

MINUTES OF A MEETING OF THE
LICENSING SUB-COMMITTEE HELD IN
THE COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON WEDNESDAY 19
OCTOBER 2016, AT 2.00 PM

PRESENT: Councillor Phyllis Ballam (Chairman)
Councillors B Deering and N Symonds.

ALSO PRESENT:

Councillors R Brunton, Mrs R Cheswright
and P Ruffles.

OFFICERS IN ATTENDANCE:

Lorraine Blackburn	- Democratic Services Officer
Victoria Clothier	- Legal Services Manager
James Ellis	- Advisory and Litigation Solicitor
Tess Michaels	- Legal and Democratic Services Apprentice
Oliver Rawlings	- Senior Specialist Licensing Officer

20 APPOINTMENT OF CHAIRMAN

It was proposed by Councillor B Deering and seconded by Councillor N Symonds that Councillor P Ballam be appointed Chairman of the Licensing Sub-Committee for the meeting.

RESOLVED – that Councillor P Ballam be appointed Chairman of the Licensing Sub-Committee for the meeting.

21 MINUTES – 30 SEPTEMBER 2016

RESOLVED – that the Minutes of the meeting held on 30 September 2016 be confirmed as a correct record and signed by the Chairman.

22 EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee passed a resolution pursuant to Section 100(A) (4) of the Local Government Act 1972 as amended, to exclude the press and public during consideration of the business referred to in Minutes 23 and 24 on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the said Act.

23 APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE – APPLICANT WITH A CAUTION AND OTHER RELEVANT NON-CONVICTION INFORMATION – APPLICATION 16 / 1441

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors R Brunton, Mrs R Cheswright and P Ruffles could remain in the room as observers. The applicant also agreed that two Officers from Legal and Democratic Services could remain in the meeting.

The Senior Specialist Licensing Officer summarised why the matter had been reported to the Licensing Sub-Committee. He stated that it was for the Sub-Committee to decide whether the applicant was a “fit and proper” person to hold a Private Hire Drivers Licence.

The applicant explained the background in relation to the caution he had received and commented that the person he was with at the time had committed the offence. He stated that he had failed to admit to the caution when he was applying to renew his taxi licence with another Council on the advice of a friend who had helped him with the application process. The Magistrates Court had

subsequently upheld a decision to refuse the renewal of his licence.

In response to a query from Councillor N Symonds, he confirmed that he was still reading the East Herts Taxi Licensing Policy on the Council's website. Councillor B Deering referred to the Sub-Committee's task in terms of considering the suitability of the applicant as a "fit and proper" person in the context of the safety of the public and the incident for which he had been cautioned. The applicant conceded that from a safety viewpoint, he would not allow his family to travel with such a taxi driver knowing the background of the incident.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Adviser and Democratic Services Officer to consider the evidence.

Following this, they returned and the Chairman announced that the Sub-Committee had listened carefully to the evidence detailed in the report and the oral submissions provided by the applicant. The Sub-Committee was of the view that the applicant had not demonstrated that he was a "fit and proper" person in the light of the incident for which he had received a caution and then failed to mention on a subsequent application with another Council.

After considering the evidence put forward, the Sub-Committee was unanimous in agreement that the application for a taxi drivers' licence be refused for the reasons now detailed.

The Legal Adviser explained that he had not taken any part in the decision making process and was there to advise Members on points of law and what they could and could not do within the law. The applicant was advised of his right to appeal to the magistrates' court within 21 days.

RESOLVED – that the application for a taxi drivers'

licence be refused for the reasons now detailed.

Reasons:

1. Given his caution for theft after a shoplifting incident in August 2014, the Sub-Committee considered that such behaviour was not consistent with someone who was a fit and proper person to hold a licence.
2. The Sub-Committee, having posed themselves the question of whether they would “*allow their son or daughter, spouse or partner, mother or father, grandson or grand-daughter or any other person for whom they care, to get into a vehicle with this person alone?*” concluded that they would not. Further, the applicant himself conceded that, given the circumstances, he himself would not allow his family to get into the vehicle.
3. The Sub-Committee found the applicant’s attempt to play down the incident as disingenuous and gave no weight to his insistence that he had not been involved in the offence for which he had accepted a caution.

