

STEVENAGE BOROUGH COUNCIL

**GENERAL PURPOSES COMMITTEE
MINUTES**

Date: Thursday, 27 February 2020

Time: 10.00am

Place: Autun Room, Daneshill House, Danestrete

Present: Councillors: Laurie Chester (Chair), Doug Bainbridge, Sandra Barr, Michael Downing, John Lloyd and Maureen McKay.

Start / End Start Time: 10.00am
Time: End Time: 12.18pm

1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were received from Councillors Jim Brown, Liz Harrington, Richard Henry, Jody Hanafin, Graham Lawrence, Andy McGuinness, Loraine Rossati and Graham Snell.

There were no declarations of interest.

2 MINUTES - 30 JANUARY 2020

It was **RESOLVED** that the Minutes of the meeting of the Committee held on 30 January 2020 be approved as correct record and signed by the Chair.

3 PROCEDURE

The procedure for the meeting was noted by all parties.

4 URGENT PART I BUSINESS

None.

5 EXCLUSION OF PRESS AND PUBLIC

It was **RESOLVED:**

1. That, under Section 100(A) of the Local Government Act 1972, the press and 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 described in Paragraphs 1 to 7 of Schedule 12A of the Act, as amended by SI 2006 No. 88.
2. That, having considered the reasons for the following items being in Part II, it be determined that maintaining the exemption from disclosure of the information contained therein outweighed the public interest in disclosure.

6 REVIEW OF AN APPLICATION FOR A DUAL (HACKNEY CARRIAGE / PRIVATE HIRE) DRIVER LICENCE - MR V.S.

The Senior Environmental Health and Licensing Manager presented a report to the Committee and informed Members that the purpose of the meeting was to consider whether the applicant (MR V.S.) was a fit and proper person to hold a Dual Driver's licence under section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 and what action, if any, should result from that determination.

The Senior Environmental Health and Licensing Manager advised the Committee that Mr V.S. had first obtained a dual hackney carriage/private hire driver licence with Stevenage Borough Council on 15 June 2012 and held it until 4 December 2015 when it was revoked without immediate effect by officers under delegated powers following consultation with the Chair of the General Purposes Committee. Following the lodgement of an appeal to the Magistrates' Court by Mr V.S., a meeting of the General Purposes Committee held on 6 May 2016 considered the circumstances of the revocation.

The Senior Environmental Health and Licensing Manager explained that the initial revocation of Mr V.S.' dual driver licence was the culmination of a review by licensing officers of the records of Spoken English Tests taken by first-time applicants for dual driver licences. A joint investigation by licensing officers and the Hertfordshire Shared Anti-Fraud Service (SAFS) had revealed a number of instances where a third party had fraudulently taken and passed the test on behalf of another applicant. Mr V.S. had been questioned as part of this investigation, which gathered evidence that, on the balance of probabilities, Mr V.S. had fraudulently undertaken and passed the spoken English test on behalf of his cousin on 30 August 2013.

The Senior Environmental Health and Licensing Manager stated that Mr V.S.' appeal to the Magistrates' Court against the decision to revoke his dual driver licence was abandoned following the General Purposes Committee meeting in May 2016. This followed receipt of a letter on 24 March 2016 from solicitors, acting on behalf of both Mr V.S. and his cousin, which stated that Mr V.S. was "prepared to accept that he undertook the English test for his cousin".

The Committee was informed that, in light of the evidence that had been obtained, SAFS subsequently mounted a criminal prosecution under the Fraud Act 2006 against Mr V.S. alleging that he had committed the offence of fraud by false representation. Mr V.S. was found guilty of fraud by false representation at Peterborough Crown Court on 16 December 2016 and was sentenced to four months imprisonment, suspended for one year, and ordered to complete 80 hours of community service.

The Licensing Officer reported that Mr V.S. had also held a dual hackney carriage/private hire driver licence with Uttlesford District Council. Upon being advised of Stevenage Borough Council's revocation of Mr V.S.'s licence, Uttlesford District Council had similarly revoked his licence with them.

The Senior Environmental Health and Licensing Manager considered that, although some three years had elapsed since Mr V.S.'s conviction, it remained a matter of concern that, in fraudulently assisting another driver to achieve a Spoken English Test pass, Mr V.S., by extension, exposed members of the travelling public, as well as the driver he assisted, to potential safety risks which could arise from the assisted driver's inability to communicate effectively with passengers.

