

Minutes of: **LICENSING AND SAFETY PANEL**

Date of Meeting: 26 April 2018

Present: Councillor D Jones (in the Chair),
Councillors: P Adams, N Bayley,
A McKay, Sarah Southworth,
J Walker and S Wright

Also in attendance:

Public Attendance: There were 6 members of the public in attendance

Apologies for Absence: Councillor J Grimshaw

LSP.498 DECLARATIONS OF INTEREST

There were no declarations of interest raised in relation to any items on the agenda.

LSP.499 MINUTES OF THE LAST MEETING

Delegated decision:

That the Minutes of the Licensing and Safety Panel meeting held on 20 March 2018, be approved as a correct record and signed by the Chair.

LSP.500 PUBLIC QUESTION TIME

A number of local residents attended the meeting in respect of item 7 on the Agenda, Licensing of a campsite and the Chair explained they would have an opportunity to raise issues and ask questions when the relevant item was addressed.

Mr Charles Oakes, of the Hackney Drivers' Association Ltd, submitted a written question to the Licensing and Safety Panel requesting a second MOT testing station, in addition to the station used at Bradley Fold.

The Licensing Unit Manager explained that following meetings with the Greater Manchester Authorities, a more co-ordinated approach to taxi and private hire vehicle licensing would be adopted throughout, to develop a common minimum standard which could include issues with testing stations. Mr Oakes had been informed that a generic report would be adopted by all the Greater Manchester Authorities by April 2019. Currently there were no issues in relation to drivers being able to get an appointment for an MOT test and it was agreed that for consistency and fairness to all drivers, there would be no change to the MOT testing station presently being used at Bradley Fold.

It was agreed:

That the question and proposed response be noted.

LSP.501 OPERATIONAL REPORT INCLUDING STATISTICS

The Assistant Director (Localities) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

In relation to Licensing Hearings Panels, the Licensing Unit Manager reported the following:

- The Licensing Service had received notification that a Personal Licence holder had received a relevant offence under schedule 4 of the Licensing Act 2003. A Licensing Hearings Panel was convened on 18 April 2018 and after hearing all the evidence, the Panel considered it reasonable, balanced, appropriate and proportionate to suspend the Personal Licence for a period of four months.
- The Licensing Service received an application in respect of Best one, Chesham Fold Road, Bury and Greater Manchester Police, in their capacity as a responsible authority, made representations. A Licensing Hearings Panel was convened on 18 April 2018, however, it was requested by the Applicant's Solicitor that the meeting be adjourned from this date and the meeting was subsequently rearranged for 26 April 2018. Following that meeting and on the evidence provided, the Licensing Hearings Panel agreed to grant the transfer.
- The Licensing Unit Manager provided written statistics of work dealt with by the Licensing Service during the municipal year 2017/18, which included a breakdown of the number of licences, registrations, consents and permits processed, totalling 3,625.

It was agreed:

That the report be noted.

LSP.502 LICENSING OF TOURING SITES - STANDARD CONDITIONS

A report by the Assistant Director (Localities) was submitted in respect of applications considered under section 269 of the Public Health Act 1936. Officers of Environmental Health attended the meeting to respond to queries and issues from the members of the Licensing and safety Panel and explained that Bury Council has not previously received an application for a campsite, therefore the Council are required to determine any applications that are received. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, indicate that this is a Council function and under the Council's constitution is delegated to the Licensing and Safety Panel. A licence is required if the site is operating for more than 42 consecutive days or more than 60 days on any 12 consecutive months.

It was agreed:

That members adopt the proposed standard conditions in respect of a campsite under the Public Health Act and Caravan sites and Control of development Act 1960, Public Health Act 1936.

LSP.503 LICENSING OF CAMPSITE

A report by the Assistant Director (Localities) was submitted in respect of an application for the approval of a campsite licence under section 269 of the Public Health Act 1936, in respect of the Paddock, Sheep Hey Farm, Shuttleworth, Bury, by Mrs Carol Rothwell.

Officers explained that their focus is ensuring the safety and wellbeing of those using the site and the amenities provided. An initial site visit was undertaken by Officers of the Council's Housing Standards Department and the Fire Service on 7 November 2017. A satisfactory Fire Risk Assessment for the campsite was obtained by the Fire Service and further advice was given by Officers to Mrs Rothwell on the requirements in terms of conditions to meet the campsite licence.

