



REGULATORY SUB COMMITTEE

14:00 to 15:40

14 May 2018

Present: Councillors Maxwell (in the chair), Ackroyd and Malik

Apologies: Councillor Jones (B)

1. Appointment of Chair

RESOLVED to appoint Councillor Maxwell as chair.

Re item 5 – the first para 3rd line – He produced his DVLA licence *for* inspection by the committee and *confirmed* that etc

Item 5 – second resolution – I'd like to slightly reword this to give the council greater flexibility at any appeal – How about:

To refuse the grant of a private hire driver's licence to the applicant (application reference 18/00018/PHDRIV) as the committee felt the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976. In coming to this view the committee took account of the general policy guidelines, gave weight to the convictions dating from 2013 including a conviction for a drug related offence within the last three years and took account of the evidence from the applicant given at the committee hearing.

2. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item *3 to *5. below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

***3. Application for grant of Private Hire Drivers' Licence – Application ref: 17/01104/PHDRIV (paragraphs 1 and 3)**

(The applicant attended the meeting for this item. He confirmed that he had been informed of his right to be legally represented at the meeting but had chosen not to be. He produced his DVLA licence and paper counterpart for inspection by the committee and confirmed that he had been provided with a copy of the report before

the meeting. A full copy of the committee report was provided to the applicant at the meeting).

The licensing assistant presented the report.

The applicant explained the circumstances of his convictions as set out in the appendix to the report and answered members' questions. He explained that he was self-employed as a floor layer and that he wanted to work as a private hire driver to enhance his income and as insurance against lack of business. He was a family man and was about to purchase a house that could be adapted for his disabled child. In reply to a member's question, the applicant explained the circumstances that led him to be disqualified from driving for 6 months on 5 May 2015. He had just moved house and because his insurance had been cancelled had been caught driving without insurance. The applicant referred to the other convictions and said that he had learned his lesson. He would be able to work for his father who was a licence holder. The floor laying business was doing well and taxi driving would be an additional "insurance".

In reply to a question from the sub-committee's legal adviser, the applicant said that he had not received any further convictions or formal cautions and was not aware of any pending prosecutions since his application had been made.

(The applicant and the licensing assistant left the meeting at this point).

Following discussion it was:-

RESOLVED, unanimously, to grant the applicant (application reference 7/01104/PHDRIV) a private hire drivers' licence in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act, 1976.

(The applicant and the licensing assistant were admitted to the meeting and informed by the chair of the decision minuted above. The chair advised the applicant to read the Green Book and to ensure that he reported any new conviction to the council within 7 days of the incident. The applicant and the licensing assistant then left the meeting.)

***4. Suspension/revocation of Norwich City Council Hackney Carriage Drivers' Licence (paragraphs 1 and 3)**

The licensing assistant circulated an email from the licensee's legal adviser requesting that the hearing be rescheduled to the meeting of the subcommittee on 11 June 2018.

Members expressed concern that the email to the environment, licensing and markets manager was dated 30 April 2018 and as the agenda was published on 2 May 2018 should not have been included in the papers for the meeting.

RESOLVED to note that this report had been withdrawn from the agenda and will be considered at the meeting of the subcommittee on 11 June 2018.

***5. Application for grant of Private Hire Drivers' Licence – Application ref: 18/00018/PHDRIV (paragraphs 1 and 3)**

(The applicant attended the meeting for this item. He confirmed that he had been informed of his right to be legally represented at the meeting but had chosen not to be. He produced his DVLA licence inspection by the committee and confirmed that he had been provided with a copy of the report before the meeting. A full copy of the committee report was provided to the applicant at the meeting).

The licensing assistant presented the report. In reply to a question from the licensing assistant, the applicant confirmed he had not received any further convictions or formal cautions and was not aware of any pending prosecutions since his application had been made.

The chair pointed out that the subcommittee would make its decision with regard to the council's policy guidelines. The legal adviser referred to further information on the applicant's driving licence and said that the applicant had received 3 points on his licence and an £83 fine on 31 January 2013 which had not been declared. The applicant said that he had considered this conviction as spent and could not remember the circumstances. The chair advised the applicant that this was not the case for taxi drivers,

The applicant explained the circumstances of his convictions as set out in the appendix to the report and answered members' questions about the convictions dating from 2013, in relation to harassment and possession of illegal drugs. He said that he was ashamed of his past behaviour and that he no longer drank alcohol or smoked cannabis. He worked as an on-line estate agent for property abroad, had an import business and wanted to be a taxi driver in order to meet people and supplement his income as business had slowed down. Members of the subcommittee asked particular questions as to how the applicant would deal with difficult situations and customers. The applicant said that he took responsibility for his past actions and said that he was into fitness and that his son stayed with him during university vacations. The applicant confirmed that he had sufficient opportunity to advise the subcommittee of anything that was helpful to his application.

