

REGULATORY COMMITTEE

Minutes of the meeting held on Tuesday 28 June 2011 at Town Hall, Royal Leamington Spa at 2.30pm.

PRESENT: Councillor Pratt (Chairman); Councillors Cross, Mrs Falp, Mrs Gallagher, Gill, Guest, Illingworth, Weed and Wreford-Bush.

An apology for absence was received from Councillor Mrs Goode.

The Chairman explained to the Committee and the members of the public present, that in accordance with the Committees' decision on 6 May 2009, the meeting would be recorded.

12. **DECLARATIONS OF INTEREST**

Minute Number 18 - Application for a Hackney carriage/Private Hire Driver's Licence form a person with convictions

Councillor Gill declared a personal interest in this item because he knew the applicant.

13. **PUBLIC AND PRESS**

RESOLVED that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following six items by reason of the likely disclosure of exempt information within paragraph 1 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

14. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS**

The Committee considered a report from Community Protection with regard to an application received for a hackney carriage/private hire driver's licence from a person with convictions.

JH submitted an application for a hackney carriage/private hire driver's licence in October 2010. When his CRB disclosure was received by Warwick District Council it showed the offence which had been declared on his application form.

JH also declared a motoring offence he committed in January/February 2010 on his application form but failed to declare offences from December 2009 and May 2007.

JH's application had been rejected by the Licensing Service Manager under delegated authority. JH appealed the Licensing Services Manager's decision by letter.

The application had been considered by the Regulatory Committee on 18 March 2011. JH was unable to attend, but submitted a letter requesting that his application be heard in his absence. The Committee deferred taking a decision on the application because they wished to put a number of questions to the applicant in order to enable them to make a full and proper decision.

JH addressed the Committee in support of his being a fit and proper person to hold a licence and then responded to questions put to him by Members of the Panel.

Having considered the report, the applicant's representation and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was not satisfied that JH was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that JH's licence application be rejected and the Committee's decision be as follows:

The Committee have a number of concerns regarding the application. The Committee are very concerned about the conviction in 2000 for indecent assault. The Committee are also concerned that the applicant appeared unable to provide any details regarding his driving offences and that he did not know what the fixed penalty endorsed on his licence in 2007 was for.

The Committee has not satisfied with the applicant's explanation in relation to the conviction for indecent assault.

The overriding consideration of the members of the Committee is to protect the travelling public. The Committee are conscious that there may be occasions where the applicant may be required to transport vulnerable persons. The Committee have applied the question 'would I allow my daughter or son, granddaughter or grandson, spouse, mother, father or any other person I care for, or any vulnerable person I know to get into a vehicle with this person alone' and the Committee have decided that the answer is no. Therefore the Committee is not satisfied that the applicant is a fit and proper person to hold a licence. In coming to this conclusion, the Committee have considered the guidelines which illustrate the Council's stance on rehabilitation periods contained within the Council's policy. However, whilst the Committee note that the applicant has been conviction-free for a period of 10 years, the Committee have real concerns regarding whether he is a safe driver to transport vulnerable persons. The Committee therefore resolve that JH is not a fit and proper person to hold a licence.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

15. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS**

The Committee considered a report from Community Protection with regard to an application received for a hackney carriage/private hire driver's licence from a person with declared and undeclared convictions.

AQ submitted an application for a hackney carriage/private hire driver's licence in October 2010 and declared an offence on the application form. This was followed by a letter submitted in mitigation for the offence. When his CRB disclosure was received by Warwick District Council it showed the offence which had been declared on his application form, along with a second offence which had not.

The Regulatory Committee was due to consider the application at its meeting on 18 March 2011 but agreed to defer the item because the applicant had been unable to attend that meeting.

AQ and his representative addressed the Committee in support of his being a fit and proper person to hold a licence and then responded to questions put to him by Members of the Panel.

Having considered the report, the representation on behalf of the applicant and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was satisfied that AQ was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that the application be allowed to proceed.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

16. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH UNDECLARED CONVICTIONS**

The Committee considered a report from Community Protection with regard to an application received for a hackney carriage/private hire driver's licence from a person with undeclared convictions.