Planning permission was granted for a campsite following an application from Mrs Rothwell on 26 May 2016. Permission was granted for 20 pitches (tents only, no caravans or motor homes are permitted) and the siting of 2 portaloos and showers and a second site visit was undertaken on 12 April 2018 by Housing Standards and the Fire Service.

Mrs Rothwell attended the Licensing and Safety meeting along with a number of local residents, who opposed the licence, who had also submitted an email to the Licensing and Safety Panel members prior to the meeting with their objections. The Chair granted permission for a spokesperson to voice their concerns at the meeting. These concerns included enforcing the conditions of the planning application, sufficient levels of insurance of the site, the provision of passing places along the narrow single track lane leading to the campsite and properties, which must only be via Leaches Road and the position of the portaloos and showers, which were in close proximity to the residents' houses.

Members of the Licensing and Safety Panel asked various questions of Mrs Rothwell in respect of the application and raised issues in relation to the objections submitted by the local residents.

The Council Solicitor explained that under the provisions of the Public Health Act, if an application for a campsite licence is submitted and the local authority do not grant it with conditions attached, it is deemed granted unconditional after 4 weeks. There is no consideration of whether the applicant is fit and proper, but rather whether the site is suitable taking into account such things as the provision of water, sanitation, no risk of fire and other such issues. The conditions proposed are to deal with those matters.

It was agreed:

To grant a licence with conditions attached with the report in relation to The Paddock, Sheep Hey Farm, Shuttleworth, for 20 pitches.

LSP.504 URGENT BUSINESS

There was no urgent business raised under this item.

LSP.505 EXCLUSION OF PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information relating to individuals who hold Licences granted by the Authority or Applicants for Licences provided by the Authority.

LSP.506 SUSPENSION/REVOCATION OF A HACKNEY CARRIAGE DRIVER'S LICENCE

Licence holder 36/2017 attended the meeting and was accompanied by his son.

The Chair outlined the procedure to be followed and the Licensing Unit Manager presented a report submitted by the Assistant Director (Localities), which was accepted by the Licence Holder. This explained that a warning letter was sent on 25 July 2017 to the Licence Holder for presenting a vehicle for test with a large number of faults. Since receiving this letter, the Licence Holder has presented a further four vehicles for test and only one of which passed first time. The officer state that the Licence Holder buys and sells vehicles and transfers the licence to other licensed drivers.

The Licence Holder's son addressed the Panel and explained that his father has been a licence holder for 15 years and is committed to his job. He is a father of 6 children who he must support financially. He stated that he maintains a certain standard with his vehicles, however, when he has taken the vehicles to a local MOT garage for testing, the vehicles have passed but when then taken it to Bradley Fold, numerous faults are found. The Licence Holder has to pay for a re-test each time and yet feels he has maintained the vehicle to the standard required. He also confirmed being a self-taught mechanic albeit it has used a number of local garages to have the vehicles tested.

Various questions and concerns were raised with the Licence Holder from the Licensing and Safety Panel members and the Chair explained to the Licence Holder that an MOT test for a licensed vehicle being used by the public would be more stringent and to a higher standard than that of a personal vehicle. It was also noted by the Panel that the Licence Holder had been warned not to use Bradley Fold to check his vehicles and that he must take them for testing having prepared them.

Delegated decision:

The Panel carefully considered the report and oral representations by the Licence Holder 36/2017 and his son and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, **resolved, unanimously, to revoke the driver's licence.**

The Panel found as follows;

- That public safety is paramount and that the Licence Holder had shown little regard as to the wellbeing of passengers by allowing his vehicles to fail numerous MOT tests on such serious faults.
- The Licence Holder had been driving for 15 years and should be more aware of the importance of the maintenance of a vehicle being used to carry the travelling public.
- The Licence Holder had been warned as to his conduct and the requirements in relation to maintaining his vehicles but had paid no regard to this.
- The Licence Holder had submitted 5 vehicles for testing over a 13 month period, all of which had failed their first test, 2 had failed twice and one vehicle had failed twice the first time and then when re-tested 5 months later had failed again.
- The Licence Holder showed little understanding of the situation or the importance of maintain his vehicles.
- The Licence Holder showed no regard for the warning issued by the Licensing authority.
- The Licence Holder showed no remorse for his actions.

In the circumstances, the Panel felt that the Licence Holder was not a fit and proper person to be a hackney carriage driver within Bury.

The Licence Holder was notified of the right to appeal to the Magistrates' Court within 21 days.

