

CANNOCK CHASE COUNCIL
MINUTES OF THE MEETING OF THE
LICENSING AND PUBLIC PROTECTION COMMITTEE
10.00 A.M., TUESDAY, 26 FEBRUARY 2008
IN THE CIVIC CENTRE, BEECROFT ROAD, CANNOCK
PART 1

PRESENT: Councillors

Bennett, K. L. (Chairman)

Allen, F.W.C.	Freeman, M.P.
Ansell, Mrs. P.A.	Grice, Mrs. D.
Burnett, J.	Stanley, N.K.
Davies, D.N.	Todd, Mrs. D.M.
Easton, R.	

(Apologies for absence were received from Councillors M.J. Holder, Mrs. P.Z. Stretton and B. Williams)

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

<u>Member</u>	<u>Interest</u>	<u>Type</u>
Allen, F.W.C.	Not for Publication Report of Head Environmental Health – Hackney Carriage and Private Hire Driver – Member knows the Applicant’s family	Personal
Freeman, M.P.	Not for Publication Report of Head Environmental Health – Hackney Carriage and Private Hire Driver – Member has worked with the Applicant	Personal and Prejudicial

31. Minutes

RESOLVED:

That the Minutes of the meeting held on 6 December 2007 be approved as a correct record.

32. Licensing Sub Committee

RESOLVED:

That the Minutes of the Licensing Sub Committee held on 14 December 2007 be received for information.

33. 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 2, Part I, Schedule 12A, Local Government Act 1972.

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PART 2

34. Hackney Carriage/Private Hire Driver

Having declared a personal and prejudicial interest Councillor M.P. Freeman left the meeting during consideration of the report.

Consideration was given to the Not for Publication Report of the Head of Environmental Health (Enclosure 6.1 – 6.19 of the Official Minutes of the Council).

The Applicant and his representatives 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. He advised that the Applicant had recently become a Type 1 Diabetic (Insulin Dependent) which meant that he was unable to meet the DVLA Group 2 Medical Standard. As a result, his Hackney Carriage/Private Hire Driver's Licence had been temporarily suspended on 1 August 2007 on the grounds of public safety.

The Applicant was seeking the reinstatement of his Hackney Carriage/Private Hire Driver's Licence on the basis that he had obtained the C1 classification. However, C1 classification does not provide that a driver has satisfied a medical fitness standard to carry passengers. The Council's current policy on medical fitness of Hackney Carriage and Private Hire Drivers requires that the DVLA Group 2 Medical Standard be met.

The Applicant had appealed the suspension decision and a date has been set on 28 February 2008 at Stafford Magistrates Court for this appeal to be heard.

Members were being asked to consider the Applicant's suitability to drive a licensed Hackney Carriage/Private Hire Vehicle and determine whether his licence should be reinstated.

The Applicant and his representatives were afforded the opportunity of asking questions of the Officer. The Applicant's representative asked the Officer to confirm whether he was aware of the Department of Transport's Taxi and Private Hire Vehicle Licensing Best Practice Guidance which stated that the C1 classification should be applied to taxi and private hire drivers who are insulin dependent diabetics. In addition, this standard is applied when licensing London Black cab drivers. The Officer confirmed that he was aware of this.

The representative added that the Council's current fitness policy which was adopted in 1999

was older than the policies for many other local authorities. He stated that in order to obtain a C1 classification an Applicant would be required to be assessed by an appropriate diabetic consultant and obtain a detailed medical report. He advised the Committee that the Applicant had obtained a medical report completed by a consultant specialising in diabetes. This was circulated for Members information along with the Best Practice Guidance referred to earlier. He asked Members to note that the consultant had answered "No" to question 12 which asked whether there was any diabetic complication or other medical condition that could affect safe driving. He commented that the Council's policy stated that each case should be judged on its merits.

Members of the Committee were then offered the opportunity to ask questions of the officer. A Member asked the Applicant to confirm how severe his Type 1 Diabetic condition was and what treatment he received. It was explained that the Applicant was insulin dependent and self tested his sugar levels two to three times a day. His treatment involved insulin injections twice a day.

A Member asked when the Group 2 Medical Standard was introduced as Council policy. The Officer confirmed that this was adopted by the Amenities Committee in 1999 following guidance produced by the DVLA in 1995. The Member commented that since 1999 the treatment of diabetes had improved.

A Member asked why the medical report for the Applicant had not been included within the report. The Officer explained that he had not had sight of the medical report prior to today.

