

EAST HERTS COUNCIL

LICENSING COMMITTEE – 11 JULY 2013

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

7. DECISION OF LICENSING SUB COMMITTEE CONSIDERED ON APPEAL – DECISION TO REFUSE AN APPLICATION FOR A TAXI DRIVER'S LICENCE

WARD(S) AFFECTED: ALL

**Purpose/Summary of Report:**

- To inform members of the outcome of an appeal against a decision of the Licensing Sub-Committee to refuse an application for a taxi driver's licence.

**RECOMMENDATION FOR LICENSING COMMITTEE: that**

<b>(A)</b>	<b>The report be received.</b>
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1.0 Background

1.1 The Council, as Licensing Authority, considers applications for taxi driver's licences. Applicants are required to be fit and proper to hold a taxi driver's licence.

2.0 Report

2.1 The Council received an application for a taxi driver's dual Hackney Carriage and Private Hire Driver's licence. As part of the application process, an Enhanced CRB certificate was obtained.

2.2 The Licensing Manager considered that the certificate was unsatisfactory, having regard to information disclosed on the certificate, general principles of licensing, including the protection of the public, and the fact that information on the application form was not consistent with the disclosure certificate. Officers therefore declined to make a determination of the application under delegated powers, and referred the decision to Licensing Sub-Committee with a recommendation for refusal.

- 2.3 The Licensing Sub-Committee, after considering the Officer's report and recommendation, and after considering the Certificate, and after giving the applicant the opportunity to be heard in closed session, decided to refuse the application.
- 2.4 The applicant appealed to Hertford Magistrate's Court the Sub-Committee's decision to refusal to grant the licences, and the appeal was heard by a District Judge with experience in hearing taxi licensing appeals.
- 2.5 The appellant was represented by a solicitor at Court. They had been unrepresented at Licensing Sub-Committee.
- 2.6 The appellant argued that he is a fit and proper person to hold a taxi driver's licence.
- 2.7 The appellant introduced fresh evidence and called witnesses that were not heard by the Sub-Committee. The appellant gave evidence to show how he had family responsibilities, and had changed over the years. He claimed to be a responsible, mature and trustworthy person who could not resort to violence. The witnesses corroborated the appellant's assessment of himself, and gave evidence about his fitness and properness to hold a licence.
- 2.8 The District Judge noted that the Council does not have a published policy on refusal of licences, or a scheme of delegation to officers that would permit refusal by Officers. He noted that the standard of proof is the civil standard.
- 2.9 The Judge referred to D.O.T. Circular 2/92, Ministry of Justice guidance on the Rehabilitation of Offenders Act 1979, and case law including Nottingham City Council v Farooq, Stepney Borough Council v Joffe, and The Hope and Glory public house.
- 2.10 The Judge found the applicant had stated on their application form that they did not have any convictions, either current or spent, and he noted the correct position, and that the application was not correctly completed, and that the applicant had a history of committing various offences of dishonesty and violence, and road traffic offences that included use of documents with intent to deceive. Some convictions for offences involving dishonesty, criminal damage, and public disorder, were only spent 3 years before the application.

- 2.11 The applicant put his failure to correctly complete the application down to an oversight.
- 2.12 The Judge found that there was a continuing history of offending that showed a marked propensity to offend from the early 1980s to the mid 2000s. The latest matter was sufficiently recent as to render the appellant not fit and proper.
- 2.13 The Judge found the character evidence of the appellant's witnesses was highly subjective, and that the appellant had continued to commit offences while he was bringing up a family.
- 2.14 The appeal was dismissed, and costs were awarded to the Council.

### 3.0 Implications/Consultations

- 3.1 Information on any corporate issues associated with this report can be found within **Essential Reference Paper 'A'**. No consultation has taken place, and this report is for information only.

### Background Papers

None.

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