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Angela Hutchings
Chief Executive

AGENDA

Committee: LICENSING SUB-COMMITTEE
Date and Time: Thursday, 27 July , at 11:00 am
Venue: Council Offices, Council Chamber
Membership: Councillors Acott, Jones and Walter
Officers attending: Jason Bishop – Corporate Legal Adviser
Melanie Harris - Head of Licensing & Safer Communities
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 F**

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.

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AGENDA ITEM NO 3

LICENSING SUB COMMITTEE

27 July 2023

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

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

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

2. Background

2.1 Applicant F applied for a Private Hire Driver's Licence in April 2023. The Council refused to progress the application due to the driving endorsements declared by the applicant.

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

- 26 August 2020
TT99 – "Totting Up" – if the total of penalty points reaches 12 or more within 3 years.
Disqualification 6 months

The application form is attached at Appendix 1
Driving licence summary is attached at Appendix 2

3. Castle Point Borough Council Hackney Carriage and Private Hire Licensing Policy

3.1 Private Hire Drivers Licence Pre- Licensing Standards:

"An applicant must be over twenty-one years of age and have held a current full licence issued by the Driver and Vehicle Licensing Agency (DVLA) to drive

a motorcar for not less than three years immediately prior to making the application for a driver's badge and not to have been disqualified from driving for any period of time during the three years prior to making the application."

3.2 Assessment of Previous Convictions:

Guidance on assessment of previous convictions was contained within the Department for Transport's (DFT) 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 and include the following in relation to driving offences:

Offence	Elapsed period before licence should be issued
Applicants with multiple driving offences	May indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally

3.3 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 F 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.

4. 'Fit and Proper'

4.1 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 F has the above driving convictions he does not meet the pre licensing standards and therefore not regarded as a fit and proper person to hold a Private Hire Driver's Licence. The Council made the decision to refuse the application.

Applicant F submitted a written appeal against this decision to the Council by email on 21 June 2023. A copy is attached at Appendix 3

5. 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 F 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.

6. Options

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

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

Recommendation

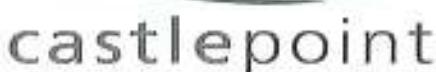
The decision of the Sub Committee is required following proper consideration of the application and any representations made to the Sub Committee.

Appendices

- Appendix 1 – Application form
- Appendix 2 – Driving licence summary
- Appendix 3 – Appeal email

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/government/publications/statutory-taxi-and-private-hire-vehicle-standards)
- CPBC Hackney Carriage and Private Hire Policy



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

Office use		
Date received	PHD number	
Name		
Address		
Date of birth	phone	email
National Insurance Number		
Do you currently hold or have you previously held a licence with another authority? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <i>If yes you will need to provide an HMRC Tax Check Code at your ID Appointment. Search "Complete a Tax Check for a Taxi" and generate the code.</i>		
Have you ever been refused a licence or had a licence revoked or suspended? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> <i>If yes please give details</i>		
Please tick to confirm you have held a full DVLA licence to drive a motor vehicle for 3 years or more <input checked="" type="checkbox"/> Have you spent a period of 3 continuous months or more, since the age of 18 years, living or working outside the United Kingdom. Yes <input type="checkbox"/> - Please provide dates No <input checked="" type="checkbox"/> <i>If yes please provide evidence of a criminal record check or Certificate of Good Character from the country/countries covering the relevant period</i>		
Is English your first language? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <i>If no you will need to provide evidence of appropriate level or complete a test</i>		
Do you have a British Passport Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> <i>If no you will need to provide a Right to Work Share Code at your ID Appointment</i>		
Name of proposed Operator		

Have you ever been convicted in court or received any fixed penalty notices?

Yes No

If yes give details of all convictions, fixed penalty notices, current points on licence or any court or proceedings pending against you.

Offence	Court	Date	Penalty
IT 99 Driving up. 16/11/20	LYNCH OR. MAGISTRATE'S Court P	Start Date (Aug 2020) End Date (Feb 2021)	BANNED, 6 Months.

Please continue on a separate sheet if required

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
	11-04-2023

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Helen Collins

From:
Sent: 21 June 2023 12:13
To: Licensing
Subject: Appealing the decision

Hi Licensing team,

Kindly , Thank you for the time and consideration you have shown in my application.

I would like to appeal the decision of not being granted my castle point license because my totting up TT99 disqualification was tried in my absence as it was during lockdown and i did not get the chance to appeal the decision in court which was a result of me going through a red light at Wandsworth roundabout . I went through the light on Amber it turned Red I did not expect to get prosecuted as at the time I had just received a phone call that my mother (who is now deceased) had been given 24 hours to live .Although she died in my arms a little time after I was so so distressed by this phone call that i just wanted to get to the hospital as soon as possible. My mother has been dead for just over 3 years now and it's very hard for me to remember that period of my life.

I have been a chauffeur for almost 20 years and this has been my only form of livelihood I have never had a licence disqualification and I believe I am a credit to the profession and I have gained a wealth of experience and enjoy my job very much providing an excellent service to exacting clientele.

In 2015 I made the decision to go and buy a car and go on my own and built up my own niche of very bespoke clientele and was quite successful but was forced to also sell my vehicle in 2020 during lockdown .

Since then I have struggled financially as I am unable to provide for my family in the way I used to and have depleted all savings just to keep on top of monthly utilities bills and expenses.

I am currently in conversation with one of your brilliant licensed operator drivers whom I've known and worked with for as long as I've been a chauffeur ready to add me to his license if I am granted my license his name is [REDACTED]

Having come for the onboarding in April of this year I immediately felt comfortable and confident that I had made the right decision to become a licensed castlepoint driver as the licensing process-is stressless professional personal and everything is explained in detail very carefully.

Once again please accept my gratitude in taking the time to accept my appeal.
Look forward to receiving your response in due course.

kind Regards

Sent from my iPhone www