

Full Licensing Committee

Wednesday, 8th June, 2022
Times Not Specified

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Richard Pineger, Julie Sankey, Diggory Seacome, Izaak Tailford, Simon Wheeler and Bernard Fisher
Also in attendance:	Vikki Fennell, Jason Kirkwood, Judith Baker and Bev Thomas

Minutes

- 1. APOLOGIES**
Apologies were received from Councillor Harman.
- 2. DECLARATIONS OF INTEREST**
There were none.
- 3. PUBLIC QUESTIONS**
There were none.
- 4. MINUTES OF PREVIOUS FULL LICENSING COMMITTEE MEETING**
The minutes of the Full Licensing Meeting held on 1st September 2021 were approved as a true record by all Members who were present.
- 5. MINUTES OF LICENSING SUB-COMMITTEE MEETING**
The minutes of the Licensing Sub-Committee Meeting held on 6th April 2022 were approved as a true record by all Members who were present.
- 6. APPOINTMENT OF SUB-COMMITTEES**
The Senior Licensing Officer confirmed that Licensing is one of two regulatory committees with a broad range of delegated powers as set out in the constitution. Since 2017, some of its work has been dealt with by two sub-committees, each comprising five Members (currently four LibDems and one Conservative), as nominated by the groups.

The Chair confirmed that he and Councillor Boyes would continue as Chair and Vice-Chair of Licensing Sub-Committee-Miscellaneous; the Licensing Sub-Committee-Alcohol and Gambling was a 3-person committee which elected a Chair on the day. Nominations for the two sub-committees were set out in the papers, and the Chair invited Members to vote for them as listed en bloc.

The nominations were approved unanimously.
- 7. APPLICATION FOR A (LATE) RENEWAL OF PRIVATE HIRE VEHICLE PROPRIETOR'S LICENCE**

The Chair explained the process, then introduced the Senior Licensing Officer, who summarised the case as set out in his report. In order to benefit from continuity rights, a licence should be renewed in a timely fashion, but in this case was allowed to lapse. He said the matter was complicated and reflected a situation not envisaged in the legislation – the Covid pandemic and its effect on trade – and Members must decide whether this justified the lapse and was reason enough to depart from the council's usual renewal policy. Public safety must always be the overriding consideration - in this case, there was no risk – so Members were being asked whether the late renewal should be granted, with continuity rights, or a new application be required.

The Chair noted that the vehicle is seven years old, with Euro 5 or 6 emissions, in line with current policy. The Senior Licencing Officer confirmed that new Private Hire Vehicle licence applications required the vehicle to be less than five years old, but for a renewal it can be older.

The applicant had no questions for the officer, and was invited to explain her late renewal application. She said she got her licence and started driving in December 2019, working for three months before lockdown. Evening and night-time work suited her family life, but when restrictions began to be lifted and only daytime work was available, she decided not to renew her licence as she could not leave her children during the day. She and her partner needed extra income to support their household, but could not afford a vehicle less than five years old required for a new licence.

In response to a Member question, she confirmed that she has only had two very minor accidents and two parking tickets since she started driving.

In debate, Members made the following points:

- the overriding consideration is public safety, and the applicant has shown herself to be honest in her statement. She has explained how much she wants the role and how it will work with her family situation, and there is no doubt that the unusual circumstances of the pandemic badly affected trade;
- there is no risk to public safety with regard to the vehicle or the suitability of the driver;
- buying a new car for a new licence would not be easy, and had the applicant renewed in good time, she would have been driving the same car anyway.

The Chair summarised Members' views as follows:

- no public safety concerns;
- no environmental concerns – the vehicle is Euro 5 or 6 emissions;
- Covid had a huge impact on all manner of professions, and it seems reasonable to vary the policy in light of this;
- the availability of cars is challenging;
- due regard should be paid to the equality act, in view of the applicant's childcare responsibilities.

The applicant had no further comments, so the Chair moved to the vote.

4.1(a) – give delegated authority to officers to grant late renewal

8 in support - unanimous

Carried

The Chair advised the applicant that officers would write to her to confirm.

8. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE

The Chair explained the process to the applicant, drawing the applicant's attention to the Licensing Committee privacy statement, and making him aware that information shared with the committee may be disclosable under the Data Protection Act and GDPR. He said the applicant had the right to refuse to answer specific questions or not speak, but in the absence of any information to the contrary, the committee was entitled to draw their own conclusions based on the information available to it. He asked the Senior Licensing Officer to introduce the case.

The Senior Licensing Officer reminded Members that on hearing the case, and taking into account any mitigating circumstances, they needed to decide whether the applicant was fit and proper to hold a licence, and what actions they felt should be taken – no action, a written warning, a requirement to take an advanced driving test, suspension, or revocation. He said the driver was not currently suspended, so if using the power of immediate suspension would not be appropriate.

He highlighted a number of considerations in the detailed taxi policy – drivers should abide by good code of conduct, drive with due care and attention at all times, and consider other road users and pedestrians. He confirmed that the driver has no record of previous offences, and licensing officers generally follow a 'three strikes' policy for less serious offences, but the report suggests that officers believe the standard of driving in question requires something more.

Government guidance suggests that a 'fit and proper' driver can be defined as one with whom you would allow a person for whom you care to travel alone. This is a difficult situation and the driver cannot be given the benefit of the doubt, but if Members feel 51% certain that he is not fit and proper, they can revoke his licence or take other measures to resolve the situation.

