

Minutes of the Licensing Sub-Committee

11 April 2024

-: Present :-

Councillors Barbara Lewis, Tolchard and Douglas-Dunbar

(Also in attendance: Councillor Chris Lewis)

30. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chair for the meeting.

31. Apologies

It was reported that the membership of the Sub-Committee had been amended for this meeting by including Councillor Douglas-Dunbar instead of Councillor Johns.

32. Minutes

The Minutes of the meeting of the Sub-Committee held on 14 March 2024 were confirmed as a correct record and signed by the Chairman.

33. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to an applicant for a Torbay Council issued dual Hackney Carriage and Private Hire Driver's Licence.

Members were requested to determine based on the facts before them, whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such licence.

At the Hearing, the Applicant and his employer addressed Members and responded to their questions.

Decision

That the application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence be refused.

Reason for Decision

Having carefully considered the all the evidence before them, Members unanimously resolved to refuse the application, as they found no reason to depart from Torbay Council's Taxi Policy.

In coming to their decision, Members gave thorough consideration of the Applicants written and oral representations and that put forward by his current employer, of the mitigating circumstances regarding his recent conviction. However, it was of concern to Members that only two years had passed since that conviction, and that coupled with a previous conviction, albeit from twenty years prior, the Applicant has had two convictions for offences of a violent nature.

Members were mindful of the Taxi & Private Hire Vehicle Licensing Criminal Convictions Policy, found at Appendix A, which states at section 3.3 that for convictions for offences involving violence *'A licence will not normally be granted until at least ten years have passed since the completion of any sentence following conviction for an offence shown below:*

- *Arson*
- *Malicious wounding or grievous bodily harm which is racially aggravated*
- *Actual bodily harm*
- *Assault occasioning actual bodily harm*
- *Grievous bodily harm*
- *Robbery*
- *Possession of firearm*
- *Possession of a weapon*
- *Riot*
- *Assault police*
- *Violent disorder*
- *Common assault*
- *Resisting arrest*
- *Any racially aggravated offence against a person or property*
- *Affray*
- *Any offence that may be categorised as domestic violence*
- *Harassment, alarm or distress, intentional harassment, or fear of provocation of violence*
- *Any offence (including attempted or conspiracy to commit offences) similar to those above.*

And further at section 3.6, *'A licence will not normally be granted if an Applicant has more than one conviction for an offence of a violent nature'*.

Members were also mindful of the fact that taxi and private hire drivers are exempt from the Rehabilitation of Offenders Act 1974 and any convictions can be taken into consideration when determining whether they are a fit and proper person to hold a licence.

In relation to the Applicants failure to disclose his previous convictions, Members determined that the question asked upon the application form for a licensed drivers badge that specifically related to previous convictions was clear, stating 'Have you ever been convicted of a criminal offence', and were very concerned to learn that

these only became known to the Licensing Authority, upon receipt of the Applicants advanced Disclosure and Barring Services disclosure. Furthermore, Members were unconvinced by the Applicant's explanation as to why he answered 'no' to this question, believing his most recent conviction to be spent, though not able to confirm what time period he believed to have passed for this to be the case, and which in any event would have still required the answer to the question to be 'yes'. Members believed his non-disclosure to be a deliberate attempt by the Applicant to mislead the Licensing Authority.

Additionally, all Applicants must confirm at the submission stage of their application that they have read and understood the Taxi Policy, which had the Applicant done, he would have been aware of the Licensing Authority's Convictions Policy contained within, and the requirement to share all convictions. Members were also of the view that the Applicants employer, who the Applicant admitted assisted him with the application, should have been familiar with the Policy and that contained within around the required disclosure, and likely affect of criminal convictions upon an application, himself being the holder of multiple operator licenses and private hire licenses.

Members was also concerned to learn that the Applicant failed to respond to the letter from the Licensing Officer within the required time period with his submissions, claiming to have misread the final date for response. Members viewed the Applicant's failure to have double checked as a lack of commitment for the position of responsibility for which he was applying.

In concluding, Members had careful regard to the criteria set out in Torbay Council's Hackney Carriage and Private Hire Policy and resolved in this instance, that the Applicant was not fit and proper, and found that there was no justified reason to depart from the Policy. This, coupled with the concerns referred to above, resulted in what Members determined to be a proportionate and appropriate decision, in refusing the application at this time, in the interest of public safety.

Chairman/woman