

Record of Decision

Licensing Sub Committee

Date of Hearing: Thursday, 24 October 2024

Members: Councillors D Oliver (Chairman), M Humphrey and N Meekins

In Attendance: Councillor P Hicks (Substitute)

Determination of an Application for a New Private Hire Driver's Licence

The Licensing Sub-Committee considered an application for a Private Hire Driver's Licence whereby the applicant has two convictions.

The Sub-Committee heard from the applicant in support of the application.

The Sub-Committee needs to decide if the applicant is a fit and proper person to hold such a licence. The Sub-Committee ignored irrelevant information for licensing purposes and cannot go behind the conviction.

The Sub-Committee referred to:

- Fenland District Council's Hackney Carriage and Private Hire Licensing Policy
- Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades (Institute of Licensing)
- Statutory Taxi and Private Hire Vehicle Standards

There is no legal definition of fit and proper, however, the statutory guidance states:

Licensing Authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an application or licensee is fit and proper to ask the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

Licensing Authorities have to make difficult decisions, but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on

the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee is only '50/50' as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction.

The Institute of Licensing Guidance states that a licence for major traffic offences will not be granted until 7 years have elapsed since the completion of any sentence has been imposed, and the Council's policy states 5 years.

It is recognised that there exists a duty to protect the public and the principle of risk is a matter of fact. Given the facts, the Licensing Authority must determine whether or not an applicant is fit and proper, or safe and suitable to hold the licence as applied.

The Sub-Committee consider according to the Council's policy that these convictions are 'major traffic offences'. The convictions are dated 2021 and 2022. It is noted that the applicant is conviction free from August 2022, however, the penalty expiry date is August this year and according to policy, the usual time for application would be 5 years thereafter.

This does not mean the applicant cannot reapply in the future, even before the 5 year period expires, as each application is treated on its own merits.

Our decision is as follows:-

The Licensing Sub-Committee decided to **REFUSE** the licence as applied for, under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 as it is not believed that the applicant is fit and proper at this time.

PLEASE NOTE

Any person aggrieved by this decision can apply to appeal the decision within 21 days by making a complaint to:

Peterborough, Huntingdon and Fenland Magistrates Court
The Court House
Bridge Street
Peterborough
PE1 1ED

There may be a fee to pay.