

Minutes

Licensing Committee
Friday, 26 July 2024



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee members present

Councillor Pam Bosworth (Chairman)
Councillor Helen Crawford
Councillor Steven Cunnington
Councillor Paul Fellows
Councillor Philip Knowles
Councillor Robert Leadenham
Councillor Nikki Manterfield

Officers

Licensing Officers, Elizabeth Reeve, Chris Clarke
Legal Advisor, Martha Rees
Democratic Officer, Lucy Bonshor

7. Apologies for absence

Apologies for absence were received from Councillor Harrish Bisnauthsing, Councillor Patsy Ellis, Councillor Jane Kingman and Councillor Elvis Stooke.

8. Disclosure of interests

None disclosed.

9. Minutes of the meeting held on 28 June 2024

Minutes of the meeting held on 28 June 2024 were proposed, seconded and **AGREED**.

10. EXCLUSION OF THE PRESS AND PUBLIC

It was proposed, seconded and **AGREED** to exclude the press and public in accordance with Section 100(A) of the Local Government Act 1972 (as amended) during consideration of the following item of business because of the likelihood that otherwise exempt information, as described in paragraphs 1 and 2 of the Act (as amended) would be disclosed them.

11. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Decision:

The Committee determined that the Hackney Carriage driver was a fit and proper person to hold a hackney carriage licence pursuant to Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 and decided to take no action. It was noted that his hackney carriage licence expired in October 2024 at which point the driver would need to undertake the full renewal process.

The Committee felt that it was reasonable and proportionate to issue the driver with a strict warning as to his future conduct; particularly regarding compliance with the Council's policies and rules on reporting to the Licensing Authority.

The Chairman confirmed who would be speaking in respect of the item before the Committee.

The Licensing Officer presented the report which concerned whether a driver was a fit and proper person to hold a hackney carriage driver's licence with South Kesteven District Council.

The Licensing Officer detailed that following the annual DVLA check in 2023 the driver had received 3 endorsement points against his driving licence for a speeding offence in July 2022. The driver had not informed the Licensing Team and the driver had been issued with 6 South Kesteven (SK) Penalty Points for Offence 43 in September 2023. All hackney carriage drivers had to subscribe to the Disclosure and Barring online update service which was checked at six monthly intervals by the Licensing Team. The driver had subscribed to the service in January 2022. In April 2024, whilst carrying out checks it was found that the subscription was no longer active. The driver was contacted and submitted a DBS form in April. Whilst attending the offices to submit the form the driver seemed to struggle to understand what was expected of him and the CSA had interpreted to assist his understanding. Once the new DBS form had been received it was noted that a caution had been issued by Lincolnshire Police. Again, the driver was issued with 6 SK penalty points for Offence 43 for failing to disclose the information in the correct timeframe. As the driver had accumulated 12 SK penalty points, he had been referred to the Licensing Committee.

The report also detailed other enforcement action that had been taken with the driver over the time that he had held a badge and although it was 12 SK penalty points which necessitated referral to Licensing Committee the offences over a period of time did show a pattern of misdemeanours.

The Committee then heard the driver's representation which was given by his son. The son detailed the background to the caution being given and also the failure to report the offences which the driver apologised for not reporting. Members asked questions of the driver in respect of the DBS renewal and the caution which were answered by the driver through his son.

The Licensing Officer then gave her closing statement. The Committee were reminded that each application had to be determined on its own merits. She referred Members to paragraphs from the Hackney Carriage and Private Hire Licensing Policy under Part 3 Drivers as shown in the report and it was for the Committee to decide if the driver was a fit and proper person to hold a Hackney Carriage driving licence with South Kesteven District Council.

The driver, through his son made a short closing statement apologising for his behaviour and for not notifying the Council when he should have done.

(11:30 the Licensing Officers, driver and his son left the meeting)

Members considered the issue before them, taking into account the report, appendices, the representation made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy and the Councillor Handbook together with their duty under S149 of the Equality Act 2010. Members expressed concern that the driver didn't appear to know the rules regarding notifying the Licensing Team regarding any offences or cautions that he received, even though they signed to confirm that they understood their responsibilities when they were issued a licence. It was noted that the driver had been driving for a long period of time and it was only recently that things seemed to have deteriorated. Members noted that he appeared apologetic for not informing the Licensing Team when he should have. Members felt that on balance and having heard the circumstances around the driver receiving a caution, Members felt that a strong warning should be issued around his future conduct and compliance with the Council's rules and policies and that he remained a fit and proper person to hold a hackney carriage drivers' licence. It was also noted that the licence expired in October 2024 and that the driver would need to undertake the full renewal process. On being put to the vote it was proposed, seconded and AGREED to issue a strong warning as to the driver's future conduct and compliance with the Council's rules and policies and that the driver remained a fit and proper person to hold a hackney carriage drivers' licence.

(12:10 the Licensing Officers, driver and son returned to the meeting)

The Legal Advisor read out the Committee's decision. The Committee had taken into consideration the report, appendices, the representation made, legislation, the Council's Hackney Carriage and Private Hire Licensing Policy and the Councillor Handbook together with their duty under S149 of the Equality Act 2010. The Committee had heard from the Licensing Officer that the driver had been licensed by South Kesteven District Council since 2012 and that the driver had received three speeding points on his DVLA driving licence (and consequently received six SKDC points on his hackney carriage driving licence), and how there had been no further issues until 2023.

A DBS check showed three further speeding points from an incident in 2022 which had not been disclosed to the authority and a further six SKDC points for the non-disclosure of the speeding points to the licensing authority was issued. Additionally, in April 2024, a DBS check revealed a police caution that had also not been disclosed, and so he received a further six SKDC points, which totalled

12 SKDC points and a referral to the Licensing Committee was then triggered under the Council's licensing policy.

The driver's son explained to the Committee that his father was very sorry for the speeding occurrences and for failing to disclose the points. He further gave details of the event leading to the caution and how the driver was put in an incredibly stressful situation. The driver confirmed there had never been any other issues with his driving of a taxi, and he was very sorry.

In reaching their decision, the Committee had due regard for all that they have read and heard. Of particular note to Members was the circumstances leading to the caution, and how there have been no issues or complaints with the driver's driving of a taxi during his long career as a licensed driver with the Licensing Authority. The Committee were very concerned however, that the driver, despite his long career as a licensed driver, failed to disclose the two matters to the Council and whilst he had apologised, they concluded that he should know the rules of the Council's licensing policies.

In taking into account all that they have read and heard, along with the Council's licensing policy and their duty under s149 of the Equality Act 2010, the Committee have determined that the driver is a fit and proper person and had decided to take no action against his licensing in this instance, which they noted expired in October 2024 and he will need to undertake the full renewal process at that point.

The Committee do however feel it is reasonable and proportionate to issue the driver with a strict warning as to his future conduct; particularly regarding compliance with the Council's policies and rules on reporting to the Licensing Authority. They urged the driver that if he wasn't sure, then he should contact the Council to ask for assurance and certainty. The driver was warned that any future misdemeanours would be looked upon extremely seriously.

There was a right of appeal to the decision to the Magistrates Court within 21 days of receipt of the decision in writing.

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

None.

13. Close of meeting

The meeting closed at 12:14pm.