

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
FRIDAY 12 DECEMBER 2008 AT 10.00 AM
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.	Holder, M.J.
Burnett, J.	Meaden, R.G.
Carr, I.R.	Todd, Mrs. D.M.

9. Minutes

RESOLVED:

That the Minutes of the meetings held on 29 July and 5 August 2008 be approved as a correct record.

10. Exclusion of the 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 2, Part 1, Schedule 12A, Local Government Act 1972 (as amended).

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PART 2

11. Hackney Carriage Proprietors' Licence

Consideration was given to the Report of the Head of Environmental Health (Enclosure 5.1 – 5.9 of the Official Minutes of the Council).

The Applicant attended the meeting to present his case.

The Chairman invited all those present to introduce themselves.

The 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 Proprietors' Licence had been made by the Applicant on 6 November 2008. The Applicant was aware of the Council's age policy and that an exemption applied for "exceptional vehicles". The vehicle had been licensed by the Authority as a hackney carriage vehicle since 12 March 2003 and had been examined by the Senior Licensing Officer on 2 December 2008. A summary of the findings was included at Annex 4 of the report. She stated that at the time of the inspection the recorded mileage was 205,000.

Copies of the vehicle's service history along with appropriate paperwork and receipts were circulated to Members of the Committee.

Members were asked to determine the application and consider whether the vehicle was an "exceptional vehicle" and should therefore be exempt from the 6 year age restriction policy.

The Committee then examined the Applicant's vehicle.

Following this, the Applicant along with Members of the Committee were afforded the opportunity of asking questions of the Officer. There being none the Applicant was then asked to present his case. He stated that Members had now viewed the vehicle and could see that it was well maintained. A full service of the vehicle was undertaken every 10,000 miles and he used only genuine replacement parts. He commented that his customers liked the vehicle and considered that it was good enough to be licensed for another two years.

The Committee were then given the opportunity of asking questions of the Applicant. A

Member asked the Applicant to confirm when he intended to replace the vehicle. He stated that depending on the decision of the Committee he intended to replace the vehicle in two years. However, should he consider that the vehicle was not in a good enough condition he would not re-license it.

The Officer was then afforded the opportunity of asking questions of the Applicant. She asked the Applicant to confirm the predominant use of the vehicle. He confirmed that the vehicle had a wide range of uses including working off the rank, airport runs, transporting school children and customers on a night out. It was also used to transport disabled passengers.

She then asked whether he considered the vehicle was reliable on a long run given its age. The Applicant confirmed that the vehicle was reliable and he had breakdown cover on his insurance.

The Officer then summed up the Council's case. She commented that the Committee had viewed the vehicle and had sight of the service history. She considered that the high mileage of the vehicle should be taken into account but commented that each case should be judged on its own merits. The main consideration should be whether the vehicle was fit for purpose.

The Applicant was then afforded the opportunity to sum up his case. He commented that although the vehicle had high mileage the diesel engine was good for another 150,000 miles. He would continue to maintain the vehicle in a good condition, however, he would replace the vehicle if he considered it was not worthy of being re-licensed.

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

RESOLVED:

- (A) 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 age restriction of Hackney Carriage vehicles subject to the gear stick gaiter being replaced.
- (B) That subject to (A) above the Hackney Carriage Proprietor's Licence be granted for 12 months.

12. Hackney Carriage/Private Hire Driver

Consideration was given to the Report of the Head of Environmental Health (Enclosure 6.1 – 6.6 of the Official Minutes of the Council).

The Applicant attended the meeting to present his case.

The Chairman invited all those present to introduce themselves.

The Officer presented the Council's case by taking the Committee through the report outlining the relevant issues for consideration. The Officer informed Members that the

Applicant had notified the Licensing Unit on 15 September that he had been arrested for common assault in the early hours of Sunday 14 September 2008. He had subsequently been charged with and convicted of Battery on 16 October 2008. His sentencing was adjourned in order that a pre-sentence report could be prepared. He was sentenced to a Community Order with a 40 hours of unpaid work. The Applicant was ordered to pay £150 compensation to his victim and £60 towards prosecution costs.

