

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
10.00 A.M., TUESDAY 24 NOVEMBER, 2009
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

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

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| Ansell, Mrs. P.A. | Grice, Mrs. D. |
| Burnett, J. | Todd, Mrs. D.M. |
| Easton, R. | |

18. Apologies

Apologies for absence were received from Councillors F.W.C. Allen and M.R. Green.

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

There were no Declarations of Interests.

20. Minutes

RESOLVED:

That the Minutes of the meeting held on 6 October, 2009 be approved as a correct record.

21. Licensing Sub Committee

RESOLVED:

That the Minutes of the Licensing Sub Committee held on 7 October 2009 be received for information.

22. 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).

CANNOCK CHASE COUNCIL

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LICENSING AND PUBLIC PROTECTION COMMITTEE**

10.00 A.M., TUESDAY 24 NOVEMBER, 2009

IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

PART 2

23. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 6.1 – 6.13 of the Official Minutes of the Council).

The Applicant attended the hearing with his father 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. He explained that officers had been unable to grant the Hackney Carriage/Private Hire Drivers' Licence under delegated powers as the Applicant had an unspent conviction for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence. The date of the conviction was October 2005 and it was considered that the conviction was relevant to the determination of whether the Applicant was a fit and proper person to hold a Licence. The Applicant was currently in the process of obtaining a valid DVLA Driving Licence as the one produced upon application expired on 16 August 2009. The Committee were being asked to determine whether the Applicant was a fit and proper person to hold a Licence and, if so, whether the Licence may be granted to him under Officers delegated powers once he was in possession of a valid DVLA Driving Licence.

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 confirmation as to whether this was a new application by the Applicant. The Officer confirmed that this was the case. Another Member asked whether the Officer had seen the Applicant's DVLA Driving Licence. The Applicant confirmed that he had brought it with him to the meeting.

The Applicant was afforded the opportunity to put his case. The Applicant stated that with regards to the circumstances surrounding the conviction in October 2005 he was out in Cannock with friends when two youths attacked one of his friends. He went to offer assistance and ended up having to defend himself. The Police arrived and arrested everyone who was present.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked why his DVLA Driving Licence was invalid. The Applicant advised that the photo card Driving Licence had expired and he was also moving house. He therefore

telephoned the DVLA for advice who stated that he should wait until he had moved house and then send it in to have his address amended at the same time. The Head of Environmental Health stated that a number of people were unaware that the photo card Driving Licences had an expiry date.

The Applicant was asked whether he had telephoned the DVLA to check on the whereabouts of his Driving Licence. The Applicant stated that he had telephoned the DVLA who had advised that he send his Driving Licence in once he had moved house.

A Member stated that he had concern regarding the conviction as it was for violence and he asked the Applicant to confirm whether he had pleaded guilty. The Applicant confirmed that he had pleaded guilty. He also stated that he had had no more problems since the conviction and should a similar incident arise he would now just walk away.

The Applicant was asked to confirm whether he had been advised by his Solicitor to plead guilty. He stated that, having been shown a video by the Police of the incident, he had pleaded guilty. He also confirmed that he had been drinking on the evening but was not drunk.

The Applicant was asked whether he would resort to violence if a similar situation should arise in a taxi. The Applicant stated that he would now contact the Police.

The Officer was then afforded the opportunity to ask questions of the Applicant. There being none both parties were offered the opportunity to sum up their respective cases. The Applicant stated that nothing like this would happen again and he was more than capable of holding a Hackney Carriage/Private Hire Driver's Licence.

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 for 12 months as the Committee was satisfied that the Applicant was a fit and proper person to hold a licence.
- (B) That, prior to granting the Licence, the Applicant be required to contact the Licensing Unit to make an appointment to receive advice on the Licensing rules and regulations.

