

Minutes of the Regulatory Sub-Committee

21 November 2024

-: Present :-

Councillors Douglas-Dunbar, Foster and Barbara Lewis

4. Election of Chairman/woman

Councillor Barbara Lewis was elected as Chair for the meeting.

5. Minutes

The Minutes of the meeting of the Sub-Committee held on 11 July 2024 were confirmed as a correct record and signed by the Chairwoman.

6. Exclusion of the Press and Public

Prior to consideration of the item in Minute 4 the press and public were formally excluded from the meeting on the grounds that the item involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

7. Application for Torbay Council Driver's Licence

Members considered a report that set out relevant facts relating to an applicant for a Torbay Council issue dual Hackney Carriage and Private Hire Driver's Licence.

The applicant was not present at the hearing and Members chose for the hearing to proceed in his absence, having heard details from the Officer of the correspondence and contact made with the applicant prior to the hearing.

Subsequently, Members determined the Application based on the written facts before them, pertaining to whether or not the applicant of the dual Hackney Carriage and Private Hire Driver's Licence was a fit and proper person to hold such a licence.

Decision

That the application for a Torbay Council Dual Hackney Carriage and Private Hire Driver's Licence be refused.

Reason for Decision

As the Applicant was unable to attend the hearing due to being in Birmingham, Members made an initial determination as to whether the hearing should proceed in his absence. The Licensing Officer confirmed that the Applicant had sent email

correspondence to him at 06.00 hours that morning, saying that he would not be attending as the weather was too bad to undertake the drive back and requesting that his written submission that had been provided by him by email at 22.45 hours the previous day, was read out. This was circulated to Members for their consideration. Members were satisfied that sufficient notification of the date and time of the hearing had been given to the Applicant to gain his attendance and under these circumstances, determined unanimously that it was in the public interest for the hearing to go ahead in his absence.

Members proceeded to hear from the Licensing Officer that the Applicant had submitted an Application in August 2024 where one conviction for an out of school hours fight many years ago was disclosed. However, the certificate obtained from the Disclosure and Barring Service (DBS) showed that the Applicant had 3 convictions, all for offences involving violence, including one for assaulting a Police Officer which was the most recent conviction in June 2018. Furthermore, in answer to the question 'Have you ever been convicted of a driving offence', the Applicant had answered 'no'. However, an examination of the DVSA driving record revealed that the Applicant had received a motoring conviction in January 2024 for an LC20 offence for driving otherwise in accordance with a licence.

Members were directed to the Taxi & Private Hire Vehicle Licensing Criminal Convictions Policy, found at Appendix A, which states at section 3.3 that for convictions for offences involving violence '*A licence will not normally be granted until at least ten years have passed since the completion of any sentence following conviction for an offence shown below:*

- *Arson*
- *Malicious wounding or grievous bodily harm which is racially aggravated*
- *Actual bodily harm*
- *Assault occasioning actual bodily harm*
- *Grievous bodily harm*
- *Robbery*
- *Possession of firearm*
- *Possession of a weapon*
- *Riot*
- *Assault police*
- *Violent disorder*
- *Common assault*
- *Resisting arrest*
- *Any racially aggravated offence against a person or property*
- *Affray*
- *Any offence that may be categorised as domestic violence*
- *Harassment, alarm or distress, intentional harassment, or fear of provocation of violence*
- *Any offence (including attempted or conspiracy to commit offences) similar to those above.*

And further at section 3.6, '*A licence will not normally be granted if an Applicant has more than one conviction for an offence of a violent nature*'.

In respect of the motoring conviction this is classed as a major traffic offence with the Council's Taxi Policy which states that '*A licence will not normally be granted if the Applicant has been convicted or previously disqualified from driving in respect of major traffic offences until a period of 5 years free from conviction or at least 5 years from the completion of the sentence (whichever is longer)*'.

Furthermore, Members were reminded that taxi and private hire drivers are exempt from the Rehabilitation of Offenders Act 1974 and any convictions can be taken into consideration, when determining whether an Applicant or a driver, is a 'fit and proper person' to hold a driver's licence.

Members viewed the Applicants failure to attend the hearing as disrespectful and demonstrated a lack of commitment for the position of responsibility for which he was applying. Furthermore, given that two of the convictions were relatively recent, being convicted in 2018 and 2024, Members were not satisfied that this was a genuine error on the part of the Applicant in failing to disclose, and found this to have been a deliberate attempt to mislead.

All Applicants must confirm at the submission stage of their application that they have read and understood the Taxi Policy, which had the Applicant done, he would have been aware of the Licensing Authority's Convictions Policy contained within, and the requirement to share all convictions.

Having carefully considered all the evidence before them, Members unanimously resolved to refuse the application, as they found no reason to depart from Torbay Council's Taxi Policy which should only be done in exceptional circumstances and for justifiable reasons.

In coming to their decision, Members carefully considered having been charged with the responsibility to determine the drivers' licence, whether they would allow their son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person to whom they care, or any other vulnerable person known to them to get into a vehicle with the Applicant alone. The unanimous answer by Members to this question, was 'no'.

In concluding, having carefully considered the all the evidence before them and the criteria set out in Torbay Council's Hackney Carriage and Private Hire Policy, Members unanimously resolved to refuse the application, as they could not be satisfied on the evidence before them, that the Applicant was a 'fit and proper' person to hold a Torbay Council Drivers Licence and found no reason to depart from the Policy. This, coupled with the concerns referred to above as regards the Applicant's honesty, resulted in what Members determined to be a proportionate and appropriate decision, in refusing the application at this time, in the interest of public safety.

Chairman/woman