

LICENSING AND REGULATORY SUB-COMMITTEE

TUESDAY, 9 NOVEMBER 2021

Present:

Councillors Evans, Nutley (Chair) and Rollason

Officers in Attendance:

Licensing Manager

Licensing Officer

Legal Assistant

Interim Head of Legal Services & Monitoring Officer to the Council

53. APOLOGIES (IF ANY)

No apologies.

54. MINUTES

The Minutes of the meeting held on the 22 September 2021 were approved as a correct record and signed by the Chair.

55. DECLARATIONS OF INTEREST (IF ANY)

None.

56. REQUEST FOR HACKNEY CARRIAGE VEHICLE LICENCE FOR VEHICLE OVER 5 YEARS - SO65 LNY

The Licensing and Regulatory Sub-Committee was asked to consider an application for a Hackney Carriage Vehicle Licence for a Kia Optima vehicle registration SO65 LNY.

The Sub-Committee noted the information provided by way of the report. In particular it noted that the vehicle's MOT certificate expires in September 2022 and the advisories on this had been dealt with. The Sub-Committee were informed that the vehicle passed its annual taxi inspection test on 3 November 2021.

The Sub-Committee was satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee granted the 12 month Hackney Carriage Vehicle Licence as detailed in the report with no additional conditions.

57. REQUEST FOR PRIVATE HIRE VEHICLE LICENCE FOR VEHICLE OVER 5 YEARS - LJ15 OHU

The Licensing and Regulatory Sub-Committee was asked to consider an application for a Private Hire Vehicle Licence for a Toyota Prius vehicle registration LJ15 OHU.

The Sub-Committee noted the information provided by way of the report and heard representations from the Applicant. In particular it noted that the vehicle's MOT certificate (with no advisories) expires in June 2022. The Sub-Committee were informed that the vehicle passed its annual taxi inspection test on 29 October 2021 with one advisory.

The Sub-Committee was satisfied that the vehicle was in a good and sound condition and that public safety would not be compromised by the granting of the licence sought.

Decision

Accordingly, the Sub-Committee granted the 12 month Private Hire Vehicle Licence as detailed in the report subject to the condition that the driver of the vehicle obtains their Operators licence along with obtaining the appropriate insurance.

58. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1,2 and 5 of Part 1 of Schedule 12A of the Act.

59. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee gave consideration to a report presented by the Licensing Manager (previously circulated) in which determination was sought in respect of the review of a Driver's Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Driver attended the meeting and was represented by their agent. Both were permitted to speak. The Driver made submissions and answered questions put to them by the Sub-Committee.

Arising from consideration of the report, evidence presented and in accordance with the Council's procedure for hearings, it was moved by Councillor Evans and seconded by Councillor Nutley, and

RESOLVED that the Driver's Hackney Carriage and Private Hire Vehicle Licence be revoked with immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, in order to promote public safety due to the

conduct of the Driver as set out in the Report, as the Sub-Committee felt there was reasonable cause to support its view that the driver was not a fit and proper person to hold such a Licence.

Reasons for the decision:

Members noted the information set out in the Report in relation to the alleged conduct of the Driver, particularly that they had failed to disclose convictions for speeding and a subsequent disqualification from driving as required by the Council's Licensing Policy. Members of the Sub-Committee took into account the number of convictions for speeding and the time period during which those convictions occurred when making its decision.

Members of the Sub-Committee noted that the Driver's attitude to the speeding offences appeared to be one of remorse but that they sought to attach blame for their actions onto their customers stating that they were pressurised into exceeding speed limits.

The Driver's conduct greatly concerned Members as licensed drivers are in a responsible position and are required to transport the general public in their vehicle including children, the vulnerable and the elderly and often alone. Members felt that the information showed that, on balance, the Driver's conduct was inappropriate for a licensed driver. As such Members were of the view that the Driver was not a fit and proper person to hold such a licence.

Members of the Sub-Committee applied the test of whether they would be happy for a person they cared about or a vulnerable person to travel alone in a vehicle with the Driver. Taking all matters into account, Members concluded that they would not.

The Sub-Committee noted its overriding duty to the public, and of the importance of protecting the public and public safety and considered that, on balance, there was reasonable cause to show that the Driver was not a fit and proper person to hold a Licence.

The Sub-Committee therefore considered it to be reasonable and proportionate to revoke the Driver's Hackney Carriage and Private Hire Vehicle Licence with immediate effect.

60. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE

The Sub-Committee gave consideration to a report presented by the Licensing Manager (previously circulated) in which determination was sought in respect of the review of a Driver's Hackney Carriage and Private Hire Vehicle Driver's Licence.

The Driver attended the meeting and was represented by Counsel, who made oral submissions to the Sub-Committee. The Driver answered questions put to them by the Sub-Committee.

Arising from consideration of the report, evidence presented and in accordance with the Council's procedure for hearings, it was moved by Councillor Evans and seconded by Councillor Nutley, and

RESOLVED that the Driver's Hackney Carriage and Private Hire Vehicle Licence be revoked with immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976, in order to promote public safety due to the conduct of the Driver as set out in the Report, as the Sub-Committee felt there was reasonable cause to support its view that the Driver was not a fit and proper person to hold such a Licence.

Reasons for the decision:

Members noted the information set out in the Report in relation to the alleged conduct of the Driver, in particular that they had not been truthful when responding to questions put to them by the Licensing Officer when asked if their vehicle had been used. The Sub-Committee also noted that the vehicle had been driven for over 200 miles when in a dangerous condition.

Members of the Sub-Committee noted that the Driver did not contact Devon County Council in relation to rearranging their commitments and heard that there appeared to be no formal policy in place to cover a driver's inability to fulfil driving contracts. The Sub-Committee noted that the Driver had tried to find cover but had been unable to do so and had panicked.

Members of the Sub-Committee accepted the Driver's sincere remorse; that the impact of their decision on their home life as well as their working life had been and is significant (although this was not a material consideration). The Sub-Committee accepted that the driver's previous conduct had never given cause for concern.

However, the Sub-Committee considered that the Driver had made a deliberate decision to put commercial gain before the safety of their passengers (who during the material time were children) and the public at large placing them at significant risk of harm.

Applying the test of whether Members of the Sub-Committee would be happy for a person they cared about or a vulnerable person to travel alone in a vehicle with the Driver, it was concluded that they would not.

The Sub-Committee noted its overriding duty to the public, and of the importance of protecting the public and public safety and considered that, on balance, there was cause to show that the Driver was not a fit and proper person to hold a Licence.

The Sub-Committee therefore considered given the circumstances of this case that it be reasonable and proportionate to revoke the Driver's Hackney Carriage and Private Hire Vehicle Licence with immediate effect.

CLLR J Nutley
Chair