

WEST LINDSEY DISTRICT COUNCIL

MINUTES of a Meeting of the Taxi and General Licensing Sub-Committee held in the Council Chamber at the Guildhall, Marshall's Yard, Gainsborough on Wednesday 19 December 2012 at 2pm

Present: Councillor Owen Bierley (Chairman – in the Chair)

Councillor Anne Welburn (Vice-Chairman)
Councillor David Cotton
Councillor Burt Keimach
Councillor William Parry
Councillor Judy Rainsforth
Councillor Geoff Wiseman

In Attendance: Licensing and Support Team Leader
Legal Adviser
Governance and Civic Officer

Also in Attendance: The Applicant in relation to report TGL.4 12/13
(present for minute 9 only)
The Applicant in relation to report TGL.5 12/13.
(present for minute 10 only)

Apologies: Councillor Di Rodgers
Councillor Jackie Brockway

6 MINUTES

(a) Meeting of Taxi and General Licensing Sub-Committee – 8 March 2011, 23 May 2011 and 14 May 2012.

RESOLVED that the minutes of the Meeting of the Taxi and General Licensing Sub-Committee held on 8 March 2011 be confirmed and signed as a correct record.

RESOLVED that the minutes of the Meeting of the Taxi and General Licensing Sub-Committee held on 23 May 2011 be confirmed and signed as a correct record.

RESOLVED that the minutes of the Meeting of the Taxi and General Licensing Sub-Committee held on 14 May 2012 be confirmed and signed as a correct record.

7 MEMBERS' DECLARATIONS OF INTEREST

There were no declarations of interest.

8 EXCLUSION OF PUBLIC AND PRESS

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to an individual.

9 COMBINED HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE (TGL.4 12/13)

Members considered a report which detailed an application for the grant of a combined hackney carriage / private hire driver's licence for an Applicant who had convictions for three non-driving offences and two further driving related offences. The Sub-Committee were asked to determine whether or not the Applicant was a 'fit and proper' person to be issued a licence.

The Chairman welcomed all present to the meeting and round the table introductions were made.

Confirmation was sought that the applicant was aware that he could have been represented at the meeting, he stated that he had not realised until he arrived at the meeting.

The Principles of Natural Justice were followed and these were briefly outlined by the Legal Adviser to all present.

The Licensing and Support Team Leader presented the report, at the conclusion of which, both the Applicant and the Sub-Committee confirmed they had no questions to ask.

The Applicant presented his case and stated that he needed a job so he thought he would try driving taxis, as this would make a change from working in his father's shop.

The Sub-Committee posed a number of questions to the Applicant, including why he wanted to work in Gainsborough and not Doncaster, where he lived. The applicant said he just thought he would give it a try, and that he may move to the area. The Sub-Committee then sought further details of the convictions. The Applicant gave explanations of the circumstances of the driving offences, but on being questioned further was not able to give details of the non-driving offences.

The Legal Adviser asked whether the Applicant, at this point in time, had any further offences pending to which he responded, no.

The Licensing and Support Team Leader and the Applicant were both provided with the opportunity to sum up their cases during which it was noted that there was no definition of “fit and proper persons”.

The Applicant confirmed he had nothing further he wished to add.

At 2.40 pm the Licensing and Support Team Leader and the Applicant withdrew from the meeting whilst the Sub-Committee debated the matter. They were subsequently recalled to the meeting at 2.55 pm and informed of the decision and reasoning as follows: -

The application is refused. The Sub-Committee have decided that a period of six months must elapse before a further application will be considered.

In the view of the Sub-Committee, they considered whether the applicant was a fit and proper person. In determining whether he is a fit and proper person, the Sub-Committee have considered that the definition of what is a fit and proper person is not set in law, however, the generally accepted test is " Would you allow your son daughter, mother, spouse or other person you care about to get into this vehicle with this person alone?" This is the test which the Sub-Committee have applied when deciding whether the Applicant is a fit and proper person and they have decided that on the basis of this test he is not a fit and proper person because of his convictions. They have decided that the Applicant needed a six month period before reapplying to demonstrate that he is driving responsibly and that he is a fit and proper person, and the Sub-Committee suggested that if the Applicant reapplied he could consider being represented.

RESOLVED that the Application be refused and a period of six months must elapse before a further application be considered.

The Chairman advised that the Applicant would be notified in writing of the decision as soon as possible and thanked Members and Officers for their attendance.

The Applicant was reminded of the right to appeal to the magistrates' court within 21 days of receiving such notice.

The Sub-Committee then adjourned for a comfort break at 3.05pm

9 COMBINED HACKNEY CARRIAGE / PRIVATE HIRE DRIVERS LICENCE (TGL.5 12/13)

Members considered a report which detailed an application for the grant of a combined hackney carriage / private hire driver's licence for an Applicant who had convictions for motoring offences. The Sub-Committee were asked to determine whether or not the Applicant was a 'fit and proper' person to be issued a licence.

The Chairman welcomed all present to the meeting and round the table introductions were made.

Confirmation was sought that the applicant was aware that he could have been represented at the meeting, the Applicant nodded his assent.

The Principles of Natural Justice were followed and these were briefly outlined by the Legal Adviser to all present.

The Licensing and Support Team Leader presented the report, at the conclusion of which, both the Applicant and the Sub-Committee confirmed they had no questions to ask.

The Sub-Committee posed a number of questions to the Applicant regarding the driving convictions. The Applicant stated that one of the offences had been a misunderstanding and that the DVLA had refunded the fine paid and accepted liability, and he could produce a letter of explanation if required. The Sub-Committee also asked why the Applicant sought a licence in Gainsborough as opposed to Doncaster where he lived. The response was that there were no jobs in Doncaster.

At 4.05 pm the Licensing and Support Team Leader and the Applicant withdrew from the meeting whilst the Sub-Committee debated the matter. They were subsequently recalled to the meeting at 4.20 pm and informed of the decision and reasoning as follows: -

The application is refused. The Sub-Committee have decided that a period of 6 months must elapse before a further application will be considered.

In the view of the Sub-Committee, they considered whether the applicant was a fit and proper person. In determining whether he is a fit and proper person, the Sub-Committee have considered that the definition of what is a fit and proper person is not set in law, however, the generally accepted test is " Would you allow your son daughter, mother, spouse or other person you care about to get into this vehicle with this person alone?" This is the test which the Sub-Committee have applied when deciding whether the Applicant is a fit and proper person and they have decided that on the basis of this test he is not a fit and proper person because of the number of offences in the short time since acquiring a driving licence. They have decided that the Applicant needs a six month period before reapplying to demonstrate that he is driving responsibly and that he is a fit and proper person.

RESOLVED that the Application be refused and a period of six months must elapse before a further application be considered.

The Chairman advised that the Applicant would be notified in writing of the decision as soon as possible and thanked Members and Officers for their attendance.

The Applicant was reminded of the right to appeal to the magistrates' court within 21 days of receiving such notice.

Following the departure of the Applicant the Sub-Committee expressed concerns regarding the number of applications pending from outside of the District, and requested that consideration be given to the criteria in the Taxi Licensing Policy, by the Licensing and Regulatory Committee.

The meeting closed at 4.25 pm

Chairman