

LICENSING SUB-COMMITTEE

Minutes of the meeting of the Licensing Sub-Committee held on Wednesday, 5 August 2020 remotely via Zoom at 10.00 am

Committee Members: Mr N Housden Mrs P Grove-Jones
Mrs E Spagnola

Officers in Attendance: Licensing Enforcement Officer, Trainee Solicitor and Democratic Services & Governance Officer (Regulatory)

1 TO RECEIVE APOLOGIES FOR ABSENCE

None.

2 ITEMS OF URGENT BUSINESS

None.

3 DECLARATIONS OF INTEREST

None.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A (as amended) to the Act.

5 (WK/200010387) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

This application had been withdrawn by the applicant prior to the meeting.

6 (WK/200017416) - APPLICATION FOR A LICENCE TO DRIVE HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLES IN NORTH NORFOLK

Present (remotely): Applicant and Applicant's Supporter

The Chairman introduced the Members of the Panel and Officers.

The Legal Advisor outlined the purpose of the hearing and explained the procedure for the meeting. She reminded the Sub-Committee that the hearing was being conducted remotely via Zoom and must be conducted fairly and reasonably in line with the Applicant's right to a fair hearing under Article 6 of the Human Rights Act 1998. In the event of any participant leaving the hearing due to a technical issue, the hearing would not proceed until all parties were present.

The Licensing Enforcement Officer presented the report, which related to an application to drive Hackney Carriage or Private Hire Vehicles in North Norfolk where authority to issue a licence can no longer be delegated to officers and merited

further consideration by the Licensing Sub-Committee. She updated the Sub-Committee with regard to an appeal case referred to in the report. She emphasised that the hearing now in progress related to a new application to drive taxis in North Norfolk.

The Applicant's supporter referred to documents appended to the report and to a response given by Licensing Enforcement Officer at a previous hearing stating that driving without vehicle tax invalidated vehicle insurance. He asked the Licensing Enforcement Officer if she had evidence that this was the case in law or if it was something she believed to be the case.

The Licensing Enforcement Officer responded that it was her belief that under the Road Traffic Act, if a driver was not entitled to be on the road due to having no vehicle tax it had the potential to invalidate their insurance. In the event of an accident, it would be up to the insurance company as to whether it would cover any claim. She confirmed that this was how she had interpreted what she had read.

In response to questions by the Legal Advisor, the Licensing Enforcement Officer clarified the situation with regard to points on the Applicant's DVLA licence and confirmed that she was not aware of any complaints against the Applicant other than an anonymous complaint that had preceded the review which was heard on 29 January 2020.

In response to questions by the Chairman, the Licensing Enforcement Officer explained that the Applicant's vehicle was currently insured for his personal use. He would need to insure the vehicle for hire and reward in the event of the Sub-Committee granting him a taxi licence and she would require proof that the appropriate insurance was in place.

The Chairman invited the Applicant's Supporter to present the Applicant's case.

The Supporter explained the background to the application and the previous hearings by the Sub-Committee in respect of the Applicant. He explained in detail the reasons why he considered that driving an untaxed vehicle did not invalidate vehicle insurance as it was not an endorseable offence in law. He referred to a number of documents that he had supplied to the Democratic Services Manager. (These documents were made available to the Sub-Committee on its retirement to consider the case as it was not possible to display them on screen for the Sub-Committee at this time). He referred to a condition that had been placed on the Applicant's licence at a previous review that stated that should the Applicant appear before the Sub-Committee a less favourable view may be taken. He considered that the condition might not have been applied if the Sub-Committee had been advised correctly by the Licensing Enforcement Officer. Due to this error, the Applicant had subsequently lost his livelihood and good reputation.

The Chairman stated that the key issue at the January 2020 hearing was not insurance per se, but the Applicant's contravention of the Council's Taxi Handbook and Policy by driving an untaxed vehicle. The Handbook and Policy required valid vehicle tax, MOT and insurance to be in place in order to drive a taxi. The context of the current hearing related to whether or not the Applicant was a fit and proper person to hold a licence based on the 'fit and proper test' criteria.