MV had submitted an application for a hackney carriage/private hire driver's licence in February 2011 and declared that he had never been disqualified from driving. A driver mandate from the DVLA showed disqualification from driving until 28 May 2007. Officers wrote to the applicant and his response was attached as an appendix to the report.

MV's application had been rejected by the Licensing Service Manager under delegated authority. MV appealed the Licensing Services Manager's decision by letter.

MV addressed the Committee in support of his being a fit and proper person to hold a licence and then responded to questions put to him by Members of the Panel, clarifying details in relation to the disqualification.

Having considered the report, the applicant's representation and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was not satisfied that MV was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that MV's licence application be rejected and the Committee's decision be as follows:

Having heard the explanation provided by the applicant, the Committee have real concerns regarding the applicant's previous disqualification from driving and the fact that he had declared in his application form that he had never been disqualified from driving.

Further, on questioning the applicant he appeared to say that he had been disqualified from driving on two previous occasions, neither of which were declared in his application form. Further, the Committee were not satisfied with the applicant's explanation in relation to why he declared in the application form that he had never been disqualified from driving.

The Council takes a serious view of convictions for driving without insurance and, having taken both these matters into account, the Committee are not satisfied that the applicant is a fit and proper person to hold a licence.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

(Councillor Weed left the meeting at the conclusion of this item.)

17. LICENSED HACKNEY CARRIAGE/PRIVATE HIRE DRIVER WITH CONVICTIONS

The Committee considered a report from Community Protection with regard to a licensed hackney carriage/private hire driver committed to prison.

AK was granted a hackney carriage/private hire driver's licence by this Licensing Authority in June 2008. At the time of the application, a driving offence and one other were disclosed. The offences did not warrant refusal of his application, nor referral to the Regulatory Committee. However, a letter warning AK about his future behaviour was issued along with the licence. In August 2010 AK's partner advised officers of the Council that AK had been arrested and committed to prison. Officers

wrote to AK explaining that his licence was suspended under delegated authority and that, upon release from prison, he would have to attend a meeting of the Regulatory Committee to explain the reasons for his incarceration, hence his attending this meeting.

FK attended the meeting to represent AK and explained the circumstances which led to AK being sent to prison. AK and FK then responded to questions put by members of the Committee.

Having considered the report, the representation on behalf of the applicant and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was satisfied that AK was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that the suspension of AK's licence be lifted, that his licence shall not be revoked and that his licence be returned to him.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

18. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH CONVICTIONS**

The Committee considered a report from Community Protection with regard to an application received for a hackney carriage/private hire driver's licence from a person with convictions.

PT submitted an application for a hackney carriage/private hire driver's licence in April 2011. His application was rejected by officers under delegated authority due to a declared motoring offence committed by him. PT appealed the decision by officers, who rejected the application under delegated authority. PT then appealed the decision by letter.

PT addressed the Committee in support of his being a fit and proper person to hold a licence and responded to questions put to him by Members of the Panel.

Having considered the report, the applicant's representation and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was satisfied that PT was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that the application be allowed to proceed.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

19. **APPLICATION FOR A HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE FROM A PERSON WITH UNDECLARED CONVICTIONS**

The Committee considered a report from Community Protection with regard to an application received for a hackney carriage/private hire driver's licence from a person with undeclared convictions.

MP submitted an application for a hackney carriage/private hire driver's licence in March 2011 and declared that he had no previous convictions. On 13 May, the day he received his CRB disclosure, MP advised officers of the Council that he had missed convictions off his application form. Officers gave MP his application form which he amended. Officers rejected the application under delegated authority, which MP appealed by letter.

MP advised the Committee that he had not received his CRB disclosure until 18 May. He circulated a written representation at the meeting in support of his being a fit and proper person to hold a licence and then responded to questions put to him by Members of the Panel.

Having considered the report, the applicant's representation and all the information before Members, including the Council's Policy Document and Guidance Relating to the Relevance of Convictions and Cautions, the Committee was satisfied that MP was a fit and proper person to hold a hackney carriage/private hire driver's licence.

RESOLVED that the application be allowed to proceed.

All parties were advised that they had 21 days from written notification of the decision to appeal to the magistrates court.

(The meeting finished at 6.05 pm)