



Regulatory Subcommittee

14:00 to 14:45

8 October 2018

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

Apologies: Councillor Fulton-McAlister (E)

1. Declarations of Interest

There were no declarations of interest.

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 ref 1800701 PHDRIV

(The applicant and the licensing assistant were admitted to the meeting. The applicant produced his DVLA licence for inspection by the committee. The licensing assistant confirmed that a copy of the report had been sent to the applicant with a letter about the meeting. A full copy of the agenda was provided to the applicant at the meeting. The applicant confirmed that he had been advised that he could have legal representation at the meeting but had chosen not to do so.)

The licensing assistant presented the report and appendix A of the report which contained the Disclosure and Barring Service certificate that listed the applicant's convictions.

The applicant answered members' questions and explained that he had considered that it was only necessary to declare his unspent conviction dated 16 June 2017 on the application form. (A copy of the application form was circulated at the meeting.) Members referred to the list of convictions contained in appendix A and asked the applicant to explain the circumstance for the unspent conviction for three charges of assaulting a constable on 16 June 2017 and clarification of the dismissal of a drink/drug driving conviction on appeal on 22 February 2012. The applicant said that he was now clean of drugs and no longer took cannabis. He considered that the rehabilitation courses he had attended had been beneficial. The *Thinking Skills*

course had helped him to recognise other people's emotions and to exercise self-control, manage his anger and not retaliate.

In reply to further questions, the applicant said that he had applied for a private hire drivers' licence to work evenings and provide additional financial support for his family. The chair asked the applicant whether the officers had pointed out that the council's guidance for committee members was that three years should elapse before a person with a conviction for assault was granted a licence. In reply, the applicant referred to the circumstances that had led to the unspent conviction and, on further questioning from the chair, on the circumstances that had led to his convictions for assault, occasioning actual bodily harm on 12 October 2012. On further questioning, the applicant explained the circumstances for the conviction of being in possession of MDA in 2008.

In reply to the legal advisor, the applicant confirmed that all the convictions listed in Appendix A could be admitted for consideration. He confirmed that he was now 29 years' old and that the first conviction had been when he was only 19. He said that he had taken a long time to grow up and the rehabilitation courses had changed his mind set and the way he reacted to people.

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

RESOLVED, with 1 member abstaining from voting (Councillor Driver), to refuse the grant of a private hire drivers' licence to the applicant (Application ref 1800701 PHDRIV) 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 summarised below:

"The members of the committee have carefully considered all the information before them, both in writing and the representations made by the licensing assistant and the applicant, in respect of this application.

The subcommittee has had regard to all the previous convictions recorded against the applicant. The committee is of the view that all the offences listed are relevant to the licence being applied for but have placed less weight to the two convictions relating to the use of disorderly behaviour due to the date of those convictions and the age of the applicant when he committed them.

The subcommittee has considered each of the convictions recorded and the criteria given in the council's licensing criminal convictions' policy in respect of the offences. The subcommittee is aware that this policy is for guidance only and that the committee is not bound by it. Whilst having regard to the policy it has considered this case on its individual merits.

The members have noted the dates of each conviction, their seriousness, the sentences imposed by the court, the number of convictions and the time which has lapsed since the convictions.

The members are concerned that the applicant is not free of some of the convictions for periods being more than 3 years, 5 years and 10 years when applying the criteria in its convictions' policy and particularly noting that the applicant is still subject to the terms of a suspended prison sentence.

The subcommittee has looked at the overall offending history in assessing the application and has taken the view that the offences relating to the drugs form part of a pattern of offending, as do the offences of violence. The members noted these are not isolated convictions but are a series of offences over a not insignificant period.

The members have listened carefully to what the applicant has had to say about the offences and the fact that the applicant has attended courses which he has said he learnt a lot from and found beneficial.

The members are aware of the applicant's age at the date of the convictions, in particular the oldest convictions and his age today.

The committee is mindful that it needs to balance the applicant's interests with the interests of the public and that the overriding consideration is the protection of the public.

Taking into account, all matters the committee is not satisfied that the applicant is a fit and proper person to hold a private hire driver's licence having regard to the overriding aim, which is to protect the safety of the public. The committee does not grant this application."

(The applicant and the licensing assistant were readmitted to the meeting. The legal advisor informed the appellant of the subcommittee's decision and read out the statement minuted above. The legal advisor 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 applicant and the licensing assistant then left the meeting.)

CHAIR