(The applicant and the licensing assistant left the meeting at this point).

RESOLVED, unanimously, to

- (1) disregard any convictions or previous matters relating to the applicant, which had occurred prior to 2012;
- (2) to refuse the grant of a private hire driver's licence to the applicant (application reference 18/00018/PHDRIV) as the committee felt the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976. In coming to this view the committee took account of the general policy guidelines, gave weight to the convictions dating from 2013 including a conviction for a drug related offence within the last three years and took account of the evidence from the applicant given at the committee hearing.

(The applicant and the licensing assistant were admitted to the meeting and informed by the subcommittee's legal adviser of the decision minuted above. He advised the applicant that he would receive written notification of the right to appeal against this decision to the Magistrates' court within 21 days of receipt of the written notification, and would suggest that he took legal advice. The applicant and the licensing assistant then left the meeting.)

CHAIR



REGULATORY SUB COMMITTEE

14:05 to 14:45

11 June 2018

Present: Councillors Malik (chair), Bradford, Fullman, Henderson and Stutely
(sub for Cllr Brociek-Coulton)

Apologies: Councillor Brociek-Coulton

1. Declarations of interest

There were no declarations of interest.

2. Highways Act 1980: application for licence to place tables and chairs on the highway - Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD

The committee were advised prior to the meeting that this application was not to be heard, it had been approved because the objection received had been withdrawn.

RESOLVED to note that the application for a licence to place tables and chairs on the highway for Ivy Collection, 30 London Street & 13 Castle Meadow Norwich NR2 1LD had been granted due to the objection being withdrawn.

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of items *4 and *5 below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972.

***4. Suspension/revocation of Norwich City Council hackney carriage drivers licence No. 16/01091/HACKD (paragraphs 1 and 3)**

(The applicant and his legal representative attended the meeting for this item. The applicant produced his DVLA licence for inspection by the committee and confirmed that he had been provided with a copy of the report before the meeting).

The licensing assistant presented the report.

The applicant's representative explained the circumstances that led to his two speeding offences. He explained in the case of the first incident he had been travelling at 36/37 mph in a 40 mph zone. The road he was travelling on had recently had the speed limit reduced from 40 to 30 mph. In the second incident he had been travelling at 35mph in a 30 mph zone.

In response to a question the applicant's legal representative confirmed that he had responded to police letters regarding both speeding offences promptly but that he had to wait almost a year for a date at magistrate's court for his hearing.

The applicant apologised for speeding and said that he had installed a speed box in his car which set the limit the car could travel at to the maximum speed of the road it was on. His legal representative stressed that the applicant would be driving with the utmost caution going forward.

The applicant confirmed he had not received any further convictions or formal cautions and was not aware of any pending prosecutions.

(The applicant and the licensing assistant left the meeting at this point).

Following discussion it was:-

RESOLVED unanimously to take no further action.

(The applicant and the licensing assistant were admitted to the meeting. The applicant was informed that the committee had considered all of the information presented to them and had decided to take no further action. The chair advised the applicant to read his Green Book and to ensure that he reported any new conviction to the council within 7 days.

The chair informed the applicant that he would receive written notification of the committee's decision.

The applicant then left the meeting.)

***5. Suspension/revocation of Norwich City Council hackney carriage drivers licence No. 15/01966/HACKD (paragraphs 1 and 3)**

(The applicant attended the meeting for this item. He confirmed that he had been informed of his right to be legally represented at the meeting but had chosen not to be. He produced his DVLA licence for inspection by the committee and confirmed that he had been provided with a copy of the report before the meeting).

The applicant explained the circumstances of his conviction as set out in the appendix to the report. The applicant said he was embarrassed to have been convicted of speeding and regretted the offence. He had held his licence for 33 years and previously had an exemplary record.

In response to a question the applicant said he had received a large fine for his speeding offence, that there was clear visibility on the night of his offence and he was in the car alone.

The applicant confirmed he had not received any further convictions or formal cautions and was not aware of any pending prosecutions.

