

Cheltenham Borough Council

"Miscellaneous" Licensing Sub-committee – 5 August 2020

Renewal of Hackney Carriage Driver's Licence

Mr Robert George Wesley Hawkes - HCD137

Report of the Licensing Team Leader

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Robert Hawkes for a renewal of a Hackney Carriage driver's licence.
- 1.2 Mr Hawkes reported a number of DVLA penalty points on his renewal form. The details of these are contained in the enclosed background papers.
- 1.3 Mr Hawkes is being referred to the licensing committee because:
 - 1.3.1 He did not declare these penalty points to the authority's licensing section; and
 - 1.3.2 He has over 7 penalty points on his DVLA driving licence.
- 1.4 **The Committee can:**
 - 1.4.1 **Grant Mr Hawkes' Hackney Carriage driver's licence for a further three year period if the committee is satisfied that he is a fit and proper person; or**
 - 1.4.2 **Grant Mr Hawkes' Hackney Carriage driver's licence for a further three year period if the committee is satisfied that he is a fit and proper person but issue him with a formal written warning as to his future conduct; or**
 - 1.4.3 **Refuse to grant his application for a Hackney Carriage driver's licence because the committee no longer considers him to be a fit and proper person.**

1.5 Implications

1.5.1 Legal

There is a right of appeal against a refusal to renew 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 Hackney Carriage 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.
- 3.5 The relevant policy extracts are referenced in the accompanying background papers.
- 3.6 In addition, Part 1 of the licensing policy states:

Convictions / cautions / fixed penalty notices / criminal investigations

Licence holders must notify the council in writing within 7 days if he or she is convicted or cautioned for an offence, receives a fixed penalty notice or is the subject of a criminal investigation.

4. Licensing Comments

- 4.1 The committee is under a statutory duty to ensure that licensed hackney carriage drivers are fit and proper people.
- 4.2 In coming to a determination on whether the licence holder is fit and proper, Members must have regard to the adopted licensing policy and must not arbitrarily deviate from the policy.
- 4.3 Where Members are of the view that, considering the individual circumstances of the case, the circumstances are such that a deviation from the policy is justified, you must provide clear reasons for doing so.
- 4.4 Mr Hawkes has provided a written response giving explanation as to his position on the matters before the committee for consideration. His written response can be found on the accompanying background papers.
- 4.5 Members are to note that Mr Hawkes stated that he was unaware of the requirement to report convictions to the authority. However, in 2016 Mr Hawkes correctly answered the question on his local knowledge test. The question that he answered correctly asked: *“You are a licensed driver and receive a fixed penalty notice with penalty points for an offence of speeding what must you do?”*

This calls into question Mr Hawkes’ assertion that he did not know of the need to report points to the authority at the time of the offence(s).

- 4.2 Mr Hawkes 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.

Service Records

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