

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
9.30 A.M., TUESDAY 18 MAY, 2010
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Williams, Mrs. P. (Vice-Chairman – in the Chair)

Allen, F.W.C.	Easton, R.
Ansell, Mrs. P.A.	Green, M.R.
Bernard, J.D.	Grice, Mrs. D.

39. Apologies

Apology for absence was received from Councillor J. Burnett.

40. Declarations of Interests of Members in Contracts and Other Matters and Restriction on Voting by Members

There were no declarations.

41. Minutes

RESOLVED:

That the Minutes of the meeting held on 13 April, 2010 be approved as a correct record.

42. Licensing Sub Committee

RESOLVED:

That the Minutes of the Licensing Sub Committee held on 15 April, 2010 be received for information.

43. 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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PART 2

44. Application for a Private Hire Vehicle Licence – Exceptional Vehicle

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 6.1 – 6.15 of the Official Minutes of the Council).

The Applicant's representative attended the hearing to present the Applicant's case.

The Chairman then invited all those present to introduce themselves.

The Head of Environmental Health presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. She advised that the application for a Private Hire Vehicle Licence had been made by the Applicant on 6 April 2010. The Applicant was aware of the Council's age policy and that an exemption applied for "exceptional vehicles". It was reported that the vehicle was first licensed by the Authority as a Private Hire Vehicle on 3 December 2007 and continued to be licensed until its 6th birthday on 26 March 2010. The Officer then explained that the findings of the Enforcement Officer's inspection of the vehicle were included at Annex 4 of the report.

Members were asked to determine the application and consider whether the vehicle was an "exceptional vehicle".

Members of the Committee then examined the Applicants' vehicle. The Applicant's representative along with Members of the Committee were afforded the opportunity of asking questions of the Officer. There being none the Applicant was asked to present his case.

He thanked Members for viewing the vehicle and commented that it was popular with customers, being booked mainly for groups travelling on a night out and airport transfers. He advised Members that the vehicle had been modified by removing 8 seats and partitioning off the luggage compartment. The vehicle had been serviced regularly by LDV and he circulated the service book for Members information. He commented that "Corky's cars" had been awarded a safety award and this had been endorsed by Staffordshire Police.

Members were then given the opportunity of asking questions of the Applicant. A Member asked when it was intended to replace the vehicle. The Applicant's representative stated that the vehicle would be kept as long as possible and hoped it would be granted a licence for another 12 months. Another Member asked the Applicant's representative to confirm why Kwik fit had been used for repairs. It was explained that they had been used only to replace tyres and exhausts. A Member asked if it was intended to repair the bodywork of the vehicle. The representative replied that the bodywork had been tidied up to specifications. A Member then stated that although the service book contained a stamp to confirm that a service had been carried out he would like to see copies of receipts, bills and statements of any work undertaken on the vehicle.

The Head of Environmental Health was then afforded the opportunity to ask questions of the Licensing and Public Protection Committee 18/05/10 42

Applicant's representative. He commented that Members had questioned the service history of the vehicle and he asked whether copies of receipts, bills and statements of any work undertaken were available. The Applicant's representative confirmed that these could be supplied if necessary.

The Council's Legal Advisor asked whether the modifications to the vehicle had been approved by the Insurance Company. The Applicant's representative confirmed that the modifications had been approved.

The Head of Environmental Health was given the opportunity to sum up the Council's case.

The Applicant was then afforded the opportunity to sum up his case.

The Committee then deliberated in private accompanied by the Council's Legal Advisor and Secretary to the Committee.

RESOLVED:

That, having regard to all the circumstances, the application for a Private Hire Vehicle Licence be refused as the Committee was satisfied that the vehicle was not an "exceptional vehicle" as defined by the Council's policy for the age restriction of Private Hire vehicles.

Reasons for the Decision

The Committee has carefully considered all relevant factors, issues and the responses given by the Applicant's representative. Due regard was also given to the Council's Policy on the age restrictions for the licensing of Private Hire Vehicles and also to the powers given to licensing authorities under Section 37 of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The Committee were afforded the opportunity of inspecting the vehicle both inside and out and of perusing the service history/booklet. However, it was generally considered that the vehicle had too many areas where rust was evident and inside there was signs of wear. This went against the guidelines set out in the Council's Policy.

The Committee is therefore of the opinion that the vehicle does not satisfy the criterion as an "exceptional vehicle" and accordingly the application for a Private Hire Vehicle Licence should be refused.

45. Hackney Carriage/Private Hire Driver

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 7.1 – 7.27 of the Official Minutes of the Council).

The Licence Holder attended the meeting to present his case.

The Chairman then invited all those present to introduce themselves.

