

Minutes

Licensing Committee
Friday, 15 December 2023



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Pam Bosworth (Chairman)
Councillor Ashley Baxter
Councillor Helen Crawford
Councillor Steven Cunnington
Councillor Patsy Ellis
Councillor Jane Kingman
Councillor Robert Leadenham
Councillor Nikki Manterfield

Officers

Chris Clarke, Elizabeth Reeve, Licensing Officers
Mandy Braithwaite, Legal Advisor
Heather Green, Licensing Manager
Lucy Bonshor, Democratic Officer

28. Apologies for absence

Apologies for absence were received from Councillor Bisnauthsing, Councillor Fellows and Councillor Stooke.

29. Disclosure of interests

None disclosed.

30. Minutes of the meeting held on 17 November 2023

The minutes of the meeting held on 17 November 2023 were proposed, seconded and **AGREED**.

31. Exclusion of the 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 items of business because of the likelihood that otherwise exempt information would be disclosed to them.

The Chairman informed the Committee that agenda order was being changed and agenda item 6 would be dealt with before agenda item 5.

32. Local Government (Miscellaneous Provisions) Act 1976

Decision

That the Committee were satisfied that the driver was a fit and proper person to hold a dual hackney carriage and private hire drivers licence pursuant to Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (in the case of Hackney Carriage drivers) and Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 (in the case of Private Hire drivers).

The Legal Advisor introduced those present and confirmed the name of the driver present.

The Licensing Officer then presented exempt report ENV872 which concerned the fitness of a driver to hold a dual hackney carriage and private hire drivers licence following receipt of an allegation offence. The Licensing Officer referred Members to the common law disclosure received from Cambridgeshire Police in August 2023, a copy of which was appended to the report. Following the receipt, the driver concerned was issued with an immediate suspension by email. In November 2023 the authority received a letter from Cambridgeshire Police stating that they had concluded their investigation and were taking no further action.

The driver then made his representation and the circumstances surrounding the incident which had led to the common law disclosure and answered Members questions thereon.

The Licensing Officer then made her closing statement. The Committee had to be satisfied, to the civil standard of proof (on the balance of probabilities) that the circumstances of the incident were such that the Committee considered the driver to be a fit and proper person to hold the dual hackney carriage and private hire driver's licence.

Each case had to be determined on its own merits.

Once a licence had been granted there was a continuing requirement on the licence holder to maintain their fit and proper person status. Any convictions or other actions which would have prevented them from being granted a licence on initial application can lead to the suspension or revocation of the licence by the Licensing Committee.

Hackney Carriage and Private Hire drivers were professional drivers charged with the responsibility of carrying the public. The Committee had to consider whether or not the driver's behaviour since holding a licence had fell short of that expected of a professional driver. When making their decision the Committee should have regard to all relevant policies including the Council's Hackney

Carriage and Private Hire Licensing Policy and the Department of Transport Standards and relevant guidance.

The driver had nothing further to add, just reiterated what he had previously stated.

(09:55 the Licensing Officers and driver left the meeting)

The Legal Advisor clarified for the Committee some legal issues in respect of criminal law and civil matters.

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 felt that on the information and evidence before them and the representation made by the driver that he was a fit and proper person to hold a hackney carriage and private hire driver's licence. On being put to the vote it was unanimously **AGREED** that the driver was a fit and proper person to hold a hackney carriage and private hire drivers' licence and to reinstate his licence.

(10:00 the Licensing Officers and driver returned to the meeting)

The Legal Advisor read out the Committee's decision.

The Committee had taken into consideration the report, appendices, representation made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy, Statutory taxi and private hire vehicle standards and Cllr handbook.

The Committee had also taken into consideration the representation made and noted that the driver had held a dual licence since April 2023 and that there had been no complaints until the Council received the Common Law Disclosure from Cambridgeshire Police. The Police had confirmed there was insufficient evidence and their decision was not to prosecute at this time, although the case may be subject to review.

The Committee had decided that the driver was a fit and proper person to hold a hackney carriage and private hire licence under Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (in the case of Hackney Carriage Drivers) and Section 51 Local Government (Miscellaneous Provisions) Act 1976 (in the case of Private Hire drivers).

(10:04 Councillor Ellis arrived)

(10:04 – 10:37 adjournment)

33. Local Government (Miscellaneous Provisions) Act 1976

Decision

That the Licensing Committee's decision is to uphold the refusal to renew the vehicle licence due to late receipt of the renewal application and vehicle compliance test.

The Legal Advisor introduced those present and confirmed the name of the driver.

The Licensing Officer presented exempt report ENV870 which had been deferred from the last meeting of the Committee on 17 November 2023. The driver before the Committee had held a hackney carriage vehicle licence with South Kesteven District Council since 2019. The licence had expired at the beginning of October 2023.