The Applicant had been continuously licensed by the Authority as a Hackney Carriage/Private Hire Driver since 22 March 1996 and his current licence expired on 31 May 2009 (not 2008 as indicated in the report). He had no current criminal or motoring convictions but did have spent criminal convictions dating from 1995 to 1998.

She advised that the Council's policy stated that where a person had a current conviction for violence at least 3 years free of convictions should be shown before an Applicant should be considered for a licence. In addition, as the Applicant had advised that the offence was committed whilst under the influence of alcohol she confirmed that the Council's policy regarding drunkenness stated that an isolated conviction for drunkenness need not debar an Applicant from obtaining a licence.

In view of the conviction Members were asked to consider whether the Applicant remained a fit and proper person to hold a Hackney Carriage/Private Hire Driver's Licence.

The Applicant along with Members of the Committee were then afforded the opportunity to ask questions of the Officer. In response to a question from a Member the Officer confirmed that she had viewed the pre-sentence reports.

The Applicant was then afforded the opportunity to put his case. He stated that he had been a licensed Driver since 1996 and during these 13 years he had been attacked both verbally and physically but had never resorted to violence to resolve an issue. He considered that his actions on the evening had been alcohol induced. As he normally worked at the weekends he was not used to drinking alcohol and the incident was out of character. He was totally remorseful for his actions but noted that this was no excuse. He then circulated extracts from the pre-sentence reports which he considered would assist his case. Also circulated were two character references for the Applicant.

At this point in the proceedings Councillor J. Burnett left the meeting.

The Applicant continued with his case explaining that in September 2007 he had been declared bankrupt and, as a result, had found it difficult to obtain rented accommodation. However, he had since managed to rent a property which allowed him access to his two children. He commented that as he had no qualifications and in view of the current economic climate he would find it difficult to obtain alternative employment and thereby possibly lose his home should the Committee decide to revoke or suspend his licence.

He further commented that he was genuinely sorry for his actions but considered that he had been punished for this crime and paid compensation accordingly. He stated that his victim would not benefit by him losing his Licence.

Members of the Committee were then afforded the opportunity to ask questions of the Applicant. A Member stated that the level of compensation suggested that the victim had

sustained only minor injuries. The Applicant confirmed that the victim had received a cut lip as a result of the incident. He had been charged with the lowest form of assault and his sentence reflected the nature of the offence.

In response to a further question the Applicant confirmed that he was out with his girlfriend when the incident occurred. Although he couldn't remember the incident due to being under the influence of alcohol he understood that it occurred as a result of a comment he had made to a group of passing youths. This comment resulted in an argument and the offence being committed.

The Officer of the Licensing Authority was then afforded the opportunity to ask questions of the Applicant. She asked the Applicant to inform the Committee as to whether he held a Proprietor's Licence. The Applicant stated that his Proprietor's Licence had expired last year and as a result of his financial position he now worked for a taxi company.

The Officer then summed up the Council's case. She stated that the Committee had heard the Applicant's version of the events that lead up to the incident. The Committee had read the extracts from the pre-sentence report and the character references that were attached. Members would need to determine whether the Applicant was a fit and proper person to continue to hold a Hackney Carriage/Private Hire Drivers Licence. She asked the Committee to consider whether they would be happy for a member of their family to be transported by the Applicant and reminded Members to bear in mind the protection of the public.

The Applicant was then afforded the opportunity to sum up his case. He commented that he had transported a significant amount of people during the last 13 years as a taxi driver and had never threatened anyone. He would continue to do this should the Committee decide that he could retain his licence.

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

RESOLVED:

- (A) That having carefully considered the representations made by the Applicant the Committee considered that the Applicant was a fit and proper person to remain the holder of a Hackney Carriage Driver's Licence.
- (B) That should the Applicant be convicted of any similar offence he would be required to appear before the Licensing and Public Protection Committee where his suitability to hold a hackney carriage/private hire licence would be reconsidered. .

CHAIRMAN