

FAREHAM

BOROUGH COUNCIL

Minutes of the Licensing Panel

(to be confirmed at the next meeting)

Date: Wednesday, 5 July 2023

Venue: Collingwood Room - Civic Offices

PRESENT:

Councillor Pamela Bryant (Chairman)

Councillors: I Bastable and S Ingram



1. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that the public and representatives of the press be excluded from the meeting in accordance with Section 100(A) of the Local Government Act 1972, on the grounds that the matters to be dealt with involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12 of The Act.

2. APPLICATION(S) FOR HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVING LICENCES

Case 1 – Mr U

The Panel considered a report by the Licensing Officer which contained exempt information in respect of a private hire vehicle driving licence application. A copy of the report was circulated to members of the Panel with the agenda in advance of the meeting.

The Licensing Officer presented the circumstances of the case, as supported by the documentary evidence. There were no questions or points for clarification raised by the Applicant or Members of the Panel.

The Applicant presented the circumstances of his case as detailed in the documentary evidence and answered questions thereon from members of the Panel and the Legal Advisor.

The Applicant was invited to make a closing statement in respect of his application and did so accordingly.

Following the submission and summation of the Applicant's representation, The Licensing Officer and the Applicant left the room whilst the Panel considered its decision in private.

Following the Panel's deliberations, the Licensing Officer and the Applicant returned to the hearing to hear the Chairman announce the Panel's decision as follows:

The Panel has considered very carefully the report of the Licensing Officer and all the evidence presented today.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") and the guidelines relating to the application of the "fit and proper person" test and other considerations of character. The Human Rights Act has been borne in mind whilst making the decision as has the Council's policy.

The Applicant attended the hearing before the Panel and reiterated his written statement which was contained in the pack. He also provided additional information regarding the offences on being questioned. As regards the Criminal Damage, the Applicant stated that the victim had been a friend and he was mystified as to why the police were involved. He had not realised he had not disclosed this on his application form.

As to the speeding offence this resulted in 6 points and a £800 fine.

The panel considered all the facts very carefully and has decided that the Applicant is a fit and proper person in accordance with the Act and therefore a private hire taxi drivers' licence should be granted to him.

Reasons for Decision

The Guidance for issuing a licence which forms part of the Council's policy allows a one-off driving conviction on the basis that mistakes can be made. Whilst the panel was concerned that this offence resulted in the penalty it did it felt likely that the Applicant did not enamour himself to the court in trying to persuade it against conviction. This resulted in the higher penalty.

The Council's policy also has guidance regarding other convictions. It does not specifically mention criminal damage so this would fall best within offences of violence. The guidance states that a licence should not be granted for 10 years after completion of any sentence. Therefore, granting a licence in this case is outside of policy.

The Panel felt that it was able to go outside of policy on this occasion in the unique circumstances of this case. The incident occurred at least 5 years ago and although a criminal damage offence requires an element of intent, any violence is towards an object rather than a person.

There was no evidence of violence or loss of temper. The Panel took the view that the Applicant did not fully understand the implications of his court appearance believing he was simply agreeing to pay compensation, which was the only penalty imposed.

In all the circumstances of this case the Panel felt there were good reasons to depart from policy and guidance and grant the licence.

There is a statutory right of appeal to the Magistrate's Court of the decision which must be made within 21 days of formal notice.

RESOLVED that the Licensing Panel considers that the Applicant is a fit and proper person to hold a private hire vehicle driving licence and that the licence therefore be granted.

Case 2 – Mr O

The Panel considered a report by the Licensing Officer which contained exempt information in respect of a private hire vehicle driving licence application. A copy of the report was circulated to members of the Panel with the agenda in advance of the meeting.

The Licensing Officer presented the circumstances of the case, as supported by the documentary evidence. At the request of one of the Members of the Panel, the timeline of events was reconfirmed for clarification.

The Applicant presented the circumstances of his case as detailed in the documentary evidence and answered questions thereon from members of the Panel and the Legal Advisor.

The Applicant was invited to make a closing statement in respect of his application and did so accordingly.

Following the submission and summation of the Applicant's representation, the Licensing Officer and the Applicant left the room whilst the Panel considered its decision in private.

Following the Panel's deliberations, the Licensing Officer and the Applicant did not return to the hearing to hear the Chairman announce the Panel's decision as follows:

The Panel has considered very carefully the report of the Licensing Officer and all the evidence presented today.

It has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 ("the Act") and the guidelines relating to the application of the "fit and proper person" test and other considerations of character. The Human Rights Act has been borne in mind whilst making the decision as has the Council's policy.

The Applicant attended the hearing before the Panel and reiterated his written statement which was contained in the pack. He also provided additional information regarding his circumstances and the no insurance offence. The Applicant had arranged for insurance cover through his friend but unfortunately this did not cover business use. There was no differentiation between private and business use for insurance purposes in the Applicant's home country.

The Panel was also aware that according to policy a driver needs to have held a UK driving licence for 2 years before being licensed. From the Applicant's evidence he would appear to have only held a UK licence for 18 months. He explained that there was a delay in obtaining a new licence as he was required to take a test and there was a long waiting list.

The Panel considered all the facts very carefully and has decided that the Applicant is a fit and proper person in accordance with the Act and therefore a private hire taxi drivers' licence should be granted to him.

Reasons for Decision

The Guidance for issuing a licence which forms part of the Council's policy allows a one-off driving conviction on the basis that mistakes can be made. Whilst the panel was concerned that this offence was one of no insurance, the Applicant had not made no effort to get insurance and the conviction resulted from a lack of understanding which will not be repeated.

The Council's policy also requires a UK licence to be held for 2 years before granting a licence. Therefore, granting a licence in this case is outside of policy.

The Panel felt that it was able to go outside of policy on this occasion in the unique circumstances of this case. The reason for the delay in the Applicant obtaining his new licence resulted from the long delays in obtaining test dates due to the back log caused by the pandemic. These were exceptional circumstances.

In all the circumstances of this case the Panel felt there were good reasons to depart from policy and guidance and grant the licence.

There is a statutory right of appeal to the Magistrate's Court of the decision which must be made within 21 days of formal notice.

RESOLVED that the Licensing Panel considers that the Applicant is a fit and proper person to hold a private hire vehicle driving licence and that the licence therefore be granted.

(The meeting started at 11.05 am
and ended at 1.20 pm).