The Council's Hackney Carriage and Private Hire Licensing Policy outlines that a reminder will be issued to vehicle licence holders prior to expiry, but clearly states that it is the responsibility of the licence holder to ensure that the licence is renewed on time. A reminder was issued at the beginning of September. The policy also provided guidance regarding the testing of vehicles prior to expiry of the licence.

The vehicle was presented for testing three days before licence expiry which resulted in a failed test. The retest resulted in the vehicle passing the test, however this was not completed until after the expiry of the hackney carriage vehicle licence. The driver spoke with a licensing officer after the expiry and explained why he had not renewed his licence. The renewal was completed after the office had closed for the day and the day after the licence had expired.

The policy clearly stated at Appendix C – Application Procedures:

- 1.5 If the six monthly compliance test is not carried out on or before the expiry date, the licence will be deemed to have expired. This means that it will be treated as a new application subject to it still meeting the age specification.

The driver was notified by letter that as the compliance test and renewal application had been received after the expiry of the existing licence, the licence could not be renewed. The letter also stated that as the vehicle was registered in 2016 it would not meet the requirements of a new application.

The driver requested that his application be reconsidered and this was undertaken by the Head of Service who upheld the decision. The decision was communicated to the driver who asked that his case be considered by the Licensing Committee.

The driver then made his representation and the mitigating circumstances for the failure to renew his vehicle licence and he apologised.

The Licensing Officer then gave her closing statement.

Each case must be determined on its own merits.

Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public. If the required documents or checks are not carried out within the required timescales, the safety of the public cannot meaningfully be considered.

At first application and each renewal the applicant confirms that they have read and understood the Taxi and Private Hire Licensing Policy, Bylaws and the Hackney and Private Hire 'Code of Good Conduct'.

When determining the matter, the Committee must have regard to all relevant policies including the Council's Hackney Carriage and Private Hire Licensing Policy and the Department of Transport Standards and relevant guidance.

The Committee's attention was drawn to the report and appendices and the representations made and it was for the Committee to:

- a) Uphold the refusal to renew the vehicle licence due to late receipt of the renewal application and vehicle compliance test.
- b) Accept the renewal application submitted at the beginning of October 2023 (and the supporting documentation) as a valid renewal.
- c) Treat the renewal as a new application, setting aside the minimum age specification requirement for new vehicle at first registration as detailed in the Policy. This will also require a new compliance test to be obtained, to ensure it runs concurrently with the new vehicle six monthly check and licence expiry in 2024.

The driver had nothing to add in his closing statement other than to apologise for the late renewal.

(10:48 the Licensing Officers and driver left the meeting)

The Committee considered the issue before them having regard to all the relevant policies and guidance. Although some sympathy was expressed for the driver due to the age of the vehicle, the policy was clear about the renewal procedure and he was notified a month before the vehicle licence expiry which he should have adhered to. It was proposed, seconded and unanimously **AGREED** to uphold the decision to refuse to renew the vehicle licence due to late receipt of the renewal application and vehicle compliance test.

(10:55 the Licensing Officers and driver returned to the meeting)

The Legal Advisor read out the Committee's decision.

The Committee had taken into consideration the report, appendices, representation made, the Council's Hackney Carriage and Private Hire Licensing Policy, legislation, Department for Transport Statutory Taxi and Private Hire

Standards and the Councillor Handbook for Taxi and Private Hire Vehicle Licensing. The Committee had decided to uphold the refusal to renew the vehicle licence due to late receipt of the renewal application and vehicle compliance test.

The Council had a clear policy regarding renewal of a vehicle licence and it was the responsibility of the licensed driver, to submit the renewal application before expiry of the existing vehicle licence. The driver was reminded prior to the expiry date that the vehicle licence was due to be renewed.

The policy also outlined a recommendation that vehicles should be examined and tested at least 7 days prior to submitting the application to allow time for a vehicle to be repaired and then re-tested should the vehicle examination identify the need prior to expiry of the vehicle licence.

In accordance with the policy, as the compliance test was not carried out on or before the expiry date, the licence is deemed to have expired.

Records indicated that at first application and each subsequent renewal, as a licensed driver you had amongst other things, read and understood the Policy.

The Committee had listened very carefully to the representation; however, the policy was in place for regularisation of hackney carriage and private hire licensing throughout its District and it outlined standards expected. If the required documents or checks were not carried out in accordance with the policy within the timescales, the safety of public cannot meaningfully be considered.

There was a right of appeal to the Magistrates Court within 21 days.

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

Members were informed that the meeting scheduled for Friday 5 January 2024 would be cancelled due to insufficient business and that they would be contacted accordingly if a meeting was required before the next scheduled meeting on Friday 2 February 2024.

35. Close of meeting

The meeting closed at 11:04am.