(The applicant and the licensing assistant left the meeting at this point).

Following discussion it was:-

RESOLVED unanimously to take no further action.

(The applicant and the licensing assistant were admitted to the meeting. The applicant was informed that the committee had considered all of the information presented to them and had decided to take no further action. The chair advised the applicant to read his Green Book and to ensure that he reported any new conviction to the council within 7 days.

The chair informed the applicant that he would receive written notification of the committee's decision.

The applicant then left the meeting.)

CHAIR



Regulatory Subcommittee

14:00 to 16:15

9 July 2018

Present: Councillors Malik (chair), Fulton-McAlister (E), Huntley, Price and Stutely (substitute for Councillor Maxwell)

Apologies: Councillor Maxwell

1. Declarations of Interest

There were no declarations of interest.

2. Highways Act 1980 – Application to Place Tables and Chairs on the Highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich

(Paul Stagg, applicant, attended the meeting for this item.)

The environmental protection, licensing and markets manager presented the report and circulated an amended plan of the seating area which had addressed the concerns raised by the council's highways officers. He advised members that all objections to the proposal had now been withdrawn with the exception of the objections received from the Maids Head as set out on page 44 of the agenda papers.

During discussion, the applicant together with the environmental protection, licensing and markets manager referred to the application and the revised plan, and answered questions from members. Members commented that they were not satisfied that the kerb would not be a trip hazard to patrons of the premises, despite the assertion from the environmental protection, licensing and markets manager that environment health had withdrawn its objections following the publication of the report. Members considered the revised plan in the light of amendments to the proposed licence application. The subcommittee considered that the amended plan of the seating area was not to scale. Members viewed a Google map view of the area but this was considered to be inadmissible as it was an out of date version.

The subcommittee was particularly concerned that the conditions reflected the changes to the proposed licenced area. This included amending conditions 9 to 15 to include 1 parasol/umbrella: additional conditions relating to ensuring that the parasol did not overhang any part of the licensed seating area; that a minimum of 1 metre distance was maintained between the licensed area and the bike racks and to amend the plans or condition that the seating area would be reduced accordingly,

and, an additional condition to maintain a minimum 1.5 metre distance between the licensed seating area and the edge of the layby.

The chair asked that members could see the email, dated 2 July 2018, from environmental health withdrawing its concerns relating to the kerb as a trip hazard.

The chair moved that the subcommittee went into private session so that members could review the email from the environmental health protection officer and to seek the advice of its legal adviser as set out in paragraph 5 of Part 1 of Schedule 12A to the Local Government Act 1972, and on putting the motion to the vote, the subcommittee resolved to exclude the public.

(The applicant and the environmental protection, licensing and markets manager withdrew from the meeting during this private session. The applicant and environmental protection, licensing and markets manager were then readmitted to the meeting.)

The chair moved and Councillor Price seconded that the subcommittee deferred further consideration of this application to the next meeting of the regulatory subcommittee to enable more detailed information to be presented to the members determining the application to include: an accurate, scaled plan of the licensed seating area; presentation with photographs of the site and its location, or an opportunity for members to undertake a site visit prior to the subcommittee meeting; a revised and updated report and clarification on the withdrawal of the objections from environmental health in relation to the kerb being considered a trip hazard. On being put to the vote, it was:

RESOLVED, unanimously, to defer consideration of the application to place tables and chairs on the highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich, under the Highways Act, 1980. to the next meeting of the regulatory subcommittee. for further information as detailed above.

(The applicant and the environmental protection, licensing and markets manager left the meeting at this point.)

(The subcommittee adjourned for a short break. The subcommittee reconvened with all members listed above as present.)

3. Exclusion of the Public

RESOLVED to exclude the public from the meeting during consideration of item 4* below on the grounds contained in paragraphs 1 and 3 of Part 1 of Schedule 12(A) of the Local Government Act 1972, as amended.

4*. Application for Grant of Private Hire Drivers' Licence – Application reference no: 18/00069/DRIV (Paragraphs 1 and 3)

(The applicant accompanied by his wife, and the environmental protection, licensing and markets manager were admitted to the meeting. The wife requested to speak on his behalf. She confirmed that the applicant had been informed of his right to be legally represented at the meeting but had chosen not to be. The applicant produced his DVLA licence inspection by the committee and confirmed that he had

been provided with a copy of the report before the meeting. A full copy of the committee report was provided to the applicant at the meeting).

