

Minutes

Licensing Committee
Friday, 2 February 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Pam Bosworth (Chairman)
Councillor Elvis Stooke (Vice-Chairman)
Councillor Helen Crawford
Councillor Steven Cunnington
Councillor Patsy Ellis
Councillor Paul Fellows
Councillor Jane Kingman
Councillor Robert Leadenham
Councillor Nikki Manterfield

Officers

Licensing Manager, Heather Green
Legal Advisor, Mandy Braithwaite
Democratic Officer, Lucy Bonshor

36. Apologies for absence

An apology for absence was received from Councillor Ashley Baxter.

37. Disclosure of interests

None disclosed.

38. Minutes of the meeting held on 15 December 2023

The minutes of the meeting held on 15 December 2023 were proposed, seconded and **AGREED**.

39. Exclusion of Press and Public

It was proposed, seconded and **AGREED** to exclude the press and public in accordance with Section 100A (4) of the Local Government Act 1972 (as amended), as described in paragraphs 1 and 2 of the Act (as amended) during

consideration of the following item of business because of the likelihood that otherwise exempt information would be disclosed to them.

40. Local Government (Miscellaneous Provisions) ACT 1976: To determine a Hackney Carriage Driver's Licence

(A short adjournment took place between 10:10 - 10:15)

Decision

The Committee were satisfied that the driver was a fit and proper person to hold a hackney carriage driver's licence under Section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 and reinstated his Hackney Carriage driver's licence.

The Legal Advisor introduced those present and confirmed who would be speaking in relation to the item on the agenda. The driver was in attendance together with his representative who spoke on his behalf.

The Licensing Manager presented exempt report ENV875 which concerned the fitness of driver to hold a hackney carriage drivers licence following the revocation of the licence under delegated authority in October 2023 due to a Police case against the driver. Details for the revocation were outlined within the report. Members noted that the driver had held a hackney carriage licence with the authority with no complaints since 2008. Penalty points had been issued in 2014 due to parking in Red Lion Square Stamford. A warning had also been issued for failure to notify the Licensing Team about points received for speeding in 2020.

The decision to revoke the licence had been appealed to the Magistrates Court which was on going and due to be heard on 1 March 2024. The Police case against the driver had been closed with no further action. The Council's solicitor had suggested that the matter be looked at afresh. A letter had been received from the driver's solicitor stating why the driver's badge should be reinstated and supporting statements from members of the public.

The Licensing Authority did not have an officer delegated authority to reinstate the badge and the driver's solicitor was advised that on that basis, the driver should reapply and it would be for Committee to determine if his previously revoked badge should be reinstated.

The driver's representative then made their representation, referring to the incident and answered Members questions thereon.

The Licensing Manager then gave her closing statement. It was for the Committee to ensure that holders of hackney carriage driver's licences are fit and proper person to hold such a licence pursuant to Section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

The driver had nothing to add.

(10:30 the Licensing Manager, driver and representatives left the meeting)

Members considered the issue before them having taking into account the report, appendices, the representation made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy, Statutory taxi and private hire vehicle standards and the Councillor Handbook. Members acknowledged that the driver had held a licence for 17 years, that they had co-operated fully with the Police and that the Police had closed the case. Also, no complaints had been received during the time that the driver had held a licence. It was proposed, seconded and unanimously **AGREED** to reinstate the driver's hackney carriage driver's licence.

(10:35 the Licensing Manager, driver and representatives returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, representations made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy, Statutory taxi and private hire vehicle standards and the Councillors handbook. The Committee had decided to reinstated the Hackney Carriage driver's licence on the grounds that the driver was a fit and proper person to hold such a licence under section 51(1) of the Local Government (Miscellaneous Provisions) Act 1976.

The Committee were mindful that public safety was paramount and the overriding objective in the licensing of drivers was the safety of the travelling public. The Council's Hackney Carriage and Private Hire licensing policy provided a base line for consideration of conduct on whether a person was and remained a fit and proper person to hold a licence.

Matters had occurred as set out in the report and appendices which the Committee regard as extremely serious.

It was noted that the Police had confirmed that they were taking no further action in this matter. Whilst the criminal test is "beyond reasonable doubt" from a licensing perspective, it was a civil test that was applied and non-convictions could be taken into account as confirmed by the case Leeds City Council v Hussain [2003].

The Committee noted that the driver had held a Hackney Carriage drivers' licence since January 2008 and that there had been no complaints until receipt of the Common Law Disclosure from the Police.

The driver's licensing record was set out within the report at paragraph 2.2 which the Committee had noted together with the character references submitted.

In relation to "fit and proper" the statutory guidance stated:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

The Committee had judged whether the driver was fit and proper by this standard.

The Committee were satisfied, on the balance of probability, that the circumstances of the incident were such that the driver was a fit and proper person to hold a Hackney Carriage driver's licence.

41. Any other business which the Chairman, by reason of special circumstances, decides is urgent.

The meeting scheduled for 3 May 2024 was raised as it fell the day after the Police Crime Commissioner and Grantham Town Council Elections. It was agreed by the Committee that if a meeting was required in May, that the meeting scheduled for 3 May would be moved to Friday 10 May 2024.

42. Close of meeting

The meeting closed at 10:40.