The Applicant and his representatives then presented the Applicant's case. The Applicant's representative commented that the medical position with regards to diabetes had improved over recent years. He stated that other local authorities had updated their policy on the medical fitness of Hackney Carriage and Private Hire drivers. Many local authorities accepted the C1 classification for licensing Hackney Carriage and Private Hire drivers. He advised that the C1 classification was also accepted for ambulance drivers and Police driving vehicles on an emergency call. The classification allowed a person to drive a vehicle up to 7.5 tonnes and he considered this to be a greater risk than driving a saloon vehicle. He commented that the Council's policy should be for guidance only and each case should be judged on its merits as more information regarding diabetes was now available than in 1999. The specialist diabetes consultant who had completed the medical report in January 2008 had no concerns regarding the Applicant's ability to drive safely. He considered that an exception should be made in the Applicant's case as additional information on diabetes had become available since the policy had been adopted. He asked Members to consider granting the licence and attaching conditions to allow for medical updates on a regular basis.

Members of the Committee were offered the opportunity to ask questions of the Applicant and his representative. A Member considered that the questions answered on the medical report in January 2008 were only valid at the time of the examination and any changes may not be detected until his next test. The Applicant's representative stated that the Applicant was being assessed by consultants on a regular basis. It was not appropriate to question the competency of specialist consultants. The consultant had indicated that he had no concern that the Applicant's diabetes would affect safe driving.

A Member asked whether other local authorities had included the C1 classification within their policies. The Applicant's representative advised that the C1 classification was accepted as the standard for a number of local authorities following guidance from the Department of Transport. However, it was not necessary for the C1 classification to be included within the

Council's policy in order for the Committee to be satisfied that the Applicant was a fit and proper person to hold a licence.

In response to a further question from a Member the Applicant confirmed that he had an eye test every twelve months and a further test was now due.

A Member stated it would be difficult to monitor whether the Applicant was taking his medication on a regular basis. In response, the Applicant's representative advised that the Applicant took his medication on a daily basis. The medical report suggested that this was the case and there was nothing to suggest otherwise.

A Member asked the Applicant to confirm how long he had been diabetic. The Applicant stated that he had been diabetic since 2000 which had originally been controlled by diet and more recently insulin injections.

Following this, the officer representing the Licensing Authority had the opportunity of asking questions. He asked whether a fee had been payable for the medical report completed on 22 January 2008. The Applicant confirmed that no fee had been payable. The officer then sought confirmation that the person signing the form was a consultant as he had signed the form "Doctor". The Applicant stated that the consultant was a specialist in diabetes operating in the Staffordshire area. The Applicant's representative advised that with regards to the consultant signing "Doctor" it would depend upon what type of consultant a person was as to how he signed the form.

The Officer stated that C1 classification entitled a driver to drive small lorries up to 7.5 tonnes and carry goods but this did not include passengers. The Committee had the responsibility to ensure public safety was adhered to.

In response to a further question the Applicant's representative advised that the medical report had been commissioned by the DVLA who would in turn pay the consultant a fee for undertaking the medical examination.

The Applicant's representative was offered the opportunity to sum up the Applicant's case. He asked the Committee to be brave and move with the times. He stated that consideration be given to the additional information provided and that the Applicant was medicating himself appropriately. In addition the medical report indicated that the Applicant was safe to drive a small lorry up to 7.5 tonnes and asked the Committee to make an exception in this case and allow the Applicant to drive a Private Hire/Hackney Carriage vehicle.

The Officer was then given the opportunity to sum up the Council's case. He stated that the Council's medical fitness policy insisted upon an Applicant meeting DVLA Group 2 Medical Standard. This policy was adopted in the interests of public safety in 1999 and public safety should not be any less of a concern now than it was in 1999.

In response to a question the Officer confirmed that there were no licensed Private Hire/Hackney Carriage driver's who were Type 1 diabetic.

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

RESOLVED:

- (A) That, having regard to all the circumstances and the representations made in respect of the Applicant's fitness to hold a Private Hire/Hackney Carriage Driver's Licence, the Applicant's Private Hire/Hackney Carriage Driver's Licence be reinstated as the Committee was satisfied that the Applicant was a fit and proper person to hold a licence.
- (B) That the reinstated Licence expire on 29 February 2008 and be subject to renewal on 1 March 2008.
- (C) That the Licence be subject to the Applicant providing satisfactory medical reports from an appropriately qualified doctor on a quarterly basis and any other necessary tests in relation to his medical condition.

(Councillors J. Burnett requested that his name be recorded as having voted against this decision and Councillors F.W.C. Allen and Mrs. P.A. Ansell requested that their names be recorded as having voted for this decision).

CHAIRMAN