

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
MONDAY, 27 NOVEMBER, 2006 AT 10.00 A.M.
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Easton, R. (Chairman)
Butler, R.D. (Vice-Chairman)

Allen, F.W.C.	Burnett, J.
Ansell, Mrs. P.A.	Davies, D.N.
Ball, G.D.	Grice, Mrs. D.

(Apologies for absence were received from Councillors I. R. Carr, M. J. Holder and B. Williams).

(Councillor F.W.C. Allen advised that he knew the Applicant's Solicitor. The Applicant's Solicitor confirmed that he had no objection to Councillor Allen remaining in the meeting).

22. Minutes

RESOLVED:

That the Minutes of the meeting held on 3 November, 2006 be approved as a correct record.

23. Exclusion of Public

RESOLVED:

That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in paragraphs 2 and 7, Part I, Schedule 12A, Local Government Act 1972 (as amended).

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PART 2

24. Application for a Hackney Carriage Driver's Licence

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 5.1 – 5.55 of the Official Minutes of the Council).

The Applicant and her Representative (her Solicitor) attended the meeting to present the Applicant's case.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Committee through the report. She outlined the reasons for referring the application to the Committee which were detailed on Enclosure 5.1 (i) – (iv) of the report. Members were being asked to determine whether the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence. The Officer explained that she wished to call the Approved Driving Instructor as a witness to give evidence relating to the driving incident that occurred on 13 September, 2006.

The Applicant was afforded the opportunity of asking questions on the report presented by the Officer. The Applicant's Solicitor stated that he wished to clarify two issues. The first related to the period of time the Applicant had actually held a Hackney Carriage Driver's Licence. The Applicant stated that she had been licensed by Cannock Chase Council since 1984 and not 1994 as stated by the Officer.

The Officer checked her records and confirmed that according to her file, there was nothing which supported the Applicant's claim. The latest document held on file was a police record going back to 17 February, 1993. There was also an application for a Licence dated 16 August, 1994.

The Applicant's Solicitor produced a copy letter received from a Mr Roy Topp dated 1983. The letter was addressed to the Applicant and made references to Mr Topp 'closing down' his private hire business. The manner in which it was written suggested that the Applicant was working for Mr Topp as a licensed driver.

The Applicant's Solicitor accepted that the letter was not conclusive and 'merely indicative and nothing more' of the period of time that the Applicant had held a Hackney Carriage Driver's Licence from Cannock Chase District Council.

The Chair confirmed that regard would be had to the representations made concerning this issue and the letter provided.

The Applicant's Solicitor then raised the second issue which related to the word 'investigation' appearing in the report. The Applicant's Solicitor expressed concern that if there was another investigation being undertaken, other than that conducted by the Council's Licensing Dept, he would need to advise his client of the implications of such an investigation. The Solicitor had concern that anything the Applicant said to the Panel could adversely affect his client in the other investigation, (if another investigation was indeed being conducted).

The Officer clarified the position stating that at the time of writing the report, licensing officers were attempting to contact the pupil of the Approved Driving Instructor. However, they had not been able to do so. The Officer confirmed that there was no other investigation being conducted into the actions of the Applicant.

The Applicant's Solicitor confirmed that the two issues raised had been satisfactorily addressed.

The Officer then called her witness, the Approved Driving Instructor to address the Committee. She introduced herself and confirmed that she had received a copy of her statement and that it was the same as the one that appeared in the report at Enclosure 5.12 (Annex 4).

She then led the Committee through her witness statement as detailed on Enclosure 5.12 of the report. The Applicant and her Solicitor were afforded the opportunity of asking her questions on her statement and the evidence given.

The Applicant's Solicitor asked the witness to confirm whether she accepted that the Churchbridge island roundabout was a difficult roundabout and that a number of drivers experienced difficulties with the island. The witness stated that she was not aware of any specific difficulties with the island.

The Applicant's Solicitor stated that at the Progress Drive Island his client and her pupil may have been aiming for the same part of the road, however, no collision occurred. He asked the witness to verify why she thought his client was following her vehicle so closely as they travelled up the Walsall Road towards Cannock. The witness stated that she thought his client was trying to overtake on the Progress Drive roundabout which would have forced her vehicle off the road.

The Applicant's Solicitor stated that he considered it was unusual for a driving instructor to stop a vehicle and approach another vehicle in an angry manner. He stated that this could be interpreted as road rage. The witness disagreed and stated she was not angry but

was concerned for her pupil and other road users. He further asked the witness to confirm when it was acceptable to abandon a pupil in a vehicle to approach another road user. She stated that it was acceptable to leave the vehicle if it was safe and secure and you had the right to stop the vehicle to attend to a puncture for example. The Solicitor stated that he had received advice that an Approved Driving Instructor should never leave a pupil in a vehicle.

