

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 29 October 2019 at 10.00 am

Present:-

Cllr D A Flagg – Chairman

Present: Cllr J Bagwell and Cllr N Decent

Also in attendance: Cllr G Farquhar and Cllr P Parrish (observing)

57. Election of Chairman

RESOLVED that Councillor D Flagg be elected Chairman of the Sub-Committee for the duration of the meeting.

58. Apologies

Apologies were received from Cllr J J Butt. The reserve member, Cllr N Decent, replaced Cllr J J Butt as a sub committee member for this meeting.

59. Declarations of Interests

There were no declarations of interest.

60. Application for Review of Premises Licence - More the Merrier, 68 Kimberley Road BH6 5BY

The Sub Committee was advised that the agent acting on behalf of the premises had requested that the above hearing be adjourned until the next meeting on 12 November 2019 to enable the proposed new licence holder/DPS to attend. Agreement had been received from Dorset Police to adjourn to this date.

RESOLVED that in order to comply with the hearing regulations the application to review the premises licence for More the Merrier, 698 Kimberley Road, BH6 5BY, be formally opened and adjourned to 12 November 2019.

61. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

62. Hackney Carriage Drivers Licence Application

The Chairman made introductions and explained the procedure for the hearing.

The Sub Committee considered an application for a Hackney Carriage Driver Licence for the person named in the non-public report for agenda item 6, a copy of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix A to these minutes in the Minute Book.

The Public Health and Protection Manager presented the report and explained that the applicant had disclosed two drug related convictions from 2015. In addition, the DVLA drivers licence had been endorsed with 6 penalty points for driving without insurance in January 2017. Details of these disclosures were set out in the report and appendix. The Sub Committee was asked to consider whether in light of these disclosures and having heard from the applicant, that he was a fit and proper person to hold a hackney carriage drivers licence. The Public Health and Protection Manager outlined the test of a fit and proper person and relevant guidance, and the options available to the Sub Committee in determining the case, as detailed in the report.

The applicant and his representative attended the hearing and addressed the Sub Committee. The applicant provided more detail about the personal circumstances around his convictions and the subsequent offence of driving without insurance. He responded to questions from members of the Sub Committee in relation to his case. He explained that he was not aware of the Institute of Licensing's Guidance in relation to undergoing drugs testing at his own expense but would be willing to do this regularly in order to gain his licence. He confirmed that he had not checked that the insurance was still in place before driving the car in January 2017 and he accepted responsibility for this. He asked the Sub Committee to take his submissions into account when determining his case.

The applicant was given the opportunity to sum up before the Sub Committee retired to make its decision.

RESOLVED that having heard from the Licensing Officer and the applicant, and having considered the circumstances surrounding the convictions/offences, the Sub Committee has decided the applicant not to be a fit and proper person to hold a Hackney Carriage Driver Licence, for the following reasons:

In accordance with the Guidance issued by the Institute of Licensing in April 2018: Paragraphs 4.37, 4.40 and 4.43, notably the timescales relating to the lapse of convictions being 5 years for possession of drugs, 7 years for the driving under the influence of drugs, and 7 years for driving without insurance. The Committee noted in particular

that the insurance offence was subsequent to the previous convictions.

The application was therefore refused.

Right of Appeal

The Legal Advisor reported that all parties to the application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the applicant is notified by the Licensing Authority of the decision in writing.

63. Hackney Carriage Drivers Licence Application

The Chairman made introductions and explained the procedure for the hearing.

The Sub Committee considered an application for a Hackney Carriage Driver Licence for the person named in the non-public report for agenda item 7, a copy of which had been circulated to members of the Sub Committee and a copy of which appears as Appendix B to these minutes in the Minute Book.

The Public Health and Protection Manager presented the report and explained that the applicant had disclosed three convictions from 2002, 2003, and 2007. Details of these convictions were set out in the report and appendix. The Sub Committee was asked to consider whether in light of these convictions and having heard from the applicant, that he was a fit and proper person to hold a hackney carriage drivers licence. The Public Health and Protection Manager outlined the test of a fit and proper person and relevant guidance, and the options available to the Sub Committee in determining the case, as detailed in the report.

The applicant and his representative attended the hearing and addressed the Sub Committee. The applicant provided more detail about the personal circumstances around each of his convictions. He responded to questions from members of the Sub Committee in relation to his case. To support his application he spoke about the positions of responsibility he had held since the date of his last conviction in 2007 . He asked the Sub Committee to take his submissions into account when determining his case.

The applicant was given the opportunity to sum up before the Sub Committee retired to make its decision.

RESOLVED that having heard from the Licensing Officer and the applicant and having considered the circumstances surrounding the convictions the Sub Committee has decided to grant the application.

In making its decision the Sub Committee had regard to the dates of the convictions and the Institute of Licensing Guidance relating to the

lapses of convictions. However, the Sub Committee was still very much mindful of the serious nature of the convictions, particularly as committed by a former police officer. This led to detailed discussions and on the balance of probabilities the Sub Committee found that the applicant was a fit and proper person to hold a hackney carriage driver licence.

Right of Appeal

The Legal Advisor reported that all parties to the application have the right to Appeal to the Magistrates Court within the period of 21 days beginning with the day on which the applicant is notified by the Licensing Authority of the decision in writing.

The meeting ended at 12.06 pm

CHAIRMAN