The Head of Environmental Health presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration involving an incident that occurred on 2 April 2010 with a passenger in a wheelchair. The Licence Holder had failed to secure the wheelchair within the vehicle causing it to lift off the floor and tilt backwards. Members were asked to note that the Licence Holder has previously been referred to Committee in January 2009 as a result of him being served with a Fixed Penalty Notice for smoking in a taxi in April 2008 and was subsequently prosecuted by the Council for a second offence of smoking within a taxi in December 2008. The Committee decided to

suspend his Licence for a period of 1 calendar month. Additionally, upon renewal of the licence in July 2009, following enforcement action, the Licence Holder was furnished with a letter warning him that he would be referred to the Council's Licensing and Public Protection Committee should any further offences take place within the currency of the licence. This was one of the reasons why the matter had not been dealt with under delegated powers.

Members were asked to determine whether the Licence Holder remained a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence and, if so, whether any further action was required.

The Licence Holder along with Members of the Committee were afforded the opportunity to ask questions of the Officer. There being none the Licence Holder was given the opportunity to present his case. He stated that he had agreed he was guilty and had forgotten to use the straps to secure the wheelchair within the taxi.

Members of the Committee were given the opportunity to ask questions of the Applicant. A Member asked the Licence Holder to confirm whether he had received any training in respect of securing wheelchair passengers into a taxi. He stated that although he had been a taxi driver for a number of years he had only been driving this type of taxi for a couple of months. He admitted he should have strapped the wheelchair in but he had forgotten. He commented that he was not driving taxis at the moment, he felt he had been victimised by the Council over recent years and had therefore taken up a full time gardening job. He stated that this incident had not put him off driving a taxi but it was a bad experience and he realised that the safety of passengers was important.

Another Member asked the Licence Holder to explain why he failed to secure the wheelchair in the taxi following it lifting off the floor. He stated that he forgot all about the straps being in the glove box, it just slipped his mind. He admitted that in this case he was wrong but considered that over the years he had been singled out by Officers who kept "having a go at him".

A Member referred to the smoking incidents in the taxi and commented that Officers were not "out to get him" but they were trying to enforce the rules and regulations. He wanted to know why he had been caught smoking on a second occasion. The Licence Holder explained that he was a heavy smoker and when he was sitting in the cab reading a paper waiting for a booking he instinctively put a cigarette in his mouth.

The Head of Environmental Health was given the opportunity of asking questions. There being none the Legal Advisor asked the Licence Holder to explain the training he had received with regards to the use of the straps to secure a wheelchair within a taxi. The Licence Holder explained that he had recently been told about the use of the straps to secure a wheelchair but was unaware that they were kept in the glove box.

The Head of Environmental Health and the Licence Holder were given the opportunity to sum up their cases. The Officer commented that the Licence Holder had not been victimised by Officers. There was concern with regard to this particular incident as even after the wheelchair had fallen backwards the Licence Holder had failed to secure the wheelchair in the taxi prior to continuing on its journey. It could have therefore fallen backwards again.

The Committee then deliberated in private accompanied by the Council's Legal Adviser and Secretary to the Committee.

RESOLVED:

That, having regard to all the circumstances, the Licence Holder's Hackney Carriage/Private Hire Driver's Licence be revoked as the Committee was satisfied that he was not a fit and proper person to

hold a Hackney Carriage/Private Hire Driver's Licence.

(Councillors R. Easton and J.D. Bernard requested that their names be recorded as having voted against this decision).

Reasons for the Decision

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, a Licensing Authority may revoke or suspend a Hackney Carriage/Private Hire Driver's Licence if it is satisfied that the licence holder is no longer a fit and proper person to hold such a licence.

It is the view of the Committee that the Licence Holder has failed to adhere to his conditions of licence as set out in the "Green Book".

It is also the Committee's view that the Licence Holder does not believe that the safety of the public is of paramount importance.

The safety of the public was compromised during the incident on 2nd April 2010.

46. Hackney Carriage/Private Hire Driver

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 8.1 – 8.29 of the Official Minutes of the Council).

The Licence Holder along with his representative attended the meeting to present his case.

The Chairman then invited all those present to introduce themselves.

The Head of Environmental Health presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. It was explained that it was the Licence Holder's non notification of the acceptance of the SP30 and subsequent conviction at Court which was a breach of the conditions of his licence.

Members were asked to determine whether the Licence Holder remained a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence and, if so, whether any further action was required.

The Licence Holder's representative was offered the opportunity to ask questions of the Officer. He asked the Officer to confirm whether the Council's green conditions booklet required a Driver to notify the Council of their attendance on a Driver Awareness Course. The Officer confirmed that there was nothing in the booklet but the Licence Holder had admitted that he failed to notify the Council of his conviction. The representative explained that although the Licence Holder had admitted to failing to notify the Council of his conviction he would make it clear when he made his submissions that there had been no breaches of conditions by the Licence Holder and any admissions made by him were unfounded.