He said the report did not reflect the conversation between the applicant and the enforcement officer, and advised the applicant to be honest and tell the committee if there were any anomalies.

Members were shown a video of the incident, and were advised by the Senior Licensing Officer that there have been no previous complaints about the applicant's driving.

The applicant did not have any questions for the officer, and was invited to explain the incident. He told Members that he had had a bad experience with travellers a few years ago, refusing to pay and taking his keys, as a result of which he was always nervous when picking them up – as were most drivers, some of whom refuse to do so. On the evening in question, he picked up a fare from the railway station after a long wait, started driving to where he understood the person wanted to go, but as he approached what he thought was the correct turn-off from the Golden Valley roundabout towards Churchdown, the man shouted that he was going the wrong way and grabbed his arm to turn the wheel. His reaction was to panic and cut across the lane. He is not proud of what he did, has driven for 22 years with no incident, and offered his apologies for the incident.

Member questions

In response to questions from Members, the applicant confirmed that:

- there was one passenger in the car;
- he approached the roundabout as if to take the Churchdown turnoff, but panicked when the passenger shouted that this was the wrong way and grabbed his arm;
- the passenger was sitting in the back and pushed his left arm from behind;
- the passenger wasn't wearing a seatbelt – most passengers do so automatically, and if not he usually asks them to do so, but didn't ask this passenger as he was on the phone and agitated and would not have done so;
- the incident was reported to the police, who contacted him to confirm that he was the driver; he has not heard anything else from the police;
- the passenger actually wanted to go to Coldpool Lane, not Churchdown;
- the vehicle is a Vauxhall Insignia; it does not have CCTV though officers have since recommended this;
- the passenger was on the phone when he got into the car. He was with a friend, who got into a different taxi and did not cause any problems to that driver.

The Senior Licensing Officer stressed the importance of all passengers wearing seatbelts, saying that any insurance could be invalid if they don't. He wondered about the extent to which the passenger touched the driver's arm, and said the concern to the council was that the driver made such a violent move when the customer shouted. The applicant said he was not proud of his reaction and could have handled it better - he was a safe driver, who also held a bus driver's licence, but memories of his own and his colleagues' experience with this type of passenger made him particularly nervous.

Member debate

Members made the following points:

- the video footage shows a very dangerous manoeuvre but having heard the driver's story of events, it is clear that he was in a scary situation and the actions he took were for his own safety in extraordinary circumstances; it was not the way he usually drove;
- as the driver has not been suspended already, it isn't necessary to suspend him now, but regardless of the situation he was in, the video showed dangerous driving and as public safety is the ultimate concern, some sort of assessment would be appropriate;
- watching the video in slow motion, it is clear that the driver managed a difficult situation by braking, indicating and driving across the lane in time for the car in that lane to stop – perhaps not as dangerous as was being made out, in which case a written warning may be more appropriate than a driving assessment. The applicant is a professional driver of 22 years, with no fines or problems, not a reckless joy-rider;
- a written warning suggests carelessness and would not have any great value, as the driver was forced to take the action he took, but training might provide the tools needed to handle a similar situation in a better way.

The Chair suggested that suspending or revoking the licence was disproportionate, but some action needed to be taken. Members could vote for both a written warning and an advanced driving assessment should they wish, but if minded to recommend a driving assessment, they would need to include a time limit.

After further discussion of the options, the applicant was invited to respond to the debate. He said he would respect any decision made by the Committee – his actions were a mistake, not intentional, but he will do whatever has to do to keep his licence.

The vote was taken on the various resolutions as follows:

1.4.1 – to take no action

0 in support

8 in objection

Not carried

1.4.2(a) – written warning

4 in support, including Chair's casting vote

4 in objection

Carried

1.4.2(b) - advanced driving assessment

6 in support

2 in objection

Carried

1.4.2(c) - suspend

0 in support

8 in objection

Not carried

Regarding the timescale for the driving assessment, Members were advised that assessments are available in Gloucester and the applicant would have no trouble doing it within three months.

Members agreed unanimously that the driver should undertake an advanced driving assessment in three months.

The Chair advised the driver that he would receive a written warning and must complete an advanced driving assessment at his own expense within three months. Officers would write to him with the details, and he had the right to appeal within 21 days.

**9. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION
RESOLVED THAT**

“in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining agenda items as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will

be disclosed to them exempt information as defined in paragraphs 1 and 2, Part (1) Schedule (12A) Local Government Act 1972, namely:

Paragraph 1: Information relating to any individual

Paragraph 2: Information which is likely to reveal the identity of an individual

- 10. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**
A review of a Hackney Carriage Driver's Licence was undertaken by Members.
The licence was revoked.

- 11. REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE**
A review of a Hackney Carriage Driver's Licence was undertaken by Members.
The licence was revoked.

- 12. BRIEFING NOTE: TAXI SAFEGUARDING**
A Briefing Note was circulated and discussed by Members.

- 13. REVIEW OF PREVIOUS DECISIONS**
No previous decisions were reviewed.

- 14. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND REQUIRES A DECISION**
There were none.

- 15. DATE OF NEXT MEETING**
To be confirmed.

David Willingham
Chairman