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Chief Executive

AGENDA

Committee:	LICENSING SUB-COMMITTEE
Date and Time:	Friday, 06 November 2020 at 11:00am
Venue:	Microsoft Teams
Membership:	Councillors Maclean, Palmer & Skipp
Officers attending:	Mel Harris - Head of Licensing & Safer Communities Jason Bishop – Solicitor to the Council
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 R**
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

AGENDA ITEM NO 3**LICENSING SUB COMMITTEE****6th November 2020**

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

Report of: Head of Licensing and Safer Communities

1. Purpose of Report

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

2. Background

- 2.1 Applicant R contacted the Licensing Department in September 2020 to apply for a Private Hire Driver's Licence. The Council refused to progress the application on receipt of his Disclosure and Barring Service (DBS) certificate and application forms. Applicant R has the following convictions / cautions / driving endorsements:

Date of Caution	Offences
03/05/2008	Assault occasionally actual bodily harm
Date of Convictions	Offences
17/08/1999	Failing to surrender to custody at appointed time
22/03/1999	Driving a motor vehicle with excess alcohol
19/10/1999	Using threatening abusive insulting words or behaviour to cause fear or provocation of violence
02/07/1998	1. Failing to surrender to custody at appointed time 2. Fraudulently using a vehicle licence
06/09/1994	Vehicle interference
26/08/1994	Burglary and theft dwelling x 2
13/07/1993	1. Burglary and theft dwelling 2. Possessing controlled drug 3. Failing to surrender to bail x 2
12/05/1993	1. No insurance 2. Taking conveyance without authority
21/01/1993	Taking conveyance without authority

10/12/1992	1. Burglary and theft dwelling 2. Aggravated vehicle taking 3. Burglary and theft non dwelling 4. No insurance 5. Possession article with blade or point in public place 6. No insurance 7. Taking conveyance without authority 8. No insurance 9. Taking conveyance without authority
14/11/1991	1. Handling 2. Possessing article with blade or point in public place 3. Burglary and theft non dwelling
09/04/1991	1. Failing to surrender to bail 2. Possessing offensive weapon in public place
30/01/1990	Assault occasioning actual bodily harm
01/06/1989	1. Attempt / theft 2. Assault occasioning actual bodily harm
07/06/1988	Attempt / theft from vehicle
Date of Driving Offence	Offence
21/11/2018	SP30 – 3 penalty points

A copy of the DBS certificate is attached at Appendix 1

A copy of the application form is attached at Appendix 2.

- 2.2 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 R 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 to progress the application.

Applicant R requested an appeal against this decision on 15 October 2020.

A copy of the request for appeal 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 R 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

Enhanced Certificate

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Disclosure & Barring Service

DBS Fee Charged

Certificate Number

Date of Issue

17 SEPTEMBER 2021

Applicant Personal Details

Surname

Forename(s)

Other Name(s)

Date of Birth

Place of Birth

Gender

Employment Details

Position applied for

OTHER WORK FORCE PRIVATE HIRE DRIVER

Name of Employer

SELF EMPLOYED

Countydown Details

Registered Person Status

COUNTYDOWN BOROUGH COUNCIL

Countydown

MELANIE HARRIS

Police Records of Convictions, Cautions, Reprimands and Warnings

Surname

Forename(s)

Gender

Birth Details

WANDERED, LONDON

Last known occupation

DELIVERYMAN

Alias Name(s)

NONE RECORDED

Alias Date of Birth

NONE RECORDED

Conviction Details

Conviction

1

Date of Conviction

01 JUNE 1988

Offence

1

ON

THEFT ACT 1968 S.1

Court

WALTHAM FOREST JUV

Disposal

CONDITIONAL DISCHARGE & FINE

CO\$T\$ 10.00

Conviction

2

Date of Conviction

01 JUNE 1988

Offence

1

ON

THEFT ACT 1968 S.1

Court

WALTHAM FOREST JUV

Disposal

FINE 25.00

RESULTING FROM ORIGINAL CONVICTION OF 07/06/88

2

ASSAULT OCCASIONING ACTUAL BODILY HARM

ON

OFFENCES AGAINST THE PERSON ACT 1961 S.47

ATTENDANCE CENTRE 12 HRS

COMPENSATION 10.00

THIS CERTIFICATE IS NOT EVIDENCE OF IDENTITY

Disclosure and Barring Service, PO Box 105, Liverpool, L69 1JG. Helpline: 05000 200 190

