



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

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Tuesday 25 February 2020 at 11.00am.
Venue:	Council Chamber
Membership:	Councillors E. Egan, Greig and Haunts
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 J**
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

25 February 2020

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

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

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

2. Background

Applicant J applied to the Licensing Department in January 2020 for a Private Hire Driver's Licence. The Council refused to grant the application because he has the following convictions:

- Theft of vehicle (2/4/04)
- Burglary and theft - non-dwelling (2/4/04)
- Driving otherwise than in accordance with a licence (1/2/05)
- Using vehicle while uninsured (1/2/05)
- Dangerous driving (15/2/05)
- Possessing controlled drug – class A – cocaine 14/2/08
- Having counterfeit currency note (11/10/11)
- Handling stolen goods (receiving) 11/10/11)
- Failing to comply with the community requirements of a suspended sentence order (8/8/13)
- Concerned in the supply of a controlled drug – class B - cannabis resin (8/8/23)
- Wounding/inflicting grievous bodily harm (25/1/14)

A copy of the DBS is attached at Appendix 1.

The application forms for both licences are 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 J 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 J 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 forms

Background Papers:

Local Government (Miscellaneous Provisions) Act 1976

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

Enhanced Certificate

Page 1 of 4

Disclosure &
Barring Service

DBS Fee Charged

Certificate Number

001676620290

Date of Issue:

15 OCTOBER 2019

Applicant Personal Details

Surname:

Forename(s):

Other Names: NONE DECLARED

Date of Birth:

Place of Birth:

Gender:

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:

KEVIN HEMSWORTH

Police Records of Convictions, Cautions, Reprimands and Warnings

Surname:

Last known occupation:

Forename(s):

Alias Name(s):

Gender:

Alias Date of Birth:

Birth Details:

NONE RECORDED

Conviction Details

Conviction:	Date of Conviction:	Court:
1	01 FEBRUARY 2006	V
1	Offence: THEFT OF VEHICLE ON 02 APRIL 2004 THEFT ACT 1968 S.1	Disposal: IMPRISONMENT 18 MTHS CONCURRENT SUSPENDED FOR 2 YEARS
2	BURGLARY AND THEFT - NON-DWELLING ON 02 APRIL 2004 THEFT ACT 1968 S.9(1)(B)	IMPRISONMENT 18 MTHS SUSPENDED FOR 2 YEARS COMPENSATION 6000.00
Conviction:	Date of Conviction:	Court:
2	01 FEBRUARY 2006	
1	Offence: DRIVING OTHERWISE THAN IN ACCORDANCE WITH A LICENCE ON 01 FEBRUARY 2005 ROAD TRAFFIC ACT 1988 S.87(1)	Disposal: NO SEPARATE PENALTY DRIVING LICENCE ENDORSED

Conviction details continue...

THIS CERTIFICATE IS NOT EVIDENCE OF IDENTITY

Continued on page 2

Conviction: 2	Date of Conviction: 01 FEBRUARY 2005	Court: M5
2	Offence: USING VEHICLE WHILE UNINSURED ON 01 FEBRUARY 2005 ROAD TRAFFIC ACT 1988 S.143(2)	Disposal: NO SEPARATE PENALTY DRIVING LICENCE ENDORSED
3	Offence: DANGEROUS DRIVING ON 15 FEBRUARY 2005 ROAD TRAFFIC ACT 1988 S.2	NO SEPARATE PENALTY DISQUALIFIED FROM DRIVING - OBLIGATORY 12 MTHS UNTIL EXTENDED TEST PASSED
Conviction: 3	Date of Conviction: 04 JULY 2008	Court: 1
1	Offence: POSSESSING CONTROLLED DRUG - CLASS A - COCAINE ON 14 FEBRUARY 2008 MISUSE OF DRUGS ACT 1971 S.5(2)	Disposal: FINE 250.00 COSTS 43.00 FORFEITURE/CONFISCATION AND DESTRUCTION OF DRUGS
Conviction: 4	Date of Conviction: 09 NOVEMBER 2012	Court: 5A
1	Offence: HAVING COUNTERFEIT CURRENCY NOTE ON 11 OCTOBER 2011 FORGERY AND COUNTERFEITING ACT 1981 S.16(2)	Disposal: SUSPENDED IMPRISONMENT 12 MTHS WHOLLY SUSPENDED 18 MTHS UNPAID WORK REQUIREMENT 150 HRS COSTS 150.00
2	Offence: HANDLING STOLEN GOODS (RECEIVING) ON 11 OCTOBER 2011 THEFT ACT 1968 S.22(1)	SUSPENDED IMPRISONMENT 9 MTHS WHOLLY SUSPENDED 18 MTHS T20127366-1 UNPAID WORK REQUIREMENT 150 HRS
Conviction: 5	Date of Conviction: 06 FEBRUARY 2015	Court:
1	Offence: FAIL TO COMPLY WITH THE COMMUNITY REQUIREMENTS OF A SUSPENDED SENTENCE ORDER ON 08 AUGUST 2013 CRIMINAL JUSTICE ACT 2003 SCH 12	Disposal: RESULTING FROM ORIGINAL CONVICTION OF 09/11/12 IMPRISONMENT 6 MTHS CONSECUTIVE
2	Offence: CONCERNED IN THE SUPPLY OF A CONTROLLED DRUG - CLASS B - CANNABIS RESIN ON 08 AUGUST 2013 MISUSE OF DRUGS ACT 1971 S.4(3)(B)	IMPRISONMENT 4 YRS VICTIM SURCHARGE 120.00 CONFISCATION 2015.00 IMPOSED ON 11/12/2015
Conviction: 6	Date of Conviction: 12 MAY 2015	Court:
1	Offence: WOUNDING / INFLICTING GRIEVOUS BODILY HARM ON 25 JANUARY 2014 OFFENCES AGAINST THE PERSON ACT 1961 S.20	Disposal: IMPRISONMENT 15 MTHS CONSECUTIVE - T20147207-1 VICTIM SURCHARGE 100.00

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

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

Date received	PHD number
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Name and address of applicant

Name		
Address		
Age and DOB	Phone	Email

Present occupation and employer
Have you ever been refused a licence?
Not Until now
How long have you held a full licence to drive a motor vehicle?
13 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
TS10		25/02/19	3 points

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
	30-1-20