

# North Yorkshire Council

## General Licensing and Registration Sub-Committee

Minutes of the meeting held on Monday 18 December 2023 commencing at 10.06am.

Present: Councillors Barbara Brodigan, Felicity Cunliffe-Lister and Tim Grogan (Chair).

Officers present: Tim Chadwick, Licensing Manager; Emma Hayton, Licensing Enforcement Officer; Amy Ross, Regulatory Solicitor; and David Smith, Democratic Services and Scrutiny Officer.

Also in attendance: The applicant.

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**Copies of all documents considered are in the Minute Book**

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### **92 Election of Chair**

The decision:

That Councillor Tim Grogan be elected as Chair for the duration of the meeting.

(Councillor Grogan in the Chair)

### **93 Apologies for Absence**

There were no apologies for absence.

Shortly prior to the commencement of the Sub-Committee hearing, the Applicant informed Members that their legal representative was unable to make it before the start of the meeting due to traffic. The Sub-Committee considered delaying the hearing for a short time, but the Applicant's representative believed that they were at least an hour away. The Applicant's representative enquired as to whether they could attend remotely, however, no provision for remote attendance was available at short notice. The Sub-Committee decided that it was in the public interest that the hearing not be adjourned and would proceed in their absence.

### **94 Disclosures of Interest**

There were no declarations of interest.

### **95 Procedure for Meeting**

The decision:

The Sub Committee agreed the procedure for the meeting as outlined by the Chair.

### **96 Exclusion of the Press and Public**

The decision:

That under Section 100A(4) of the Local Government Act 1972, the press and public were

excluded from the meeting during consideration of item 6 on the agenda on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act as the Sub-Committee was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

## **97 Hackney Carriage / Private Hire Driver Licence**

Considered:

A report of the Corporate Director – Environment regarding the consideration for the grant of a Hackney Carriage / Private Hire Driver Licence.

The Licensing Sub-Committee considered the written report and verbal presentation from Mr Chadwick, who advised that in October this year an application for a dual driver's licence was received from the Applicant, and that a check of the Applicant's DVLA records confirmed 9 penalty points on their driver's licence. A due diligence check with North Yorkshire Police confirmed the following convictions:-

CU30 20 August 2021 - Defective Tyre

MS90 23 September 2022 – Failing to give information as to the identity of the driver of a vehicle on request, following initial offence of exceeding the statutory speed limit travelling at 41mph in a 30mph zone

Mr Chadwick reminded Members that before granting the application they should be satisfied that the Applicant is a 'fit and proper person' to hold a dual driver's licence as detailed in the Taxi and Private Hire Vehicle Standards issued by the Department of Transport.

Mr Chadwick also referred the members to North Yorkshire Council Hackney Carriage and Private Hire Licensing Policy, explaining that to grant this application would be departure from Policy which members should only do if they were satisfied that the Applicant had shown specific circumstances to justify an exception to policy being made.

Mr Chadwick reminded members of paragraph 506 of the policy in particular, which provides -

*506. Applicants and licensed drivers with nine or more penalty points endorsed on their driving licence in any rolling three-year period will normally be refused or revoked and will not normally be granted a licence until at least three years have elapsed from the date of the last offence.*

In support of their application the Applicant presented to the Sub-Committee Members a written submission as well as five character references, a statement made by their son, a copy of an annual inspection sheet vehicle checklist dated 8th November 2023, service booking for 21st December 2023, correspondence relating to the Applicant's upcoming appeal to the MS90 conviction made on 24th October 2023 at North Yorkshire Magistrates Court – sitting at Skipton Magistrates court, and customer feedback form.

In answer to questions from Members, the Applicant confirmed that they are a director of a taxi company and, although they have not held a private hire or hackney carriage driver licence in the past, they have experience in the taxi industry. The Applicant also advised of the circumstances around their convictions. With regard to the CU30 conviction, the Applicant explained, as also reflected in their written statement, that this was as a result of purchasing part-worn tyres and having been informed by the seller that they would be safe

for use for 3 – 4 months. However, approximately two weeks after purchasing the tyres, they were stopped by police during local routine checks where they were then convicted for driving with a defective tyre, incurring 3 penalty points on their driver's licence. When questioned by members as to whether they took any action against the seller as a result, the Applicant explained that they had not complained to the seller and had not taken any other actions.

As to the matter of the MS90 conviction, the Applicant explained that their friend had been driving the Applicant's car when the initial speeding offence was committed, and that following this, the Applicant had correctly and in a timely manner completed the form with the necessary information required as to the driver of the vehicle, and had posted it with a stamp, but that their letter must have been lost in the post. Subsequently, they explained, further correspondence relating to the offence had also been lost in the post and therefore the Applicant had only become aware of the MS90 conviction which had been made in their absence, upon checking their licence records when making the application for the Hackney Carriage and Private Hire Driver's Licence. The Applicant explained that whilst the initial appeal against this conviction was dismissed, they are currently in the process of appealing this decision to the Crown Court, and that they expect a court date to be forthcoming in the spring.

**DECISION:** After having considered the content of the report, the verbal presentations by Mr Chadwick on behalf of the licensing authority, the verbal and written presentation by the Applicant, the relevant legislation and case law, the Council's Taxi Licensing Policy and the statutory Taxi and Private Hire Vehicle Standards issued by the Department of Transport, and taking into account all relevant matters, the Licensing Sub-Committee

**DECIDED**

That the Applicant is not a fit and proper person within the meaning of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 and consequently refused their application for a Hackney Carriage and Private Hire Dual Driver's Licence.

Whilst impressed by the good character references provided by the Applicant, and the manner in which the Applicant presented their evidence during the Sub-Committee, Members concluded that the Applicant had not shown to the Sub-Committee specific circumstances which would justify them allowing an exception to policy to be made. Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction. The policy which had been agreed by North Yorkshire Council, provided policy and guidance for Members and Officers in the determination of applications for taxi licences, and the Sub-Committee Members were not satisfied that the Applicant had shown circumstances sufficiently strong enough for the Sub-Committee Members to make a decision which departed from the council's policy; in this case that detailed in paragraph 506 of the policy.

For the reasons detailed above the Sub-Committee Members were not satisfied the Applicant is a fit and proper person to hold a dual taxi drivers' licence and therefore their application for a licence was refused.

The Sub-Committee did however encourage the Applicant to reapply in the event that their upcoming appeal against the MS90 conviction is successful and the conviction (and therefore 6 of the current 9 penalty points) is quashed.

The meeting concluded at 10.48am.