Reasons for Decision

The Committee gave careful consideration to the report presented by the Head of Environmental Health and Public Protection and to the representations made by the Applicant himself. Due regard was also given to the definition of who was a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, and the relevant policy of the Council which dealt with Applicants who have criminal records and/or have driving licences with penalty points endorsed on them.

The Committee took note of the Applicant's explanation of the incident which led to his conviction in October 2005, and were minded to give him the benefit of the doubt in deciding to grant him the licence. However, the Committee felt that it would be beneficial for the

Applicant to attend the Council Offices to meet with a Licensing Officer, before he was issued with a licence, so that the various rules and regulations involving taxi licensing could be properly explained to him, as the applicant needed to be aware of his obligations and responsibilities as a licence holder.

24. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 7.1 – 7.19 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 Head of Environmental Health presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. He explained that the Applicant had repeatedly come to the attention of the Licensing Unit because of several issues relating to his conduct as a licensed driver. Within the last two years there had been 7 incidents and upon renewal of his Licence in July 2009 the Applicant was given a letter warning him about his future conduct and notified that he would be referred to Committee should there be any further breaches of the conditions of his Licence.

The Officer explained that on 20 October 2009 the Applicant was seen on Rugeley Rank and it was noted he was obstructing the Rank in a manner which was contrary to Council Byelaws. The Applicant had previously served a 1 day suspension of his Licence for a similar offence. Due to this latest incident Officers considered that the Applicant should be referred to the Committee for consideration by Members.

Members were being asked to determine whether the Applicant 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 Officer outlined for Members information the other matters for consideration as detailed on Enclosure 7.3 of the report.

The Applicant was then afforded the opportunity to ask questions of the Officer. The Applicant outlined the problem that existed at Rugeley Rank explaining that it was in two parts and it was difficult to see the front of the Rank when parked in the feeder part of the Rank as it faced the opposite way. With regards to the latest incident he stated that he had been having a cigarette when he realised that the first car on the Rank had pulled off. He therefore made his way back to his car which took a matter 5 – 10 seconds. He was approached by the Senior Licensing Officer and reprimanded for not moving up the Rank. He questioned whether there was a set time limit for moving forward on the Rank.

The Officer stated that a Licensing Enforcement Officer would not suspend a driver for not moving forward within a matter of 5 – 10 seconds. He confirmed that there had been a continuing on going problem with a minority of driver's not moving forward on Rugeley Rank. Officers would apply common sense and driver's would need to do the same.

Members of the Committee were then afforded the opportunity to ask questions of the Officer.

The Applicant was afforded the opportunity to put his case. The Applicant stated that he got

on well with the Licensing Enforcement Officers and, if he considered he had done wrong, he would accept this. However, he would fight his corner if he felt he had been wrongly punished. He reiterated his concern regarding the problem with the layout of Rugeley Rank and that it had only been a matter of 5 – 10 seconds before the Senior Licensing Officer had spoken to him about not moving forward. This led to an argument with the Officer and the Applicant telling him that “he was full of crap”.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked the Applicant why he had not been in his car waiting to move up the rank and reminded him of the need to be vigilant. The Applicant explained that sometimes it could take up to an hour before moving forward, drivers would therefore read the paper whilst waiting.

Another Member asked for confirmation of the layout of the rank and this was explained to him. It was confirmed that the front of the Rank could not be seen through the rear view mirror.

In response to a question from a Member the Applicant confirmed the details of the incident on 20 October. The Member stated that the Applicant had previously been given a suspension notice for a similar incident and therefore understood the rules regarding moving up the Rank.

Another Member referred to the Applicant’s motoring offences of failing to comply with traffic signals and using his mobile phone whilst driving a hackney carriage. The Applicant confirmed that he was not carrying a passenger at the time of the offences. One offence related to him going through an amber traffic light. The other offence related to him pulling into a lay by and answering his mobile phone just before his vehicle had stopped.

The Applicant went on to say that he considered he was the unlucky person who “always got caught”. He felt other drivers had done worse but were not caught.

