

SPEAKERS PANEL (LICENSING)

13 June 2023

Commenced: 10.00 am

Terminated: 11.15 am

Present: Councillors S Homer (Chair), Chadwick (Deputy Chair), Alam, Beardmore, Drennan and Howarth

In Attendance: Ashleigh Melia Legal Representative
Mike Robinson Regulatory Services Manager (Licensing)
Loni Davies (as an observer) Regulatory Services Officer

Apologies for Absence: Councillors Jones, Newton and Quinn

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. MINUTES

The Minutes of the Speakers Panel (Licensing) meeting held on 17 January 2023 were agreed as a correct record.

3. EXEMPT ITEMS

RESOLVED

That under Section 100A of the Local Government Act 1972 (as amended) the public be excluded for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 2 and 3 of Part 1 of Schedule 12A of the Act and in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, because disclosure of the personal information contained in the reports would not be fair to the applicants and would therefore be in breach of Data Protection principles.

4. APPLICATION FOR A PRIVATE HIRE (CHAUFFEUR ONLY) DRIVER'S LICENCE - 1/2023

The Assistant Director of Operations and Neighbourhoods submitted a report requesting that the Panel determine whether the applicant was a fit and proper person to hold a Private Hire (Chauffeur Only) Drivers Licence in accordance with the provisions of Sections 51(1)(a) and 59(1)(a) of The Local Government (Miscellaneous Provisions) Act 1976.

The Panel considered the written information submitted and heard the Regulatory Services Manager's (Licensing) case. He advised the Panel that the applicant had applied for a Chauffeur Drivers Licence on 30 March 2023. The applicant had declared on their application form and statutory declaration two offences dated 7 September 2019, which were using a vehicle uninsured against third party risks (IN10), for which the applicant had received 6 Penalty points and a fine of £120, and driving otherwise than in accordance with a licence (LC20), for which they received a £40 fine. Both of these offences were confirmed with the DVLA.

As part of the application process, the Licensing Department carried out checks with the Disclosure and Barring Service (DBS). The applicant's DBS Certificate dated 11 May 2023 showed two further convictions dating from July 2017. The first conviction, dated 5 July 2017 included the following:

1. Wasting police time on 21 March 2017.
2. Driving a mechanically propelled vehicle on a road/in a public place without due care and attention on 21 March 2017.
3. Using a vehicle while uninsured on 21 March 2017.
4. Driving otherwise than in accordance with a licence on 21 March 2017.

The Panel were told that the disposal orders for the offences were a curfew requirement with electronic tagging; a Community Order until 27/07/2018; disqualified from driving – discretionary 6 months; rehabilitation activity requirement and Driving Licence endorsed.

The second conviction, dated 28 July 2017, was failing to surrender to custody as soon as practicable after an appointed time on 27 July 2017, for which the applicant received one days detention.

The Panel were notified that the applicant had not declared the two convictions from 2017 on their application form and statutory declaration.

The Regulatory Services Manager's (Licensing) told the Panel that the applicant had attended an interview with Licensing Officers on 30 May 2023 to discuss the convictions and obtain their version of events.

The Panel were made aware of the relevant sections of the Policy and Guidelines relating to the Application of the "Fit and Proper Person Test" to Licensed Drivers and Operators.

Having heard the Regulatory Services Manager's (Licensing) case, the applicant and the Panel were provided with the opportunity to ask questions.

The applicant then addressed the Panel and gave a detailed account of the events around their first conviction in 2017. They explained that their girlfriend was pregnant and they were not married. Although they got married immediately, they were advised that they had to do the right thing by their families and move out of their respective family homes, which made them homeless. The applicant told the Panel that they stayed in hotels and bed and breakfasts but the money soon ran out. They explained that they purchased a car for somewhere to live and that the Police pulled them over as they were moving from one area to another.

The applicant gave an explanation for their second conviction in July 2017 and told the Panel that as they were of no fixed abode at the time of the offence, they had no means of receiving post, therefore they were unaware of the Court summons.

In respect of the offences in 2019, the applicant informed the Panel that they had been going through a difficult time with their wife following the birth of their child but since then they had turned their life around. They had passed their driving test and secured employment as a driver / porter at two hospitals. The applicant told the Panel that they had concentrated their efforts on being a better person and providing for their wife and child. They said that despite their past, the hospitals had put their faith in them and the applicant respected them and the work that they did and would continue with that employment regardless of the outcome of the Panel's decision. The applicant concluded by saying that they did not want their past convictions to be a reflection of the person they had become.

In response to questions from the Regulatory Services Manager and Panel Members, the applicant stated that they had secured an employment opportunity with an executive hire provider and had passed all of the necessary tests in order for them to carry out this role. The applicant provided proof of this in addition to a reference from their employer.

At this juncture the applicant and the Regulatory Services Manager (Licensing) left the meeting whilst the Panel deliberated on the application. The Legal Representative and the Senior Democratic Services Officer remained in the meeting to give legal and procedural advice and took no part in the decision making process.

In determining the application, the Panel considered all the information presented at the hearing in addition to the report and appendices. They further considered relevant statute and case law and the Council's *Convictions Policy (Policy & Guidelines relating to the Application of the "Fit and Proper Test" to Licensed Drivers and Operators)*. Specifically section F relating to Motoring Offences, which stated that new applicants with a conviction for a Major Traffic Offence less than 5 years prior to the date of the application, would be referred to the Panel for determination and if a conviction was less than 3 years prior to the date of the application it would generally be refused.

The Panel noted that the applicant had previous convictions for motor offences in 2017 and 2019. The Panel considered the Convictions Policy and noted that as the convictions of using a vehicle uninsured against third party risks (IN10) and driving otherwise than in accordance with a licence (LC20) were both longer than 3 years ago, the Policy did not guide them to refuse the application.

The Panel considered the applicant's explanation for their offences and acknowledged the circumstances in which they were living in 2017. The Panel appreciated that this would have been a difficult time and were of the view that the explanation provided was credible. The Panel noted that the applicant had been honest in disclosing the convictions from 2019 in their application form.

The Panel acknowledged the work that the applicant have undertaken since 2019 and were of the view that they presented well and maturely at the hearing.

The Panel determined that the applicant was a fit and proper person to hold a licence and that the licence be granted.

RESOLVED

That the application for a Private Hire (Chauffeur Only) Driver's Licence 1/2023 be approved.

5. APPLICATION FOR RENEWAL OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - 2/2023

The Regulatory Services Manager's (Licensing) advised the Panel that the applicant was unable to attend the hearing due to family circumstances and had requested another date.

RESOLVED

That the application for renewal of a Hackney Carriage and Private Hire Driver's Licence 2/2023, be adjourned to the next meeting of Speakers Panel (Licensing) scheduled for 18 July 2023.

6. DATE OF NEXT MEETING

RESOLVED

That the date of the next meeting of Speakers Panel (Licensing) scheduled for 18 July 2023 be noted.

7. URGENT ITEMS

There were no urgent items.

CHAIR