

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
10.00 A.M., FRIDAY, 26 FEBRUARY 2010
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.
Ansell, Mrs. P.A.	Grice, Mrs. D.
Burnett, J.	Todd, Mrs. D.M.
Easton, R.	

(Prior to the commencement of the meeting Members had been informed that the second application listed on the agenda had been withdrawn)

26. Apologies

Apologies for absence were received from Councillor N. K. Stanley

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

<u>Member</u>	<u>Nature of Interest</u>	<u>Type</u>
Allen, F.W.C.	Member knows the first Applicant	Personal

28. Minutes

RESOLVED:

That the Minutes of the meeting held on 24 November, 2009 be approved as a correct record.

29. Licensing Sub Committee

RESOLVED:

That the Minutes of the Licensing Sub Committee held on 1 December 2009 be received for information.

30. 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

31. Application for a Hackney Carriage Proprietor's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 6.1 – 6.12 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 Licensing Officer 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 Hackney Carriage Proprietor's Licence had been made by the Applicant on 25 January 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 hackney carriage vehicle on 1 March 2007 and continued to be licensed until its 7th birthday on 5 February 2010. The Officer then outlined the findings of the Enforcement Officer's inspection of the vehicle (included at Annex 4 of the report).

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

The Applicant was afforded the opportunity of asking questions of the Officer. He informed the Committee that the vehicle, after being involved in an accident, had been taken to a Vauxhall garage to have work carried out.

Members of the Committee were then afforded the opportunity of asking questions of the Licensing Officer. Members asked if there was any restriction on the number of miles that a taxi could do in a year and were informed that a guideline was 20,000 miles per year for diesel and 15,000 for petrol.

Following this, Members then examined the Applicant's vehicle.

The Applicant was then asked to present his case. He stated that Members had viewed the vehicle and he considered that it was in an exceptional condition given that it was 7 years old. He added that the vehicle had been serviced regularly. The vehicle's service history was circulated to Members of the Committee. He informed the Committee that for the last couple of years he had only worked part time and, therefore, did not travel the same number of miles as those working full time.

The Committee was then given the opportunity of asking questions of the Applicant. A Member enquired what type of cover he had in place should his vehicle break down. The Applicant explained that he would contact another driver by mobile phone to get his

passengers to their destination. Members were concerned that, although they had seen the service history they had no information relating to any other work that had been carried out on the vehicle. The Applicant informed Members that he could telephone the garage for them if needed to confirm that all necessary work had been carried out to the vehicle, but that he had not brought any receipts/invoices with him.

The Committee requested that in future Applicants be asked to bring any supporting receipts etc., with them to meetings.

The Licensing Officer reported that she had a copy of a test paper from the Council's Hawks Green Depot when on 5 February 2010 it was found to be mechanically satisfactory.

The Committee requested that, in future, copies of test papers be provided with copies of the agendas.

When afforded the opportunity to ask questions of the Applicant, the Licensing Officer indicated she had no questions.

The Licensing Officer then summed 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 Adviser and Secretary to the Committee.

RESOLVED:

That having regard to all the circumstances, the application for a Hackney Carriage Proprietor's Licence be approved for a period of 12 months, as the Committee was satisfied that the vehicle was an "exceptional vehicle" as defined by the Council's policy for the age restriction of Hackney Carriage vehicles.

Reasons for the Decision

The Committee carefully considered all relevant factors, issues and the responses given by the Applicant. Due regard was also given to the Council's Policy on the age restrictions for the licensing of Hackney Carriage 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 was afforded the opportunity of inspecting the vehicle both inside and out and of perusing the service history/booklet. It was generally considered that the vehicle had been well maintained.

The Committee was therefore satisfied that the vehicle satisfied the criterion as an "exceptional vehicle" and that it should therefore be licensed for a further 12 months.

