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Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Thursday, 19th November 2019 at 11.45am.
Venue:	Council Chamber
Membership:	Councillors Cross, Greig & Isaacs
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 A**

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

- 4. Decision**

LICENSING SUB COMMITTEE

19 December 2019

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

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

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

2. Background

Applicant A applied to the Licensing Department in July 2019 for a Private Hire Driver's Licence. The Council refused to grant the application because A has the following conviction:

- Assault occasioning actual bodily harm (31/1/1991)
- Battery (7/11/2017)

A copy of the DBS is attached at Appendix 1.

The application for a Private Hire Driver's Licence dated 19/08/19 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 A has been convicted of the above offences 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 A 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 – DBS certificate

Appendix 2 – Application form

Background Papers:

Local Government (Miscellaneous Provisions) Act 1976

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

Enhanced Certificate

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Disclosure &
Barring Service

DBS For & Typed

Certificate Number

001679952116

Date of Issue

05 NOVEMBER 2019

Applicant Personal Details

Surname

Forename(s)

Other Names: NONE DECLARED

Date of Birth

Place of Birth: LONDON

Gender

Employment Details

Position applied for

Name of Employer

Counter-signatory Details

Registered Person(s):
CASTLE POINT BOROUGH COUNCIL

Counter-signatory:
KEVIN NEWSWORTH

Licensing & Transportation

15 NOV 2019

RECEIVED

Police Records of Convictions, Cautions, Reprimands and Warnings

Surname

Last known occupation

Forename(s)

Alias Name(s)

NONE RECORDED

Gender

Alias Date of Birth

NONE RECORDED

Birth Details

Conviction Details

Conviction:

Date of Conviction:

31 JANUARY 1991

Court:

Offence:

ASSAULT OCCASIONING ACTUAL BODILY
HARM

ON

OFFENCES AGAINST THE PERSON ACT

1861 S.47

Disposal:

CONDITIONAL DISCHARGE 12 MONTHS

COMPENSATION 50.00

COSTS 24.00

Caution/Reprimand/Warning Details

Caution

Date of Caution:

07 NOVEMBER 2017

Police Force:

ESSEX POLICE

Offence:

BATTERY

ON

CRIMINAL JUSTICE ACT 1988 S.39

Application for a Private Hire Driver's/Restricted Private Hire Driver's Licence
Delete as appropriate

Surname _____
Forename(s) _____
Title Miss, Mrs, Ms, Mr, other _____
Address _____
Postcode _____
Tel no. _____
Date and place of birth _____
Present occupation _____
Present employer SELF

For office use only	
Date Received	_____
Fee	_____
Receipt No	_____
DBS sent	_____
DBS returned	_____
HC/PH Lic No	_____
App complete	_____
Date issued	_____
Lalpac	_____
Inland Revenue	_____
Expiry date	_____

Have you ever been refused a Hackney Carriage or Private Hire Driver's Licence? NO

If 'Yes', please give expiry date and proprietor N/A

How long have you held a full licence to drive a motor vehicle? YEARS

Have you ever been convicted in court or received any fixed penalty notices? Yes ☒ No ☐

If 'Yes', details of all convictions other than 'spent' convictions, must be shown below any inaccuracy may prejudice the issue of a licence. Are there any court or other proceedings pending against you? _____

Offence	Court	Date	Penalty

Name of Private Hire proprietor SELF Circuit N/A
*If applicable

I hereby confirm that the applicant will be employed by me as a Private Hire Driver or Restricted Private Hire Driver, subject to the Council issuing a licence for that purpose.

Signature of Private Hire Proprietor *If applicable _____

I declare that my answers to the questions above are true to the best of my knowledge. I understand that if I have made an omission or statement I know to be false, my application may be refused without further consideration or if a licence has been issued it will be liable to immediate suspension. I have read and understood the Pre-Licensing Standards and Conditions contained in the Policy document.

Signed _____ Date 09.09.2019