

Cheltenham Borough Council

Licensing Committee – 6 December 2013

Application for a Private Hire Driver's Licence

Mr Gareth John James

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Gareth James for a Private Hire Driver's Licence.
- 1.2 Mr James has a number of convictions. The details of these are contained in the enclosed background papers.
- 1.3 In light of this Members of the Committee should be aware of the convictions because of:
- 1.3.1 The nature of the offences; and
- 1.3.2 The need to ensure that Mr James is judged to be a fit and proper person to hold a Private Hire Driver's Licence.
- 1.4 **The Committee is recommended to resolve that Mr James's application:**
- 1.4.1 **be granted as Mr James is a fit and proper person, or**
- 1.4.2 **be refused on the grounds that Mr James is deemed not to be a fit and proper person.**

1.5 Implications

- 1.5.1 Financial **Contact officer: Sarah Didcote**
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 264125
- 1.5.2 Legal There is a right of appeal against a refusal to grant a licence which, in the first instance, is to the Magistrates' Court.
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2. Background

- 2.1 The Borough Council must be satisfied that the holder of a Private Hire Driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

3. Policy Considerations

- 3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.

- 3.2 Each case will be decided on its own merits. The Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.3 The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.

Drunkenness

- 3.5 A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.
- 3.6 Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

Offences of Dishonesty

- 3.7 Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.
- 3.8 Passengers may include especially vulnerable people.
- 3.9 Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.
- 3.10 The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.
- 3.11 For these reasons a serious view is taken of any convictions involving dishonesty. In general an applicant with convictions for dishonesty, which are less than 4 years old, is unlikely to be considered favourably.

4. Licensing Comments

- 4.1 Members are to refer to the enclosed background papers for a full list of convictions and an explanation of how the Council’s Policy applies to each type of offence.
- 4.2 The Committee must seek to promote its own adopted policy and only deviate from it where there are strong and defensible reasons.
- 4.3 The Committee must be satisfied that Mr James is a fit and proper person before agreeing to the grant of a licence. The refusal recommendation is based upon the policy guidelines and public safety given the close contact that licensed drivers maintain with members of the public.
- 4.4 Mr James has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members’ questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Report Author

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