

MINUTES of a meeting of the TAXI AND PRIVATE HIRE SUB COMMITTEE held in the Board Room, Council Offices, Coalville on WEDNESDAY, 13 FEBRUARY 2019

Present: Councillors R Ashman, D Everitt, J Hoult and M Specht

In Attendance: Councillors

Officers: Mrs L Arnold, Mrs M Meredith and Mr M Pickering

1 ELECTION OF CHAIRMAN

It was moved by Councillor J Hoult, seconded by Councillor M Specht and

RESOLVED THAT:

Councillor R Ashman take the chair for the remainder of the meeting.

2 APOLOGIES FOR ABSENCE

There were no apologies for absence received.

3 DECLARATIONS OF INTEREST

No interests were declared.

4 EXCLUSION OF PRESS AND PUBLIC

RESOLVED THAT:

In pursuance of Section 100A (4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 7 of Part 1 of Schedule 12A to the Act, and in the circumstances of the matter under consideration, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5 APPLICATION FOR A PRIVATE HIRE DRIVERS LICENCE

The Chairman introduced the parties and outlined the procedure to be followed. It was clarified that Mr D Underwood was present as Mr G Hill's representative.

The Hearing Regulations 2005 stated that the Authority must allow parties an equal period of time in which to present their evidence. It was agreed that the maximum time limit for each presentation be twenty five minutes.

The Licensing Enforcement Officer presented the report, which asked members to determine whether the application for a private hire driver's licence should be granted. The Licensing Enforcement Officer highlighted the relevant background information as set out in the report.

In response to a question from Councillor M Specht, the Licensing Enforcement Officer explained that applications could be determined under delegated powers. Further information had come to light since the submission of the application, however as officers had already committed to determining the application via the sub-committee it was decided to continue with this approach.

Chairman's initials

Mr D Underwood commented that the application was particularly old form and very basic, and required redesigning as it predated the time when drivers required a CRB check. He asked why the Council would not redesign the form and remove the section which asked for a list of convictions as he felt it was completely irrelevant when a DBS check was required.

The Licensing Enforcement Officer advised that the Rehabilitation of Offenders Act clearly stated that any conviction was relevant and disclosable. He added that the application form was the first contact with the applicant and officers would like to be aware of any convictions at that point as the application process could be lengthy and this enabled officers to give early advice to applicants on whether it was worthwhile to proceed.

The Legal Advisor added that Mr Hill had used an older version of the form and it had been updated recently to comply with the General Data Protection Regulations.

In response to a question from Councillor R Ashman, the Licensing Enforcement Officer confirmed that all applicants were required to complete the same form.

In response to a question from Mr D Underwood, the Licensing Enforcement Officer explained that a restriction could not be placed on which GP could complete the medical certificate as not all GP's were authorised to complete them. He added that prices also varied and it was Mr Hill's choice which GP to visit.

Mr G Hill addressed the meeting and made the following points:

- He had sent the Licensing Enforcement Officer an email to advise him that there were inaccuracies in his report; however the Licensing Enforcement Officer had not responded. He felt aggrieved by this.
- Traffic noise did not have any affect on his PTSD.
- He did not feel he needed to mention his previous employment at North West Leicestershire District Council.
- His doctor had recently advised him to go back on medication for his PTSD.
- He had been pleasant in all meetings and phone calls with the Licensing Enforcement Officer but had the impression that the Licensing Enforcement Officer was trying to rile him.
- During a meeting with the Licensing Enforcement Officer and the Licensing Team Leader, the Licensing Enforcement Officer had rolled his eyes and had not allowed Mr Hill to speak when he was trying to answer questions. The Licensing Team Leader terminated the meeting when Mr Hill raised this. Mr Hill was not agitated at that time and was happy to continue with the meeting.
- The duration of the medical appointment in Derby was 10 minutes in total. PTSD was discussed with the doctor. No medication was being taken to manage the condition at the time of the appointment.
- The medical appointment at Mr Hill's own GP lasted an hour.
- Mr Hill had raised the issue that he felt the Licensing Enforcement Officer was calling him a liar as he objected to an email which questioned his openness and transparency.
- The incorrect information on his application and the DBS check was an error and was not intentional.
- His previous employer submitted Mr Hill to a security clearance which was more in depth than a DBS check. This clearance was still valid.
- Some of the incidents on his criminal record occurred when he was 19 years old; many of the incidents being 30 years ago.
- The driving incident occurred when he was 18 years old and his licence had been clean since obtaining it back.
- The Licensing Enforcement Officer had promised that the agenda could be hand delivered or posted, however it arrived without this choice being offered.

- His PTSD had not prevented him from working at the West End Club for the past 2 years.
- Regarding the incident with his partner, she had been drinking at the time. She had shoved him and he shoved her back.
- He sought help around the time of the incident with his partner as he knew that this was out of character. He did not know at the time that he had PTSD from managing CCTV centres.
- PTSD was recognised under the Disability Discrimination Act.
- He had willingly disclosed the issues regarding PTSD to the Licensing Enforcement Officer.
- He was not a dishonest person.

