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Thundersley, Benfleet,
Essex SS7 1TF
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Ann C. Horgan
Head of Governance
Proper Officer

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Wednesday, 14 April 2021 at 11:00 am
Venue:	Microsoft Teams
Membership:	Councillors Egan, Palmer & Skipp
Officers attending:	Mel Harris - Head of Licensing & Safer Communities Hayley Morgan – 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 D**

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

- 4. Decision**

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PROCEDURE FOR HEARING

Held Virtually - Via MS Teams

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

Usually the Panel would withdraw at this point to consider its decision. This now takes place in concluding the meeting.

7. Conclusion

The Chairman will close the proceedings. The Panel will now consider its decision. During this time the Clerk will record the Panel's decision. The Committee may request the presence of the Legal Advisor to give them legal advice.

8. Decision

The Licensing Team will notify of the Committees decision after the meeting has closed.

LICENSING SUB COMMITTEE

14 April 2021

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

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

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

2. Background

Applicant D applied for a Private Hire Driver's Licence in February 2021. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) certificate because Applicant D has the following convictions:

Date of conviction: 13 November 2012

Offence: Conspire/Supplying Controlled Drug

Disposal: Imprisonment 4 years. Forfeiture and Destruction of Cannabis

Date of Conviction: 13 May 2005

Offence: Conspire / Fraudulent Evasion of Duty Prohibition or Provision

Disposal: Confiscation 2500.00 or 45 Days Imprisonment in Default of Payment

Date of Conviction: 9 September 1994

Offence: 1. Attempt / Burglary and Theft Non Dwelling

2. No Insurance

3. Driving Whilst Disqualified

Disposal: Community Service Orders

Date of Conviction: 03 February 1989

Offence: Theft by Employee

Disposal: Fine and Costs

A copy of the DBS certificate 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.'

Further guidance on assessment of previous convictions is contained within the Department for Transport's Statutory Taxi and Private Hire Vehicle Standards released in July 2020. These standards were adopted by the Council in November 2020 following a period of consultation.

As Applicant D has been convicted of the above offences 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 D submitted a written appeal against this decision to the Council on 15 March 2021. A copy 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 D 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
Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020
[Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Enhanced Certificate

Page 1 of 4

Disclosure & Barring Service

DBS Fee Charged

Certificate Number

Date of Issue:

18 NOVEMBER 2020

Applicant Personal Details

Surname:

Forename(s):

Other Names:

NONE DECLARED

Date of Birth:

Place of Birth:

LONDON

Gender:

MALE

Employment Details

Position applied for:

OTHER WORK FORCE PRIVATE HIRE DRIVER

Name of Employer:

SELF EMPLOYED

Countersignatory Details

Registered Person/Body:

CASTLE POINT BOROUGH COUNCIL

Countersignatory:

MELANIE HARRIS

Police Records of Convictions, Cautions, Reprimands and Warnings

Surname:

Forename(s):

Gender:

MALE

Birth Details:

Last known occupation:

TAXI DRIVER

Alias Name(s):

NONE RECORDED

Alias Date of Birth:

NONE RECORDED

Conviction Details

Conviction:

Date of Conviction:

03 FEBRUARY 1989

Court:

HIGHGATE MAG

Offence:

THEFT BY EMPLOYEE

ON

Disposal:

FINE 100.00

COSTS 15.00

THEFT ACT 1968 S.1

Conviction:

Date of Conviction:

09 SEPTEMBER 1994

Court:

INNER LONDON CROWN

Offence:

ATTEMPT/BURGLARY AND THEFT

NON-DWELLING

ON

Disposal:

COMMUNITY SERVICE ORDER 50 HRS

COSTS 200.00

THEFT ACT 1968 S.9(1)(b)

NO INSURANCE

ON

NOT SEPARATELY DEALT WITH

ROAD TRAFFIC ACT 1988 S.143(2)

DRIVING WHILST DISQUALIFIED

ON

COMMUNITY SERVICE ORDER 100 HRS CONSECUTIVE

ROAD TRAFFIC ACT 1988 S.103(1)(b)

Conviction: 3	Date of Conviction: 13 MAY 2005	Court: MAIDSTONE CROWN
1	Offence: CONSPIRE/FRAUDULENT EVASION OF DUTY PROHIBITION OR PROVISION ON CUSTOMS AND EXCISE MANAGEMENT ACT 1979 S.170(2)	Disposal: CONFISCATION 2500.00 OR 45 DAYS IMPRISONMENT IN DEFAULT OF PAYMENT.
Conviction: 4	Date of Conviction: 13 NOVEMBER 2012	Court: CROYDON CROWN
1	Offence: CONSPIRE/SUPPLYING CONTROLLED DRUG - CLASS NOT SPECIFIED ON MISUSE OF DRUGS ACT 1971 S.4(3)	Disposal: IMPRISONMENT 4 YRS T20127347-1/1 FORFEITURE AND DESTRUCTION OF CANNABIS CONFISCATION 312.04 IMPOSED ON 14/10/13 AT CROYDON CROWN COURT

