

At a meeting of the Licensing Regulatory Panel held in Council Chamber - Allerdale House, Workington on Friday 15 February 2019 at 2.00 pm

## **Members**

Councillor Tony Annison  
Councillor Peter Kendall  
Councillor Christine Smith

Councillor Hilary Harrington  
Councillor Billy Miskelly

## **Staff Present**

C Fleming, D Fletcher and L Jardine

### **361. Election of Chair**

Councillor Peter Kendall was elected chair for the ensuing meeting

### **362. Declaration of Interests**

None declared

### **363. Questions**

None received

### **364. To consider an application for a Private Hire Driver Licence**

The Licensing and Compliance Officer submitted a report for the Licensing Regulatory Panel to consider whether a person who has made an application for a private hire driver's licence is a fit and proper person to hold such a licence.

The Applicant was in attendance at the meeting.

The Application was to consider whether the council departs from the conditions of its private hire application process which require all drivers to complete a driving assessment.

The applicant held category D1 and D1+E on her DVLA licence, but they were on the licence as an acquired right. The applicant did not meet the exemption as she has not had ongoing training.

The officer's recommendation was to refuse the licence.

The applicant then gave her representations, advising she has sat 7 advanced driving courses and has been an advanced driver of 28 years. Professionally she has worked with the Police in several driving related roles.

Members asked questions in relation to the applicants driving experience, with the applicant clarifying that if she obtains the licence, she will be predominantly working airport runs to Newcastle.

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

Members considered the application, the officer's report, and representations from the applicant and advice from officers. The Panel also considered relevant legislation, the drivers experience and the purposes of the licencing objectives.

Councillor Miskelly moved to exempt the applicant from having to pass the driving assessment

This was seconded by Councillor Annison

A vote was taken on the motion, 3 voted in favour, 2 against, 0 abstentions

The motion was carried

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

The applicant was informed of the decision and its reasons.

### **Decision/Reasons**

The Panel considered the officer's report and also took into consideration the written representations provided and the representations that the applicant made before the panel.

The application process requires applicants to pass a driving assessment in order to satisfy section 51 of the Local Government (Miscellaneous Provisions) Act 1976, which states an applicant must be a fit and proper person to hold a driver's licence. The council does make exception to this requirement where the applicant holds a licence with Category D or Category D+E entitlement.

In order to satisfy the Driving Standards Agency, both Category D and Category D+E drivers must complete a Driver Certificate of Professional Competence which is valid for 5 years and is renewable subject to evidence that 35 hours of approved training courses have been completed.

The council adopted such an exemption as it provides sufficient assurance that Category D and Category D+E drivers will be subject to these ongoing training requirements, which those who are not permitted to drive such vehicles do not have to undertake.

The applicant has an acquired right to drive category D1 and D1+E vehicles as a result of previous employment and the does not have to satisfy the Driving Standards Agency that they have completed this regular training requirement.

The panel considered the level and extent of the applicants driving qualification and were satisfied that the applicant is a fit and proper person to hold a licence under section 51 of the Local Government (Miscellaneous Provisions) Act 1976, the applicant demonstrated to the panel that their driving experience through

previous employment is sufficient to exempt from the need to take the test and depart from the council's policy. The decision of the licensing regulatory panel is to allow the exemption of requirement to complete the driving assessment, contrary to officer's recommendation.

### **Resolved**

Allow the exemption of requirement to complete the driving assessment.

### **365. To consider an application for a Hackney Carriage Driver Licence**

The Licensing and Compliance Officer submitted a report for the licensing regulatory panel to consider whether a person who has made an application for a hackney carriage driver's licence is a fit and proper person to hold such licence.

The applicant was in attendance at the meeting, along with his prospective employer.

The Licencing and Compliance Officer delivered the report to the panel. As part of the applicant's application the Disclosure and Barring Service certificate (dated 2<sup>nd</sup> January 2019) revealed information relevant to the application. The officer also advised that the applicant has no endorsements on their driving licence.

The officer's recommendation was to refuse the licence on the grounds that the applicant is not a fit and proper person to hold a licence.

The applicant then gave their representations and answered questions from members. The applicant advised the panel that the last entry on his DBS certificate was from 7 years ago, that he has no driving convictions and he does not pose a threat to any member of the public.

The applicant's prospective employer also provided representations, advising he would be happy to employ the applicant if the application was approved.

The Licencing and Compliance Officer and the applicant then left the meeting while the panel considered the application.

Members considered the application, the officer's report, and representations from the applicant and his prospective employer. The Panel also considered relevant legislation, and the Council's policy on the relevance of criminal convictions.

Councillor Annison moved to refuse the licence on the officer's recommendation.

This was seconded by Councillor Harrington

A vote was taken on the motion, 5 voted in favour, 0 against and 0 abstentions.

The motion was carried.

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

The applicant was informed of the decision and its reasons.

### **Decisions/Reasons**

The decision has been made in conjunction with the overriding objective of protecting the safety of the public.

The licensing panel refused to grant the licence on the basis that it is not satisfied that the applicant is a fit and proper person to hold a driver's licence under section 59(1)(a)(i) of the Local Government (Miscellaneous Provisions) Act 1976 and in accordance with the officer's recommendation.

Paragraph 40.4.3 of the policy on the relevance of criminal convictions states that a period of 10 years free of convictions of this nature would show a significant enough reduction in the risk to the public meaning that the licence could be granted.

This period was not satisfied and therefore the panel did not feel the risk to the public has been sufficiently mitigated.

In the representations before the Panel today the applicant disclosed that he has since the date of the offence taken drugs. These representations did not provide the panel with enough cause and reassurance to make a decision contrary to the council's policy.

The applicant was advised that if he was aggrieved by the decision, they have the right to appeal to the Magistrates Court within 21 days of receiving written notification of the decision.

### **Resolved**

That the application for a hackney carriage licence be refused.

**The meeting closed at 3.00 pm**