Members of the Committee had the opportunity to ask questions. In response to a question the Head of Environmental Health explained that the Licence Holder had failed to notify the Council within 7 days of his conviction for speeding. He had previously been considered by the Committee and served a 28 day suspension for another matter

The Licence Holder's representative was then given the opportunity to present the Licence Holder's case. He stated that the Licence Holder had not breached any conditions. He outlined that on 14 June 2009 the Licence Holder was caught speeding by a speed camera. At the time he worked for another company and he wasn't the registered keeper of the vehicle. The company therefore had to notify who

had been driving at the time and the Licence Holder then received a letter towards the end of July 2009 advising him of the speeding offence. In November 2009 the Licence Holder was offered the opportunity of attending a Driver Awareness Course instead of having penalty points added to his licence. He stated that there was nothing contained in the Council's conditions booklet regarding a Licence Holder having to notify the Council of attending such a course. It is Council policy to notify the Licensing Unit within 7 days of committing an offence in respect of which a Fixed Penalty is imposed. He stated that there was therefore no requirement at this stage for the Licence Holder to inform the Council of anything. The Licence Holder could not afford to go on the Course as his Taxi Driver's Licence had been suspended and he had lost his job. He was summoned to Court on 29 January 2010 regarding the speeding offence. However, in mid January 2010 he received a letter from the DVLA notifying him of the need to renew his Driving Licence photo card. Therefore, when he applied in February 2010 for the renewal of his Hackney Carriage/Private Hire Driver's Licence he was unable to provide and copy of his DVLA Driver's Licence as it was with the DVLA for renewal. The Licence Holder was not aware of the points being imposed on his licence at this stage as it can take up to 14 days for the Courts to notify Driver's of any points. On 17 February 2010 he gave consent for the Licensing Enforcement Officer to speak to the DVLA about his DVLA licence when he applied for the renewal of his Taxi Driver's Licence. It was at this point that the Licence Holder along with the Officer became aware that 3 points had been imposed by the Courts for the speeding offence.

The Licence Holder's representative stated that in view of the submissions he had made the Licence Holder had not been in breach of the conditions of his Licence. The Council's policy requires that the Licensing Unit be notified by the driver within 7 days of any Fixed Penalty Notice being issued or a conviction/caution being recorded. As the Licence Holder was not made aware of his conviction for speeding until 17 February 2010 no breach of conditions had taken place.

He then outlined the powers the Committee had and the actions they could take under the Local Government (Miscellaneous Provisions) Act.

Following this, Members of the Committee had the opportunity to ask questions. A Member stated that he understood that the Licence Holder could not afford to attend the Driver Awareness Course and therefore he was aware that he would be receiving Fixed Penalty points at some point. He considered that the Licence Holder should have made the Council aware of this at this stage. Members considered that the defence being put forward by the Licence Holder's representative was hypothetical and picking up on loopholes in the Council's policy. In response, the representative stated that there was no requirement in the Council's conditions booklet for a Driver to advise the Council of his attendance on a Driver Awareness Course. He confirmed the requirement to notify the Council within 7 days of committing an offence begins when the Fixed Penalty points are imposed. He considered it may be necessary for the Council to look at the Council's policy and revise the conditions booklet accordingly.

The Head of Environmental Health was given the opportunity to ask questions. He stated that the Licence Holder did not have the funds to attend the Driver Awareness Course but he would have to find the same amount of money to pay for the fine. If he pleaded guilty by post it was an absolute given that he would be receiving Fixed Penalty points in due course and it would be reasonable to expect a licensed driver to advise the Council accordingly. The representative stated that there was no condition in the Council's booklet to require a Licence Holder to do this. He commented that, although it would be reasonable for a Licence Holder to inform the Council, he had not breached the conditions by not doing so.

Following this the Head of Environmental Health was given the opportunity to sum up. He commented that the facts of the case were as set out in the report. Whilst he understood the submissions made by the representative he considered it had been made very complicated.

The Licence Holder's representative was offered the opportunity to sum up. He stated that he hoped that his submissions had persuaded the Committee that the Licence Holder had not breached the

conditions of his licence and therefore, no further action should be taken.

The Committee then deliberated in private accompanied by the Council's Legal Adviser and Secretary to the Committee.

RESOLVED:

That, having regard to all the circumstances, no further action be taken against the Licence Holder as the Committee was satisfied that he was a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

Reasons for the Decision

Upon hearing the representations made on behalf of the applicant, the Committee decided not to take further action against the applicant since the applicant had complied with the Council's current licensing policy.

47. Other business

Members discussed the need for the Council to look at its policies and review the conditions booklets to take account of the issues raised in the last case.

Additionally, Members discussed the need to produce the conditions booklets in a CD version to assist Applicant's with dyslexia or reading difficulties.

RESOLVED:

- (A) That the Head of Environmental Health review the policies and conditions booklets in respect of Hackney Carriage and Private Hire Licences and these be submitted to the appropriate Committee for approval.
- (B) That a CD version of the conditions booklets in respect of Hackney Carriage and Private Hire Licences be produced.

The meeting closed at 12.20 p.m.

CHAIRMAN