

# North Yorkshire Council

## General Licensing and Registration Sub-Committee

Minutes of the meeting held on Thursday, 22nd February, 2024 commencing at 2.20 pm.

Councillors Richard Foster, Tim Grogan and Robert Heseltine.

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

In attendance: The Applicant.

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

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#### 138 Election of Chair

**The decision:**

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

(Councillor Grogan in the Chair)

#### 139 Apologies for Absence

There were no apologies for absence.

#### 140 Disclosures of Interest

There were no declarations of interest.

#### 141 Procedure for Meeting

**The decision:**

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

#### 142 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 the item of business at minute no. 6 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 Panel was satisfied that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

#### 143 Consideration for the grant of a Hackney Carriage / Private Hire Driver Licence

To consider the report to the General Licensing and Registration Sub-Committee and determine whether or not to grant the Applicant a Hackney Carriage and Private Hire Combined Drivers' Licence.

The Sub-Committee considered the written report and verbal presentation from the Licensing Enforcement Officer, who advised that on 27<sup>th</sup> March 2023, an application for a combined driver's licence was received from the Applicant. In that application, the Applicant declared that they had 6 points on their DVLA Licence from an offence dated '30 January 2023'. A Licence check carried out by the Licensing team revealed that the offence had in fact occurred on 7<sup>th</sup> July 2022.

The Licensing Enforcement Officer advised that due to their personal circumstances, this application was not progressed by the Applicant until 10<sup>th</sup> October 2023, when they were asked to complete a new application form. The Applicant at this point declared one offence with the correct date of 7<sup>th</sup> July 2022. The Applicant went on to complete all parts of the application process by 21<sup>st</sup> December 2023. Following the Council's Christmas shut-down period, the Applicant then informed the Council on 3<sup>rd</sup> January 2024 that they "had acquired 3 penalty points (SP50)". When asked to complete and return a notification form to ensure that the Council had all of the relevant information, this revealed that the Applicant had also completed a Driver Awareness Course in lieu of points for an offence dated June 2020.

The Licensing Enforcement Officer advised that a check of the Applicant's DVLA records confirmed 9 penalty points on their driver's licence for the following offences:

SP50 26 September 2023 – Exceeding speed limit on a motorway (3 points)

TS10 26 September 2023 – Failing to comply with traffic light signals (0 points)

SP30 7 July 2022 – Exceeding statutory speed limit on a public road (6 points)

The Licensing Enforcement Officer reminded Members that before granting the application they should be satisfied that the Applicant was a 'fit and proper person' to hold a combined driver's licence as detailed in the Taxi and Private Hire Vehicle Standards issued by the Department of Transport.

The Licensing Enforcement Officer also referred Members to the 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.

The Licensing Enforcement Officer reminded members of paragraph 505 of the policy in particular, which provides -

*505. 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.*

As the Applicant's last offence took place on 26 September 2023, this means that under the Council's policy, the earliest the Applicant would normally be considered for a licence would be 26th September 2026.

In support of their application the Applicant explained to the Sub-Committee that they have held a UK DVLA Driver's Licence since 1987, and that they have received endorsements on his licence in the past occasionally, but that they have a clean licence prior to the first aforementioned speeding offence which took place in 2020 to which they attended a speed awareness course in lieu of points. The Applicant went on to explain the circumstances surrounding each conviction as outlined in the report, including that they had attempted to appeal against the convictions appearing on the DVLA check, but that

this had been unsuccessful. Regarding the most recent incident which comprised two offences, the Applicant explained that because they pleaded guilty, the TS10 offence which would normally attract 3 points was reduced to 0 points, leaving the Applicant with 9 points on his licence.

The Applicant informed the Sub-Committee that due to their personal circumstances they are unable to continue in their current field of work, and that taxi driving would be ideal alternative work due to its flexibility.

In response to questions from Members, the Applicant confirmed that should they be granted a licence, they would be self-employed and would purchase their own car for taxi purposes. They further confirmed that at the current time, due to personal circumstances they have not been pursuing any alternative lines of work. When questioned as to which specific circumstances the Sub-Committee should consider as justification for any departure from policy, the Applicant reiterated their current need for flexible work, given their personal and family circumstances and their previous work history. The Applicant also confirmed to Members that due to the most recent conviction being two offences, the matter proceeded straight to court and they were unable to attend a speed awareness course, however, had it been solely the speeding offence, they would have been eligible to attend the course, and therefore points may not have been added to their licence.

**DECISION:** After having considered the content of the report, the verbal presentations by the Licensing Enforcement Officer on behalf of the licensing authority, the verbal 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

**UNANIMOUSLY 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 Applicant's honesty, transparency and the manner in which they responded to the questions of the Sub-Committee, the 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 an offence, the licensing authority cannot review the merits of the conviction. The policy which has been agreed by North Yorkshire Council, provides 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 505 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.

**APPEALS INFORMATION:**

There is a Right of Appeal against this decision to the Magistrates' court. This appeal must be commenced within 21 days beginning with the date upon which a driver aggrieved by this decision receives notification of the decision. A fee may be payable to the Magistrates' Court when submitting your appeal application. Appeals are to be made to York Magistrates' Court.

The meeting concluded at 3.15 pm.