

CANNOCK CHASE COUNCIL

MINUTES OF THE MEETING OF THE

LICENSING AND PUBLIC PROTECTION COMMITTEE

10.00 A.M., TUESDAY, 29 JUNE, 2010

IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK

PART 2

5. 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Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 5.1 – 5.14 of the Official Minutes of the Council).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. Having declared a personal and prejudicial interest Councillor Mrs. D. Grice was not present during consideration of this item.

The Environmental Health Manager 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 21 May 2010. The Applicant was aware of the Council's age policy and that an exemption applied for "exceptional vehicles". The vehicle was first licensed by the Authority as a Hackney Carriage Vehicle on 8 September 2009 and has continued to be licensed until it became 6 years old on 1 June 2010. The Officer then explained that the findings of the Enforcement Officer's inspection of the vehicle were included at Annex 5 of the report. The vehicle had been examined by the Licensing Enforcement Officer and a summary of his findings were included at Annex 4.

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 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 stated that the vehicle was a very good workhorse, undertaking a variety of jobs including carrying school children on private contracts, disabled passengers, airports journeys, hen/stag nights and night clubs passengers. The vehicle had been well looked after and was regularly serviced after every 15,000 miles and any work carried out to the vehicle was done using original parts. He hoped Members would be pleased to travel in the vehicle.

Members were then given the opportunity of asking questions of the Applicant. There being none the Environmental Health Manager was then afforded the opportunity to ask questions of the Applicant. She asked the Applicant to confirm whether the vehicle had wheelchair access. The Applicant confirmed that it did not but explained that he could carry disabled passengers who could be assisted into a seat. The Officer then asked whether any further work had been undertaken to the vehicle following the inspection by the Licensing Enforcement Officer. The Applicant confirmed that he had applied some white stone chip protector paint which had come out a cream colour. The paint had blistered and he had been trying to correct this by sanding it down and reapplying.

The service history of the vehicle and receipts for work carried out to the vehicle were distributed to Members.

The Environmental Health Manager and the Applicant were given the opportunity to sum up their cases.

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 Hackney Carriage Proprietor's Licence be approved 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 has 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/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/receipts. The Committee agreed the vehicle was "exceptional", albeit this was a borderline case. However, Members stated that they would be happy to travel in this particular vehicle given its current condition.

The Committee is therefore of the opinion that the vehicle satisfies the criterion as set out in the Council's Policy and accordingly the licence application should be granted.

6. Hackney Carriage/Private Hire Driver

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 6.1 – 6.13 of the Official Minutes of the Council).

The Applicant along with his representative attended the meeting to present the Applicant's case.

The Chairman then invited all those present to introduce themselves. Having declared a personal and prejudicial interest Councillor Mrs. D. Grice was not present during consideration of this item.

The Environmental Health Manager presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration explaining that the Applicant had several spent convictions, committed between 1991 and 2005, as well as two unspent convictions in March 2006 and February 2009. The Applicant had also been disqualified from driving in August 2005. She asked Members to give consideration to the Council's policy relating to the relevance of convictions when determining whether the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

The Applicant along with Members of the Committee were afforded the opportunity to ask questions of the Officer. A Member sought clarification regarding when the Applicant's convictions became spent. The Environmental Health Manager clarified this.

The Applicant and his representative were given the opportunity to present the Applicant's case. The

representative advised that he had known the Applicant all his life as he was a friend of his son. He considered that he could vouch for the Applicant's character and felt that he had changed over the years. The Applicant stated that he had made mistakes when he was younger but felt he had now put things right and was trying to get work.

Members of the Committee were given the opportunity to ask questions of the Applicant. A Member referred to the letter at Annex 5 which the Applicant had written to explain the conviction in February 2009. She asked whether he had been drinking on this occasion. The Applicant confirmed that he had been drinking but not excessively. In response to a further question he explained that he would now only have a couple of pints if he went out. A Member commented that the Applicant had stated he had made mistakes when he was younger but there was a conviction only last year. He asked whether the Applicant had a temper. The Applicant confirmed that he did not have a temper. With regard to the conviction last year he had phoned the Police and had said a few things to the doormen which he shouldn't have once he had become handcuffed. He confirmed he had been drinking and had consumed approximately 4 or 5 pints on that evening.

In response to a further question regarding the drink driving conviction in 2005 the Applicant advised that he couldn't remember how much over the limit he had been.