LSP.507 APPLICATIONS FOR HACKNEY CARRIAGE/PRIVATE HIRE DRIVERS' LICENCES

The Licensing Unit Manager presented a report submitted by the Assistant Director (Localities) regarding applications for Private Hire Vehicle Drivers' Licences.

The Applicants were invited to attend the meeting for separate hearings and invited to address the Panel separately on their applications and any matters referred to in the Officer's report.

1. Applicant 37/2017 attended the meeting and was accompanied by a friend. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant.

The report explained that the Applicant had previously held both hackney carriage driver's and hackney carriage vehicle licences, granted by Bury Council. On 5 September 2012 the Applicant had appeared before the Licensing and Safety Panel in relation to an allegation of rape on a female

passenger which resulted in his hackney carriage driver's licence being revoked. The Applicant appealed the decision to Bury Magistrates' Court, which was dismissed. Subsequently the Applicant has made new applications for a hackney carriage driver's licence on 6 October 2014 and again on 11 April 2016 both were considered by the Licensing and Safety Panel and both applications were refused.

The Applicant addressed the Panel and explained that he deeply regretted the incident and that it was a mistake. The Applicant's friend stated that he realises that having sex in his vehicle was wrong but that it was consensual and he had dropped the female passenger off outside her home afterwards and even been paid for the fare. The incident had completely tarnished his character. The whole family and community were aware of the episode and it had been a very difficult time for them all. It will have repercussions on his future and he is struggling to get another job.

The Applicant's friend explained that the Applicant had a wife and 4 children to support and needed the opportunity now to be able to do so. He explained that he was of good character and worked regularly for a charity and cared every day for his Uncle, who suffered from muscular dystrophy and was now effectively paralysed from the neck down. The incident had taken place in September 2012 and the Applicant had been punished and now needed a chance to redeem himself.

Delegated Decision:

The Panel carefully considered the written report and the oral representations made by the Applicant and his friend and with due consideration of the potential effect on the Applicant's livelihood and family life, and taking into account the Council's Conviction Guidelines, the Panel found that:

- Although not convicted, the Panel was satisfied that the allegations were sufficiently serious to merit due consideration.
- Greater Manchester Police believe that despite the Applicant not being charged with any offences, as the female had declined to pursue the matter due to the impact the investigation was having on her health, it is directly relevant to a working role with members of the public.
- The Crown Prosecution Service considered that the evidential burden to prosecute the charge had been met in that there was felt to be a realistic prospect of conviction.
- The allegation made against the Applicant in July 2012 was of a very serious nature.
- The Applicant had provided only a limited explanation of his version of events and even based upon that version, he admitted that activities of a sexual nature had occurred in his hackney carriage vehicle on the night in question.
- That even based on the Applicants version of event, his behaviour had been unacceptable.
- Members of the Licensing and Safety Panel had previously revoked the Applicant's Private Hire Licence and had therefore determined the Applicant not to be 'fit and proper'

- Although the Applicant had appealed the Panel's decision to Bury Magistrates' Court, this was dismissed.

The Panel therefore determined the Applicant not to be a fit and proper person in accordance with the Local Government (Miscellaneous Provisions) Act 1976 and therefore resolved that the Applicant identified as 37/2017 be **refused** a Private Hire Driver's Licence.

The Applicant was informed of their right to appeal to the Magistrates' Court within 21 days.

2. Applicant 38/2017 attended the meeting and was unaccompanied. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant.

The report explained that the Applicant managed a storage company for accident damaged vehicles and the Applicant had raised an invoice to the insurance company for a vehicle that was being stored by the company, however, the insurance company had failed to pay for the storage costs. Some months later, the customer with the damaged car was arrested and the invoice was found at the customer's address. The Applicant attended a voluntary police interview and was later arrested and charged with an offence of making false representation to make gain for self or another or cause loss to others/expose others to risk. The Applicant had been convicted on 5 January 2015 and received a suspended imprisonment of 4 months wholly suspended 24 months and unpaid work requirement of 200 hours.

The Applicant addressed the Panel and explained that he had completed the unpaid work as quickly as he could. He advised the Panel that he had just been granted a badge for Rochdale Council, however, he was hoping to move to Bury with his family and wanted a badge in Bury. The Applicant currently works for a PPI call centre. If he was granted a licence, he explained he had work available. The Applicant is married with a daughter and needs to work to provide financially for his family.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 38/2017 be granted.**

The Panel noted that the offence of dishonesty and fraud was serious, however, the Applicant accepted the severity of the offence and was genuinely remorseful and the conviction was now over 3 years ago. The Applicant had been granted a badge with Rochdale Council and the Panel agreed that the Applicant was a fit and proper person to hold a private hire driver's licence in Bury.