A Member stated that he considered the Applicant’s response to the Senior Licensing Officer on 20 October 2009 was highly offensive. The Applicant responded and stated that he respected the Officer and the job he had to do. However, he would fight his corner if he considered he was right.

Another Member had concern that there had been complaints from members of the public about the Applicant’s driving. The Applicant stated that the complaints related to two incidents whereby he had overtaken slower vehicles. He had been driving professionally since he was 19 years old and considered himself to be a quick but safe driver.

The Applicant was asked to explain why he continued to breach the rules and regulations. He responded by saying he considered that 7 incidents in 5 years was a good record considering the amount of time he spent driving.

The Officer was then afforded the opportunity to ask questions of the Applicant. The Officer referred to the file note relating to the incidents on the Rank of the Applicant failing to move forward in accordance with Council Bye Laws.

The Council’s Legal Advisor stated that the Applicant had failed to move forward on the Rank as he had not seen the car in front of him pull off. He considered that the Senior Licensing Officer had done his job and the Applicant did not consider the circumstances were justified.

Finally, both parties were afforded the opportunity to sum up their respective cases. The Officer stated that Members had been made aware of the issues relating to the Applicants conduct and that Officers felt that it was necessary to bring this to Committee for Members to consider.

The Applicant stated that he enjoyed his job and that his record was not that bad considering he had been licensed for 5 years and spent a lot of time and miles driving. He felt that the incidents were not too serious.

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 Committee considered that the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence, subject to the following two conditions:

- (i) That the Applicant's Hackney Carriage/Private Hire Driver's Licence be suspended for a period of 28 days from the date of the Committee's decision, this being suspended for 6 months as long as there were no further breaches of the Licensing regulations within the 6 months period;
- (ii) That the Applicant be required to contact the Licensing Unit within 7 days of the date of the Committee's decision to make an appointment to receive advice on the Licensing rules and regulations, from an authorised Officer.

(The Committee informed the Applicant that his comments to the Officer when being questioned were not considered to be acceptable).

Reasons for the Decision

The Committee considered that regard to all the circumstances, representations and explanations of the parties coupled with their conduct; it was of the view that the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Licence. However, it also believed from the evidence presented to it that it was equally reasonable, fair and proportional to impose two Conditions which effectively meant that the Applicant had six months to modify his behaviour and on the other hand got the opportunity to have the Licensing regulations explained to him in sufficient detail, given the frequency over time with which he had breached the Licensing Regulations.

(At this point in the proceedings Councillors J. Burnett and Mrs. P. Williams left the meeting).

25. Briefing Note from Environmental Protection Manager

Consideration was given to the Report of the Head of Environmental Health (Enclosure 8.1 – 8.8 of the Official Minutes of the Council).

The Officer advised the Committee of the action taken by Officers following a Committee decision to endorse the Applicants Hackney Carriage/Private Hire Driver's Licence.

At a meeting of the Committee on 12 May 2009 a 28 days suspended condition was place on the Applicant's Hackney Carriage/Private Hire Driver's Licence. The Applicant had been found compromising public safety as he was not wearing his Hackney Carriage/Private Hire Driver's Licence on 22 October 2009. Therefore, in accordance with the Committees decision, the Applicant's Hackney Carriage/Private Hire Driver's Licence was suspended for a period of 28 days. The Applicant would not be exercising his right of appeal.

RESOLVED:

That the Briefing Note be noted.

25. Briefing Note from Environmental Protection Manager

Consideration was given to the Report of the Head of Environmental Health (Enclosure 9.1 – 9.7 of the Official Minutes of the Council).

The Officer advised the Committee on the outcome of an Appeal against a Revocation Notice served after a Committee decision to revoke an Applicant's Hackney Carriage/Private Hire Driver's Licence.

The matter was heard at Stafford Magistrates' Court on 3 September 2009 and the Appeal was dismissed.

RESOLVED:

That the Briefing Note be noted.

CHAIRMAN