

Licensing Sub-Committee - Miscellaneous

Wednesday, 6th July, 2022

6.00 - 7.20 pm

Attendees	
Councillors:	David Willingham (Chair), Angie Boyes (Vice-Chair), Barbara Clark, Diggory Seacome and Simon Wheeler
Also in attendance:	Vikki Fennell (One Legal) Louis Krog (Head of Public Protection)

Minutes

1. APOLOGIES

Prior to the apologies the Chair opened the meeting confirming that the Purple Flag has been retained and offered his congratulations to Colin Pilsworth, the coordinator, along with the Licensing Team and the other organisations who work on this to make it possible.

He also offered his congratulations to Louis Krog on his new position as Head of Public Protection. He also confirmed that Jason Kirkwood would be stepping into the role as a temporary measure until a new Licensing Team Leader is appointed.

The Chair then went to the apologies – there were none.

2. DECLARATIONS OF INTEREST

Cllr Willingham declared that he had a mobile contract with 3 and that he had made an independent site visit.

3. APPLICATION FOR A HACKNEY CARRIAGE DRIVERS LICENCE.

The Head of Public Protection introduced the report. He explained that the reason that it was at committee was due to the fact that the applicant had 2 motoring convictions, one being in the last 12 months, and didn't want to incur the expense of paying for the necessary tests if he was not going to be granted a licence

The following responses were given in response to Member questions:

- There was confirmation that the assessment that the applicant would take was just the standard assessment.
- The information that the DVLA holds on the applicant has been disclosed.
- There was also confirmation that you can only do 1 speed awareness course in a three year period.

The applicant was then asked to address the committee and he made the following points:

- He is currently a private hire driver with Tewkesbury Borough Council.
- He alleged that there are drivers that are favourites in the private hire offices so therefore the jobs aren't distributed fairly. He felt that working on the rank would be fairer. He applied for a Hackney licence to give him the potential to earn more money and be free to work independently.
- He explained that the first set of points was awarded when he was an Amazon delivery driver, he stated that although the shift should have been 8 or 9 hours they ended up being 12-14. The day he was awarded his points he was tired having worked such a long day and it was dark and he was a few miles over the limit. He hadn't seen the camera and paid the fine and took the three points.
- The second penalty was in January 2022 when the applicant was working as a delivery driver for a car parts company. He had to get home quickly due to a personal reason and he went to overtake two bikes that were in front of him going up a hill, he had to put his foot on the gas to pass them. He was not aware of the speed limit and was trying to overtake to get to a roundabout quickly. He has not received any other penalties.

The Members then had the opportunity to ask the applicant questions and the responses were:

- He applied for a private hire licence in Tewkesbury as he did not have the funds to purchase a new car as per CBC policy.
- He had been granted a licence in Tewkesbury in December 2021 but did not receive it until January 2022.
- He stated that although there is reference to the applicant writing a letter he has not done so.
- He confirmed that neither offence occurred when he was driving a taxi it was whilst driving good vehicles.
- One offence was for driving 37mph in a 30 limit and the other was for going more than 45 mph but less than 50 mph.
- He stated that he is aware that he is responsible for the safety of his passengers and understood and accepted the risk.
- The applicant had made TBC aware of the points that he had been awarded.
- He understood that he would have to take a test.

The matter then went to Member debate where the following points were made:

- It is not for the committee to punish the applicant but to decide that they are fit and proper and safe to drive the public. The applicant was caught speeding, something that can easily happen and could happen to anybody.
- One Member stated that as the applicant still had to complete tests and had taken the time and trouble to attend the committee that some consideration can be given in mitigating circumstances ie dark or under pressure to make deliveries quickly.
- The point was made that as the applicant was driving in Tewkesbury there is no reason why he couldn't already be driving in Cheltenham.

- It was acknowledged that the applicant had been open with officers, he has declared the points to TBC and been open with the committee. TBC have concluded that he is fit and proper. Stated that there are reasons to vary the policy in the current circumstances.
- One Member stated that as it seems that the offences were committed due to the pressure of time commitments and if the applicant is working within his own parameters this should not be an issue.
- There was confirmation that the driving tests are still to be done.

The Head of Public Protection stated that in the Licensing Policy at appendix N there are provisions relating to recommended hours of working and that the committee may wish to remind the applicant of these working practices.

The applicant was then given the final right to reply where he stated that this job will be paying his bills and he doesn't speed intentionally. He understands the responsibility of the job and does not want to put anyone's life at risk.

The matter then went to the vote

1.4.1 to grant the licence:

For : 5

Against: 0

The licence was granted with confirmation that the officer will send details regarding working times and ensure that the tests are completed.

4. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY

The Head of Public Protection introduced the report.

There were no representatives for the applicant.

The responses to Member questions were as follows:

- There was clarification that the A board would be adjacent to the front door by the display window.
- There was acknowledgement that a plan would be helpful and would be provided going forward.

The matter then went to Member debate where the following points were raised:

- One Member made the point that the shop are a ground floor premises so there should be no reason for them to need the board and could not see how the board would benefit the business.
- As the shop is no different to when the applicant moved in they should look at their existing signage, their signage is not a reason to deviate from the policy.
- The committee is required to be a good regulator of the policy, A boards are clutter. The applicant makes references in his application to other A boards that are around the town. This is a matter for licensing enforcement and not a reason to grant permission.
- Having looked at the mapping pre the Regent Arcade it shows that the sticking out part of the building was there already. The agent of change principle will apply, cannot change something that was already there.

- There was a point raised regarding building across the front but it was explained that this is a planning issue not a licensing one.
- Although there is a tree in the way when you view the store from the Regent Arcade this was there when they took over the property and therefore does not seem a reason to deviate from the policy.
- One member stated that there does not appear to be any numbers on any of the buildings so that does not help.
- It was established that the store has a bracketed sign next to the boundary with Marks and Spencer.

As the applicant was not there to make any further representation the matter went to the vote:

1.2 to Grant –

For: 0

Against: 4

Abstain: 1

Refuse:

For: 4

Against: 0

Abstain: 1

The application was refused

5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION

There were none

David Willingham
Chairman