The Environmental Health Manager was given the opportunity of asking questions. She asked the Applicant to explain the circumstances surrounding the drink driving conviction in 2005 when the Applicant was also convicted for using a vehicle without insurance and an MOT. He stated that he had been out drinking when he received a phone call to say that his ex partner was to take his daughter off him. Without thinking he got into a vehicle but was involved in an accident and hit a tree. With regard to the breach of the Community and Rehabilitation Order he had phoned the probation to advise that he was ill but he still got convicted.

The Environmental Health Manager was given the opportunity to sum up the Council's case. She stated that the Committee had heard the submissions of the Applicant and his representative. She considered that there was a pattern of drinking related offences. She considered that the Committee should have regard to the drink driving ban and to the no insurance/MOT conviction when considering whether the Applicant was fit and proper to hold a Licence. She commented that the Committee should bear in mind that the Applicant would have close contact with the public and may be carrying passengers who were under the influence of alcohol.

The Applicant and his representative had the opportunity to sum up the Applicant's case. The Applicant confirmed that he had only used a vehicle without insurance on one occasion. The Applicant's representative asked the Committee to give the Applicant a chance, he considered that the Applicant had changed and wanted to work but it was up to the Committee to decide.

The Environmental Health Manager clarified that should the Applicant be successful in obtaining a licence he intended to work for Tristar travel which was the company owned by the Applicant's representative.

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/Private Hire 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/Private Hire Driver's Licence.

Reasons for the Decision

The Committee raised a number of concerns as to the nature of the Applicant's current and spent convictions and the seriousness of these offences. There was clearly a consistent pattern of offences involving both motor vehicles and alcohol and these had to be balanced against the guidance given within the Council's Licensing Policy.

The Committee were of the view that the Applicant was not a fit and proper person because he has not shown that he has enough responsibility for his own actions, and therefore how could he take responsibility for the safety of members of the public? This apparent lack of responsibility is clearly demonstrated in the number of convictions recorded against the Applicant over the last few years.

The Applicant has not satisfied the Committee that he is a reformed character and it has been suggested that he would have to show at least 2 or 3 more years of non-offending behaviour for the Committee's opinion of him to change.

7. Hackney Carriage/Private Hire Driver

The Environmental Health Officer referred to the Report of the Head of Environmental Health (Enclosure 7.1 – 7.13 of the Official Minutes of the Council) and explained to Members the reasons for referral to Committee. She advised that a letter had been received from the Applicant's Solicitor which was dated 24 June 2010. The letter explained that they had been instructed to represent the Applicant but had not had sufficient time to prepare for the case. They were asking that the Committee be adjourned to a later date in order that they could prepare.

Members considered that it was appropriate to grant an adjournment in this particular case and a provisional date of Friday 16 July 2010 was proposed. The Secretary to the Committee would confirm this date with the Chairman and advise the Committee accordingly.

RESOLVED:

That consideration of the application be adjourned to a future meeting of the Licensing and Public Protection Committee.

8. Hackney Carriage/Private Hire Driver

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 8.1 – 8.15 of the Official Minutes of the Council).

The Applicant along with his representative attended the meeting to present the Applicant's case.

The Chairman then invited all those present to introduce themselves. Having declared a personal and prejudicial interest Councillors F.W.C. Allen and Mrs. D. Grice were not present during consideration of this item.

The Environmental Health Manager presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration explaining that the Applicant had been referred to Committee because of a conviction for criminal damage to his ex partner's car on 12 April 2010. She stated that this conviction was relevant to whether the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence. The Applicant had a recorded history of alcohol related violence and causing criminal damage.

She outlined the medical history of the Applicant and advised that he had been suspended from 5 March 2010 until 21 June 2010 due to him advising that he had been diagnosed with Sleep Apnoea. He was due to be referred back to Occupational Health in September 2010.

She outlined the Applicant's current and spent criminal convictions, police cautions and spent motoring convictions as detailed within the report explaining that over the past 10 years there had been five incidents of assault or criminal damage relating to four ex partners. She made reference to the complaint made by Partner B alleging she had been assaulted by the Applicant and although he had not been convicted of any offence he was advised that any application for renewal would be referred to Committee for consideration. He subsequently withdrew his application. She also referred to the Applicant failing a medical in January 2007 due to his alcohol related problems and to an incident in July 2009 where the Applicant had been seen using his mobile phone whilst driving a hackney carriage vehicle. She further referred to the Applicant being seen driving a hackney carriage vehicle without wearing his licence badge. She asked the Committee to note the Council's policy on the relevance of convictions in particular relating to violence and drunkenness.