32. Hackney Carriage/Private Hire Driver's Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 8.1 – 8.9 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 Licensing Officer presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. She explained that on 21 September 2009, the Licensing Unit had received an application from the Applicant to renew his hackney carriage/private hire driver's licence. The Applicant had been required upon his renewal to undertake an Enhanced Disclosure from The Criminal Records Bureau (CRB). On 27 October 2009 the renewal was granted, subject to an Enhanced Disclosure issued by the CRB being received by the Licensing Unit. On 17 December 2009 the Enhanced Disclosure was received by the Licensing Unit on which the Chief Officer of Staffordshire Police had made comments in relation to the Applicant being on Police Bail for an alleged offence of conspiracy to defraud dating back to between June 2007 and July 2009. (A copy of the comments was attached at Annex 2)

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 Applicant was then afforded the opportunity to ask questions of the Licensing Officer. The Applicant indicated that he had none.

Members of the Committee were then afforded the opportunity to ask questions of the Licensing Officer. A Member asked if the Applicant had notified the Licensing Unit of the alleged offence or the Police and was informed that it was the Police comments that had prompted action to be taken. The Licensing Officer was asked why the meeting scheduled for 25 January 2010 had been cancelled. The Senior Committee Officer explained that as the Applicant had been unable to attend, and the other applications were of a none urgent nature, the Senior Licensing Officer, in conjunction with the Chairman, had considered that only one meeting should be held.

The Applicant was afforded the opportunity to put his case. The Applicant informed the Committee that he had previously been a mortgage advisor and had dealings with an accountant. It later came to light that the accountant was not qualified. He had been arrested as part of the investigation and placed on bail. He had to report again to the Police Station on 17 March 2010 and did not know if there would be any charges brought against him. When arrested he had pleaded not guilty. He was unaware of any complaints being made against him while carrying out his taxi duties.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member asked if he worked as a mortgage advisor and taxi driver. The Applicant explained that he had worked as a taxi driver part time and as an mortgage advisor for 17 years, but the Financial Services Authority (FSA) would not allow him to continue as an advisor since the Police arrest. He now worked full time as a taxi driver employing other staff.

Another Member asked why he had indicated that he had never been convicted of or cautioned for any criminal offences, when he had been convicted of 2 offences of theft from motor vehicles. The Applicant explained that this had occurred when he was in his teens and as they were spent, he mistakenly thought they did not have to be declared. He apologised for this error.

Finally, both parties were afforded the opportunity to sum up their respective cases. The Licensing Officer informed the Committee that no complaints had been made against the Applicant while carrying out his taxi duties. The Licensing Unit had been made aware that he was on police bail and considered that it should be brought to the attention of the Committee

for them to consider whether he remained a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

The Applicant reiterated that he had mistakenly considered that his spent convictions did not need to be declared.

The Panel then deliberated in private calling on only the Council's Legal Advisor and Senior Committee Officer for advice.

Councillor P. Ansell left the meeting at 11.25 a.m. having made known her views to the Committee.

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 conditions:

- (i) That the Applicant notify the Licensing Unit in writing within 7 days of 17 March 2010 of any developments and in writing within 7 days thereof of any subsequent developments until concluded.
- (ii) That should any charges be brought against the Applicant then the matter should come back to Committee for consideration.

(Councillors F. W. C. Allen, J. Burnett and Mrs. D. Grice requested that it be recorded that they were not in agreement with the decision.)

Reasons for the Decision

The Committee had carefully considered all the relevant factors, issues and the responses given by the Applicant. Due regard had also been given to the Licensing Officer's comments regarding the requirement for the Licensing Unit to be notified of accidents and convictions within a stipulated time of their occurrence. Further regard was also paid to the Legal Advisor's explanations regarding bail, assistance with allegations, reasonable suspicion by the Police regarding allegations of an offence and the implications of what it meant to be charged.

The Committee also considered what a conviction was and the explanation provided by its Legal Advisor as well as the fact that the Applicant had not been charged to date with any offence, and had a bail return date set for 17th March 2010. As it was uncertain as to whether the Applicant would be charged on that date, have bail extended to an unknown date or the investigation concluded; the Committee was satisfied that it had reached a fair reasonable and proportional decision in all the known circumstances that reflected its concerns adequately.

The meeting closed at 11.35 a.m.

CHAIRMAN