

No.

PUBLIC PROTECTION LICENSING COMMITTEE

Minutes of a meeting held on 8th January, 2019.

Present: Councillor V.P. Driscoll (Chairman); Councillor Mrs. J.E. Charles (Vice-Chairman); Councillors G.A. Cox, R. Crowley, O. Griffiths, Dr. I.J. Johnson, K.P. Mahoney, L.O. Rowlands and J.W. Thomas.

627 APOLOGIES FOR ABSENCE –

These were received from Councillors Mrs. P. Drake, K.F. McCaffer, Mrs. A. Moore, Mrs. J.M. Norman and Mrs. M.R. Wilkinson.

628 MINUTES –

RESOLVED – T H A T the minutes of the meeting held on 4th December, 2018 be approved as a correct record.

629 DECLARATIONS OF INTEREST –

Councillor V.P. Driscoll	<p>Agenda Item No. 4 – Application to Waive the Vale of Glamorgan Council's Age Policy Guidelines for the Grant of a Hackney Carriage Vehicle Licence Skoda Octavia SE TDI CR.</p> <p>The Chairman declared a personal interest in that he was known to the Applicant through a distant relative.</p> <p>The Chairman withdrew from the meeting during consideration of the item.</p>
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630 APPLICATION TO WAIVE THE VALE OF GLAMORGAN COUNCIL'S AGE POLICY GUIDELINES FOR THE GRANT OF A HACKNEY CARRIAGE VEHICLE LICENCE SKODA OCTAVIA SE TDI CR (DEH) –

The Vice-Chairman, Councillor Mrs. J.E. Charles, chaired the meeting in the absence of the Chairman, who had vacated the Chamber.

The Licensing Team Manager presented the report to consider a request by Miss. Barbara Merry to waive the Vale of Glamorgan Council's Age Policy Guidelines in respect of a Hackney Carriage Vehicle Licence Application for a Skoda Octavia SE TDI CR five door hatchback diesel vehicle.

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The Officer advised that the Age Policy Guidelines for the Vale of Glamorgan had been in operation for a number of years and were last revised on 5th November, 2013 when the class of vehicle to which the Policy applied was simplified. Class 1 vehicles must be less than five years old to have a licence granted and Miss. Merry's vehicle fell within the Class 1 category with the first date of registration being 1st September, 2012 making the vehicle six years and three months old at the time of application.

On 14th December, 2018 Miss. Merry submitted an application for a Hackney Carriage Vehicle Licence for the aforementioned vehicle which was accompanied by a written request asking that consideration be given to waive the Age Policy Guidelines.

In conclusion, the Licensing Team Manager stated that if Members were minded to waive of Age Policy Guidelines in respect of Miss Merry's vehicle, Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 would apply and the vehicle would be presented for testing at the Alps Depot. Therefore, a licence would only be issued from the date the vehicle received a satisfactory pass certificate.

Following the Officer's presentation of the report, the Chairman invited the Applicant to make any representations in support of her application.

Miss. Merry began by introducing her Representative, Mr. Anthony Gee, who supported her in providing context for her recent application.

Miss. Merry advised that she had purchased the vehicle under consideration 12 months earlier and that she had been saving for over five years to purchase the vehicle.

Miss Merry believed that she had complied with the Age Policy Guidelines when purchasing the vehicle but subsequently felt that she had been given incorrect advice by the Council. Miss Merry did not proceed with the application for a licence or make a complaint about the advice she believed had been given.

At this point, Miss. Merry advised that she had not submitted a complaint previously due to a lack of knowledge on the process and she had since been made aware made aware of a recent waiver of the age policy guidelines and therefore wished to have a fair hearing.

A Member wished to clarify if Miss. Merry had been operating as a taxi driver prior to the purchase of the vehicle, to which, Miss. Merry advised that she had been driving with A2B cars for three years. In response to the Member's question as to whether Miss. Merry had made enquiries on the Age Policy Guidelines via her employer, Miss. Merry advised that she did not approach A2B before buying the vehicle as she wished to keep her private matters separate from her work colleagues and therefore conducted the research independently with support from her partner, Mr. Anthony Gee.

At this point, Mr. Gee wished to add that due to Miss. Merry's long working hours, he had done a significant amount of research on her behalf and had found it very

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difficult to ascertain the facts of the Age Policy Guidelines which, in his opinion, were not easily available.

RESOLVED – T H A T the request to waive the Vale of Glamorgan Council's Age Policy Guidelines in respect of the Hackney Carriage Vehicle Licence application for a Skoda Octavia SE TDI CR five door hatchback diesel be granted having had regard to Section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

Reason for decision

The Committee had regard to the facts presented by the Officer, the evidence presented by the Applicant and the Guidelines in the Council's Age Policy Guidelines.

The Chairman of the Committee returned to the Chamber and proceeded with the Part II items of the agenda.

631 EXCLUSION OF PRESS AND PUBLIC -

RESOLVED - T H A T under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 4 of Schedule 12A (as amended) of the Act, the relevant paragraphs of the Schedule being referred to in brackets after the minute heading.

632 DISCIPLINARY FOR EXISTING DRIVER – E (DEH) (EXEMPT INFORMATION – PARAGRAPHS 12, 13 AND 14) –

The Committee was requested to determine whether E was a fit and proper person to hold Vale of Glamorgan Council Hackney Carriage and Private Hire Driver Licences. E was present during the disciplinary.

