

Minutes of the Regulatory Sub-Committee

11 July 2024

-: Present :-

Councillors Douglas-Dunbar, Barbara Lewis and Foster

1. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chair for the meeting.

2. Apologies

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

3. Application for Torbay Council Driver's Licence

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

The applicant was not present at the hearing and Members chose for the hearing to proceed in his absence, having heard details from the Officer of the correspondence and contact made with the applicant prior to the hearing.

Subsequently, Members determined the Application based on the written facts before them, pertaining to 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 a licence.

Decision

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

Reason for Decision

In coming to their decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the Applicant alone. An unequivocal and unanimous answer by Members to this question was 'no'.

As the Applicant failed to arrive for the hearing, Members made an initial determination as to whether the hearing should proceed in his absence. The Licensing Officer confirmed that the Applicant was sent a letter to his home address on 23 May 2024 detailing the time, date, and location of the hearing to which no response was received. Considering the lack of response to the letter, the Licensing Officer had telephoned and spoken to the Applicant the day prior to the hearing who confirmed that he would attend. The Licensing Officer had followed up the conversation with an email which stated that failure to attend the hearing may result in the matter being heard in his absence. Members were satisfied that sufficient steps had been taken by the Licensing Officer to notify the applicant of the hearing and to gain his attendance and under these circumstances, determined unanimously that it was in the public interest for the hearing to go ahead in his absence.

Members proceeded to hear from the Licensing Officer that the Applicant had made the appropriate disclosure within his application, resultant in criminal convictions with the Enhanced Disclosure and Barring Service (DBS) check showing that the Applicant held 22 convictions in total made up of 8 violent offences, 1 drug offence, 8 dishonesty offences, and 5 major traffic offences, all committed between 2007 and 2017. Whilst the Applicant had stated within his application, that he had many convictions as a juvenile, the DBS showed that only 6 of the 22 convictions were determined by the Juvenile Court.

Members were directed to the Taxi & Private Hire Vehicle Licensing Criminal Convictions Policy (the Policy), found at Appendix A of the Taxi Policy, which states at section 2.3 that

'A licence will not normally be granted if an Applicant has more than one conviction for a dishonesty offence'

And further at 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*'.

Furthermore, Members were reminded 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 an Applicant or a driver, is a 'fit and proper person' to hold a driver's licence.

Naturally, Members were concerned with the Applicants numerous convictions and particularly, the offences of a violent nature, but noted to his credit, that the Applicant was 6.5 years free from convictions. Members were disappointed that the Applicant, despite being requested to do so by letter dated 23 May 2024, had not provided any mitigating circumstances. In doing so, Members would have been able to determine if there were appropriate circumstances to enable them to depart from Policy and not being able to hear from the Applicant personally, resulted in a determination on the evidence before them.

Whilst it was noted by Members that the Applicant had stated that he had attended a Voluntary Rehabilitation Course to turn his life around, within an email to the Licensing Officer, the reference form that he had stated to have attached was not and had not been subsequently provided. As the Applicant chose not to attend the hearing, Members were not able to question him on this or ascertain what other positive steps he had taken.

Members viewed the Applicants failure to attend the hearing or respond to Officers communications as disrespectful, and demonstrated a lack of commitment for the position of responsibility for which he was applying and raised concerns about potential reliability for customers. Of greater concern to Members, having considered the newspaper article provided by the Licensing Officer in respect of his most recent conviction in January 2018, was the reported temperament of the Applicant and his attitude and behaviour towards those in positions of authority, at the time of his arrest. Without meeting the Applicant and determining his temperament for themselves, this only added to Members determination that they could not be satisfied that the Applicant was 'fit and proper' to hold a driver's licence.

In concluding, having carefully considered all the evidence before them and the criteria set out in Torbay Council's Hackney Carriage and Private Hire Policy, Members unanimously resolved to refuse the application, as they could not be satisfied on the evidence before them, that the Applicant was a 'fit and proper' person to hold a Torbay Council Drivers Licence and found no 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