The Applicant along with Members of the Committee were afforded the opportunity to ask questions of the Officer. There being none the Applicant along with his representative were offered the opportunity to submit the Applicant's case. The Applicant's representative explained that he Applicant had been driving for him for approximately 8/9 months; he was a good driver who customers requested. He referred to the incident in April 2010 and explained that the Applicant had gone to his ex partner's house and she refused to give him back his belongings. Following an argument the Applicant had scratched his ex partner's car with his keys.

The Applicant stated that he had drafted a letter which explained his point of view and submitted this for consideration of the Committee along with a letter from his Solicitor outlining the offence in April 2010. He added that the caution for harassment in 2006 related to him sending a number of text messages to an ex partner to get his belongings back. He explained that the incident where he was seen driving a hackney carriage vehicle without wearing his licence badge occurred just after he had completed a school run. He had removed his badge to take a phone call regarding his housing situation. With regard to him using a mobile phone whilst driving a taxi happened on a day off. He had answered his phone whilst driving but he was not carrying any passengers.

Members of the Committee were given the opportunity to ask questions of the Applicant. A Member referred to the harassment caution and asked how many text messages were sent to his ex partner. The Applicant confirmed that he had sent approximately 5 or 6 texts which were not threatening. In response to a question regarding the conviction in April 2010 he explained that he had an argument with his ex partner outside her house and due to his frustration at not being able to get his belongings back he scratched her car. He went home to his Mother's house in a taxi following the incident and the Police arrived to arrest him, he was being accused of drink driving and assault. However he was not convicted of either of these. He had consumed about 3 pints and had been breathalysed whilst being interviewed by the Police. He confirmed that he did not consider he had a drink problem and the April offence was the first incident since 2005.

A Member asked whether the Applicant considered he had a bad temper in view of the history of violence. The Applicant advised that he did not have a bad temper and stated that he had previously been hit by his ex partners. He regretted all the offences but stated they all related to his private life and had nothing to do with his work.

A Member questioned the Applicant's drinking and commented that perhaps the incidents would not have occurred had the Applicant not have been drinking alcohol. The Applicant explained that he now had a few pints every 3 weeks.

A Member referred to the Applicant's Sleep Apnoea. The Applicant advised that this became apparent whilst he was being tested for his fitness to undergo an operation to fit a gastric band. The condition had been diagnosed and he now slept with an oxygen machine at night. He confirmed that he was due to have the operation at the beginning of October.

The Officer had the opportunity of asking questions of the Applicant and his representative. She asked the Applicant to confirm that he had written the letter in support of his case. He confirmed that a friend had written it on his behalf based on notes he had provided. He had read and agreed with the content of the letter.

She commented that the Applicant had stated he did not fail a medical in 2007. However, on checking her file she confirmed that he had failed the medical in January 2007 because of his alcohol related problems. The Applicant apologised for this and stated that he had been undergoing alcohol rehabilitation at the time.

The Officer was given the opportunity to sum up the case. She commented that Members had read the letter from the Applicant and the Solicitor. There appeared to be a pattern of alcohol related violence offences relating to the Applicant's ex partners. Although the Applicant had undertaken successful alcohol rehabilitation he had stated that he continued to drink 3 pints every 3 weeks. None of the offences related to taxi driving, they were all domestic but there was a pattern of aggression emerging after the Applicant had consumed alcohol. The Committee were being asked to consider whether the Applicant remained a fit and proper person to hold a Licence.

The Applicant and his representative had the opportunity to sum up the Applicant's case. The Applicant explained that he had always informed the Council of any incident that had occurred. He had informed the Council of the Sleep Apnoea condition and had voluntarily handed his badge in until he had been told he was fit to drive.

The Applicant's representative commented that he was proud of the Applicant for cutting down on his alcohol intake and in seeking help to address his weight problem.

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

RESOLVED:

The Committee considered that the Applicant was a fit and proper person to hold a Hackney Carriage/Private Hire Drivers' Licence and as such, no further action should be taken.

Reasons for the Decision

The Committee has carefully considered all relevant factors, issues and the responses given by the licence holder and his representative.

However, the Committee were mindful of the licence holder's history involving violence in his own personal life and raised their concerns regarding this issue. They hoped that the licence holder was able to address this in the future.

The meeting closed at 12.45pm.

CHAIRMAN

