

Minutes

Licensing Sub-Committee Tuesday, 1st December, 2020

Attendance

Cllr Keeble
Cllr McCheyne

Cllr Mynott

Officers Present

Paul Adams	-	Principal Licensing Officer
Zoe Borman	-	Governance and Member Support Officer
Alastair Lockhart	-	Legal Adviser
Maria Moses	-	Licensing Officer
Jean Sharp	-	Governance and Member Support Officer

591. Appointment of Chair

Members **RESOLVED** that Cllr McCheyne should Chair the hearing.

592. Administrative Function

Members were respectfully reminded that, in determining the matters before them, they were exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter was determined on the facts before the Sub-Committee and the rules of natural justice applied.

593. Determination of an application for Private Hire Operators Licence *(Exempt report - Part 1 of Schedule 12 Local Government Act 1972 because it contained information relating to an individual).*

An application had been received on 20 May 2020 for the grant of a new Private Hire Operators Licence. This application fell outside the Council's policy.

Applications were made for an operator's licence under Local Government (Miscellaneous Provisions) Act 1976, s55(1). This stated "*55-(1) Subject to the provisions of this part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence: provided that a district council shall not grant a licence unless they are*

satisfied (a) that the applicant is a fit and proper person to hold an operator's licence; and (b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant immigration status from operating a private hire vehicle."

Brentwood Borough Council had a policy contained in the Pre-Licensing Conditions which an applicant should satisfy before any licence would be granted.

The Council's Pre-Licensing Conditions stated at 1.1 that "a person being considered for a Private Hire Vehicle Operator's Licence shall have been a full time licensed Private Hire Vehicle Driver or Hackney Carriage Driver within the Borough for not less than TWO years immediately preceding the first application."

Note 2 of the Council's Pre-Licensing Conditions also provided that "All relevant information will be taken into account when consideration is given to an application for a Private Hire Vehicle Operator's Licence, and it may be that the standards and requirements are waived or amended or added to at the discretion of the Council."

Note 3 of the Council's Pre-Licensing Conditions also provided that "A licence will not be issued in the name of a company or partnership if any officer of that company or member of that partnership would be refused a licence to drive a Private Hire Vehicle or Hackney Carriage by reason of convictions recorded against him."

The Sub Committee should always have regard to the Council's policy but may depart from its policy in exceptional circumstances should there be good reason to do so based on the merits of the individual case.

The hearing was necessary because the applicant had not been a full time licensed Private Hire Vehicle Driver or Hackney Carriage Driver within the Borough for not less than two years immediately preceding the first application

The Sub committee heard representations from the applicant as to how the business would be run and noted that he acknowledged he was not a Private Hire Vehicle nor Hackney Carriage Driver but wished to use local drivers and had provided letters of reference. Recent Basic Disclosures had been provided for him which showed that there were no unspent convictions.

In making their determination Members acknowledged that whilst the applicant did not meet the Pre-Licensing Condition 1.1. they were aware that this condition had been waived for other applicants and decided that it would also be appropriate to do so in this case.

Accordingly the Sub Committee determined to grant the application as sought.