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Conviction 3	Date of Conviction: 30 JANUARY 1990	Court: WALTHAM FOREST JUV
1	Offence: ASSAULT OCCASIONING ACTUAL BODILY HARM ON OFFENCES AGAINST THE PERSON ACT 1981 S.47	Disposal: FINE 25.00 COMPENSATION 15.00
Conviction 4	Date of Conviction: 09 APRIL 1991	Court: WALTHAM FOREST MAGISTRATES
1	Offence: FAILING TO SURRENDER TO BAIL ON BAIL ACT 1976 S.6	Disposal: ATTENDANCE CENTRE 6 HRS CONCURRENT
2	Offence: POSSESSING OFFENSIVE WEAPON IN PUBLIC PLACE ON PREVENTION OF CRIME ACT 1953 S.1	ATTENDANCE CENTRE 24 HRS
Conviction 5	Date of Conviction: 14 NOVEMBER 1991	Court: WALTHAM FOREST JUV
1	Offence: HANDLING ON THEFT ACT 1968 S.22	Disposal: SUPERVISION ORDER 12 MTHS
2	Offence: POSSESSING ARTICLE WITH BLADE OR POINT IN PUBLIC PLACE ON CRIMINAL JUSTICE ACT 1988 S.139(1)	SOUND OVER 6 MTHS
3	Offence: BURGLARY AND THEFT - NON-DWELLING ON THEFT ACT 1968 S.9(1)(E)	SUPERVISION ORDER 12 MTHS
Conviction 6	Date of Conviction: 10 DECEMBER 1992	Court: WALTHAM FOREST YOUTH
1	Offence: BURGLARY AND THEFT - DWELLING ON THEFT ACT 1968 S.9(1)(B)	Disposal: COMMUNITY SERVICE ORDER 120 HRS
2	Offence: AGGRAVATED VEHICLE TAKING - TAKING ON THEFT ACT 1968 S.12(1)	COMMUNITY SERVICE ORDER 120 HRS CONCURRENT
3	Offence: BURGLARY AND THEFT - NON-DWELLING ON THEFT ACT 1968 S.9(1)(E)	COMMUNITY SERVICE ORDER 120 HRS CONCURRENT
4	Offence: NO INSURANCE ON ROAD TRAFFIC ACT 1988 S.14(2)	DISQUALIFICATION FROM DRIVING 6 MTHS AND LICENCE ENDORSED
5	Offence: POSSESSING ARTICLE WITH BLADE OR POINT IN PUBLIC PLACE ON CRIMINAL JUSTICE ACT 1988 S.139(1)	NOT SEPARATELY DEALT WITH
6	Offence: NO INSURANCE ON ROAD TRAFFIC ACT 1988 S.14(2)	NOT SEPARATELY DEALT WITH DRIVING LICENCE ENDORSED
7	Offence: TAKING CONVEYANCE WITHOUT AUTHORITY ON THEFT ACT 1968 S.12(1)	COMMUNITY SERVICE ORDER 120 HRS CONCURRENT
8	Offence: NO INSURANCE ON ROAD TRAFFIC ACT 1988 S.14(2)	NOT SEPARATELY DEALT WITH DRIVING LICENCE ENDORSED
9	Offence: TAKING CONVEYANCE WITHOUT AUTHORITY ON THEFT ACT 1968 S.12(1)	COMMUNITY SERVICE ORDER 120 HRS CONCURRENT

Conviction: 7	Date of Conviction: 21 JANUARY 1993 [REDACTED]	Court: WALTHAM FOREST MAGISTRATES
1	Offence: TAKING CONVEYANCE WITHOUT AUTHORITY ON THEFT ACT 1968 S.12(1)	Disposal: CONDITIONAL DISCHARGE 2 YRS COSTS 15.00
Conviction: 8	Date of Conviction: 12 MAY 1993 [REDACTED]	Court: NEWHAM YOUTH
1	Offence: NO INSURANCE ON ROAD TRAFFIC ACT 1988 S.143(2)	Disposal: CONDITIONAL DISCHARGE 12 MTHS DRIVING LICENCE ENDORSED
2	Offence: TAKING CONVEYANCE WITHOUT AUTHORITY ON THEFT ACT 1968 S.12(1)	Disposal: CONDITIONAL DISCHARGE 12 MTHS
Conviction: 9	Date of Conviction: 13 JULY 1993 [REDACTED]	Court: WALTHAM FOREST YOUTH
1	Offence: BURGLARY AND THEFT - DWELLING ON THEFT ACT 1968 S.9(1)(B)	Disposal: YOUNG OFFENDERS INSTITUTION 4 MTHS CONSECUTIVE
2	Offence: POSSESSING CONTROLLED DRUG ON MISUSE OF DRUGS ACT 1971 S.5(2)	Disposal: YOUNG OFFENDERS INSTITUTION 1 MTH CONCURRENT
3	Offence: FAILING TO SURRENDER TO BAIL ON BAIL ACT 1976 S.6	Disposal: FORFEITURE/CONFISCATION YOUNG OFFENDERS INSTITUTION 1 MTH CONCURRENT
4	Offence: FAILING TO SURRENDER TO BAIL ON BAIL ACT 1976 S.6	Disposal: YOUNG OFFENDERS INSTITUTION 1 MTH CONCURRENT
Conviction: 10	Date of Conviction: 29 AUGUST 1994 [REDACTED]	Court: BARNESBROOK CROWN
1	Offence: BURGLARY AND THEFT - DWELLING ON THEFT ACT 1968 S.9(1)(B)	Disposal: PROBATION ORDER 2 YRS CONCURRENT COMPENSATION 150.00
2	Offence: BURGLARY AND THEFT - DWELLING ON THEFT ACT 1968 S.9(1)(B)	Disposal: PROBATION ORDER 2 YRS COMPENSATION 50.00
Conviction: 11	Date of Conviction: 08 SEPTEMBER 1994 [REDACTED]	Court: NEWHAM MAG
1	Offence: VEHICLE INTERFERENCE ON CRIMINAL ATTEMPTS ACT 1981 S.9	Disposal: PROBATION ORDER 12 MTHS FORFEITURE/CONFISCATION COSTS 70.00

