

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee D held at Barum Room - Brynsworthy on Wednesday, 17th November, 2021 at 9.00 am

PRESENT: Members:

Councillor Henderson (Chair)

Councillors Pearson and York

Officers:

Public Protection Manager and Chartered Legal Executive

9. APPOINTMENT OF CHAIR

RESOLVED that Councillor Henderson be appointed as Chair.

10. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

11. DECLARATIONS OF INTEREST

There were no declarations of interest made.

12. EXCLUSION OF PUBLIC AND PRESS RESTRICTION OF DOCUMENTS

RECOMMENDED:

- (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 involve the likely disclosure of exempt information as defined in Paragraph 7 or Part 1 of Schedule 12A of the Act (as amended from time to time), namely information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime; and
- (b) That all documents and reports relating to the items be confirmed as "Not for Publication".

13. APPLICATION FOR THE GRANT OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCE - (REF PFND0011)

The Sub-Committee considered a report for the application for a grant of a hackney carriage and private hire driver's licence (reference PFND0011) (circulated previously).

The Chair introduced himself and invited those present to introduce themselves.

The Legal Officer outlined the hearing process.

The Public Protection Manager addressed the Sub-Committee and confirmed the applicant's personal details.

The applicant confirmed those details to be correct.

The Public Protection Manager presented the Licensing Officer's report. In doing so she confirmed the following to the Sub-Committee:

- The Disclosure and Barring Service (DBS) check revealed five spent convictions. This included one offence of Indecent Assault on a male under 16, under the Offences Against the Person Act 1861, s41. The date of conviction was 5th June 1985.
- Following the checks with the DVLA a driving endorsement offence TT99 "Totting-up" was identified. The Licensing Authority sought clarification from the applicant who then advised that he had lost his driving licence for six months from 13th September 2019.

The Public Protection Manager presented the Sub-Committee with the Constitutional context and Legislation relevant to the application and section 4.12 of the licensing policy which covered the definition of whether an applicant is a 'fit and proper person to hold a licence'. She reconfirmed to the Sub-Committee the following from the Statutory Taxi and Private Hire Vehicle Standards, published by the Secretary of State for Transport under Section 177(1) of the Policing and Crime Act 2017, in particular (unless there are compelling reasons not to) – "Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted".

The Applicant addressed the Sub-Committee. He advised that he had not been aware that his past criminal record would be taken into account in the application process.

In response from the Sub Committee, the Applicant confirmed that the 12 points on his driving licence (which were "totting up", resulting in the loss of his licence) were all received for speeding offences. He had originally omitted this information on his application in error, but had confirmed them when asked by the Licensing Officer.

The Corporate and Community Services Officer read a reference from the applicant's most recent employer to the Sub-Committee.

RESOLVED that everyone be excluded from the meeting with the exception of Members, the Chartered Legal Executive 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.

RESOLVED that the application for a Hackney Carriage and Private Hire Licence be REFUSED (unanimous) as;

- a) The Applicant's driving record of serving a six-month driving ban in 2019 for "Totting-up offences" are relevant and serious enough to justify the refusal to grant a licence,
- b) Whilst the Council had a policy in place in respect of the relevance of convictions, this had yet to be amended to take into consideration the Department for Transport (DfT) Statutory Taxi and Private Hire Vehicle Standards, July 2020, and
- c) That the Applicant had a conviction for a historical sexual offence, which was confirmed as a reason for refusal as per the DfT standard.

The Chair advised the applicant of his appeal right within 21 days of notification of the decision and it was noted that such notification was on 17th November and not from any later date of communication.

Chair

The meeting ended at 9.46 am

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

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