The Supporter stated that the Applicant had made a mistake with regard to the tax, and explained that he was working with the Applicant to ensure that procedures were in place to avoid any future oversights.

The Licensing Enforcement Officer put the question to the Applicant's Supporter as to whether or not it was a legal requirement to have a road fund licence to drive on the public highway, except where exceptions applied.

The Applicant's Supporter confirmed that it was a legal requirement, as far as he was aware.

The Chairman commented that he had contacted his own insurance company when it had been announced that MOT tests could be deferred because of Covid-19 and was told that it could not categorically guarantee his vehicle would be covered by insurance in the event of a serious accident if an MOT was not up to date. The Licensing Enforcement Officer had categorically stated that any vehicle on the public highway should be taxed.

Councillor Mrs E Spagnola referred to a change in legislation that had come into force before the Applicant purchased his vehicle, which required a new owner to tax a vehicle immediately. She requested clarification as to whether the Applicant had failed to tax the vehicle on purchase or at subsequent renewal.

The Applicant's Supporter explained the circumstances under which the Applicant purchased the vehicle but he was unaware as to how the tax situation arose. In response to further questions from the Sub-Committee, he confirmed that the Applicant was in possession of the log book but was not sure when he received it, and he had checked that the Applicant was the legal owner of the car.

In response to a question by Councillor Mrs P Grove-Jones regarding the Applicant's motoring offences, the Applicant's supporter confirmed that they had involved speeds that were marginally over the limit and that the Applicant was not carrying passengers at the time.

Councillor Mrs Grove-Jones referred to the anonymous complaint and asked if it had been a case of spite. The Applicant's Supporter also expressed concern that anonymous complaints were acted upon.

The Licensing Enforcement Officer explained that the complaint had not been taken at face value. Following its receipt, she had checked on the Government website which confirmed that the vehicle was not taxed and she had acted on that information and not the complaint.

The Sub-Committee had no further questions.

The Legal Advisor sought confirmation of matters relating to the Applicant's driving record, to which his Supporter responded.

The Applicant's Supporter made his closing statement. He said that the revocation of the Applicant's taxi licence rested on a condition that had been applied in June 2019, which referred to an endorseable offence, and the removal of the Applicant's fit and proper status. Failing to tax a vehicle was not an endorseable offence, although it was contrary to the Taxi Handbook. In support of the Applicant's fit and proper status, he referred to a letter that had been submitted in support of the original application for a licence and the references that had been supplied in support of the current application, which showed that the Applicant was held in regard, and that a vacancy was being held open for him by his former operator. The Applicant had not put anybody's life in danger but had made a mistake and the

Supporter had put a system in place to prevent future mistakes. He understood that the Applicant had been a very popular driver. He requested that the Sub-Committee find the Applicant a fit and proper person to hold a licence, and give him a second chance with the reassurance that he would be under the Supporter's supervision and guidance.

The Supporter referred to an apparent discrepancy in the Taxi Handbook with regard to the amount of time a DVLA licence had to be held in order to hold a taxi licence. He also drew the Sub-Committee's attention to the latest Statutory Taxi and Private Hire Standards in respect of the reinstatement or relicensing of a driver where allegations were, on the balance of probability, unfounded.

The Licensing Enforcement Officer explained that whilst the law required a DVLA driver's licence to be held for one year, the Council's policy went further in requiring a licence to be held for three or more years. She reiterated that this was a new application and everything that had been put before the Sub-Committee could be taken into account when applying the fit and proper test.

The Sub-Committee retired to consider its decision.

RESOLVED

That the licence be granted for a period of one year, subject to the following conditions:

- 1. The Supporter to take responsibility for the administration of the Applicant's vehicle tax, insurance, MOT and servicing; and**
- 2. Any deterioration in the Applicant's glaucoma to be reported to the Council.**

The meeting ended at 11.44 am.

Chairman