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

NONE RECORDED

DBS Children's Barred List information

NONE RECORDED

DBS Adults' Barred List information

NONE RECORDED

Other relevant information disclosed at the Chief Police Officer(s) discretion

NONE RECORDED

Enhanced Certificate

This document is an Enhanced Criminal Record Certificate within the meaning of sections 113B and 116 of the Police Act 1997.

Use of certificate information

The information contained in this certificate is confidential and all recipients must keep it secure and protect it from loss or unauthorised access. This Certificate must only be used in accordance with the Disclosure and Barring Service's (DBS) Code of Practice and any other guidance issued by the DBS. Particular attention must be given to the guidance in the fair use of the information in respect of those whose Certificate reveals a conviction or similar information. The DBS will monitor the compliance of Registered Bodies with this Code of Practice and other guidance.

This Certificate is issued in accordance with Part V of the Police Act 1997, which creates a number of offences. These offences include forgery or alteration of Certificates, obtaining Certificates under false pretences, and using a Certificate issued to another person as if it was one's own.

This Certificate is not evidence of the identity of the bearer, nor does it establish a person's entitlement to work in the UK.

Enhanced Certificate

Page 1 of 4



Disclosure & Barring Service

DBS Fee Charged

Certificate Number

Date of Issue:

18 NOVEMBER 2020

Applicant Personal Details

Employment Details

Surname:

Position applied for:

Forename(s):

OTHER WORK FORCE PRIVATE HIRE DRIVER

Other Names:

NONE DECLARED

Name of Employer:

SELF EMPLOYED

Date of Birth:

Countersignatory Details

Place of Birth:

LONDON

Registered Person/Body:

CASTLE POINT BOROUGH COUNCIL

Gender:

MALE

Countersignatory:

MELANIE HARRIS

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Surname:

Last known occupation:

Forename(s):

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Gender:

MALE

Alias Name(s):

NONE RECORDED

Birth Details:

Alias Date of Birth:

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HIGHGATE MAG

Offence:

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COSTS 18.00

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Conviction:

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09 SEPTEMBER 1994

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Offence:

ATTEMPT/BURGLARY AND THEFT

Disposal:

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NON DWELLING

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Application for the grant of a Private Hire Driver's Licence

Date received 11/3/21	PHD number
---------------------------	------------

Name and address of applicant

Name		
Address		
Age and DOB	phone	email
57 19 05 1983		


Present occupation and employer
SELF/EMPLOYED, TV. FILM.
Have you ever been refused a licence or had a licence taken away?
YES
How long have you held a full licence to drive a motor vehicle?
40 YEARS

Have you ever been convicted in court or received any fixed penalty notices?
 Yes/No *Delete as appropriate

Give details of all convictions, fixed penalty notices or any court or proceedings pending against you.

Offence	Court	Date	Fixed penalty
THEFT	HIGHGATE MAG	3/2/89	FINE £100
THEFT WHILE DISQUALIFIED	INNER LONDON	9/9/94	INNER TO COM/SERVE
NO INSURANCE			

FRAUD/TAX EVASION MAIDSTONE 13/5/05 £2500 CONFISCATION
 If any person knowingly or recklessly makes a false statement or omits any material particularly when giving information under this section, they shall be guilty of an offence.

Signed	Date
	25 02. 21.

SUPPLY CANNABIS CROYDON CROWN 13/11/12 4 years IMPRISONMENT

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Dear Sir / Madam

I am writing to you in reply to your letter of refusal of a PCO License.

I would like to take the opportunity to appeal on the basis that I feel I am a fit and proper person to hold such a license and I am appealing to you to ask you to consider my application.

I am currently working in the film production industry and would like to better myself, which would involve a PCO License. I am always punctual and efficient in my work and have good working ethics.

I also have good relationships with colleagues and clients and would not regard myself as a threat to public safety.

If you agree to a hearing i can bring references if required.

I understand the decision you have made but please would you give me a chance to put my case to you.

I have made mistakes which i truly regret i would like to put the past behind me and move on in the proper way.

Thank you for your time

Kind regards.

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