The Committee noted that during the investigation Mr V.S. had failed to take the first opportunity to admit any fraudulent behaviour, having declined to answer questions on the matter during a formal interview under caution by officers on 16 December 2015. The letter received from his solicitors on 24 March 2016 indicated that he did in fact undertake a test on behalf of another candidate and the subsequent criminal conviction for fraud showed this to be the case beyond reasonable doubt.

In connection with his current application, the Senior Environmental Health and Licensing Manager commented that Mr V.S. had completed all necessary checks and tests and, as such, had been dealt with in the same way as a first-time applicant for a dual driver licence. These had included a criminal records check, which showed only the expected fraud conviction, as well as an enquiry with the Driver and Vehicle Licensing Agency regarding his driving record which had shown no endorsements.

The Chair invited the applicant and his representative to ask questions of the Senior Environmental Health and Licensing Manager.

In reply to a question, the Senior Environmental Health and Licensing Manager confirmed that there were no complaints from passengers regarding the conduct of Mr V.S. between 12 June 2012 and 4 December 2015, the time he held a dual hackney carriage/private hire driver licence.

In response to questions from Members of the Committee, the Senior Environmental Health and Licensing Manager replied:

- a total of 9 individuals were prosecuted in December 2016 in connection with the fraudulent taking of spoken English tests on behalf of others. Mr V.S. was the first of these individuals to re-apply for a licence. He was permitted to re-apply as, in accordance with the SBC Convictions Policy, 3 years had elapsed since his conviction for fraud;
- it was confirmed that a former member of staff in the SBC Licensing Team had been found to be complicit in the carrying out of the spoken English tests. That former Member of staff had also been prosecuted.
- It was apparent that there not been a careful check of the ID of applicants for spoken English tests at the time of the fraud. The procedures had since been tightened to ensure that a photo proof of ID check was now carried out by Licensing Officers prior to spoken English tests being taken.

The Chair invited the applicant, Mr V.S., and his representative to present his case.

The applicant stated that he had committed a regrettable act by taking the spoken English test on behalf of his cousin in 2013, and had been sentenced by

Peterborough Crown Court for that offence in 2016. Although he acknowledged that this had been a foolish act, he maintained it was an isolated incident, and that there had been no problems with him as a licensed taxi driver between 2012 and 2015.

The applicant advised that, since May 2016, he had been employed in a number of jobs. Many of these involved driving, including car recovery and working for Hertfordshire County Council in conveying vulnerable people to and from Day Centres and children to schools. There had been no complaints made against him during this time.

The applicant explained that he had commenced the process to re-apply for a dual hackney carriage/private hire driver licence with SBC and had passed all tests. If a licence was granted, he promised that he would be a respectable driver for the people of Stevenage.

The applicant's representative, an owner of a local transport company, advised that she had first met Mr V.S. in 2014 and had used him as a driver as part of a contract with Hertfordshire County Council providing school runs and care home journeys.

The applicant's representative had been aware of the various hearings and court cases involving Mr V.S. Once his taxi licence had been revoked in May 2016, she remained in touch with Mr V.S. and, aware that he had a Public Service Vehicle (PSV) category on his driving licence (as approved by the Traffic Commissioner), assisted him in his application to Hertfordshire County Council (HCC) to be one of her drivers providing contracted driving services, such as school runs and care home journeys. As part of the application process, Mr V.S. had disclosed his previous history, including his conviction for fraud. Based on the support of the applicant's representative, HCC had agreed to Mr V.S.'s application.

The applicant's representative considered that the definition of "fit and proper" was somewhat subjective. She would have no hesitation in placing people in a vehicle with Mr V.S., as his direct dealings with clients had shown him to be respectable, dedicated and compassionate, especially to vulnerable clients. Even if he was granted a dual hackney carriage/private hire driver licence with conditions, she would be content for him to continue to work for her company.

The Chair invited the Senior Environmental Health and Licensing Manager to ask questions of the applicant/applicant's representative.

In respect of the mention of PSV work, the applicant was asked what reaction he received from HCC when he disclosed his previous conviction. He replied that HCC had already heard about the conviction. He had answered the questions posed to him, and HCC had concluded that he was no threat to the travelling public and was a fit and proper person to drive for them. He clarified that the interview with HCC was via the telephone and not face-to-face.