24 PRIVATE HIRE DRIVERS' LICENCE – CONSIDERATION AS TO THE FITNESS AND PROPRIETY OF AN EXISTING LICENSED DRIVER

The Chairman outlined the procedure to be followed. All those present were introduced. The applicant agreed that Councillors R Brunton, Mrs R Cheswright and P Ruffles could remain in the room as observers. The applicant also agreed that two Officers from Legal and Democratic Services could remain in the meeting.

The Senior Specialist Licensing Officer summarised why the matter had been reported to the Licensing Sub-Committee. He stated that it was for the Sub-Committee to decide whether the applicant was a “fit and proper”

person to hold a Private Hire Drivers Licence.

The applicant explained the background to the incident. The Senior Specialist Licensing Officer advised Members that the Police had provided the Licensing Authority with the body worn camera interview with the passenger, which had been redacted to protect the passenger's identity and to observe Data Protection rights.

Given the difficulty in following the redacted version of the interview, the meeting was adjourned for 15 minutes so that the Senior Specialist Licensing Officer could make arrangements for Members of the Sub-Committee to separately view the un-redacted interview. At 3.20 pm the meeting reconvened.

In response to a query from Councillor N Symonds, the applicant explained that all drivers did not have to undertake some form of "knowledge" test. The Senior Specialist Licensing Officer explained changes to the policy which required taxi drivers to undertake some form of "knowledge" test which London Hackney Cab drivers had to pass.

The applicant commented that what the passenger said was wrong and that he was married and a Muslim. He commented that he routinely encountered inappropriate behaviour from customers. He accepted that he had taken money from the passenger's purse and that it had been wrong to do so. The applicant referred to the fact that he had worked for the company for two and a half years and there had been no complaints about him. He denied that anything inappropriate had occurred. In response to a query regarding why he had stopped his car, the applicant explained the problems with the directions he had been given, the issues with local road arrangements and the model of the car he had been driving.

The Senior Specialist Licensing Manager provided Members with a booking sheet which highlighted where

the passenger was being dropped off and the house number.

At the conclusion of the representations, the Sub-Committee withdrew with the Legal Adviser and Democratic Services Officer to consider the evidence.

Following this they returned and the Chairman announced that the Sub-Committee had listened carefully to all the evidence detailed in the report and the comments received from the applicant. Having posed the question of whether the applicant was a “fit and proper person” to hold such a licence, the Sub-Committee, after considering the evidence put forward, unanimously agreed that the Private Hire Drivers Licence be revoked.

The Sub-Committee commented that on the balance of probabilities, they favoured the passenger’s account of events rather than the applicant’s and felt that such inappropriate behaviour was totally unacceptable and especially so for the holder of a Private Hire Drivers Licence with responsibility for the travelling public.

In arriving at the decision the Sub-Committee asked the question:

“would you allow your son or daughter, spouse or partner, mother or father, grandson or grand-daughter or any other person for whom you care, to get into a vehicle with this person alone?”, and concluded that the applicant was not a fit and proper person to hold a licence.

The Legal Adviser explained that he had not taken any part in the decision making process and was there to advise Members on points of law and what they could and could not do within the law. The applicant was advised of his right to appeal to the Magistrates’ Court within 21 days.

RESOLVED – that that the application for a Private Hire Drivers’ licence be revoked, for the following

reasons:

1. Having considered the evidence put forward by the licence holder, as well as that of the passenger, which was played from footage captured on body worn camera, the Sub-Committee decided that on the balance of probabilities, they favoured the evidence put forward by the passenger. In so reaching that conclusion, the Sub-Committee were further forced to consider whether this kind of behaviour was consistent with that of a fit and proper person, and concluded that it was not.

2. Notwithstanding that the act described by the passenger was consensual, the Sub-Committee did not feel that this sort of behaviour was becoming of a Private Hire driver licenced by East Hertfordshire District Council, whilst on duty.

3. In posing the question *“would you allow your son or daughter, spouse or partner, mother or father, grandson or grand-daughter or any other person for whom you care, to get into a vehicle with this person alone?”*, the Sub-Committee concluded that they would not, and so determined that the licence holder was not a fit and proper person to hold a licence.

The meeting closed at 3.50 pm

Chairman Date
