

PUBLIC APPEALS COMMITTEE - 12 OCTOBER 2005

Councillor Mrs L Davies (Chairman)

Present (for all or part of the meeting):-

Councillors:

B M Cross

J H Kennedy

A T A Godfrey

J C Sillito

PA11 **APPOINTMENT OF CHAIRMAN**

In the absence of the Chairman, Councillor R M Sutherland, Councillor Mrs L Davies was appointed Chairman for the meeting

PA12 **MINUTES**

Minutes of the meeting held on 16 September 2005 submitted and signed.

PA13 **APOLOGIES**

Apologies for absence were received from Councillors P G Goodland and R M Sutherland.

PA14 **APPEAL AGAINST REFUSAL TO GRANT PRIVATE HIRE/HACKNEY CARRIAGE VEHICLE DRIVERS LICENCE**

Considered, an appeal against the decision of the Head of Environmental and Health Services to refuse to grant a private hire/hackney carriage vehicle drivers licence to the person named in the Appendix attached to the signed copy of the minutes. The appellant had informed the Head of Environmental and Health Services that he had been convicted of the following offence:-

Date of conviction
29 September 2000

Offence	Disposal
Driving A Motor Vehicle With	Fine 140.00
Excess Alcohol On Road Traffic	Disqualification from driving 12 mths
Act 1988 S.5(1)(A)	Driving licence endorsed
	Costs £55.00

In support of the application, a Police check was requested which subsequently revealed 14 convictions, 9 of which were "spent" under the Rehabilitation of Offenders Act 1974. The Committee was advised that under this Act in accordance with Section 7 (c) of the Act "spent" convictions should not be admitted unless they can be felt that justice could not be done except by admitting them or requiring evidence of them.

The Committee had previously agreed to adopt a procedure when considering applications for Hackney Carriage/Private Hire Drivers licences when an applicant had “spent” criminal convictions. A copy of the procedure was circulated to the Committee. The Committee considered that it did not require details of the “spent” convictions.

The 5 live convictions were as follows:-

Date of conviction
03 September 1999

Offence	Disposal
Assault Occasioning Actual Bodily Harm On Offences Against The Persons Act 1861 S.47	Imprisonment 6 Months

Date of conviction
21 September 2000

Offence	Disposal
Intimidating a witness or juror with intent to obstruct, pervert or interfere with justice on Criminal Justice And Public Order Act 1994 s.51(1)	Fine £250.00 Costs £100.00
Failing to surrender to custody at appointed time on Bail Act 1976 S.6(1) + S.6(2)	FINE £50.00

Date of conviction
26 July 2002

Offence	Disposal
Common Assault On Criminal Justice Act 1988 S.39	Community Punishment Order 100 hrs Community rehabilitation order 12 mths Costs £260.00 Compensation £75.00

As the appellant had not declared the above convictions on the form, the Head of Environmental and Health Services had issued a temporary driving licence in line with current Council policy. The policy allowed any applicant waiting longer than a month for the Criminal Records Bureau (CRB) check to be allowed to drive until receipt of the declaration. However, on receiving the CRB check the applicant was issued with a notice of refusal on 16 September 2005.

In view of the previous convictions, the Head of Environmental and Health Services had refused to grant the Private Hire/Hackney Carriage Drivers

Licence on the grounds that the appellant was not a fit and proper person to hold such a licence.

The appellant attended the meeting and spoke in support of the appeal.

RESOLVED:- that (a) the appeal be allowed and a hackney carriage/private hire vehicle drivers licence is granted for a probationary period of six months with effect from 12 October 2005;

(b) in the event of there being no problems, the Head of Environmental and Health Services be authorised to renew the licence accordingly.

The Committee granted the application for the following reason:-

it considered that the appellant was a fit and proper person as per sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

PA15 **APPEAL AGAINST SUSPENSION OF PRIVATE HIRE DRIVERS LICENCE**

Considered, an appeal against the suspension of a private hire drivers licence from the person named in the Appendix attached to the signed copy of the Minutes.

The Committee was advised that on 29 July 2005, the Head of Environmental and Health Services had received a report from Staffordshire Police (Home Office Circular 13/92) relating to the appellant.

The report informed the Council that the appellant had been convicted at Mid Staffs and Rugeley Magistrates Court on 30 June 2005 of using threatening, abusive, insulting words or behaviour with intent to cause fear of provocation and violence for which he received the following:-

Conditional discharge 12 months

Costs £350.

The appellant did not notify the Licensing Officer of the above conviction and so contravened the conditions of the Private Hire/Drivers Licence. As a consequence of this, a Notice of Suspension of the Private Hire Drivers Licence was issued on 8 August 2005.

The Appellant had previously appeared before the Public Appeals Committee on 18 April 2000 as the Head of Environmental and Health Services had refused to renew his Private Hire Drivers Licence because of previous convictions.

The Committee had resolved to give the appellant a licence for a six month probationary period and if there were no problems it was delegated to the Head of Environmental and Health Services to renew. A licence was issued after this period as no further problems arose.

The Head of Environmental and Health Services maintained that as private hire drivers by nature of the job maintained close contact with members of the public and a firm line should be taken against drivers who had convictions that involved violence. In view of the latest conviction it was considered that the appellant was not a fit and proper person to hold such a licence.

The appellant, together with his employer, Mr D Kaminski, attended the meeting and spoke in support of the appeal.

RESOLVED:- that the appeal be allowed and the Notice of Suspension be withdrawn for the following reasons:-

- (i) although a breach of the Council's procedure had occurred, because the appellant did not inform the Council of the recent conviction, the appellant had taken and followed legal advice on this matter;
- (ii) the Committee accepted the appellant's mitigation in respect of the recent offence;
- (iii) the Committee was satisfied the appellant was a fit and proper person.

Proceedings commenced at 9.30 am and terminated at 11.15 am.