The environmental protection, licensing and markets manager presented the report. During the presentation, he pointed out that on 31 July 2016, the applicant had received a conviction SP50 (exceeding the speed limit on a motorway). In reply to a question from a subcommittee member, the applicant confirmed he had not received any further convictions or formal cautions and was not aware of any pending prosecutions since his application for a private hire drivers' licence had been made.

The applicant's wife explained the circumstances that had led to the applicant receiving a police caution in November 2016 and answered questions from members and the legal adviser. The applicant confirmed that he did not have a current job offer as a private hire driver in the city. During discussion a member commented on the council's responsibility to safeguard the general public and ensure that the grant of a private hire drivers' licence should be to *fit and proper* persons only.

(The applicant and his wife left the meeting at this point).

RESOLVED, unanimously, to refuse the grant of a private hire driver's licence to the applicant (application reference 18/00069/DRIV) as the committee considered that the applicant did not satisfy the test of being a fit and proper person to hold a PHV driver's licence under s51 LG(MP)Act 1976, for the reasons as set out in the statement below:

"The subcommittee notes that you have received a positive testimony from your wife but you have a caution for a matter of violence (assault) in November 2016. We note that you also have a speeding offence for an SP50 dated 31 July 2016.

The guidance to this committee notes that for a matter of assault a period of three years should elapse before a person with such a conviction has a licence granted and the committee has considered the caution an equivalent matter of concern. By accepting a caution you have admitted that you acted in a way to cause another to apprehend immediate unlawful violence.

Your wife has said that this is an isolated incident. We are however concerned about the risk of you responding similarly with members of the public and therefore cannot be satisfied that at this time you are a fit and proper to hold a Private Hire Drivers' licence."

(The applicant and the environmental protection, licensing and markets manager were readmitted to the meeting. The chair informed the applicant of the subcommittee's decision and the legal adviser read out the statement minuted above. The legal adviser advised the applicant that he would receive written notification of the subcommittee's decision and of his right to appeal to the Magistrates' court within 21 days of receipt of the written notification. The chair advised the applicant that he could make a further application for a licence in November 2019. The applicant and the environmental protection, licensing and markets manager then left the meeting.)

CHAIR



Regulatory Subcommittee

14:05 to 14:30

13 August 2018

Present: Councillors Malik (chair), Ackroyd, Ryan and Stewart

Apologies: Councillor Thomas (Va)

1. Declarations of Interest

There were no declarations of interest.

2. Highways Act 1980 – Application to Place Tables and Chairs on the Highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich

(The applicant, attended the meeting for this item.)

The environmental protection, licensing and markets manager presented the report and highlighted the amended plan of the seating area which had addressed the previous concerns raised by the council's highways officers. He referred to extra conditions which had been considered at the previous hearing and said that these points had been addressed in the amended plan. The only outstanding point not covered by the standard conditions was the inclusion of a parasol within the application.

He advised members that all objections to the proposal had now been withdrawn with the exception of the objection received from the Maids Head as set out on page 27 of the agenda papers. The original objection from the food and safety team had been withdrawn. The environmental protection, licensing and markets manager confirmed that they had reviewed the revised plan and considered any hazards were addressed within premise owner's health and safety assessment.

In response to member questions the applicant said the business had no current plans to place tables and chairs in their outside area, the area being applied for would be enclosed and used as a distinct area for dining. It would be contained by barriers which were a fixed size. The hours of the application had been reduced to 10pm to match the licence of the pub next door. At night all tables, chairs, barriers and the parasol would be brought inside.

The legal advisor to the committee clarified that paragraph 7 points (a) and (c) relating to a parasol were not part of the standard conditions but additions to it. This included amending conditions 9 to 15 to include 1 parasol/umbrella and an additional

condition ensuring that the parasol did not overhang any part of the public highway outside of the s115 HA 1980 licensed seating area.

(The applicant and the environmental protection, licensing and markets manager left the meeting at this point.)

RESOLVED, unanimously, to grant the application to place tables and chairs on the highway – Cocina, Samson & Hercules House, 15 Tombland, Norwich, under the Highways Act, 1980 with standard licence conditions 9 and 15 amended to include reference to 1 parasol and any barriers and a further condition to state that the parasol shall not overhang any part of the public highway which is outside the s115 Highways Act 1980 licensed seating area.

(The applicant and environmental protection, licensing and markets manager were readmitted to the meeting and the applicant informed of the resolution above.)

CHAIR