

**NORTH DEVON COUNCIL**

Minutes of a meeting of Licensing and Community Safety Sub Committee B held at Barum Room - Brynsworthy on Thursday, 23rd March, 2023 at 10.00 am

PRESENT: Members:

Councillors:

Councillors Chesters, Gubb and Yabsley.

Officers:

Solicitor, Legal Advisor and Licensing Officer.

**5. APPOINTMENT OF CHAIR**

The Corporate and Community Services Officer called for nominations for the Chair.

RESOLVED, that Councillor Chesters be appointed Chair of the Sub-Committee.

**6. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**7. DECLARATIONS OF INTEREST**

There were no declarations of interest announced.

**8. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS**

RESOLVED:

(a) That under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items as they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to any individual (including that authority holding that information); and

(b) That all documents and reports relating to the items be confirmed as "Not for Publication".

**9. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - (REF NB002/23)**

Also present: The applicant.

The Chair introduced herself, as did the other Members and Officers present.

The Licensing Officer confirmed all formal requirements had been met in respect of the application of a Hackney Carriage and Private Hire Licence, reference NB002/23.

The Legal Officer summarised the process to the applicant and those Members present.

The Licensing Officer presented his report to the Sub-Committee.

On the 23<sup>rd</sup> December 2022, an application was received by the Council for a Hackney Carriage and Private Hire driver's licence Reference: NB002/23.

The application was supported with the necessary Disclosure and Barring Service (DBS) check, which was received on 31<sup>st</sup> January 2023. This check brought two spent convictions to the attention of the Licensing Officer.

He outlined the detail of the convictions and other relevant information regarding the application that was made to the Sub-Committee and explained their relevance in determining whether the applicant was a fit and proper person to hold the Licenses that had been applied for.

In accordance with the relevant licensing policy, the Sub-Committee was entitled to draw upon any of the considerations outlined in its Hackney Carriage and Private Hire Licensing Policy, dated 7<sup>th</sup> November 2022.

He drew the Sub-Committee's attention to section 4.12 "The relevance of conditions and cautions" and in particular the following paragraph:

In assessing the various information collected in relation to the "fit and proper" status of an applicant or licence holder, the Licensing Authority will apply the following test:

"Would the decision maker(s) charged with the ability to grant a licence, without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, travel alone in a vehicle driven by this person at any time day or night? These include any dishonesty and offences involving violence against the person".

He also referenced appendix H (18) (c) of section 4.12 of the policy, which referred to "offences involving violence against the person".

The applicant addressed the Sub-Committee and provided further information regarding the reason for their spent convictions. The applicant acknowledged the oversight that had been made when completing the application to obtain the Hackney Carriage and Private hire Licences.

The Sub-Committee members questioned the applicant.

The Licensing Officer summed up.

The applicant summed up.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Solicitor and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted upon and agreed.

RESOLVED, that the Hackney Carriage and Private Hire Licences, (reference NB002/23) be granted.

In reaching the above decision, the Sub-Committee had listened to the evidence given by the applicant and carefully considered the answers that had been given to their questions.

Taking everything into consideration, the Sub-Committee had reached the following conclusions:

- Grant both the Hackney Carriage and Private Hire Drivers Licences for the period of one year. Departing from policy, specifically appendix H in this case:
  1. As having heard from the applicant it was apparent to the Sub-Committee that the failure to disclose was not as a result of dishonesty but a misunderstanding and miscommunication between the applicant and their prospective employer who completed the form;
  2. That the offence was an isolated conviction and did not form a pattern of behaviour as per number 9 of appendix H. The applicant demonstrated remorse and despite the time elapse from the conviction had learnt from the offence; and
  3. That the applicant had demonstrated that they were a safe and suitable driver in accordance with section 4.12 of the Hackney Carriage and Private Hire policy and therefore met the fit and proper person requirement.

**10. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - (REF NB003/23)**

Also present: The applicant.

The Chair introduced herself, as did the other Members and Officers present.

The Licensing Officer confirmed all formal requirements had been met in respect of the application of a Hackney Carriage and Private Hire Licence, reference NB003/23.

The Legal Officer summarised the process to the applicant and those Members present.

The Licensing Officer presented his report to the Sub-Committee.

On the 12th January 2023 an application was received by the Council for a Hackney Carriage and Private Hire driver's licence.

The application was supported with the necessary Disclosure and Barring Service (DBS) check received on 27th January 2023, which revealed whilst the applicant had no unspent recorded convictions, there was one Police Caution on their record.

The Police issued Caution was of relevance to the consideration by the Sub-Committee as to whether or not the applicant was a fit and proper person to hold the licences applied for.

He drew the Sub-Committee's attention to the Hackney Carriage and Private Hire Licensing Policy dated 7<sup>th</sup> November 2022 with particular reference to section 4.12 "The relevance of conditions and cautions" and in particular the following paragraph:

In assessing the various information collected in relation to the "fit and proper" status of an applicant or licence holder, the Licensing Authority will apply the following test:

"Would the decision maker(s) charged with the ability to grant a licence, without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, travel alone in a vehicle driven by this person at any time day or night? These include any dishonesty and offences involving violence against the person".

The Licensing Officer addressed the Sub-Committee.

The applicant addressed the Sub-Committee.

The Sub-Committee members questioned the applicant.

The Licensing Officer summed up and advised that all the required documents had now been submitted to the Council.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Solicitor and Corporate and Community Services Officer in order for the Sub-Committee to receive legal advice in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED that everyone be re-admitted to the meeting.

The Chair requested that the Corporate and Community Services Officer read the proposed decision, which was voted upon and agreed.

RESOLVED, that the Hackney Carriage and Private Hire Licences, (reference NB003/23) be granted.

In reaching the above decision, the Sub-Committee had listened to the evidence given by the applicant and carefully considered the answers that had been given to their questions.

Taking everything into consideration, the Sub-Committee had reached the following conclusions:

- Grant both the Hackney Carriage and Private Hire Drivers Licences for the period of one year. Departing from policy, specifically appendix H in this case:
  1. Departing from policy, the Sub-Committee finds the offence of a caution following a verbal disagreement that had occurred between the applicant and their ex-partner was an isolated incident and not pattern forming or sufficient in propensity to refuse a licence; and
  2. The applicant had demonstrated that they were a safe and suitable driver in accordance with section 4.12 of the Hackney Carriage and Private Hire Driver policy and therefore met the fit and proper person requirement.

The Chair addressed the applicant and wished them well for the future.

The applicant thanked the Sub-Committee for their time.

Chair

The meeting ended at 11.30 am

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.