

At a meeting of the Licensing Panel held in Council Chamber - Allerdale House, Workington on Friday 19 January 2018 at 2.30 pm

Members

Councillor Peter Kendall (Chair)

Councillor Len Davies

Councillor Billy Miskelly

Councillor Malcolm Grainger

Councillor Bill Pegram

Staff Present

D Fletcher, K Magnay and J Morgan

303. Election of Chair

Councillor P Kendall was elected Chairman for the ensuing meeting.

304. Declaration of Interests

None received.

305. Questions

None received.

306. To consider an application for a Hackney Carriage Driver Licence

The Licensing and Compliance Officer submitted a report for the Licensing Panel to consider whether a person who had made an application for the grant of a Hackney Carriage Driver Licence was a fit and proper person to hold such a licence.

The applicant and his prospective employer were invited into the meeting.

The Licensing and Compliance Officer provided the Panel with details on the application.

The applicant had provided the following as part of the application:

- Disclosure and Barring Service (DBS) Certificate – the certificate contained information which fell within the Council's policy for convictions.
- DVLA driving licence – the licence contained no current penalty points.
- Doctors Medical dated 14 December 2017 – the doctor had signed the applicant as fit to drive a hackney carriage vehicle.

Checks on the following had been carried out as part of the process for an Enhanced Disclosure and Barring Service Certificate and no information was recorded against each part:

- Information from the list held under Section 142 of the Education Act 2002
- DBS Children's Barred List information
- DBS Adults' Barred List Information
- Other relevant information disclosed at the Chief Police Officer(s) discretion

The Licensing and Compliance Officer set out the key points for consideration as follows:

The Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence set out:

'16. ... if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:

- 16.1 how relevant the offence(s) are to the licence being applied for.
- 16.2 how serious the offence(s) were.
- 16.3 when the offence(s) were committed.
- 16.4 the date of conviction.
- 16.5 circumstances of the individual concerned
- 16.6 sentence imposed by the court.
- 16.7 whether they form part of a pattern of offending.
- 16.8 any other character check considered reasonable (e.g. personal references)
- 16.9 any other factors that might be relevant.'

'33. While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when period of time is more likely to give cause for concern than an isolated minor conviction...'

On the matter of drugs:

'40.1 A serious view shall be taken of convictions of this nature. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. An application with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained.'

On the matter of dishonesty offences:

'43.1 Hackney Carriage and Private Hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Overseas visitors can be confused by the change in currency and become 'fair game' for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 years free of conviction should be required before entertaining an application.

The Licensing and Compliance Officer recommended that the licence be refused on the grounds that the applicant was not a fit and proper person to hold a licence. The information revealed on the applicant's DBS certificate showed there to be a pattern of dishonest offences and more recently a caution for drug possession.

The applicant gave representation on the application.

The applicant, the applicant's prospective employer and the Licensing and Compliance Officer left the meeting while the Panel considered the application.

The Licensing Panel considered the application, officer's report, representations made by the applicant and his employer, a letter provided to the panel by the applicant and advice from officers. The Panel also considered the relevant legislation and the Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence.

Councillor M Grainger proposed that the Licensing Panel grant the licence for a period of six months. This was seconded by Councillor P Kendall.

A vote was taken; 2 voted in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months and 2 voted against. 1 abstention.

The chair gave the casting vote making it 3 in favour.

The motion in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months was carried.

The applicant, the applicant's prospective employer and the Licensing and Compliance Officer returned to the meeting.

The applicant was informed of the Panel's decision and its reasons.

In accordance with our policy, the licensing panel takes this opportunity to issue a strict warning about your future conduct, particularly given your recent caution, and reminds you that we have enforcement powers which we will exercise in the event that it becomes necessary to do so.

The applicant was informed that, if aggrieved by the decision of the Council, he had a right of appeal to a magistrates' court within 21 days of receiving written notification of the decision.

Decision

Agree to grant the licence for a period of six months, after which the decision to continue to grant the licence would be delegated to the Licensing Officer should there be no further issues.