Mr D Underwood, representing the applicant, addressed the meeting and made the following points:

- Mr Hill was happily married to an employee of Mr Underwood's and had become reasonably close to the taxi community.
- When applying for a licence, the officer's first contact with applicants was usually at the knowledge test.
- Because Mr Hill had made an error on the application form, the Licensing Enforcement Officer had investigated Mr Hill on a major scale and Mr Hill had taken this personally.
- Mr Underwood considered that this was not a personal issue, and felt that the Licensing Enforcement Officer was being officious; some might consider overly so.
- Mr Hill was fortunate to be literate enough to complete his own application form; in his own considerable experience, very few drivers were able to do so. The fact that Mr Hill had completed his own application but had made a mistake was a credit to him.
- The questions on the application form were not easy to answer or to understand.
- He felt Mr Hill had been vilified for making a mistake on the application form.
- The failure to disclose convictions had to be accepted as a mistake as no one would answer no to this question knowing that the DBS check would prove you to have been lying.
- Many applicants used the services of the doctor at Derby. This was simply to save money rather than to be evasive. Mr Underwood commented that he doubted the doctor would have remembered what was discussed at the meeting when questioned by the Licensing Enforcement Officer.
- Mr Hill was a different character now to what he was in his late teens and early twenties. He was a settled, married, comfortable man who was perfectly capable of holding down a job as a taxi driver.
- He accepted that the Council could not issue a restricted licence; however from the point of view of an operator, a private hire driver could only do the work he was provided with.
- He would be willing to install CCTV cameras into Mr Hill's car at his own expense which would offer protection to both the driver and the public.

At 7.30pm the chairman adjourned the meeting briefly for a comfort break. The meeting reconvened at 7.35pm.

In response to questions from members, Mr G Hill responded as follows:

- He did not consult his own GP for the medical in the first instance due to appointments being unavailable. He subsequently found that many doctors did not offer medicals.
- His partner in 2010 was female.
- He was diagnosed with PTSD after breaking his hand.
- The incidents in 1988 and 1990 were not due to PTSD but due to fights on nights out with shoplifters he had previously encountered in his work as a store detective.
- The incident in 2010 was listed on his charge sheet as assault due to provocation rather than battery. His partner had been drinking at the time of the incident.

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- A restraining order had been sought as he had not known his partner for very long.
- He was very young when the driving incident occurred over 30 years ago and his licence had been clean ever since.
- He understood that the application form stated that applicants should contact the Licensing Enforcement Officer if they were in any doubt regarding their convictions.
- He was aware that he could encounter difficult people in his work and had considered this before deciding to apply.

In response to questions from members, Mr D Underwood responded as follows:

- Private hire drivers could only do the work provided to them by the operator.
- His firm had a lot of regular customers, including 73 daily school contracts and 23 adult social care contracts.
- He could stipulate that Mr Hill would not be undertaking work relating to the night time economy
- The adult social care contracts were undertaken for 50 weeks of the year which would assist with Mr Hill's income during school holidays.

Councillor R Ashman reminded members that the type of work undertaken by a taxi driver could not be stipulated on his licence and Mr Hill could leave the employment of an operator at any point.

The Licensing Enforcement Officer made a brief closing statement as follows:

- He believed the information presented in the report to be true in accurate.
- There was the potential that any decision could lead to an appeal at the magistrates' court and he prepared his report to the required standard accordingly.
- He did not agree that Mr Hill had been vilified or that there had been any sort of personal clash.
- The role of the Licensing Enforcement Officer was to give guidance but also to enforce.
- When matters came to his attention it was his duty to ask difficult questions of the applicant. He would do so with any applicant so he could be assured they were a fit and proper person.
- He confirmed he did email Mr Hill to question his openness and transparency.
- On many occasions Mr Hill had stated that the information presented to him was incorrect.
- He agreed that Mr Hill was a literate and intelligent person. The DBS form made specific regard to the fact that all convictions should be disclosed.
- Mr Hill failed the knowledge test 3 times. At this point a licence was normally refused, however at his discretion he allowed Mr Hill to retake the parts he had failed. Mr Hill then passed the knowledge test.
- The information regarding the medical certificate had not been misinterpreted or misrepresented in the report.

Mr G Hill made a brief closing statement as follows:

- He fully understood the role of the Licensing Enforcement Officer.
- He did feel he had been subjected to a personal attack during the application process and when someone called him a liar he would stand his ground.
- The Licensing Enforcement Officer had not addressed the failure to respond to his email regarding the inaccuracies within the report.
- A lot of the notes taken by the Licensing Enforcement Officer were inaccurate.
- A medical appointment which lasted 10 minutes in total was inadequate.

Mr D Underwood made a brief closing statement as follows:

- He clarified that he had stated the handling of Mr Hill's application could be perceived as a personal issue and the Licensing Enforcement Officer could be perceived as being officious.
- It was a fact that applications were usually dealt with in the office and the first contact with the applicant was at the knowledge test.
- The application process had taken nearly 6 months.
- Mr Hill had every support from his company.
- Mr Hill was a good person and the incidents in the 1980's were regrettable.
- Since 1990 Mr Hill had received 1 conviction which was a domestic incident and he had led a blameless life since.

At 7.58pm the Sub Committee adjourned to consider its decision. The Sub Committee reconvened at 8.17pm.

Councillor R Ashman advised the applicant that his application had been refused. In determining the application, the sub-committee had taken account of the convictions, which were serious and which had not been disclosed at an early stage, and the applicant's failure to disclose medical conditions, which were important to the application. He also reiterated that the nature of the applicant's work could not be restricted. The sub-committee did not deem Mr Hill to be a fit and proper person to hold a licence.

RESOLVED THAT:

The application for a private hire driver's licence be refused.

The meeting commenced at 6.34 pm

The Chairman closed the meeting at 8.18 pm

Chairman's signature