

LICENSING AND GENERAL PURPOSES COMMITTEE - TAXI AND PRIVATE HIRE LICENSING PANEL

29 April 2022

Minutes of the Taxi & Private Hire Licensing Panel held at the Town Hall, Bexhill-on-Sea on Friday 29 April at 10:45am.

There were present:

Members of the Taxi and Private Hire Licensing Panel

Councillors: C.A. Madeley, A.S. Mier and R.B. Thomas.

Legal Adviser

Principal Solicitor - Wealden & Rother Shared Legal Services.

Interested Parties

Dual Licensed Driver – TPHLP220429

Driver's Representative – Ms N.

Advisory Officers

Deputy Head of Environmental Health (Community Protection and Licensing),
Technical Support Officer and Democratic Services Officer.

TLP21/5 **APPOINTMENT OF CHAIRMAN**

Councillor Mier was duly appointed as Chairman of the Panel for this hearing.

TLP21/6 **MINUTES**

The Chairman was authorised to sign the Minutes of the last Taxi and Private Hire Licensing Panel held on 20 January 2022 as a correct record of the proceedings.

TLP21/7 **EXCLUSION OF PRESS AND PUBLIC (EXEMPT INFORMATION)**

RESOLVED: That the press and public be excluded whilst the matter containing exempt information, as prescribed by Part 1 of Schedule 12A of the Local Government Act 1972, as amended and relating to Minute TLP21/08 was under consideration. The report submitted in connection with this item that contained information exempt from publication by virtue of Part 1 of Schedule 12A to the Act shall remain confidential if and so long as, in all the circumstances of the cases, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

TLP21/8 **LICENSED DUAL DRIVER - CONSIDERATION OF GRANT OF LICENCE (PARAGRAPHS 1, 3 AND 7)**

The Chairman welcomed and introduced all present to the meeting and advised on the remit of the Licensing Panel in determining the matter as detailed in the confidential report of the Head of Service Environmental Services, Licensing and Community Safety.

The Panel had to determine whether the driver was a fit and proper person to hold a Dual Driver's Licence.

The confidential report stated that the driver had made an application to Rother District Council for a Dual Driver's Licence in February 2022 enabling them to drive both Hackney Carriage and Private Hire vehicles licensed by the Council, during which time several issues had come to light which may question whether they were a fit and proper person. The enhanced Disclosure and Barring Service (DBS) certificate submitted by the driver showed that on 27 August 2003, the driver had been cautioned by Sussex Police for the offence of arson under the Criminal Damage Act 1971 S.1(3). On the driver's application, dated 9 February 2022, they had indicated that they had no cautions or convictions, which raised questions as to whether the driver was being truthful when completing the application form. The driver's explanation for this omission was that the caution was over 20 years old and as they already held a Security Industry Authority (SIA) licence (from a regulated body), they did not consider it necessary to declare on the form. The driver had stated this was not a deliberate omission.

On the application form, the driver had provided details of two driving convictions dated 22 August 2019 and 5 December 2020, which were due to expire on 22 August 2022 and 5 December 2023 respectively. Both offences were SP30 – exceeding statutory speed limit on a public road.

The Council had received a supporting statement in April 2022 from the manager of a local taxi company, supporting the driver's application and character and an additional statement received on the day of the hearing from a local security company for whom the driver had worked freelance.

The Panel heard from the Deputy Head of Environmental Health, who provided further details of the matters for consideration. The Panel were advised of the options available to them, namely: Grant the Dual Driving Licence; or to refuse to grant the Dual Driving Licence. The Panel were reminded that the offence leading to the conviction was not under discussion, but whether the driver was a 'fit and proper' person to be granted a dual driver licence with the Council.

The Panel then heard from the driver who explained that they had been a carer for many years, worked in a school for children with special needs, for a local charity and in security for the past three years. Previous roles had involved DBS checks and the SIA licence for security work had involved an enhanced DBS check. The driver had never seen their DBS check before, as previous employers had dealt with direct, and as the caution had never been raised, had assumed it had been 'wiped'. The driver went on to explain that the second speeding offence had been due to attempts to avoid an accident with a

driver exhibiting road rage but acknowledged it had been the wrong course of action to take. The driver apologised for their misunderstanding of the application form which had led to the convening of a panel hearing and explained why they believed themselves to be a fit and proper person.

Finally, the Panel heard from the driver's representative, Ms N, who managed a local taxi firm. Ms N confirmed that the driver had made her aware that they had completed the application form incorrectly and when she had questioned the driver, they had stated that they had understood the convictions and cautions section to relate to driving offences only. Ms N stated that the driver did a fantastic job in the security role in a very challenging environment and that she would be happy to place anyone in a taxi with the driver.

The Panel retired to consider the case in private. The Panel took into account all the written evidence provided to them, including the character references and the verbal statements made by the Deputy Head of Environmental Health, the driver and their representative. The Council's legal representative advised the Panel on the matters that should be taken into account in determining this case.

The Panel decided that the driver remained a 'fit and proper person' and to grant the dual driver's licence. The Panel requested that an additional condition be added to the licence such that for a period of 18 months, in the event of any complaint being received or failure on the driver's part to adhere to all the Council's conditions of the licence which may result in the issue of penalty points, that officers be instructed to refer any such issue directly to the licensing panel to consider, rather than exercising any delegation in relation to penalty points.

RESOLVED: That Hackney Carriage Licenced driver TPHLP220429 remained a 'fit and proper person' to hold a licence, but that in the event of any issues leading to the requirement for penalty points to be issued within a period of 18 months, officers be instructed to refer any such issue directly to the licensing panel to consider.

(This matter was considered exempt from publication by virtue of Paragraphs 1, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended).

CHAIRMAN

The meeting closed at 12:00pm