The panel considered the information the applicant had provided in conjunction with the overriding objective of protecting the safety of the public.

In making its decision, the Panel noted that the applicant's most recent conviction was 18 years ago, and that there was an isolated caution in 2016. The panel noted that the applicant had clearly shown remorse for his convictions. The panel also noted that the applicant had been made an offer of further employment conditional on the approval of the licence application and that the applicant had maintained a licence with the authority without incident between 2004 and 2010 and then again between 2015 and 2016.

Resolved

That it be agreed to grant the Hackney Carriage Driver's Licence for a period of six months.

307. To consider an application for a Hackney Carriage Driver Licence

The Licensing and Compliance Officer submitted a report for the Licensing Panel to consider whether a person who had made an application for the grant of a Hackney Carriage Driver Licence was a fit and proper person to hold such a licence.

The applicant was invited into the meeting.

The Licensing and Compliance Officer provided the Panel with details on the application.

The applicant had provided the following as part of the application:

- Disclosure and Barring Service (DBS) Certificate – the certificate contained information which fell within the Council's policy for convictions.
- DVLA driving licence – the licence contained no current penalty points.
- Doctor's Medical dated 1 August 2017 – the doctor had signed the applicant as fit to drive a hackney carriage vehicle.

Checks on the following had been carried out as part of the process for an Enhanced Disclosure and Barring Service Certificate and no information was recorded against each part:

- Information from the list held under Section 142 of the Education Act 2002
- DBS Children's Barred List information
- DBS Adults' Barred List Information
- Other relevant information disclosed at the Chief Police Officer(s) discretion

The Licensing and Compliance Officer set out the key points for consideration as follows:

The Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence set out:

- '16. ... if an applicant has any convictions, warnings, cautions or charges awaiting trial, the Council will look into:
- 16.1 how relevant the offence(s) are to the licence being applied for.
 - 16.2 how serious the offence(s) were.
 - 16.3 when the offence(s) were committed.
 - 16.4 the date of conviction.
 - 16.5 circumstances of the individual concerned
 - 16.6 sentence imposed by the court.
 - 16.7 whether they form part of a pattern of offending.
 - 16.8 any other character check considered reasonable (e.g. personal references)
 - 16.9 any other factors that might be relevant.'
- '33. While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when period of time is more likely to give cause for concern than an isolated minor conviction...'

On the matter of violence offences:

- '42.1 As Hackney Carriage and Private Hire vehicle drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

The Licensing and Compliance Officer recommended that the licence be refused on the grounds that the applicant was not a fit and proper person to hold a licence. The information revealed on the applicant's DBS certificate showed there to be a pattern of dishonest offences and more recently a caution for drug possession.

The applicant gave representation on the application.

The applicant and the Licensing and Compliance Officer left the meeting while the Panel considered the application.

The Licensing Panel considered the application, officer's report, representations made by the applicant and his employer, a letter provided to the panel and advice from officers. The Panel also considered the relevant legislation and the Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence.

Councillor B Miskelly proposed that the Licensing Panel grant the licence for a period of six months. This was seconded by Councillor B Pegram.

A vote was taken; the vote was unanimous in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months..

The motion in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months was carried.

The applicant and the Licensing and Compliance Officer returned to the meeting.

The applicant was informed of the Panel's decision and its reasons.

In accordance with our policy, the licensing panel takes this opportunity to issue a strict warning about your future conduct, particularly given your recent caution, and reminds you that we have enforcement powers which we will exercise in the event that it becomes necessary to do so.

The applicant was informed that, if aggrieved by the decision of the Council, he had a right of appeal to a magistrates' court within 21 days of receiving written notification of the decision.

Decision

Agree to grant the licence for a period of six months, after which the decision to continue to grant the licence would be delegated to the Licensing Officer should there be no further issues.

The panel considered the information the applicant had provided in conjunction with the overriding objective of protecting the safety of the public.

In making its decision, the Panel noted that whilst the applicant had three violence convictions, the applicant's most recent conviction was 2009. The panel noted that the applicant had served in the army and that the applicant advised that no disciplinary action had been taken against him during that time. The panel noted that the applicant had clearly shown remorse for his convictions. The panel also considered the reference provided by the applicant's prospective employer.

