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Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Thursday, 3 September 2020 at 12:00 noon.
Venue:	Council Chamber
Membership:	Councillors Drogman, Maclean & Palmer
Officers attending:	Mel Harris - Head of Licensing & Safer Communities Andrew Smith – Corporate Legal Adviser
Committee Enquiries:	Loretta Hill, Ext. No. 2427

PART I (Business to be taken in public)

- 1. Appointment of Chairman**
- 2. Procedure for the Sub-Committee**
- 3. Appeal against refusal to grant a Private Hire Driver's Licence – Applicant S**

The report of the Head of Licensing and Safer Communities is attached.

- 4. Decision**

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PROCEDURE FOR HEARING

1. Introductions

- a. Chairman introduces Panel Members to the applicant.
- b. Chairman identifies officers and their roles.
- c. Applicant identifies themselves, any representative and any accompanying persons. They also identify who intends to present the case.
- d. Objector(s) to be identified.

2. Case Summary by the Head of Licensing and Safer Communities

As shown at Agenda Item 3.

3. Objector(s) presents objection(s)

4. The Applicant's Submission

The applicant or their representative will submit their case

5. Questions from Panel

Opportunity for any questions from Panel to either side.

6. Adjournment

Proceedings will be adjourned while the Panel withdraw to consider its decision. During this time the Clerk will accompany the Panel to record the decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

7. Decision

The Panel will reconvene and the Chairman will announce the decision.

8. Conclusion

The Chairman will close the proceedings

LICENSING SUB COMMITTEE

3 September 2020

Subject: Appeal against refusal to grant a Private Hire Driver's Licence – Applicant S

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

To consider the appeal made by applicant S against the refusal by the Council to grant a Private Hire Driver's Licence.

2. Background

Applicant S contacted the Licensing Department in July 2020 to apply for a Private Hire Driver's Licence. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) certificate because Applicant S has the following conviction:

Date of conviction: 23 April 2015

Offence: conspire/supplying controlled drug – Class A Cocaine

Disposal: Imprisonment 6 years. Forfeiture and destruction of drugs

A copy of the DBS is attached at Appendix 1.

The application form is attached at Appendix 2.

The legislation relating to the refusal to grant a driver's licence is contained under the provisions of the LG(MP)A 1976, section 51, whereby at 51.(1) subject to the provisions of this part of this Act, a district council shall, on receipt of an application from any person for the grant of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence-

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence: or
- (b) to any person who has not for at least twelve months been and is not at the date of the application for a driver's licence, the holder of

a licence granted under Part III of the Act of 1972 (not being a provisional licence) authorising him to drive a motor car.

(2) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

(3) It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely-

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which granted; and
- (c) if the licence has a serial number, that number, and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

Under S52. Any person aggrieved by –

- (1) the refusal of the district council to grant a driver's licence under section 51 of this Act; or
- (2) any conditions attached to the grant of a driver's licence;

may appeal to a magistrate's court.

3. 'Fit and Proper'

The definition of what is a fit and proper person is not defined in law however the generally accepted test is:

- Would you allow your son, daughter, mother, spouse or other person you care about to get into a vehicle with this person alone?

This definition was supported in the judgement by HHJ Silber in the case of Leeds City Council v Hussain which surrounds the suspension of a driver:

...'the purpose of the power of suspension is to protect the users of licensed vehicles and those who are driven by them and members of the public. Its purpose is to prevent licences being given or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault people.'

As Applicant S has been convicted of the above offence he is not regarded as a fit and proper person to hold an operator's licence or a driver's licence and the Council made the decision to refuse to progress the application.

Applicant S submitted an appeal against this decision by email to the Council on 5 August 2020.

A copy of the appeal request is attached at Appendix 3

4. Legal implications

Decisions in relation to the grant of a licence give rise to the obligations under the Human Rights Act 1998. The Council will therefore ensure that there is a review hearing before the Licensing Sub-Committee. It should be noted that Applicant R has the right to appeal the decision made by the Council to the Magistrates Court if he is aggrieved by the decision of the Sub-Committee.

5. Options

The Sub-Committee is advised that it has the following options when determining this application.

- (i) Uphold the decision to refuse to progress the Private Hire Driver's Licence application
- (ii) Allow the Private Hire Driver's Licence application to progress.

Recommendation

The decision of the Sub Committee is required following proper consideration of the application and any representations made to the Sub Committee.

Appendices

Appendix 1 – DBS certificate
Appendix 2 – Application form
Appendix 3 – Appeal request

Background Papers:

Local Government (Miscellaneous Provisions) Act 1976

http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga_19760057_en.pdf



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Enhanced Certificate

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Disclosure & Barring Service

DBS Fee Charged

Certificate Number

Date of Issue:

22 JULY 2020

Applicant Personal Details

Employment Details

Surname

Position applied for:

Forename(s)

OTHER WORK FORCE PRIVATE HIRE DRIVER

Other names:

Name of Employer:

Date of Birth:

SELF EMPLOYED

Place of Birth: LONDON

Countersignatory Details

Gender: MALE

Registered Person/Body:
CASTLE POINT BOROUGH COUNCILCountersignatory:
MELANIE HARRIS

Police Records of Convictions, Cautions, Reprimands and Warnings

Exemptions:

Last known occupation:

Gender:

UNEMPLOYED

MALE

Alias Name(s):

Other Name(s):

NONE RECORDED

Alias Date of Birth:

NONE RECORDED

Conviction Details

Conviction:

Date of Conviction:

23 APRIL 2016

Court:

SOUTHWARK CROWN

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CONSPIRACY/POSSESSING CONTROLLED
DRUG - CLASS A - COCAINE
ON 01 SEPTEMBER 2014
MISUSE OF DRUGS ACT 1971 S.4(3)

Disposal:

IMPRISONMENT 6 YRS - T20140907-1
FORFEITURE AND DESTRUCTION OF DRUGS
CONFISCATION 1.00 IMPOSED 11/09/15

Information from the list held under Section 142 of the Education Act 2002

NONE RECORDED

DBS Children's Barred List information

NONE RECORDED

Helen Collins

Subject: FW: Melanie Harris - Appeal - PHD

From: ()
Sent: 05 August 2020 16:03
To: Licensing <Licensing@castlepoint.gov.uk>
Subject: Melanie Harris

Thank you for your response but I would like to appeal the decision of not allowing me a PHD license kind regards