

CANNOCK CHASE COUNCIL  
MINUTES OF THE MEETING OF THE  
LICENSING/PUBLIC PROTECTION COMMITTEE  
MONDAY, 6 MARCH, 2006  
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK  
PART 1

PRESENT: Councillors

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

Allen, F.W.C.	Davies, D.N.
Ansell, Mrs. P.A.	Whitehouse, Mrs. G.M.
Ball, G.D.	Williams, B.
Daly, K.	

(Apologies for absence were received from Councillors L.W. Bullock, I.R. Carr and E.J. Hodges)

**26. Declarations of Interests of Members**

<u>Member</u>	<u>Nature of Interest</u>	<u>Type</u>
Allen, F.W.C.	Agenda item 6 – Application for Hackney Carriage Driver's Licence (Enclosure 6.1 – 6.32 of the Official Minutes of the Council) – Member knows the applicant's representative.	Personal

**27. Minutes**

RESOLVED:

That the Minutes of the meetings held on 30 January and 6 February, 2006 be approved as a correct record.

**28. 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 paragraph 7, Part I, Schedule 12A, Local Government Act 1972.

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**PART 2**

**29. Hackney Carriage Driver's Licence**

Consideration of the application had been deferred at the meeting of the Licensing/Public Protection Committee on 6 March, 2006 as the applicant had been unable to attend the meeting. The Committee was advised that the applicant was unable to attend today's meeting and Members decided to determine the application in the applicant's absence.

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 5.1 – 5.15 of the Official Minutes of the Council)

The representative of the Head of Environmental Health presented the report. The application for a Hackney Carriage Driver's Licence had been made by the Applicant on 25 October, 2005. The application had not been granted by Officers as the Medical Advisor had advised that the applicant failed to meet DVLA Group 2 Medical Standard as a result of a problem with his right lower leg and would require a specially modified vehicle to be fit and safe to drive. However, the Licensing Unit had concern over the applicant's fitness to lift, carry and undertake the full range of duties even with the use of a specially modified vehicle. In addition, the applicant held a Hackney Carriage Driver's Licence with Walsall MBC. Walsall MBC had been advised of the Medical Advisor's concern and the applicant's Hackney Carriage Driver's Licence issued by Walsall MBC had been suspended. He had also been requested to attend a further medical appointment. Members were asked to determine whether the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence.

Members of the Committee were afforded the opportunity to ask questions of the Council's representative. A Member sought clarification as to the seriousness of the applicant failing to disclose the problem with his right lower leg to Walsall MBC. The representative of the Head of Environmental Health advised that, although Cannock Chase Council would require an applicant to disclose the matter, she was unaware if it was a requirement of Walsall MBC. It would be a matter for Members to judge the seriousness of failing to disclose the matter to Walsall MBC.

A Member sought clarification regarding the problem with the applicant's right lower leg and was advised that Officers had been informed that the applicant had a gunshot wound.

A Member asked how Officers had been made aware of the matter as the applicant had not disclosed any medical reasons why he could not undertake the full range of Hackney Carriage duties on his application form. The representative of the Head of Environmental Health advised that the problem with the applicant's right lower leg had been discovered following the Medical Advisor's examination.

The representative of the Head of Environmental Health was offered the opportunity to sum up the Council's case. She reminded the Committee that the applicant had failed the medical examination and although the Medical Advisor had indicated the applicant could drive a specially modified vehicle, there was concern whether he could undertake the full duties of a Hackney Carriage Driver. She stated that the applicant was not present to be questioned about the problem with his right lower leg and for Members to visually assess the extent of the injury. Members were asked to consider whether the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence in view of the problem with his leg.

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

RESOLVED:

That 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.

### **30. Hackney Carriage Driver's Licence**

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 6.1 – 6.32 of the Official Minutes of the Council).

The representative of the Head of Environmental Health presented the report. The application for a Hackney Carriage Driver's Licence had been made by the applicant on 20 December, 2005. The application had not been granted by Officers due to a Police investigation into an alleged incident that had been reported to the Licensing Unit on 20 December, 2005. The applicant had no current criminal convictions but had 2 current motoring offences and a spent conviction which was of a similar nature to the alleged incident. The applicant had been a licensed Hackney Carriage Driver since 1994 and his most recent licence expired on 31 January, 2006. The applicant had been passed medically fit on 22 January, 2001 with a 5 year review. However, the applicant had been requested to attend for medical assessment in September 2005 following concern raised over his mental health. The medical had been satisfactorily passed on 19 September, 2005 with a 3 year review. The Committee was advised that the applicant had been investigated by Staffordshire Police in respect of an alleged incident on 18 December, 2005. The alleged incident had been reported to the Licensing Unit on 20 December, 2005 by a family member of the victim. Witness statements were enclosed as Annexes to the report. She advised that the Police report had concluded that there would be sufficient evidence to support a prosecution against the applicant had the injured party wished to pursue a complaint. Additionally, it was alleged that the handbrake was left off the taxi when the applicant got out of the taxi to discuss the fare which resulted in the alleged incident. The taxi rolled and was stopped by a passenger who applied the footbrake.