The Solicitor stated that his client had been able to stop her vehicle behind the vehicle belonging to the witness at the Progress Drive roundabout, so therefore was not travelling too close so as to collide. He said that his client did not gesticulate at the witness but claimed that it was the witness who gesticulated at his client. The witness disagreed with this comment and said her pupil would confirm this. The Officer advised that contact had not been made with the pupil.

The Solicitor further advised that Committee that the Police had been made aware of the incident.

Following this, Members of the Committee were afforded the opportunity of asking any questions of the Officer and her witness.

In response to a question, the witness confirmed that she considered it very important that pupils had composure and stability whilst driving as a frightened driver could make a wrong decision. A Member considered that the witness should have ignored the other driver. The witness stated that the incident had intimidated her pupil and considered that a learner driver should not have to put up with this kind of behaviour from another road user.

A Member asked the Officer to confirm that the Applicant should have reported the 3 driving offences to the Council. The Officer stated that the Applicant should have reported the offences as they occurred in order to establish if she was a fit and proper person. Repeated failure to report convictions could lead to the suspension of a licence. The Member asked the Officer to confirm that the Applicant had failed to wear her badge on 6 occasions. The Officer confirmed that this was correct and that the Applicant had received letters regarding the incidents. She stated that it was important that the badge was worn so that the public and authorised officers were aware that a driver was a licensed Hackney Carriage driver. She stated that the offences had occurred over a long period of time and no action had been taken against the Applicant in relation to these incidents.

In response to a question from a Member the Applicant confirmed that she was not carrying a passenger at the time of the incident on 13 September. The witness confirmed she recognised the vehicle as a taxi due to the door decorations. The Officer stated that the vehicle was a saloon car with a roof sign on top stating "Taxi".

At this point, the witness left the meeting.

The Applicant and her Solicitor were then afforded the opportunity of presenting the Applicant's case. The Solicitor confirmed that he had no further representations to make other than the information contained within the report.

The Applicant, through her solicitor, confirmed that she did not wish to address the

Committee at this time. Clarification on this point was sought by the Committee's Legal Advisor. The Applicant's solicitor confirmed that the Applicant would, through him, address the Committee by way of closing submissions.

Following this, Members of the Committee had the opportunity of asking questions of the Applicant and her Solicitor.

The Applicant was asked whether she wished to say anything to clarify why the account of the witness differed to her account of the incident as outlined on Enclosure 5.30 (Annex 1). The Applicant's Solicitor stated that his client had a different perspective of the incident and confirmed that Members could rely on Annex 1 to be his client's account of the incident.

A Member asked the Applicant to confirm why she was not complying with the conditions of her licence by failing to wear her badge on 6 occasions. The Applicant stated that the majority of the time she had her badge with her but on occasions, particularly in the late evening, she had forgotten to wear it or it was mistakenly left on other clothing. She accepted that it was a requirement of her licence to wear her badge.

With regard to the incident at the Churchbridge Island the Applicant was asked to clarify who reached the bottle neck in the road first. She stated that the witness and her pupil reached the bottle neck first as they cut across her which forced her to break heavily to avoid a collision.

A Member asked the Applicant to confirm that she accepted that the Council's Licensing Team did not have a personal vendetta against her. The Applicant stated that she accepted this and considered she should not have written the letters about the Licensing Team which were contained within the report.

A Member commented that similar situations to this incident would occur at the Churchbridge island due to the difficult nature of the island.

In response to a question, the Applicant confirmed that she accepted that the driving incident on 13 September along with her failure to notify the Council of previous offences and the 6 occasions of not wearing her badge would be taken into consideration when the Committee was assessing whether she was a fit and proper person to hold a Hackney Carriage Driver's Licence. She apologised for not advising the Council of her offences and stated that it would not happen again in the future.

The Council's Legal Advisor asked the Applicant to explain why she considered that the disclosure of convictions, criminal or otherwise, was important. The Applicant responded by saying that this was important because the Council could assess what kind of driver a person was in order to establish if someone was fit and proper.

She was then asked why she had not disclosed her speeding offences to the Council if she understood the reasons why they should have been disclosed. The Applicant stated that she could not explain why but accepted that she should have disclosed her offences and confirmed she would do so in the future.

Following this, the Officer was given the opportunity of asking questions of the Applicant and her Solicitor.

The Officer asked the Applicant to confirm that she had received the letters that had been sent to her regarding her failure to wear her badge. She confirmed this. In addition, the Officer stated that with regard to the 3 speeding offences the Applicant's explanation of each occasion was in respect of toilet visits.

