

Cheltenham Borough Council

Licensing Committee – 1 November 2013

Application for a Hackney Carriage Driver's Licence

Mr Giuseppe Maurizio Licata

Report of the Senior Licensing Officer

1. Executive Summary and Recommendation

- 1.1 An application has been received from Mr Giuseppe Maurizio Licata for a Hackney Carriage driver's licence.
- 1.2 Mr Licata has a number of convictions. The details of these are contained in the enclosed background papers.
- 1.3 In light of this the Public Protection Manager has taken the view that Members of Committee should be aware of the convictions because of:
- 1.3.1 The nature of the offence; and,
- 1.3.2 The need to ensure that Mr Licata is judged to be a fit and proper person to hold a Hackney Carriage Driver's Licence.
- 1.4 The Committee is recommended to resolve that Mr Giuseppe Maurizio Licata's application:**
- 1.4.1 be granted as Mr Licata is a fit and proper person, or**
- 1.4.3 be refused on the grounds that Mr Licata is deemed not to be a fit and proper person.**

1.5 Implications

1.5.1 Financial

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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 Hackney Carriage driver's licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

- 2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the offence, the applicant is a fit and proper person to hold a licence.

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 Cheltenham Borough Council's policy on the relevance of convictions relates to the Council's assessment of the suitability of an applicant for licensing as a driver of taxis and/or private hire vehicles in terms of their criminal and driving records. Specifically, it is to be applied where an applicant for a driver's licence has received a relevant conviction, caution or fixed penalty.
- 3.3 Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.
- 3.4 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.
- 3.5 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.

Major Traffic Offences

- 3.6 An isolated conviction, without disqualification, for an offence such as dangerous driving or driving without due care and attention will require careful consideration of the facts and will at the very least merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. However, where the conviction is within 6 months prior to the date of the application the application will normally be refused.
- 3.7 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.

Minor Traffic Offences

- 3.8 Isolated convictions for minor traffic offences should not prevent a person from proceeding with an application. However, the number, type and frequency of this type of offence will be taken into account and if there are several offences of this nature the applicant will normally be expected to show a period free of conviction of at least 6 months.
- 3.9 In particular, an application will normally be refused where the applicant has received 12 or more penalty points on his DVLA licence in the five years prior to the application being made (whether or not the applicant was convicted by a court for the offences for which the points were imposed) or where the applicant has more than one conviction for this type of offence within the last 6 months.

Drunkenness

With a motor vehicle (Disqualification)

- 3.10 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.

Drugs

- 3.11 An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.
- 3.12 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3 years will require careful consideration of the facts.

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 Members may wish to note that Mr Licata previously applied for a hackney carriage driver's licence on two occasions. On both occasions his application was referred to the Licensing Committee: on 8th April 2011 and 2nd March 2012. Members refused both applications however on 8th April 2011 the Licensing Committee suggested that Mr Licata submit another application two years from the date of the Licensing Committee for consideration.
- 4.4 Mr Licata 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.
- 4.5 The Committee must be satisfied that Mr Licata 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.

Background Papers

Service Records

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