Members were asked to determine whether the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence.

The applicant and his representative were given the opportunity of asking questions of the representative of the Head of Environmental Health. The applicant's representative referred to the Police report that had concluded that there would be sufficient evidence to support a prosecution against the applicant had the injured party wished to pursue a complaint. He asked whether this statement was taken from a report or a conversation. The representative of the Head of Environmental Health advised that the statement was taken from a confidential written report of Staffordshire Police. The applicant's representative suggested that it should therefore be concluded that the injured party did not wish to pursue a complaint. The representative of the Head of Environmental Health advised that the injured party could not remember the incident. The representative of the applicant stated that the fact that the injured party could not remember the incident should therefore have been included in the Police report.

Members of the Committee were given the opportunity of asking questions of the representative of the Head of Environmental Health. A Member asked why the Police report had not been circulated to all parties and the representative of the Head of Environmental Health advised that the Police report was confidential and did not give any additional information to what was contained within the report they had received.

A Member questioned whether the case was still being investigated and the representative of the Head of Environmental Health advised that the case had been marked as "detected" and no further action was being taken as the injured party did not wish to pursue a complaint.

The applicant and his representative were afforded the opportunity to put forward the applicant's case.

The applicant's representative stated that the applicant's case was outlined in his statement of events attached at Enclosure 6.27 to the report. The facts were that the applicant picked up a fare and all passengers were drunk. There was some confusion with the passengers regarding how to pay for the fare. One passenger got out of the taxi and the applicant followed him. The passenger lunged himself at the applicant and he pushed the passenger who fell over and was too heavy to lift. The applicant heard the taxi's horn and saw the taxi moving with a lady passenger in the front seat.

Members of the Committee were given the opportunity of asking questions of the applicant and his representative. A Member asked whether the applicant remembered applying the handbrake and the applicant replied that he did. A Member asked the applicant if he was aware of how the injured party had received a black eye and swollen lip and the applicant replied that he was not aware of how the injury occurred.

In response to a question from a Member regarding the applicant's spent conviction in 1994, the applicant's representative stated that the conviction occurred prior to the issue of the applicant's original Hackney Carriage Driver's Licence and was not considered unsatisfactory at that time.

A Member sought clarification regarding the applicant's motoring offences for speeding and the applicant's representative advised that the applicant had been issued fixed penalty notices for both offences.

The representative of the Head of Environmental Health was afforded the opportunity to ask questions of the applicant and his representative. She stated that the spent conviction in 1994 had not been taken into account when the applicant was first granted a Hackney Carriage Driver's Licence. However, she considered that it was appropriate for the Committee to hear the applicant's explanation of this conviction as the alleged incident was of a similar nature. The applicant's representative advised that the offence related to a domestic incident involving the applicant's son.

Following this, the representative of the Head of Environmental Health was offered the opportunity to sum up the Council's case. She outlined the alleged incident and reminded Members to give consideration to whether the Applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence.

The applicant and his representative were offered the opportunity to sum up the applicant's case. The applicant's representative stated that the alleged incident had occurred on 19 December, 2005 and was reported to the Licensing Unit on 20 December, 2005. The applicant's Hackney Carriage Driver's Licence expired on 31 January, 2006 some 5 weeks after the incident. However, the applicant had been allowed to continue driving. He stated that if the alleged incident had been so serious the applicant's licence should have been suspended on 21 December, 2005.

He stated that he had advised the applicant to decline the invitation to attend a tape recorded interview and the applicant had instead provided a statement of his case. The applicant's representative submitted that had the applicant attended the interview he would have been questioned on the statements provided by the witnesses and, as the applicant would have been unable to challenge the witness statements, this would have been unfair. He stated that the injured party had not submitted a statement and could not remember the alleged incident. He submitted that the applicant had been deprived of earning a living on the evidence of 3 passengers under the influence of alcohol. He indicated that perhaps the handbrake had been taken off by one of the passengers otherwise the taxi would have moved immediately.

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

RESOLVED:

- (A) That the application for a Hackney Carriage Driver's Licence be granted as the Committee was satisfied that the applicant was a fit and proper person to hold a Hackney Carriage Driver's Licence.
- (B) That the Hackney Carriage Driver's Licence expire on 31 January, 2007.

### **31. Hackney Carriage Driver's Licence**

Consideration was given to the Not for Publication Report of the Head of Environmental

Health (Enclosure 7.1 – 7.13 of the Official Minutes of Council).

The representative of the Head of Environmental Health presented the report. The application for a Hackney Carriage Driver's Licence had been made by the Applicant on 17 October, 2005. The application had not been granted by Officers due to the applicant having a current criminal conviction which was not yet spent and several spent convictions. The Council's Licensing Policy stated that where a person had a current conviction for serious crime, they should be expected to remain free of conviction for 3 to 5 years, according to the circumstances before an application was entertained. The applicant had been passed medically fit on 31 October, 2005. The applicant had not brought his DVLA Driving Licence along with him to the meeting. Members should consider the applicant's current conviction which he was convicted of in 2001 along with his spent convictions in order to determine whether he was a fit and proper person to hold a Hackney Carriage Driver's Licence.