The Licensing Team Manager began by advising that on 10th December, 2018 E had submitted an application to renew their Hackney Carriage and Private Hire Vehicle Driver licences but failed to declare that they had been convicted of three traffic offences during the periods that their licence had been in force. The application form was dated 26th November, 2018 and E had stated that they had received no motoring convictions since the last licence renewal on 8th December, 2015.

Furthermore, on 14th December, 2011 E had submitted an application to renew their Hackney Carriage and Private Hire Vehicle Driver Licences but failed to declare that during the period of their previous licence they had been convicted of a traffic offence which resulted in their Driving Licence being endorsed with three penalty points. E was therefore in breach of condition of the licence issued to them on 18th December, 2003. On the same date a warning letter was issued to E reminding them of their duty to notify the Authority within seven days of the imposition of a conviction.

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The Officer advised that Section 17.2 of the Vale of Glamorgan Licensing Policy states that “an existing licence holder found to be in breach of legislation, bylaw or licence condition is on the first occasion, likely to be warned in writing as to future conduct, provided that the breach did not compromise the safety of passengers or that the public were not put at risk”. The consequence of non-declaration was that the licensing authority had been prevented from assessing whether E remained a fit and proper person to hold a licence following each offence committed.

E was also subject to section 13.3 of the Vale of Glamorgan Licensing Policy which states that “more than one minor traffic conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding.”

Having heard the verbal representations provided by E, Members of the Committee questioned E in relation to the contents of the report and sought clarity on a number of current and historical matters.

Following this, the Committee then deliberated the matter in private.

Following the Committee’s deliberations, E and the Licensing Team Manager were invited back into the room for the Committee’s decision. It was

RESOLVED – T H A T the Committee, having considered the report by the Licensing Officer and the representations made by E in relation to whether they remained a fit and proper person to hold a Hackney Carriage and Private Hire Vehicle Driver Licence, had resolved that E was not a fit and proper person to hold a licence by virtue of the test set out at paragraph 13 of the report presented to the Committee.

Reason for decision

E had a history of failing to notify the department of traffic offences and was subject to a warning in 2011 in relation to the same. There were currently nine penalty points on their drivers licence and it was not accepted that E did not know that the points were on their licence. E accepted that the fines had been paid for the points but claimed not to be not aware that they had accrued them. E stated that they did not know what the fine amounts were but confirmed that they had been paid. E stated that they did not know that they had to notify the Council of the endorsements and E had failed to notify on three separate occasions, on renewal of their licence, on matters they were required to disclose. The Committee did not accept that E did not know that they had to notify the Authority of the endorsements and the fact that E maintained that they were not aware of the basic requirement was an added concern in relation to E remaining licensed in the future.

E was advised that they had the right of appeal to Cardiff Magistrate’s Court against the decision of the Committee within 21 days and they should take independent legal advice if they were in any doubt as to their legal rights and / or responsibilities.

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633 DISCIPLINARY FOR EXISTING DRIVER – L (DEH) (EXEMPT INFORMATION – PARAGRAPHS 12, 13 AND 14) –

The Committee was requested to determine whether L was a fit and proper person to hold Vale of Glamorgan Council Hackney Carriage and Private Hire Driver Licences. L was present during the disciplinary.

The Licensing Team Manager began by advising that on 14th December, 2018, L attended the Civic Offices at the request of the Licensing Department and advised Licensing Officers that they had been convicted of an offence relating to dishonesty. L did not inform the Licensing Authority of the ongoing criminal investigation within seven days of the commencement of the action as outlined in Section 8 of the Licensing Policy and the Council only became aware of the sentence following media reports.

The Officer added that L had been a licensed Hackney Carriage and Private Hire Vehicle driver since July 2011 and a copy of the Crown Court Certificate of Conviction was attached at Appendix A to the Part II report. L had been convicted of dishonestly failing to notify change of circumstances which affected their entitlement to social security benefits.

There were two issues for consideration: the conviction itself and the failure to declare the commencement of criminal proceedings.

In respect of the conviction, at its meeting on 4th March, 2014 the Licensing Committee adopted a Policy on the Treatment of Convictions, Cautions and Charges. The aim of the Policy was to protect the safety of the public. The criteria included the legal tests of whether a driver was a fit and proper person, whether the driver posed a threat to the public and that the public were safeguarded from dishonest persons.

Section 8 of the Policy dealt with dishonesty and Section 8.2 of the Policy set out the criteria for the grant / refusal / suspension or revocation of a licence as follows:

“An application will normally be refused or an existing licence suspended or revoked where an applicant / licence holder has a conviction(s) for an offence listed below and the conviction(s) or other matter(s) to be considered is less than three years prior to the date of the application.”

The Committee was further requested to consider that L had an historical conviction from 1986 which fell into the category of dishonesty.

Members were also advised that on 9th July, 2012 L received a written warning for a breach of condition of their licences in respect of the non-declaration of a speeding offence in January 2012 and on that occasion, L declared the offence on the renewal of their licence in July 2012.

Having heard the verbal representations and having sight of the supplementary information provided by L at the time of the hearing, Members of the Committee

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questioned L in relation to the contents of the report and sought clarity on a number of current and historical matters.

Following this, the Committee then deliberated the matter in private.

Following the Committee's deliberations, L and the Licensing Team Manager were invited back into the room for the Committee's decision.

The Committee, having considered the report presented and having taken into account all representations

RESOLVED – T H A T L was a fit and proper person to hold a Vale of Glamorgan Hackney Carriage and Private Hire Vehicle Driver Licence.

Reason for decision

To ensure decisions of the Licensing Authority are consistent with its Policy on the Treatment of Convictions, Cautions and Charges, in respect of drivers licences.