The Officer referred the Applicant to her 2nd PACE interview (Enclosure 5.34) in which she accepted that the allegations regarding her driving on 13 September were true. She asked the Applicant to confirm exactly what she was accepting to be true. The Applicant's Solicitor stated that with regard to the incident there was fault on both parties and the Applicant acknowledged that she was an experienced driver and should have expected a learner driver to do the unexpected. She accepted that she was not the victim of the incident. He confirmed that he would deal with this issue further in his submissions.

In response to a question from the Officer, the Applicant stated that she did not consider she was driving in a dangerous manner, did not swear and was not abusive. She also stated that she had been wearing her badge but it had fallen down to her side.

The Council's Legal Representative stated that the issue regarding whether the Applicant was accepting that she was at fault regarding the driving incident needed to be clarified at this point in the proceedings.

The Applicant's Solicitor stated that he considered the Applicant was before the Committee in view of this driving incident. However, there were two interpretations of the incident and these were contained in the report. He would clarify this point further during his submissions.

The Officer was then given the opportunity to sum up the Council's case. She explained that the case was a complicated matter and she was not sure if the witness had helped matters with the evidence she had given. With regard to the driving incident on 13 September she stated that there were issues regarding the Applicant's alleged abusive language to consider along with her failure to display her badge.

Members should also consider whether the Applicant had been speeding on the day of the incident. She stated that the Applicant had previous speeding offences and the Driving Assessment she had undertaken had highlighted that that she had exceeded the speed limit whilst travelling downhill. In addition there was a comment in the Driving Assessment that she should watch the lane discipline at roundabouts.

The Applicant had failed to inform the Council of the motoring offences and had been seen without a badge on 6 occasions. The Officer stated that honesty and integrity were fundamental parts of holding a Hackney Carriage Driver's Licence. There were two statements concerning the driving incident with conflicting information. The Applicant had informed the Officer that she had only accepted the allegations in order to obtain her licence. Members would need to consider whether the Applicant was a fit and proper person to hold a Hackney Carriage Drivers Licence.

Following this, the Applicant and her Solicitor were given the opportunity to sum up the Applicant's case. The Applicant's Solicitor stated that the Applicant's speeding offences would have been included on her renewal application. He considered that her failure to notify the Council of these offences as they occurred along with her failure to wear her

badge on 6 occasions would not have been serious enough so as not to renew her badge. The Applicant accepted she had to do better with regard to these issues. They were regulatory matters and were over a substantial period of time.

He confirmed that the Applicant had brought her DVLA Driving Licence to the meeting and that it was the same as contained in the report. He considered the Applicant was in front of Members due to the incident that occurred on 13 September. However, he stated that there were two perspectives of the incident, both parties believing they had the right of way. Following the incident, at the request of the Police, his client had telephoned the Driving Standards Agency regarding the actions of the Approved Driving Instructor. The Police were not proceeding with a criminal Public Order conviction due to there being insufficient evidence. He advised Members that in the criminal court it would be the person who got out of their car that would be in the wrong. The driving instructor was annoyed and forceful in expressing her views and had left her pupil to confront his client.

The Applicant had accepted in her 2nd PACE interview that she was not entirely in the right and she should have expected the learner driver to do the unexpected. She had shook her head in disbelief and had not gesticulated. He questioned whether his client's actions warranted the driving instructor to get out of her car and approach his client in the manner she did. He further commented that the Applicant had never been investigated by the Police for dangerous driving.

With regard to the driving incident on 13 September he considered common sense should prevail. The incident occurred on a very difficult island and his client was not driving too close to the other vehicle so as to collide with it. She was therefore not driving dangerously.

With regard to the Driving Assessment his client had undertaken he commented that she had achieved 14 A's and 3 B's in the Assessment and considered that this was a good independent assessment and should be taken into consideration. She had only marginally exceeded the speed limit whilst travelling downhill and there was a minor note regarding lane discipline.

He stated that he considered his clients driving to be of an acceptable standard and the driving incident on 13 September was not conclusive. His client accepted that she could do better with regard to the regulatory aspects. He was not aware of any complaints from passengers against his client with regard to her driving ability. He considered that the licence should be granted with a warning that a serious view would be taken to any further incidents or offences.

The Committee viewed the Applicant's DVLA Driving Licence and 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 Hackney Carriage Driver's Licence be refused as the Committee was not satisfied that the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence.

(A brief summary of the Committee's reasons were provided through the Committee's Legal Advisor. The Applicant was informed that the decision and the Committee's full

reasons for its decision would be communicated to her in writing.)

CHAIRMAN