The applicant and his representative were given the opportunity of asking questions of the representative of the Head of Environmental Health. Members of the Committee were given the opportunity of asking questions of the representative of the Head of Environmental Health. There being no questions from either party, the applicant and his representative were offered the opportunity to put forward the applicant's case.

The applicant's representative stated that the applicant's current conviction was committed almost 5 years ago. The applicant's spent convictions were committed at a very young and impressionable age. The applicant was now a responsible 30 year old, he had obtained a degree, got married and fathered 6 children and his lifestyle had altered considerably. He was now working part time in the Information Technology industry. The applicant worked voluntarily within the local community organising sporting events for young people and had assisted with fundraising activities. The applicant also considered that his past experiences assisted him in helping young people. He had a part time job and had applied for a Hackney Carriage Driver's Licence to provide additional income to support his family. The applicant's representative asked Members to give consideration to the fact that the applicant had been free of conviction for almost 5 years when determining his application for a Hackney Carriage Driver's Licence.

Members of the Committee were given the opportunity of asking questions of the applicant and his representative. A Member asked the applicant to explain why he had stated he did not intend to follow any other occupation in addition to driving a Hackney Carriage vehicle on his application form. The applicant confirmed that he should have stated that he worked part time for an Information Technology firm. Members asked the applicant to explain why he had answered "no" to having any previous motoring or criminal offences on his application form. The applicant stated that he thought his offences were spent. In response to a question regarding why the applicant considered he should be granted a licence, the applicant stated that the majority of his convictions were committed whilst he was a teenager, he had grown up, been to University and started a family.

A Member asked whether the applicant had evidence that he had been offered work by the taxi company. The applicant stated that he had been given a verbal offer of employment if he was granted a Hackney Carriage Driver's Licence.

A Member asked the applicant to confirm the date he had produced his DVLA Driving

Licence to Officers for inspection. The representative of the Head of Environmental Health confirmed that the applicant's Licence had been inspected on 17 October, 2005 but it was necessary to verify that no further motoring offences had been committed. The applicant stated that he had intended to bring his Driving Licence with him to the meeting but had misplaced it. The applicant's representative advised that he had examined the applicant's DVLA Driving Licence and confirmed that no further offences had been added.

In response to a question regarding the age of his children, the applicant stated that he had 6 children, the eldest was 7 years old and the youngest was 4 weeks old.

A member referred to the applicant's unspent conviction in 2001 and sought clarification that the applicant had completed the Order that had been given as a sentence. The applicant confirmed that he had completed the Order.

A member asked the applicant to confirm the work he was undertaking with children and he advised that he worked voluntarily with 12-16 year olds organising sporting activities. He stated that he had not been CRB checked.

A Member questioned the application about his degree and the applicant confirmed that he had attended Wolverhampton University for 4 years.

The representative of the Head of Environmental Health was then given the opportunity of asking questions of the applicant. She asked the applicant to confirm whether he would be working full time with the taxi company should he be successful in obtaining his Hackney Carriage Driver's Licence. The applicant confirmed that he would prefer to stay in the Information Technology industry, however, he needed to supplement his income and would work full time as a Hackney Carriage Driver should he be granted a Licence.

The representative of the Head of Environmental Health then stated that the application form completed by the applicant indicated that he had no criminal convictions. The applicant stated that he thought the question related to spent convictions and he forgot about the conviction in 2001. He confirmed that this was an error.

She asked the applicant to explain the circumstances surrounding the conviction in 2001. The applicant stated that he could not remember the circumstances of the conviction. She asked the applicant to confirm that he had children at the time the offence was committed and he confirmed that was correct.

The representative of the Head of Environmental Health asked the applicant to confirm that he had received the letter requesting him to produce his DVLA Driving Licence at the meeting. He confirmed that he had received the letter.

Following this, the representative of the Head of Environmental Health was offered the opportunity to sum up the Council's case. She stated that the Committee had heard the applicant's explanation of his current conviction and spent convictions. She reminded Members of the Council's Licensing Policy which stated that an applicant should be free of conviction for 3 to 5 years before an application was entertained and that discretion may apply if the offence was isolated. She stated that the applicant's current conviction indicated that this was not an isolated incident as his spent convictions were of a similar nature. She advised that the applicant had confirmed he intended to work full time as a

Hackney Carriage driver should he be granted a Licence. She asked Members to consider whether the applicant was a reformed character in order to justify granting him a Hackney Carriage Driver's Licence.

The applicant and his representative were then offered the opportunity to sum up the applicant's case. The applicant's representative stated that the applicant was convicted in 2001 for an offence committed approximately a year before, at the time he would have had 1 child. The applicant had not been convicted of any further offences since his last conviction in 2001 and had been rehabilitated since this conviction. He stated that the applicant's spent convictions should not be taken into consideration. The applicant was a responsible person with a wife and family and wished to obtain his Hackney Carriage Driver's Licence to support his family.

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

RESOLVED:

That 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.

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CHAIRMAN