26 per day. A Member asked the Applicant if he understood the rules of being a proprietor of a taxi business. The Applicant confirmed that he did and also stated that he was picking up the passenger in his own vehicle but was not charging her as she was more like a family member than a member of the public. In response to a question raised by a Member the Applicant confirmed that the contract was with the passenger and not the organisation she worked for.

The Officer was then afforded the opportunity to ask questions of the Applicant. The Officer stated that if the contract could not be fulfilled then it was up to the Applicant to advise the passenger that she would need to use another taxi company. The Applicant advised that he could not fulfil the contract due to a problem with one of his vehicles and stated that the passenger had medical problems and was more like a member of the family and treated her as such. The Officer asked if the Applicant could have used another vehicle or changed his rotas. The Applicant stated that he could not do this due to the cost involved.

The Council's Legal Advisor asked the Applicant if the passenger had been diagnosed medically and if appropriate authorities would be aware of this. The Applicant could not confirm this and stated that his daughter helped the passenger with form filling etc given that the passenger's partner was dyslexic.

Finally, both parties were afforded the opportunity to sum up their respective cases. The Panel then deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

RESOLVED:

That having regard to all the circumstances, and having carefully considered the submissions made, the Applicant's Hackney Carriage/Private Hire Driver's Licence be suspended for a period of 7 days.

Reasons for the Decision

The Committee considered all the evidence before it and upon listening to the Licensing Officer's comments and questions, as well as the Applicant's responses, the Committee resolved that the Applicant's operator licence be suspended for seven days, and that during the period of suspension he was to arrange a visit to the Council's Licensing Unit to have the Licensing regulations properly explained to him in person.

Councillor D. Grice tendered her apology at 1.00 p.m. and left the meeting.

17. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 7.1 – 7.12 of the Official Minutes of the Council).

The Applicant had previously confirmed that he would not be attending the Hearing.

Members of the Committee agreed to hear the case in the absence of the Applicant.

The Officer of the Licensing Authority presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. The Officer advised that the Applicant until recently had 13 points on his driving licence but had not been disqualified from driving due to an accepted claim that it would cause exceptional hardship and loss of livelihood to him. The Officer stated that the Applicant had failed to notify the Licensing Authority of the most recent points on his licence. This was contrary to his licence conditions and what the Council would reasonably expect a licence holder to disclose. The Applicant was also refusing to undertake a Driving Standards Agency Driving Test which was a condition of him being issued with the Hackney Carriage/private hire driver's licence.

Members of the Committee were then afforded the opportunity to ask questions of the Officer. Members wished for clarification as to why the Applicant was before the Committee. The Officer stated that the Applicant had failed to notify the Licensing Authority of motoring convictions.

Finally, the Officer was afforded the opportunity to sum up their respective cases. The Panel then deliberated in private calling on only the Council's legal advisor and Senior Committee Officer for advice.

RESOLVED:

That having regard to all the circumstances and having carefully considered the submissions made, the Hackney Carriage/Private Hire Driver's Licence be revoked as the Committee did not consider the driver was a fit and proper person to hold such a Licence.

Reasons for Decision

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, a Licensing Authority may revoke or suspend a licence to drive a hackney carriage/private hire drivers

licence if it is satisfied that the licence holder is no longer a fit and proper person to hold such a licence.

The Committee noted that the Applicant had refused to undertake a Driving Standards Agency Driving Test, as was required of him when his licence was renewed by the Council in July 2009.

The Committee also noted that the Applicant's representative/proprietor contacted the Council at the last minute to advise that he would not be attending the hearing, and it would appear from the recent telephone conversation he had with the Licensing Unit that he was not really concerned as to what happened at the hearing.

CHAIRMAN