Resolved

That it be agreed to grant the Hackney Carriage Driver's Licence for a period of six months.

308. To consider an application for a Hackney Carriage Driver Licence

The Licensing and Compliance Officer submitted a report for the Licensing Panel to consider whether a person who had made an application for the grant of a Hackney Carriage Driver Licence was a fit and proper person to hold such a licence.

The applicant was invited into the meeting.

The Licensing and Compliance Officer provided the Panel with details on the application.

The applicant had provided the following as part of the application:

- Disclosure and Barring Service (DBS) Certificate – the certificate contained information which fell within the Council's policy for convictions.
- DVLA driving licence – the licence contained three current penalty points.
- Doctors Medical dated 22 November 2017 – the doctor had signed the applicant as fit to drive a hackney carriage vehicle.

Checks on the following had been carried out as part of the process for an Enhanced Disclosure and Barring Service Certificate and no information was recorded against each part:

- Information from the list held under Section 142 of the Education Act 2002
- DBS Children's Barred List information
- DBS Adults' Barred List Information
- Other relevant information disclosed at the Chief Police Officer(s) discretion

The Licensing and Compliance Officer set out the key points for consideration as follows:

The Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence set out:

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- 16.5 circumstances of the individual concerned
- 16.6 sentence imposed by the court.
- 16.7 whether they form part of a pattern of offending.
- 16.8 any other character check considered reasonable (e.g. personal references)
- 16.9 any other factors that might be relevant.'

The Licensing and Compliance Officer recommended that the licence be refused on the grounds that the applicant was not a fit and proper person to hold a licence. The information revealed on the applicant's DBS certificate showed there to be a pattern of dishonest offences and more recently a caution for drug possession.

The applicant gave representation on the application.

The applicant and the Licensing and Compliance Officer left the meeting while the Panel considered the application.

The Licensing Panel considered the application, officer's report, representations made by the applicant and his employer, advice from officers. The Panel also considered the relevant legislation and the Council's Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage/Private Hire Driver's Licence.

Councillor B Pegram proposed that the Licensing Panel grant the licence for a period of six months. This was seconded by Councillor M Grainger.

A vote was taken; 4 voted in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months, 1 against.

The motion in favour of agreeing to grant the Hackney Carriage Driver's Licence for a period of six months was carried.

The applicant and the Licensing and Compliance Officer returned to the meeting.

The applicant was informed of the Panel's decision and its reasons.

In accordance with our policy, the licensing panel takes this opportunity to issue a strict warning about your future conduct, particularly given your recent caution, and reminds you that we have enforcement powers which we will exercise in the event that it becomes necessary to do so.

The applicant was informed that, if aggrieved by the decision of the Council, he had a right of appeal to a magistrates' court within 21 days of receiving written notification of the decision.

Decision

Agree to grant the licence for a period of six months, after which the decision to continue to grant the licence would be delegated to the Licensing Officer should there be no further issues.

The panel has considered the information the applicant provided in conjunction with the overriding objective of protecting the safety of the public.

In making its decision, the Panel noted that the applicant had a number of serious convictions over a number of years. However, the Panel also took into consideration the fact that the applicant had previously appealed a decision to refuse his licence to the Magistrates' Court, that the applicant was successful in that appeal and that he then held a licence with the Authority, with an unblemished record between 2008 and 2013. The reason for the applicant's new application was that he had been caring for his daughter and wife in the meantime and that his previous licence lapsed. Since 2003, the applicant has had no further convictions, albeit the panel noted that he had received three penalty points since that licence was held.

Resolved

That it be agreed to grant the Hackney Carriage Driver's Licence for a period of six months.

309. To consider an application for a Hackney Carriage Driver Licence

Councillor B Pegram moved to defer this application due to the applicant not attending the meeting. Councillor M Grainger seconded this.

A vote was taken: a vote in favour of deferring the application was unanimous

Resolved

That the application be deferred.

The meeting closed at 4.35 pm