THIS CERTIFICATE IS NOT EVIDENCE OF IDENTITY

Disclosure and Barring Service, PO Box 165, Liverpool, L69 3JD Helpline 03000 298 193

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Conviction: 12	Date of Conviction: 02 JULY 1998	Court: WALTHAM FOREST MAGISTRATES
1	Offence: FAILING TO SURRENDER TO CUSTODY AT APPOINTED TIME ON BAIL ACT 1976 S.6(1)	Disposal: FINE 50.00
2	Offence: FRAUDULENTLY USING A VEHICLE LICENCE ON VEHICLE EXCISE AND REGISTRATION ACT 1994 S.44(1)	CONDITIONAL DISCHARGE 24 MTHS COSTS 50.00 FORFEITURE/CONFISCATION
Conviction: 13	Date of Conviction: 19 OCTOBER 1998	Court: ENFIELD MAGISTRATES
1	Offence: USING THREATS, ABUSIVE, INSULTING WORDS OR BEHAVIOUR W/TO CAUSE FEAR OR PROVOCATION OF VIOLENCE ON PUBLIC ORDER ACT 1986 S.4(1)(A)	Disposal: FINE 00.00 FINE 35.00
Conviction: 14	Date of Conviction: 22 MARCH 1999	Court: WALTHAM FOREST MAGISTRATES
1	Offence: DRIVING A MOTOR VEHICLE WITH EXCESS ALCOHOL ON ROAD TRAFFIC ACT 1988 S.5(1)(A)	Disposal: FINE 100.00 COSTS 50.00 DISQUALIFICATION FROM DRIVING 12 MTHS DRIVING LICENCE ENDORSED
Conviction: 15	Date of Conviction: 17 AUGUST 1999	Court: NORTH-WEST ESSEX MAGISTRATES
1	Offence: FAILING TO SURRENDER TO CUSTODY AT APPOINTED TIME ON BAIL ACT 1976 S.6(1)	Disposal: FINE 25.00 COSTS 25.00

Caution/Reprimand/Warning Details

Caution: 1	Date of Caution: 03 MAY 2008	Police Force: METROPOLITAN POLICE
1	Offence: ASSAULT OCCASIONING ACTUAL BODILY HARM ON OFFENCES AGAINST THE PERSON ACT 1861 S.47	

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 <u>3-9-20</u>	PHD number
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Name and address of applicant

Name [REDACTED]		
Address F [REDACTED] T [REDACTED] [REDACTED]		
Age and DOB 45 [REDACTED]	phone 0- [REDACTED]	email [REDACTED]

Present occupation and employer DRIVER [REDACTED]
Have you ever been refused a licence? NO
How long have you held a full licence to drive a motor vehicle? 20+ 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
(SP30) STATUTORY SPEED LIMIT ON PUBLIC RD	SOUTHEND ON SEA ESSEX	21-8-2018	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 [Signature]	Date <u>3-9-20</u>

Helen Collins

From:
Sent: 15 October 2020 13:09
To: Licensing
Subject: Appeal regarding licence application

15th october 2020

t'

I'm writing in regards to my application regarding my application for private hire licence i would like to appeal and ask if you would look at it again and if you would reconsider your decision based on the information given below.

Having made a few bad decisions in my teenage years,i got into the wrong crowd which ended doing somethings i tottaly regret now then i met my previous patner had one child and adopted another and was happily married for 20 years which was when i turned my life around then we seperated {amicably} but still have loads of contact even now.

After splitting from my wife i moved to basildon and set up home as a single man i have worked as a driver all my life i have lived in basildon for 6 years now in which i have not been in any trouble and have a clean licence i have currently adopted a 4 year old girl on my own as a single person which she is now 8 years old and very happy i had to go through the courts and have a dbs check and they went through my life with a fine-tooth comb as they do when your adopting a child and i was accepted to adopt her as you can see through my enhanced dbs i havent been in trouble for over 28 years i am trying to make a better life for me and my daughter i am a positive member of the community ,trustworthy and reliable who puts others first so if you would consider looking at my application again i would be very grateful many thanks i have sent a hard copy in the post aswell with a character reference thank you none again

your sincerely , :