

Minutes

Licensing Committee
Friday, 13 November 2020



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Harrish Bisnauthsing
Councillor Mrs Pam Bosworth (Chairman)
Councillor George Chivers
Councillor Helen Crawford
Councillor Mrs Rosemary Kaberry-Brown
Councillor Ms Jane Kingman
Councillor Philip Knowles
Councillor Lee Steptoe
Councillor Dean Ward (Vice-Chairman)

Officers

Licensing Officer (Chris Clarke)
Legal Advisor (Mandy Braithwaite)
Technical Support Officer (Julie Edwards)
Democratic Officer (Lucy Bonshor)

1. Register of attendance and apologies for absence

Apologies for absence were received from Councillors' Broughton and Manterfield, all other Committee Members were present.

2. Disclosure of interests

None disclosed.

3. Minutes of the meeting held on 3 July 2020

The minutes of the meeting held on 3 July 2020 were agreed as a correct record of the decisions taken.

Exclusion of the Press and Public

The press and public were excluded from the meeting during consideration of the following items of business because of the likelihood that information that was exempt under paragraph 1 and 2 of the Schedule 12A of the Local Government Act 1972 (as amended) would be disclosed to them.

4. Hackney Carriage Driver

As only one hackney carriage driver was attending the meeting and was waiting in the lobby, the Chairman, with the agreement of the Committee considered agenda item 5 before agenda item 4.

Decision:

To grant a licence to drive a Hackney Carriage vehicle as the driver was a fit and proper person to hold a hackney carriage licence.

The applicant was in attendance.

The Licensing Officer presented report ENV769 which concerned an application for a Hackney Carriage driver's licence. The Licensing Officer highlighted the details contained within the exempt report and the number of penalty points that applicant had on his licence for using a vehicle uninsured against third party risks. On further investigation it was found that the driver had held a licence in 2008 but had surrendered his badge in 2009. The driver had contacted the Licensing Section in 2018 and stated that he had been disqualified under the totting up process. The driver was informed that he could not reapply until three years had lapsed from the date his DVLA licence was reinstated. He currently had six points on his DVLA licence.

The applicant then presented his case to the Committee and outlined the circumstances around the issue of the penalty points on his licence. Questions were asked of the applicant by the Committee to which the applicant replied.

The Licensing Officer gave his closing statement. Members were asked to consider the report and appendices before them, and any further information supplied during the course of the meeting and decide whether:

- To issue a licence to driver a Hackney Carriage vehicle, or
- Refuse to issue a licence to drive a Hackney Carriage/Private Hire vehicle on the grounds that the applicant was not a fit and proper person to hold such a licence under Section 59 (1) of the Local Government (Miscellaneous Provisions) Act 1976.

The applicant had nothing to add to his previous statement.

(10:18 Licensing Officer and applicant left the meeting)

Members discussed the application before them. Some Members felt that the applicant should be allowed to have a licence and that he was sorry for the oversight which had gained him penalty points on his licence. Other Members were concerned about the pattern of behaviour shown by the applicant and the penalty points received over a period of time. The Legal Advisor reminded Members of the current guidance in relation to convictions and what was considered a major offence. She reminded Members that spent convictions could be taken into account when considering an application as it could show a pattern of behaviour. Further discussion followed with some Members still expressing concern about the applicants behaviour and whether or not he should be granted a licence. It was proposed and seconded that the driver be granted a licence to drive a hackney carriage but with a strong warning as to his future conduct. On being put to the vote it was agreed to grant a hackney carriage licence.

(10:36 – 10:52 an adjournment took place)

(10:52 the Licensing Officer and applicant 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, South Kesteven's Policy, guidance and the Councillors Handbook. The applicant's history showed serious driving offences in particular driving with no insurance, speeding and using a mobile phone whilst driving. Public safety was paramount and the applicant's record was not good. The Committee acknowledged that several years had passed with a clean record and the difficult times that applicant had been through. The Committee had decided to grant a licence to drive a hackney carriage by a majority vote, however, the applicant must ensure that he adhered to legislation and that any infractions or breaches of the law could put his licence in jeopardy.

5. Hackney Carriage Driver

Decision:

To revoke the Hackney Carriage driver's licence on the grounds that the applicant is not a fit and proper person to hold such a licence under Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976.

The applicant was not in attendance.

The Licensing Officer presented exempt report ENV768 which concerned a Hackney Carriage driver. The Licensing Team had received a Common Law Police Disclosure relating to an incident involving the driver on 1 September 2020. The driver had not contacted the Licensing Team to notify them of the incident.

The driver was contacted by a member of the Licensing Team and he stated that he was due in court on 15 September 2020 and he thought that he would be disqualified from driving. The Licensing Officer advised the driver that under Section 52 of the Local Government (Miscellaneous Provisions) Act 1976 immediate revocation may need to be arranged. The driver offered to surrender his badge and this was received by the

Licensing Team on 7 September 2020. As the badge had been surrendered, a Section 52 was not required.

A member of the Licensing Team tried to contact the driver on 17 September 2020 to find out the outcome of the court case but did not get a response. The Police were also contacted to gain an update on the case. An email was received on 22 September 2020 from Lincolnshire Police, which stated that the driver had been disqualified for 25 months. This was reduced by 25 weeks if a driving course was completed by 22 February 2022.

A question was asked in relation to the drink drive limit and it was confirmed that the driver was three times over the legal limit.

The Licensing Officer then gave his closing statement. Members were asked to consider the report and appendices before them and decide whether to;

- Suspend the driver for a defined period of time.
- Revoke the hackney carriage driver's licence on the grounds that the applicant was not a fit and proper person to hold such a licence under Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976.
- Issue a warning.
- Take no action.

(11:04am Licensing Officer left the meeting)

Members discussed the report before them. Members were extremely concerned with the excessive reading given. The Legal Advisor confirmed that the driver no longer held a DVLA driving licence and that he had surrendered his hackney carriage badge in September 2020. If the Committee decided to revoke the driver's licence as this would go on his record and could be referred to if he submitted a future application to drive a hackney carriage. It was proposed, seconded and unanimously agreed to revoke the driver's Hackney Carriage licence.

(11:08 the Licensing Officer returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, all relevant guidance, the Councillor's Handbook and the Council's Hackney Carriage and Private Hire Licensing Policy. As the driver had been banned from driving, the Committee had decided that the applicant was not a fit and proper person to hold a Hackney Carriage driver's licence under Section 61 (1) (b) of the Local Government (Miscellaneous Provisions) Act 1976 and revoked his licence.

6. Close of meeting

The meeting closed at 11:12am.