3. Applicant 39/2017 attended the meeting and was unaccompanied. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant.

The report explained that the Applicant had been convicted of robbery on 5 January 2012 at Bury and Rochdale Magistrates' Court and sentenced to a referral order 9 months with costs £80 with £60 compensation. The offence relates to the theft of a mobile phone from another schoolboy when he was 14 years old.

The Applicant addressed the Panel and explained that he was a school boy at the time of the offence and couldn't really remember the full circumstances of the event. He had been involved with the wrong crowd at the time and regretted the incident. He stated that he had never been in any trouble since and has been working for the last 3 months for a security firm and as a delivery driver before that. He had gone to college to do engineering and hoped to go back to college in the future.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 39/2017 be granted.**

The Panel noted that the conviction was 6 years ago, when the Applicant was young and he accepted that the offence was serious. The Panel agreed that although a serious offence, he was remorseful and understood the implication so the offence and holding a driver's licence. The Panel therefore decided that the Applicant was a fit and proper person to hold a private hire driver's licence in Bury.

4. Applicant 40/2017 attended the meeting and was unaccompanied. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant.

The report explained that as part of the application process for a private hire driver's licence, the Applicant had declared a conviction for an offence of driving a motor vehicle with excess alcohol, for which he was fined £100 with costs of £85 and disqualified from driving for 20 months, reduced to 15 months on completion of a course and a victim surcharge of £15.

However, on return of the Applicant's DBS disclosure, further convictions were revealed, of driving whilst disqualified, escaping from lawful custody, driving a vehicle without due care and attention and using a vehicle whilst uninsured. The Applicant had been convicted on 28 February 2012 at Bolton Crown Court for these offences and fined.

The Applicant addressed the Panel and explained that his cousin had completed the form and he had signed it, as he can't read or write very well. He explained the events of the offence on 3 November 2011, that he

had been with a friend who was drunk and unable to drive safely and he had driven the car instead, however he was already disqualified following the previous offence in February 2011.

The Applicant stated that he had got married in 2012 and had 2 children and needed to provide for his family financially. He was currently working as a delivery driver for Domino's pizza and that since the conviction in February 2012 he had never been in any sort of trouble.

He further stated he had put question marks on the form as he was unable to recall the details of the offences. This was confirmed by the Licensing Unit Manager.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 40/2017 be granted.**

The Panel noted that although the offences listed were serious, the Applicant had shown remorse and understood the seriousness of the matter. The offence and conviction had taken place over 5 years ago and there had been no further convictions since that time. In relation to not disclosing this conviction, the Panel accepted that the Applicant was genuine in his reasons and that it had been an oversight on his part and further that he had tried to recall the details to include on the form. The Panel also noted that if the Applicant had declared the conviction, officers would have granted the licence.

5. Applicant 41/2017 attended the meeting and was accompanied by his wife. The Chair outlined the procedure to be followed and the Licensing Unit Manager read the report, which was accepted by the Applicant.

The report explained that as part of the application process for a private hire driver's licence, the Applicant had declared a conviction for an offence of driving otherwise than in accordance with a licence and using a vehicle uninsured. The Applicant was convicted on 14 September 2015 and fined a total of £147 with 6 penalty points on his licence.

The Applicant addressed the Panel and explained that he and his wife had moved from Nottingham to Manchester for better job opportunities. At the time of the conviction, the Applicant had been driving on a UK provisional driving licence whilst converting his Pakistani driving licence to a full UK one. The Applicant accepted the offence was a mistake on his part but that a private hire driver's licence would enable him to find a full time job and offer more financial security.

The Applicant confirmed he has held a full UK licence for one and a half years and pointed out that the convictions are now almost 3 years old.

Delegated decision:

The Panel carefully considered the report and the oral representations by the Applicant and after taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 resolved, unanimously, that **the application for a Private Hire Driver's Licence by Applicant 41/2017 be granted.**

The Panel noted that although the offences listed were serious, the Applicant had shown remorse and understood the seriousness of the matter. The convictions had taken place almost 3 years ago and there had been no further convictions since that time.

COUNCILLOR JONES
Chair

(Note: The meeting started at 7.00 pm and ended at 9.55 pm)