The Senior Environmental Health and Licensing Manager asked if the applicant had any documentary evidence from HCC regarding their agreement to him being able to drive for them. The applicant's representative replied that a badge had been issued (with a 3 year validity) and a DBS check would have been completed. The applicant

did not present the badge to the Committee as evidence.

The Chair invited Members of the Committee to ask questions of the applicant/applicant's representative. The applicant responded as follows:

- he stated that he had acted in support of his cousin, who was a father of 6 and struggling for a living, and had failed the spoken English test on a previous occasion. He had accompanied him to the test, and he maintained that it was a spur of the moment (rather than pre-planned) decision to take the test on his behalf, with the complicity of a former Licensing Officer, who herself had received a 12 month suspended sentence for her actions;
- he had reflected deeply on his actions over the past 4/5 years, and assured the Committee that he had learnt his lesson, stating again that his previous and subsequent actions had been unblemished. He was now a grandfather and had a different focus on life.

The Chair invited both parties to make closing statements.

The Senior Environmental Health and Licensing Manager stated that the Committee was invited to determine the application made by Mr V.S. for the grant of a dual drivers licence and consider the following possible courses of action. Either:

- Grant his application for a dual drivers licence; or
- Grant his application for a dual drivers licence with the addition of any specific conditions the Committee feel were appropriate to the circumstances preceding his application; or
- Refuse his application for a dual drivers licence.

The Senior Environmental Health and Licensing Manager advised that Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 stated that a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence:

(a) unless they are satisfied

- (i) that the applicant is a fit and proper person to hold a driver's licence;
- (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a private hire vehicle; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

The Senior Environmental Health and Licensing Manager commented that the decision to support or reject the application for grant of the dual drivers licence

should be based on whether, as a result of evidence presented to the Committee, there were serious concerns about the fitness and propriety of Mr V.S.

The Senior Environmental Health and Licensing Manager explained that there was no legal definition of a 'fit and proper person'. It was left to the discretion of the licensing authority as to what criteria, if any, it asked an applicant to meet in order to satisfy the Council that the applicant met the fit and proper person requirement. The frequently adopted common-sense test of fitness and propriety was predicated on the application of the following question to the case:

“Would you, as a member of the Committee charged with the ability to grant a private hire driver’s licence, allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

The Senior Environmental Health and Licensing Manager confirmed that Mr V.S. had a right of appeal to the Magistrates’ Court against any decision made by the General Purposes Committee.

The applicant’s representative made a closing statement on his behalf. She stated that should the Committee wish to grant a licence with conditions, in order to feel more secure, then the applicant would be prepared to accept such conditions. They could include supervision and surveillance conditions, which she would be happy to support and monitor should a licence be granted.

All parties, with the exception of the legal advisor to the Committee and Committee Clerks, withdrew from the meeting and the Committee considered its decision. Following full deliberations, the Licensing Officers and applicant/applicant’s representative came back into the meeting to be advised of the Committee’s decision.

Having considered the matter carefully and taking into account all the relevant factors, it was **RESOLVED** that the application by Mr V.S. for a Dual Hackney Carriage/Private Hire Driver Licence be refused.

In reaching this decision, and on the evidence provided at the hearing, the Committee considered that:

- In accordance with Paragraph 5.3.1 of the Licensing Officer’s report in respect of the SBC Convictions Policy regarding Dishonesty, drivers of hackney carriage and private hire vehicles are expected to be persons of trust. Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. Passengers may include especially vulnerable people. For these reasons, a serious view is taken of any convictions involving dishonesty, with fraud being one of the specific offences;
- In accordance with the SBC Convictions Policy, and under the Rehabilitation of Offenders Act 1974, a fraud conviction is never spent;
- As a result of Mr V.S.’s conviction, he was prepared to allow the potential for

another person to present a danger to passengers by virtue of him undertaking the spoken English test on behalf of a third party;

- Mr V.S. made no admission of guilt to the proposed allegation of fraud prior to the matter being presented to the Crown Court; and
- The nature of Mr V.S.'s fraud offence was such as to undermine public confidence in SBC and bring into disrepute the licensing procedures for all taxi drivers.

The Committee, having applied the SBC Convictions Policy, therefore concluded that Mr V.S. is not a fit and proper person to hold a Dual Hackney Carriage/Private Hire Driver Licence.

7 URGENT PART II BUSINESS

None.

CHAIR