



Council Offices, Kiln Road,  
Thundersley, Benfleet,  
Essex SS7 1TF.  
Tel. No: 01268 882200  
Fax No: 01268 882455



**David Marchant** LLB (Hons) BSc (Hons) CEng FICE FCMI  
**Chief Executive**

## **AGENDA**

<b>Committee:</b>	<b>LICENSING SUB-COMMITTEE</b>
<b>Date and Time:</b>	<b>Wednesday, 18 March 2020 at 11.00am.</b>
<b>Venue:</b>	<b>Council Chamber</b>
<b>Membership:</b>	<b>Councillors Isaacs, Skipp and Palmer</b>
<b>Officers attending:</b>	<b>Mel Harris - Head of Licensing &amp; Safer Communities Andrew Smith – Corporate Legal Adviser</b>
<b>Committee Enquiries:</b>	<b>Loretta Hill, Ext. No. 2427</b>

### **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 E**  
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**

**18 March 2020**

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

**Report of: Head of Licensing and Safer Communities**

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**1. Purpose of Report**

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

**2. Background**

Applicant E applied to the Licensing Department in January 2020 for a Private Hire Driver's Licence. The Council refused to grant the application because Applicant E does not meet The Council's Hackney Carriage / Private Hire Drivers Licence Pre-Licensing standard number 12 :

- Not have been convicted of three or more motoring offences in the previous three years

Applicant E has the following motoring convictions recorded on his driving licence:

- 5 March 2019  
CU80 – Breach of requirements as to control of the vehicle, mobile telephone etc  
Penalty Points - 6
- 11 January 2019  
CU80 – Breach of requirements as to control of the vehicle, mobile telephone etc  
Penalty Points – 6
- 25 September 2018  
SP30 – Exceeding statutory speed limit on a public road  
Penalty points 3

Total penalty points – 15

The DVLA Drivers Licence check is attached at Appendix 1

The Council's Hackney Carriage / Private Hire Drivers Licence pre licensing standards are attached at Appendix 2

Applicant E completed an enhanced Disclosure and Barring Service (DBS) check at time of application which was returned showing no other criminal convictions.

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 E does not meet the Council's pre-licensing standards he is not regarded as a fit and proper person to hold a driver's licence and the Council made the decision to refuse the application.

### 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 E 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 grant the Private Hire Driver's Licence.
- (ii) Grant the Private Hire Driver's Licence.

### **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 – DVLA online driving licence check

Appendix 2 – CPBC Hackney Carriage / Private Hire Drivers Licence pre licensing standards

### **Background Papers:**

Local Government (Miscellaneous Provisions) Act 1976

[http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga\\_19760057\\_en.pdf](http://www.legislation.gov.uk/ukpga/1976/57/pdfs/ukpga_19760057_en.pdf)



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## You have 15 current penalty points

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- [CU80](#)
- [Penalty points: 6](#)
- [Offence date: 5 Mar 2019](#)

[Hide information](#)

### ◦ Offence dates

- **Offence date:** 5 Mar 2019
- **Expiry date:** 5 Mar 2022
- **Removal date:** 5 Mar 2023

### ◦ Offence details

- **CU80:** Breach of requirements as to control of the vehicle, mobile telephone etc
- **Penalty points:** 6
- **Fine:** £250.00

### ◦ Court/Fixed penalty office

**1971:** South Essex Magistrates' Court

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- [CU80](#)
- [Penalty points: 6](#)



- Offence date: 11 Jan 2019

Hide information 

- **Offence dates**

- **Offence date:** 11 Jan 2019
- **Expiry date:** 11 Jan 2022
- **Removal date:** 11 Jan 2023

- **Offence details**

- **CU80:** Breach of requirements as to control of the vehicle, mobile telephone etc
- **Penalty points:** 6

- **Court/Fixed penalty office**

**9972:** South Region Fixed Penalty Office (Southend-On-Sea)

- SP30

- Penalty points: 3

- Offence date: 25 Sep 2018

Hide information 

- **Offence dates**

- **Offence date:** 25 Sep 2018
- **Expiry date:** 25 Sep 2021
- **Removal date:** 25 Sep 2022

- **Offence details**

- **SP30:** Exceeding statutory speed limit on a public road
- **Penalty points:** 3

- **Court/Fixed penalty office**

**9972:** South Region Fixed Penalty Office (Southend-On-Sea)

## Hackney Carriage/Private Hire Drivers Licence

### Pre-licensing standards

A person being considered for a combined private hire/hackney carriage badge or a private hire badge shall:-

- 1 For the combined hackney carriage/private hire drivers licence pass a knowledge test designed to ensure that they have sufficient knowledge to provide a safe and reliable service to the travelling public. A person that does not attain the pass mark on retest and wishes to take a further test will be required to pay a fee for each subsequent occasion
- 2 Be the holder of a drivers assessment pass certificate for hackney carriage and private hire vehicles, a current PSV (Public Service Vehicle) licence or a holder of an advanced driving certificate from an officially recognised body. This will be at the applicants own expense.
- 3 Complete an application form on which must be shown any convictions. Omissions or incorrect statements of a serious nature will render the licence liable to immediate suspension. (Please see appendix 10).
- 4 The council may require a driver to take a retest on the knowledge and byelaws or a driving assessment at any time at the discretion of the Head of Licensing and Safer Communities.
- 5 Be over twenty-one years of age.
- 6 Be vetted by the Vetting and Barring service upon application and subsequently upon renewal of the licence. Applicants are required to complete a form for this purpose which will be in the application pack together with details of the appropriate fee.
- 7 Pass a medical examination carried out by any medical practitioner of Group 2 standard and produce a medical report in the form provided by the Council. This will be at the applicants own expense.
- 8 Where an applicant currently holds, or has previously held a badge with another authority the Council will vet the application through a local authority check.
- 9 Produce current original documents for inspection which fall in line with those requested for the DBS checks, e.g., passport, birth or marriage certificate, drivers licence, P60 or P45.
- 11 Have held a full licence to drive a motorcar for not less than three years immediately prior to making the application for a driver's badge.
- 12 Not have been convicted of three or more motoring offences in the previous three years.

